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**Human Rights Council**

**Fifty-seventh session**

9 September–9 October 2024

Agenda item 9

**Racism, racial discrimination, xenophobia and related
forms of intolerance, follow-up to and implementation of
the Durban Declaration and Programme of Action**

 Visit to Italy

 Report of the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement[[1]](#footnote-2)\*, [[2]](#footnote-3)\*\*

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|  *Summary* |
| The present report contains the findings of the International Independent Expert Mechanism to Advance Racial Justice and Equality in the Context of Law Enforcement on its visit to Italy, undertaken from 2 to 10 May 2024, pursuant to Human Rights Council resolution 47/21. The visit sought to focus on both good practices and challenges faced by Italy in upholding its human rights obligations on non-discrimination in the context of law enforcement and the criminal justice system, with a focus on Africans and people of African descent.  The Mechanism met government officials and other stakeholders, including law enforcement agencies, parliamentarians and civil society organizations, and visited two criminal detention facilities and three centres for migrants. It listened to testimonies from affected individuals and communities and from detainees. With the purpose of advancing racial justice and equality in this context, the Mechanism highlights key concerns and makes recommendations to address them. |

**Annex**

 Report of International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement on its visit to Italy

1. Introduction
2. Pursuant to Human Rights Council resolution 47/21, and at the invitation of the Government of Italy, the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement (the Mechanism) undertook a visit to the Republic of Italy from 2 to 10 May 2024, where it visited Rome, Milan, Catania and Naples.

2. The delegation comprised Ms. Akua Kuenyehia (Chairperson), Dr. Tracie Keesee and Prof. Juan Méndez (members).[[3]](#footnote-4)

3. During the visit, the Mechanism held meetings with government officials and other stakeholders, including law enforcement agencies, parliamentarians and civil society organizations. The Experts heard direct testimony from affected individuals and communities and from detainees during visits to detention centres.

4. The Mechanism thanks the Government of Italy for accepting its request to visit the country. It appreciates the genuine cooperation extended throughout the visit, including the numerous informative meetings with government officials, who generously answered questions and shared presentations, references, reports, and other materials during and after the visit. The Mechanism particularly appreciates the support of the Inter-Ministerial Committee for Human Rights (CIDU) in arranging the programme of work.

5. The Experts would also like to extend their profound gratitude to all the people they met during the country visit, especially victims, their relatives, and all other affected communities and individuals who courageously shared their experiences and stories. The Experts deeply appreciate their bravery and generosity in coming forward to provide testimony. They also thank all the contributors of written submissions.

6. In Rome, the Mechanism met with the Inter-Ministerial Committee for Human Rights; the National Office against Racial Discrimination (UNAR); the Observatory for Security against Acts of Discrimination (OSCAD); the National Guarantor for the Rights of Persons Detained or Deprived of Liberty; the Department of Public Security of the Ministry of Interior; the Department of Juvenile Justice and the Department of Prison Administration of the Ministry of Justice. It met with the Senate’s Extraordinary Commission against intolerance, racism, anti-Semitism and incitement to hatred and violence. It held meetings with judges, prosecutors, lawyers, and the four main law enforcement agencies of Italy. It further visited the immigration detention centre for repatriation (*Centro di permanenza per i rimpatri* - CPR) of Ponte Galeria.

7. In Milan, the Mechanism visited the “Cesare Beccaria” juvenile detention centre; the “Casa Circondariale San Vittore” prison; and the immigration detention centre for repatriation. The Mechanism regrets that it was unable to have confidential and unsupervised contact with individuals deprived of their liberty at the San Vittore prison due to an explicit refusal from prison authorities.

8. In Catania, the Mechanism visited the Reception Centre for Migrants of Via Forcile and the Provincial Headquarters Command of the Finance Police (Guardia di Finanza).

9. In Naples, the Mechanism visited the Provincial Headquarters Command of the National Gendarmerie (*Arma dei Carabinieri*) and the “*Questura*”: the local headquarters of the National Police (*Polizia di Stato*).

10. In line with the Mechanism’s mandate as outlined in A/HRC/RES/47/21, the visit aimed to examine good practices and challenges faced by Italy in fulfilling its human rights obligations regarding non-discrimination within the context of law enforcement and the criminal justice system, with a focus on Africans and people of African descent. With the purpose of promoting racial justice and equality in this context, the present report outlines the Mechanism’s findings and recommendations.

 II. Background

11. Italy is a party to eight of the nine core international human rights instruments, including the International Convention on the Elimination of Racial Discrimination (ICERD), the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT).[[4]](#footnote-5)

12. Italy’s legal framework includes several protections against racial discrimination. Article 3 of the Constitution guarantees equality for all citizens, regardless of race, religion, or other personal conditions. Decrees No. 215/2003 and 216/2003 ensure non-discrimination in all sectors, and Decree No. 286/1998 prohibits discrimination based on race, ethnicity, or religion in immigration and treatment of foreign nationals. The Criminal Code also addresses racial discrimination, particularly through amendments made by the “Mancino Law[[5]](#footnote-6)” (Act No. 205/1993) and Act No. 85/2006.

13. Italy has a population of approximately 59 million people.[[6]](#footnote-7) There are currently no official statistics available on the ethnic composition of the population residing in Italy; however, the National Office of Statistics indicates that as of 2022, Italy’s total resident foreign population stands at 5,141,341, which represents approximately 8.7% of the total population. Most foreign residents come from Europe, making up about 47% of the foreign population. Africans constitute the second largest group (22.4%), with North Africa (13.4%) and West Africa (7.8%) being the most represented subregions.[[7]](#footnote-8)

14. Italy is a parliamentary republic composed of 20 regions,[[8]](#footnote-9) five of which enjoy special autonomous status, granting them the authority to enact legislation on certain local issues. The regions are further divided into 107 provinces (province) and metropolitan cities (*città metropolitane*)[[9]](#footnote-10) and encompass a total of 7,896 municipalities (*comuni*).[[10]](#footnote-11)

15. Law enforcement in Italy is mainly centralized on a national level, composed of “full-powered officers” coming from the four main national forces: *Polizia di Stato* (Civil National Police), *Carabinieri* (gendarmerie or military police), *Polizia Penitenziaria* (Prison Police) and *Guardia di Finanza* (Financial Guard). In some provinces, a local Provincial Police (*Polizia Provinciale*) or Municipal Police (*Polizia Municipale*) also operates.[[11]](#footnote-12)

16. During the visit, the Mechanism was informed of different measures taken in recent years to address racism against Africans and people of African descent. Measures include the development of a new national plan against racism, xenophobia and related intolerance; the amendment of the Italian Criminal Code, introducing an “aggravating circumstance” when hate crimes are committed for purposes of discrimination or ethnic, national, racial or religious hatred; the extension of the Observatory for Security against Acts of Discrimination’s mandate, which now includes the management of inter-institutional relations, both nationally and internationally, on anti-discrimination and promotion and protection of human rights; and the placement of local officers in various regions and metropolitan cities to report and collect cases of racial discrimination, with a focus on combating underreporting. The Mechanism welcomes these initiatives, which are an initial step towards addressing racial discrimination, and advancing racial justice and equality in the context of law enforcement and the criminal justice system in Italy.

 III. Systemic Racism

17. Systemic racism against Africans and people of African descent, including as it relates to structural and institutional racism, is understood to be the operation of a complex, interrelated system of laws, policies, practices and attitudes in State institutions, the private sector and societal structures that, combined, result in direct or indirect, intentional or unintentional, de jure or de facto discrimination, distinction, exclusion, restriction or preference on the basis of race, colour, descent or national or ethnic origin.[[12]](#footnote-13) Systemic racism often manifests itself in pervasive racial stereotypes, prejudice and bias and is frequently rooted in histories and legacies of enslavement, the transatlantic trade in enslaved Africans and colonialism.[[13]](#footnote-14)

18. The Mechanism notes the information provided by the Italian Office against Racial Discrimination on the planned adoption of the new national plan against racism later this year. However, it remains concerned that systemic racism and racial discrimination persist as significant issues in Italy, manifesting in various aspects of society, including structural barriers that hinder equal access to employment, education, healthcare, and housing for persons belonging to minorities, including Africans and people of African descent. Racism, racial discrimination, xenophobia and related intolerance against migrants, persons belonging to minorities, including Africans and people of African descent, and in general against persons perceived as “foreigners” based on their ethnic, religious, or linguistic profile, are present.

19. Systemic racism in Italy has deeply impacted the country’s democratic values and the overall living conditions of Africans and people of African descent. It undermines the core principles of democracy by marginalizing a significant portion of the population based on race, national or ethnic origin. This exclusion manifests in limited political representation, unequal access to public services, and discriminatory practices within public institutions. The lack of adequate representation of people of African descent in political and administrative positions weakens the democratic process by restricting the diversity of perspectives necessary for inclusive governance.

20. Systemic racism in Italy is also compounded by other forms of discrimination based notably on gender, sexual orientation, migration and socioeconomic status. Women belonging to minorities, including Africans and women of African descent, for example, face additional barriers related to gender discrimination, including higher rates of gender-based violence. Moreover, LGBTQI+ persons encounter intersectional discrimination that affects their access to housing, healthcare, and employment, often leading to increased social exclusion and vulnerability.[[14]](#footnote-15)

21. The separation of families is of significant concern, particularly regarding migrant women of African descent who are increasingly being separated from their children.[[15]](#footnote-16) During the visit, the Mechanism learned about allegations against Bibbiano’s local authorities in Reggio Emilia province regarding fabricating reports to unjustly remove children from families for paid foster care. Allegations include severe abuses, like using electrical impulses to manipulate children’s memories before court interviews. While the Mechanism was informed that some associations provide support to these women, the challenges they face are compounded by systemic biases within law enforcement. The Mechanism was also informed that women who seek help from law enforcement often encounter discrimination. This situation is further exacerbated by difficulties in securing legal representation.

22. With regard to children, the Italian legal system for the protection and reception of unaccompanied foreign minors[[16]](#footnote-17) is notably progressive and aligns with the principle of the best interests of the child.[[17]](#footnote-18) Despite this, the Mechanism received information indicating that foreign minors at Italy’s borders often face various unlawful practices, such as unlawful detention and refoulement, allegedly leading to violations of their human rights.[[18]](#footnote-19) In Milan, for example, the reception of minors is reportedly uncertain and aleatory, with an increasing lack of assistance, forcing many minors into homelessness and situations of poverty and exploitation.

23. Hate speech, including in sports and by state officials and politicians[[19]](#footnote-20), is prevalent and contributes to the normalization of racist attitudes and behaviours. The rhetoric used by public figures often legitimizes discrimination and violence against migrants, including Africans and people of African descent, leading to an increase in racially motivated attacks and hate crimes. Despite a legal framework that includes various protections against racial discrimination and hate crimes, as well as specific aggravating circumstances related to race, national or ethnic origin, the Mechanism repeatedly heard concerns about a lack of accountability in handling cases of racial discrimination and hate crimes.

24. Systemic racism also hampers the effective functioning of public bodies, as discriminatory practices often result in biased decision-making and unequal enforcement of laws. Regarding discrimination and hate crimes, the Mechanism learned about the work of OSCAD, including its training to law enforcement institutions. Various stakeholders met during the visit raised concerns about OSCAD’s lack of impartiality and independence to follow up on investigations of hate crimes by police officers.

25. The Mechanism was further informed that OSCAD faces challenges given the underreporting and under-recording of cases, and its lack of sufficient personnel. It is constrained by insufficient adequately trained personnel capable of identifying both the occurrence of hate crimes and their discriminatory nature. OSCAD may have a mandate to identify violations of anti-discrimination norms but has no enforcement powers and its follow-up actions are of limited reach. In this regard, the Mechanism sees as a good practice the introduction in the criminal code of the “aggravating circumstance” when crimes are committed for purposes of discrimination or ethnic, national, racial or religious hatred. However, the Mechanism was informed that judges do not consistently consider this aggravating circumstance, depriving victims of the rights established in the law.

26. The Mechanism also heard about the work undertaken by UNAR, Italy’s equality body, mandated to ensure equality amongst all people. While stakeholders highlighted many positive aspects of UNAR’s work, civil society acknowledged the limitations imposed by its lack of independence. UNAR serves dual roles, functioning as both an equality body and the implementing body for national anti-discrimination strategies. The Mechanism welcomes the initiative of designating local officers against discrimination, who will be placed in different regions and metropolitan cities across the country. It also received information that UNAR’s lack of independence and, in some cases, lack of impartiality, hinder its effectiveness as an equality body, contributing to underreporting and discouraging engagement by victims and civil society.[[20]](#footnote-21)

27. Like OSCAD, UNAR also lacks enforcement powers for the solutions it recommends. The Mechanism emphasizes that equality bodies need to be independent. The impartiality and independence of equality bodies, such as UNAR and OSCAD, are compromised by insufficient resources and political interference, limiting their ability to tackle systemic racism and racial discrimination effectively. This not only erodes public trust in these institutions but also perpetuates ongoing cycles of inequality and exclusion.

28. The Mechanism is concerned about the absence of a National Human Rights Institution (NHRI) compliant with the Paris Principles and dedicated to safeguarding and advancing all human rights.[[21]](#footnote-22) An NHRI can play a key role in combating racism and protecting groups subject to particular vulnerabilities, marginalization or intersecting forms of discrimination, including in law enforcement and the criminal justice system.[[22]](#footnote-23) Its absence is a challenge to independent monitoring and implementation of international and regional human rights standards at the national level, as well as to civil society engagement.

29. Systemic racism, racial discrimination, xenophobia and related intolerance also permeate institutions, including law enforcement bodies. The legacies of enslavement and colonialism continue to influence law enforcement practices today, contributing to systemic racial profiling and discrimination. Systemic racism in law enforcement manifests through institutional barriers and discriminatory practices. Affected individuals of African descent denounced the significant challenges they face in accessing police services and municipal documents, with frequent instances of racial profiling and discrimination. Reporting abuse, especially when the perpetrator is a law enforcement officer, is daunting due to fears of retaliation and lack of trust. The Mechanism is deeply concerned about the pervasive presumption of criminality towards foreigners, particularly Africans and persons of African descent; a concern repeatedly raised by most civil society groups with whom the Mechanism engaged. Italy must ensure that law enforcement agencies are free from racism and accessible to all residents and that the conduct of law enforcement officers aligns with international human rights standards.

30. The Mechanism observed serious gaps with respect to the collection of data on the ethnic composition of the population. In meetings with government officials, the Mechanism repeatedly heard that the collection of disaggregated data on the ethnic composition of the population was not possible under Italian law and that it was only collected regarding nationality or migration status. The Mechanism strongly emphasizes that the systematic collection of disaggregated data is necessary to assess levels of discrimination and progress, and to develop adequate policies.[[23]](#footnote-24) UN human rights bodies have repeatedly recommended that Italy improve data collection to address racism, racial discrimination, and xenophobia, including by gathering disaggregated data on ethnicity, violations of anti-discrimination laws, penalties, victim remedies, and the representation of non-citizens in the justice system, with further breakdowns by migration status, age, gender, and nationality.[[24]](#footnote-25)

31. Regarding hate speech, OSCAD informed that from 2010 to 2022, reports of crimes or hate speech related to race, ethnicity, or nationality have exhibited significant fluctuations, from eight complaints in 2010 to 143 reports in 2013 and 252 reports in 2019.[[25]](#footnote-26) In 2022, the police recorded 1,105 crimes (79.3% of all hate crimes reported) that were identified as racist or xenophobic in nature.[[26]](#footnote-27) This high percentage underscores a significant prevalence of racist or xenophobic hate-related offenses within the overall crime statistics, highlighting a critical area of concern for law enforcement and policy makers.[[27]](#footnote-28)

32. The Mechanism learned about the absence in school curricula of Italy’s history of colonialism and enslavement. This is particularly concerning given that the lingering effects of historical legacies continue to contribute to the disparities and inequities Italy faces today, perpetuating racism and racial discrimination against Africans and people of African descent. This deficiency poses significant challenges in fostering a comprehensive understanding of the country’s past, particularly in the context of its colonial endeavours and the implications thereof in the present, which are manifested in the form of racism, racial discrimination, xenophobia and related intolerance against migrants and persons belonging to minorities, including Africans and people of African descent.

33. The Mechanism acknowledges the efforts of Italian equality bodies to promote human rights and combat racial discrimination within schools, as well as the various initiatives undertaken by law enforcement officials to raise awareness about safeguarding and respecting human rights. For example, the Mechanism received input from OSCAD regarding its campaigns in collaboration with the postal police, where they visit middle schools to engage students on how to counteract racial discrimination.

 IV. Law Enforcement

 A Human rights-based approach to policing: institutional culture change

34. A human rights-based approach to policing is a comprehensive, systematic and institutional approach to law enforcement that complies with international human rights standards and practices and promotes analysing policies and actions through the tripartite obligations to respect, protect and fulfil. Law enforcement officers must be fully aware of all their human rights responsibilities, considering their work as duty bearers towards right holders, namely the individuals and community they serve. Law enforcement agencies must ensure that policies and actions of individual law enforcement officers reflect international human rights norms and standards without being influenced by considerations such as personal, social or political preferences, or by the same police culture in which they act.

35. During the visit, the Mechanism noted a deeply rooted lack of trust of people of African descent in law enforcement and the criminal justice system, mainly due to the historical and ongoing police violence suffered, and the sense of systemic oppression and impunity for these violations. The Mechanism considers that a human rights-based approach in policing can contribute to reversing these deficits. This approach provides a framework for law enforcement institutions to build public trust and ensure confidence in the commitment of public officials to respect and protect the communities they serve. For example, a sound legal framework on the use of force establishes in clear and predictable terms modalities of oversight and basis for accountability.

36. A human rights-based approach to policing also emphasizes the accountability of state institutions to respect, protect, and fulfil human rights obligations as outlined in key international treaties to which Italy is a party. By ensuring that policies are inclusive and participatory, and that they address the root causes of inequality, systemic racism and racial discrimination, Italy can advance its commitment to the Sustainable Development Goals, work towards creating a more just and equitable society where the rights and dignity of every person are upheld and build trust in the society.

37. The Mechanism listened to the experiences of law enforcement officials of African descent who highlighted how diversity and inclusion inside the ranks foster trust within the communities they serve, which are predominantly composed of immigrants. The Mechanism also learned of several innovations that signal progress in law enforcement practices aimed at enhancing the institutional culture, including the panic button in the form of a smart watch given to victims of gender-based violence led by the gendarmerie (*Carabinieri*), or *“Una Casa per te”* (A house for you), an initiative of the *Questura di Napoli* (National Police) for women and children victims of violence.

38. Despite the above, a significant challenge remains in shifting the deeply ingrained military culture within the police forces, which often perpetuates hierarchical and rigid approaches to policing. This culture, combined with unconscious bias and prejudices and the increasing political radicalization within law enforcement ranks, underscores the urgency for a comprehensive human rights-based approach to policing. Such an approach is essential to ensure that the principles of non-discrimination, equality and justice are embedded in all aspects of law enforcement, particularly in a diverse society.

39. Central to this cultural shift is the need for robust training on issues of racism, racial discrimination, and racial profiling. During meetings held with law enforcement officers, the Mechanism observed that unconscious bias continues to influence policing practices, leading to disproportionate impacts on marginalized communities. While all the law enforcement agencies noted that training of law enforcement officials - including on human rights, international humanitarian law, hate speech, use of non-lethal weapons, de-escalation techniques, among other issues - is a priority, it is deeply concerned about the lack of specific trainings on anti-racial discrimination and on the history of policing of migrants and people of African descent. The Mechanism learned that since 2010, OSCAD has trained 60,579 law enforcement officers through in-person and online seminars. The training includes cascade programs, where trainers notably educate police school instructors. However, accounts from victims of racial profiling raised concerns about the effectiveness of this training.

 B. Diversity and Inclusion

40. Diversity and inclusion are crucial for upholding human rights in society, including in the workplace. The Mechanism acknowledges and values the efforts of the law enforcement agencies that provided data on the national origin of their personnel. According to data from the Guardia di Finanza, out of 54.450 enlisted military personnel, 26 (0.05%) were born on the African continent. Data provided by the *Arma dei Carabinieri* indicates that it has an effective force of 112,964 military personnel, of which 2,647 (2.34%) are foreign-born, including 51 (0.05%) of African origin. This data shows a lack of representation of Africans and people of African descent in law enforcement agencies. The Mechanism heard from some communities about the importance they attach to having police officers who reflect the diversity of the society. In Italy, the composition of law enforcement agencies does not reflect the population’s diversity as it does not match the proportion of population of non-European origin. During the meetings with law enforcement, the Mechanism could not identify efforts to redress this imbalance, which would improve community-police relations, civic trust and cooperation.

41. The Mechanism understands that new recruits must be Italian citizens, but long paths to citizenship by immigrants conspire against such integration. Diversity and inclusion in law enforcement ensure effective policing. Italy should make more efforts to encourage and empower women and persons from ethnic and racially diverse backgrounds to apply to join the existing law enforcement agencies. Recruitment policies should proactively enable them to succeed, by ensuring equal access and opportunities in the selection process.

 C. Use of force regulation

42. The Italian legal system integrates international and regional human rights principles, including those set forth in the European Convention on Human Rights. Italian criminal law addresses the concepts of self-defence and necessity through specific provisions. Article 52 of the Italian Criminal Code permits self-defence,[[28]](#footnote-29) while article 53 regulates the legitimate use of weapons, emphasizing that such use must be proportional to the threat faced. Additionally, article 54 covers the state of necessity, which justifies actions taken to prevent greater harm, while article 55 stipulates that even when these provisions apply, any actions exceeding the bounds of self-defence or lacking proportionality may result in criminal liability.

43. The Mechanism is deeply concerned by the lack of a unified legal framework specifically governing police use of force. The Consolidated Law on Public Security/Order of 1931 provides for the use of force by police to disperse unlawful assemblies and maintain public safety.[[29]](#footnote-30) The Mechanism is also concerned that article 53 of the Italian Criminal Code exempts public officers, and in some cases civilians, from penalties for using weapons or physical coercion to address violence, enforce authority, or prevent severe crimes, leaving the specific conditions for such use to judicial interpretation, creating potential uncertainty. It is also concerned that article 582 of the Criminal Code exacerbates impunity for law enforcement officials who have used excessive force by requiring the filing of a complaint by the victim for the crime to be punishable.[[30]](#footnote-31)

44. The Mechanism heard of some good law enforcement practices in relation to the use of force, including the prioritization of de-escalation and negotiation techniques and the use of restraint as a last resort. Training programs with theoretical and practical components on the use of less-lethal weapons such as tasers for law enforcement personnel was also highlighted. For example, the training highlights that officers should inform individuals of the taser’s presence, follow detailed protocols before deployment, and document comprehensively its use.

45. The Mechanism is alarmed by frequent reports of use of excessive force by police and other law enforcement officials, particularly in the context of migrant identification procedures at certain “hotspots”. The Mechanism was informed about the use of tasers in police stations and juvenile detention centres, highlighting the need for more regulation and training on international standards on the use of force and firearms by law enforcement officials.[[31]](#footnote-32)

 D. Racial profiling

46. Racial profiling[[32]](#footnote-33) is not only unlawful but ineffective and counterproductive as a general law enforcement tool. Affected individuals and communities of racial profiling tend to have less general trust in law enforcement, and as a result, tend to be less willing to cooperate, eroding the police-community relations and law enforcement effectiveness.[[33]](#footnote-34) Racial profiling perpetuates a distorted view of society, where stereotyping, prejudice, bias, and racial discrimination are not only tolerated but are, in some cases, encouraged. This practice has detrimental effects on its victims and their families and undermines the trust between law enforcement and the community.[[34]](#footnote-35) Racial profiling also has an intersectional dimension, for example when women may be subjected to stops and searches due to their perceived foreign origin or for wearing a headscarf.[[35]](#footnote-36)

47. Racial profiling by law enforcement officials in Italy against persons perceived as “foreigners,” including Africans and people of African descent, appears to continue to be practiced in a systemic manner. This practice has left cumulative damaging effects on affected individuals and communities and must continue to be tackled. These damages must be acknowledged, prevented, attended and repaired, and those responsible should be held accountable.

48. The Mechanism received repeated evidence indicating that racial profiling is used as a basis for discriminatory identity checks, stops-and-searches, arrests and related abuses and violence by law enforcement. The Mechanism listened to testimonies of people of African descent, including students being regularly subjected to racial profiling in their daily lives, affecting individuals and entire communities in many ways. A critical issue identified is the lack of comprehensive disaggregated data on these practices, making it difficult to assess the full extent of the problem. The Mechanism could also perceive a widespread fear of reporting such incidents, particularly when the perpetrator is a law enforcement officer. Individuals expressed that approaching the police is intimidating, and requesting an explanation during a law enforcement check can escalate the situation, potentially leading to further repercussions. For example, one individual recounted an incident on a train where a routine document request escalated after they accused the officers of racial profiling, resulting in the arrest of the person.

49. During the visit, parliamentarians highlighted the urgency to combat the risk of racial profiling and face recognition, particularly with respect to the use of transferable algorithms. The Mechanism welcomes the interest of the Senate to address these issues and regulate the use of artificial intelligence in the conduct of law enforcement activities.

 E. Organized crime and war on drugs

50. The Mechanism received information about the presence of organized criminal groups in different parts of the country.[[36]](#footnote-37) The Mechanism recalls the importance of balancing immediate security concerns with respect for human rights. Without a human rights-centred approach, efforts to combat organized crime risk creating a climate of fear and contributing to the stigmatization of affected communities.

51. Drug possession is substantially criminalized in Italy. The Mechanism was informed that the Italian legislation authorizes law enforcement officials to conduct searches without a judicial warrant if there is suspicion of illicit substance possession.[[37]](#footnote-38) The distinction between possession for personal use and possession for trafficking is often unclear, resulting in frequent arrests and criminalization of persons who use drugs.[[38]](#footnote-39) Consequently, a significant proportion of drug-related trials end in conviction.[[39]](#footnote-40)

52. Italy’s punitive approach to drug enforcement raises significant human rights concerns and disproportionately affects Africans and people of African descent. The Mechanism has previously concluded that drug law enforcement “disproportionately affects racial minorities and other vulnerable groups.”[[40]](#footnote-41)

53. Moreover, in 2021, the United Nations Working Group on Arbitrary Detention noted the significant number of foreign nationals detained for drug-related offences in Italy. This was highlighted as an illustration, noting that “in some States, migrants are disproportionately convicted for drug-related offences”.[[41]](#footnote-42) The Mechanism received information indicating that racial profiling in drug law enforcement is prevalent in Italy, as evidenced by several individual cases.[[42]](#footnote-43)

54. The Mechanism also received information emphasizing how restrictive immigration laws have heightened the vulnerability of migrants to drug enforcement policies, often forcing them into clandestinity. As a result, many migrants turn to illegal markets for survival, including drug trafficking.[[43]](#footnote-44)

 F. Oversight

55. Accountability is crucial for upholding the integrity of law enforcement agencies and building public trust in the institution. Independent oversight plays an essential role in preventing and responding to police misconduct, including instances of torture, ill-treatment, racial discrimination and profiling. Specifically, independent, impartial, prompt, thorough, effective, credible and transparent investigations into allegations of human rights violations are essential for holding law enforcement officials accountable for their actions.

56. Internal and external oversight bodies both play important and complementary roles in ensuring accountability, transparency, and integrity within law enforcement agencies. One advantage of internal police oversight bodies is their in-depth understanding of institutional culture and internal regulations, as well as their capacity to conduct investigations. However, such mechanisms should operate with sufficient independence and impartiality to be effective in achieving their objectives.[[44]](#footnote-45)

57. The Mechanism regrets the absence of a non-judicial internal police oversight body in Italy to investigate complaints against law enforcement officials. According to information received, Italy is the only country in the European Union without such a mechanism. The Mechanism also notes with concern that there is no independent civilian oversight body with a mandate to examine complaints against law enforcement officials. As a result, complainants are left with pursuing judicial avenues as their sole recourse. While the National Guarantor of the Rights of Persons Detained or Deprived of their Liberty plays an important preventive role, its mandate remains limited to that of a national preventive mechanism established under the Optional Protocol to the UN Convention against Torture (OPCAT).

58. The Mechanism received information indicating that it is not mandatory for law enforcement officers in Italy to wear visible individual identification badges or warrant numbers. Additionally, officers in uniform are not required to identify themselves or display their badges or IDs upon request.[[45]](#footnote-46) This lack of mandatory identification makes it challenging for individuals to identify and report officers involved in misconducts. Personal identification of law enforcement officials is crucial for enhancing accountability, transparency, and public trust in law enforcement institutions. It also serves as a deterrent, as officers are aware that they can be easily identified and reported.[[46]](#footnote-47) During meetings with parliamentarians, the Mechanism was informed that a bill introducing identification badges for law enforcement officers is anticipated.[[47]](#footnote-48)

59. Based on information received, police officers do not commonly use body-worn cameras, despite their introduction into their equipment in 2022. Body-worn cameras are a valuable tool for promoting accountability and transparency, while also protecting officers who wear them from false accusations of misconduct. The Mechanism welcomes the Italian government’s plan to generalize the use of body-worn cameras among law enforcement officers.[[48]](#footnote-49)

 G. Lack of disaggregated data

60. UNAR indicated that in 2023, it received a total of 1,978 reports, of which 948 reports (47.9%) were related to discrimination based on racial or ethnic origin.[[49]](#footnote-50) These reports were categorized across various areas, including public life, leisure and sports, provision of services (such as lodging and work), public sector services, education, public transport, health, law enforcement, and private transport. Specifically, 23 out of the 948 cases involved law enforcement agencies, 112 pertained to sports, and 78 were related to housing. UNAR noted that cases of racial discrimination are possibly underreported, hindering a full understanding of the discrimination occurring nationwide. From their side, OSCAD informed the Mechanism that they have decided to focus on acts of antisemitism.

61. The Mechanism identified significant gaps in the collection of data disaggregated by race or ethnic origin, and additionally by other factors, and analysis concerning the encounters between law enforcement officials and foreign citizens or individuals of non-European origin, including Africans and people of African descent. This lack of data was specifically highlighted by UNAR and civil society organizations. The Mechanism was informed that law enforcement agencies centralize their data collection in one single database. The data collected is centred on offenders, with data disaggregated between nationals, EU citizens, non-EU citizens, and stateless persons.

62. The compilation, analysis, publication and use of disaggregated data is crucial for revealing whether specific groups are disproportionately targeted for stops, searches, or arrests. Understanding these patterns is essential for identifying issues related to racial discrimination, preventing them, and developing effective policies and reforms to address them. More generally, the systematic collection of disaggregated data on race and ethnicity is necessary to hold public institutions accountable for their role in perpetuating inequalities and to foster diversity, inclusion, and equitable representation across all sectors.[[50]](#footnote-51) It can also contribute to raising awareness among law enforcement officials, with the goal of enabling more conscientious decision-making.[[51]](#footnote-52) Moreover, diversifying the types of data gathered beyond those data traditionally collected by law enforcement would provide a more robust picture of the interaction between Africans and people of African descent and the criminal justice sector.[[52]](#footnote-53)

 H. Migrants and asylum seekers

63. While acknowledging the challenges Italy faces as a primary gateway for migrants and asylum seekers entering Europe via the Mediterranean, the Mechanism is concerned about the difficulties they encounter in accessing international protection and refugee status determination procedures.[[53]](#footnote-54) The Italian asylum system is characterized by heavy bureaucracy and lengthy processing times, leaving migrants in vulnerable and uncertain positions throughout the process.[[54]](#footnote-55) The Mechanism is concerned that immigration services are housed in police stations, instead of being provided by civilian authorities.

64. Testimonies received indicate that these challenges are further compounded by human rights violations committed by law enforcement officials at immigration offices inside police stations (*Questure*) and reception centres.[[55]](#footnote-56) Despite these concerns, the Mechanism also observed commendable practices during its visit to a reception centre (*centro di prima accoglienza migranti*) in Catania, particularly in terms of cooperation with civil society and international organizations, use of mediators, and educational, cultural and sport activities provided. The Mechanism encourages the sharing and implementation of these good practices across reception centres nationwide.

65. Italian immigration law has become increasingly restrictive in recent years, making it more difficult for migrants to obtain legal status.[[56]](#footnote-57) The Mechanism is deeply concerned by the extensive use of detention for migrants, refugees and asylum seekers in “hotspots”, often for prolonged periods and without a clear legal basis. This practice may amount to de facto arbitrary detention and imposes disproportionate restrictions on the right to personal liberty.[[57]](#footnote-58)

66. The Mechanism received information suggesting that immigration detention centres for repatriation are being used as a form of punishment for those who stay in Italy unlawfully. Data provided by the National Guarantor for the Rights of Persons Detained or Deprived of Liberty indicate that in 2022, 6,383 persons (6,326 men, 57 women) were admitted to immigration removal centres, the large majority of whom were Africans (5,492), primarily from North Africa.[[58]](#footnote-59)

67. While recognizing the efforts undertaken by various centres to provide basic services to migrants, including cultural and educational activities, the Mechanism remains concerned about poor detention conditions and the quality of services offered in these centres. According to the information received, some services provided in the centres, including healthcare, are outsourced to private companies and are not guaranteed.[[59]](#footnote-60) The Mechanism wishes to remind the State of its duty of due diligence towards individuals it deprives of liberty. During a visit to a repatriation centre in Milan, the Mechanism received allegations of ill-treatment, such as deprivation of food and water for a long period of time. It was also informed about the poor quality of the food provided and observed that a resident had untreated wounds.[[60]](#footnote-61) When visiting the repatriation centre of Ponte Galeria in Rome, the Mechanism noticed that individuals in the male sector were clearly distressed.

68. The Mechanism is concerned by the reported lack of regulations and reporting procedures in repatriation centres in relation to the activities of law enforcement personnel, particularly concerning the use of force. When the State fails to implement use of force regulations in accordance with international standards, acts of excessive use of force are likely to remain unpunished. The Mechanism calls on Italy to ensure that officials who work in direct contact with migrants receive proper training on international standards relating to the use of force and firearms and on de-escalation techniques.

69. The Mechanism is deeply concerned about Italy’s plan to establish detention centres in Albania for migrants rescued or intercepted at sea by Italian state vessels, including individuals seeking international protection.[[61]](#footnote-62) This agreement, signed between the two countries in November 2023, could have serious implications for the human rights of migrants, refugees and asylum seekers, potentially jeopardizing their right to life, to physical integrity, to liberty and security, to asylum, to non-refoulement, to defence and to effective remedies, as well as the proper identification of vulnerable persons requiring special care.[[62]](#footnote-63) The Mechanism urges Italy to carefully consider these risks and reassess the compatibility of this agreement with its international human rights obligations.

70. During the visit, the Mechanism received reports detailing numerous challenges faced by human rights defenders, lawyers and humanitarian workers who work on the human rights of migrants, refugees and asylum seekers. The frequent obstacles, threats and harassment they encounter create a demotivating and chilling effect on those who support migrants at various levels. Of particular concern are the attacks against civil society organizations engaged in search and rescue operations in the Mediterranean Sea and the criminalization of their work.

71. The Iuventa case exemplifies this issue. In May 2022, the Trapani Prosecutor’s Office charged 21 human rights defenders, including four members of the Iuventa, a vessel conducing search and rescue operations in the Mediterranean, with “aiding and abetting illegal immigration to Italy” for alleged collaboration with people smugglers. However, on 19 April 2024, a court in Trapani dismissed the charges and acquitted the defendants.[[63]](#footnote-64)

72. In January 2023, new legislation imposed additional restrictions on rescue vessels entering or transiting through Italian territorial waters, further limiting the work of human rights defenders and civilians involved in search and rescue operations. Recognizing the invaluable role these individuals play in upholding human rights and democratic values, the Mechanism calls on Italy to ensure that human rights defenders, lawyers and humanitarian workers can perform their work freely and without threats or harassment.

 I. Law enforcement wellbeing

73. During meetings with law enforcement, the Mechanism discussed available services for supporting the mental health and well-being of law enforcement officers. The information received indicates that psychologists are available on a voluntary basis to those who seek their support. However, mandatory psychological support is limited to serious incidents, typically involving the use of weapons. The Mechanism spoke with officers who expressed a need for more comprehensive support services for themselves and their families.

74. The lack of material and human resources adds significant strain to the mental health of officers. During visits to two detention facilities in Milan, the juvenile correctional facility “Cesare Beccaria” and the correctional facility “San Vittore”, the management reported being understaffed. Additionally, during a visit to a correctional facility in Milan, concerns were raised about the young age and inexperience of some penitentiary officers, calling for increased mentorship and support from senior staff to help them develop their skills, gain expertise, and understand diverse cultural values.

75. The Mechanism recognizes the challenging and stressful nature of law enforcement work. The mental health and well-being of officers directly affect the way they perform their duty and their interactions with the communities they are mandated to protect. Law enforcement agencies should foster a culture of respect and well-being, where officers feel valued, and implement comprehensive mental health and wellness programs for the staff and their families.

 V. Criminal Justice System

 A. Overrepresentation of Africans and people of African descent

76. As of 30 June 2024, the prison population in Italy totalled 61,480 individuals[[64]](#footnote-65), including 2,682 women, resulting in an incarceration rate of 105 per 100,000 inhabitants.[[65]](#footnote-66) 31% of all detainees were foreigners, with a majority (54%) originating from the African continent.[[66]](#footnote-67) The Mechanism is particularly concerned about the disproportionate representation of people of foreign origin, especially Africans and people of African descent, within the Italian criminal justice system. Based on information received, the overrepresentation of foreigners is particularly pronounced in Northern Italy. Data on remand prisoners reveal that the proportion of foreigners in pre-trial detention is slightly higher than their overall proportion in criminal detention.[[67]](#footnote-68) Information received by the Mechanism also suggests that foreigners in the pretrial phase often face more severe sanctions compared to Italian citizens.

77. The overrepresentation of foreigners in the criminal justice system is even more pronounced among juveniles. In 2023, nearly half of all young people admitted to juvenile detention facilities were foreigners (48.8%), of whom 75.9% were of African origin. As of 31 December 2023, foreign children represented 60.8% of all juvenile detainees from 14 to 17 years old. [[68]](#footnote-69)

78. This overrepresentation can be attributed to various factors, including poverty, limited access to quality education, employment, healthcare, and adequate housing, as well as the lack of social and family networks. These issues are exacerbated by racial profiling and the criminalisation of individuals based on their migration status, contributing to feeding systemic racism affecting Africans and people of African descent. It is particularly concerning to observe that foreign minors often face more restrictive measures compared to their Italian counterparts, regardless of the severity of the offense they committed.

79. On 15 September 2023, the Italian Parliament approved Decree-Law No. 123, commonly known as “Caivano Decree”, which aims to combat juvenile crime.[[69]](#footnote-70) The Decree includes, among other measures, stricter sanctions for drug-related offenses and lowers the threshold for applying pretrial detention for minors.[[70]](#footnote-71) Its harmful effect on children in conflict with the law was emphasized by civil society organizations. Because of their overrepresentation in the criminal justice system, the Decree is likely to have a disproportionate impact on minors of African descent.

80. The systemic challenges and marginalization that often lead foreign children into the criminal justice system also hinder their successful reintegration into society.[[71]](#footnote-72) Reports from civil society organizations and penitentiary staff indicate an increase in psychiatric issues, psychological distress, and substance abuse among juveniles in detention centres. Boys of foreign origin, including unaccompanied children, are particularly affected.[[72]](#footnote-73) The Mechanism highlights the disproportionate impact of these issues on foreign children and underscores that the deprivation of liberty for children in conflict with the law should be considered a measure of last resort.[[73]](#footnote-74)

 B. Conditions of detention and overpopulation

81. As of 30 June 2024, Italy’s official prison occupancy rate was 120%[[74]](#footnote-75), with some facilities reaching up to 130% when accounting for unavailable space and others exceeding 150%.[[75]](#footnote-76) The detention facilities visited by the Mechanism also reported being understaffed, with significant shortages of penitentiary police officers and medical staff.[[76]](#footnote-77) This issue was particularly pronounced in detention facilities for juveniles, where there were notable gaps regarding penitentiary police, educators, mediators, and psychiatrists Although psychological support services are available, they often fall short for foreign detainees due to cultural barriers. The Mechanism reminds the State of its obligation to provide healthcare in prisons, including mental health services, and that prisoners are entitled to the same standards of healthcare as those available in the community.[[77]](#footnote-78)

82. The Mechanism has noted a troubling increase in incarceration rates in Italy, with the number of prisoners rising from 52,000 in 2020 to over 60,000 in 2024. Overcrowding significantly impacts the conditions of detention and, by extension, the human rights of detainees.[[78]](#footnote-79) Many detention facilities are outdated and not suitable for their intended use. The Mechanism is concerned about reports of inadequate water supply, excessive heat during summer, and lack of hot water, particularly in winter, in several detention centres. The Mechanism would like to emphasize that overcrowding and substandard conditions of detention can constitute a severe form of ill-treatment, or even torture.[[79]](#footnote-80) The Mechanism calls on Italy to strengthen efforts to improve conditions of detention and reduce the overcrowding of detention facilities, in accordance with international human rights standards.

83. Information received indicates that a significant proportion of people detained in Italy, including foreign nationals, struggle with substance abuse. According to the management of the San Vittore correctional facility in Milan, over half of the residents are registered as certified substance abusers. However, harm reduction treatments and rehabilitation services for persons who use drugs in prison are often insufficient. This inadequacy is particularly evident due to the lack of continuity in treatment between external and internal services, as well as between different detention facilities.[[80]](#footnote-81)

84. Based on the information received, the special needs of foreign detainees are frequently overlooked. The lack of sufficient translators and cultural mediators is particularly concerning, leading to communication barriers and inadequate access to essential information to navigate life in detention, and in the case of pretrial detainees, adequately prepare their defence. Additionally, the Mechanism received information indicating a high level of distrust among prisoners towards the penitentiary police. This situation highlights the need for a thorough examination of the penitentiary system’s institutional culture, its rehabilitative goals, and the critical role of penitentiary police officers in achieving these objectives.

85. The Mechanism is deeply troubled by reports of recurrent self-harm and suicides among inmates. According to the National Guarantor for the Rights of Persons Detained or Deprived of Liberty, there were 85 suicides in prison in 2022,[[81]](#footnote-82) 67 in 2023, and 44 as of 20 June 2024. Of the 44 detainees who committed suicide in 2024, 20 were foreign nationals, including eight from Africa.[[82]](#footnote-83)

 C. Torture in detention

86. The Mechanism is concerned by recent cases of torture and other ill-treatment in Italian prisons. During the visit, it received reports of specific instances of torture, ill-treatment, and death in custody in various detention facilities across Italy. The Mechanism was alerted about the trial of over 105 police officers and other officials on charges including torture, bodily injuries, abuse of authority, falsification of official documents, and complicity in the manslaughter of a 28-year-old Algerian man in relation to an incident at the Santa Maria Capua Vetere Prison in Caserta in April 2020, at the outset of the Covid-19 pandemic. It represents one of the most significant allegations of torture involving penitentiary personnel.

87. The Mechanism was also informed of the conviction of five prison officers for torturing a Tunisian prisoner at San Gimignano prison in 2018. Additionally, at Reggio Emilia prison, at least ten prison officers are currently on trial for the torture of another Tunisian man in 2023. At the Juvenile Detention Centre “Cesare Beccaria” in Milan, a facility visited by the Mechanism, 13 penitentiary police officers were arrested in April 2024 on charges of torture and ill-treatment and eight others suspended, with the investigation still ongoing.[[83]](#footnote-84)

88. Furthermore, the Mechanism received troubling reports regarding the death in custody of a Malian migrant in March 2024. According to the information received, the family received the death certificate and burial authorization stating that the cause of death was “under investigation”. They allegedly received contradictory and unofficial reports suggesting that he either died from starvation, a heart attack, or suicide. The reasons for detention, the charges he faced, and the circumstances of his death remain unclear.[[84]](#footnote-85)

89. The Mechanism acknowledges the actions taken by Italian judicial authorities to investigate incidents of torture and ill-treatment and prosecute those responsible. However, it calls on the State to pursue its efforts to ensure that all allegations of torture and ill-treatment, as well as deaths in custody, are met with independent, impartial, prompt, thorough, effective, credible and transparent investigations. The Mechanism emphasizes once again the importance of holding perpetrators accountable to uphold justice and human rights.

90. The Mechanism expresses profound concern regarding a proposal for legislation which seeks to abolish the specific crime of torture, as defined in articles 613-bis and 613-terof the Italian Criminal Code.[[85]](#footnote-86) The proposal suggests replacing it with an aggravating circumstance that does not explicitly reference the term “torture”. Removing torture as a distinct and particularly serious offence would undermine Italy’s obligations under international human rights law to guarantee freedom from torture. Furthermore, it would jeopardize ongoing criminal proceedings relating to acts of torture, thereby fostering impunity for this grave crime.[[86]](#footnote-87)

91. The Mechanism underscores that the prohibition of torture is a peremptory norm, and that its use cannot be justified under any circumstances.[[87]](#footnote-88) States parties to UNCAT are required to criminalize torture in their domestic legislation and provide for appropriate penalties that reflect the severe nature of this crime.[[88]](#footnote-89) Consequently, the Mechanism calls on Italy to withdraw draft law No. 341 from consideration by Parliament and to retain the crime of torture in its Criminal Code to ensure compliance with international standards.

 VI. Recommendations

92. **The Mechanism acknowledges the efforts by Italy to address racial discrimination against Africans and people of African descent in the context of law enforcement and the criminal justice system. It also expresses satisfaction at the willingness to engage in dialogue and cooperate with the Mechanism to tackle these issues. The Mechanism looks forward to continuing to cooperate with Italy to implement its recommendations.**

93. **The Mechanism addresses the following recommendations to the Italian competent authorities:**

94. **Fully implement the United Nations High Commissioner for Human Rights’ four-point agenda towards transformative change for racial justice and equality, containing 20 actionable recommendations to end systemic racism and human rights violations by law enforcement against Africans and people of African descent.**[[89]](#footnote-90)

95. **Combat systemic racism and racial discrimination against Africans and people of African descent with a systemic human-rights-based approach.**

96. **Include in its antidiscrimination legal framework a clear definition of racial discrimination, making sure that all grounds specified in article 1 of the ICERD are explicitly included in such a definition and that it prohibits direct, indirect and intersecting forms of discrimination in both the public and private spheres.**

97. **Tackle poverty and lack of quality education, employment opportunities, healthcare, adequate housing and other human rights violations as a way to combat systemic racism against Africans and people of African descent.**

98. **Adopt a human-rights-based approach to policing.**

99. **Adopt the new national plan against racism in a prompt manner, allocate sufficient financial and human resources for its implementation, and establish a mechanism to assess and monitor its progress.**

100. **Ensure that cases of hate speech are investigated and prosecuted consistently and impartially, identifying systemic issues and providing support to the victims and their families.**

101. **Establish a national human rights institution to streamline ongoing implementation of existing recommendations including those in this report. This institution should comply with the Paris Principles and have a robust mandate for dismantling systemic racism, including in law enforcement and the criminal justice system.**

102. **Take the necessary measures to ensure the independence of UNAR, in law and in practice, in order to enable it to effectively discharge its mandate as a national equality body, in particular its mandate to combat racial discrimination.**

103. **Intensify efforts to ensure the comprehensive inclusion of the history of colonialism and enslavement in school curricula and raise public awareness about the importance of ethnic and cultural diversity, as well as combating racism and racial discrimination.**

104. **Establish a comprehensive diversity and inclusion programme designed to increase representation and foster inclusivity within law enforcement agencies, including by adapting the police entry and examination strategy and requirements to effectively and efficiently increase diversity, including race and gender, within the ranks.**

105. **Ensure that all laws, policies, procedures and practices to restrict the use of force comply with international standards on the use of force and firearms by law enforcement officials, particularly the principles of legality, precaution, necessity, proportionality, accountability and non-discrimination. Apply these principles, and the obligation to protect and respect the right to life, in all operations and use of force by all law enforcement agencies in Italy.** **Ensure that all use of force is strictly reviewed, and violations are punished. Ensure that data disaggregated by race, ethnic or national origin and additionally by other factors is gathered on all use of force encounters with law enforcement officers, and that such data is analysed, published and used to inform policy-making and practice.**

106. **Revise article 582 of the Criminal Code and ensure that allegations of torture, ill-treatment and excessive use of force are thoroughly investigated even if the victim has not filed a complaint. Ensure that alleged perpetrators are prosecuted and, if convicted, punished with sanctions commensurate with the seriousness of the crime, and that victims obtain reparation.**

107. **Eliminate all racial profiling. Ensure that racial profiling is clearly defined and prohibited by law. Discriminatory identity checks should be clearly prohibited. Establish clear guidelines to prevent and combat racial profiling during police checks and other police measures and regulate the use of artificial intelligence in the conduct of law enforcement activities. All allegations of racial profiling should be investigated, prosecuted and punished. Disaggregated data for all incidents, complaints and investigations on racial profiling should be collected, analysed, and publicized by all law enforcement agencies, and used to inform policy-making and practice.**

108. **Ensure that law enforcement officers receive specific trainings on fighting racial discrimination, racial bias and racial profiling, and ensure that the conduct of law enforcement officers is in line with international human rights standard.**

109. **Adopt a human rights-based approach to drug policies. End the focus on small-time offenders in the “war on drugs” and decriminalize possession for personal use as well as retail-level trade in drugs.**

110. **Establish by law a national independent civilian oversight body for law enforcement, with the mandate to investigate complaints against law enforcement officials. Ensure its total operational and hierarchical autonomy, with full financial and structural independence, and with all the other characteristics outlined in the 2024 annual report of the Mechanism.[[90]](#footnote-91)**

111. **Introduce the personal identification of police officers as mandatory in the legislation, including the display of identification numbers in uniforms. Ensure the use of body-worn cameras.**

112. **Implement the recommendations of this Expert Mechanism contained in its thematic reports, notably on data collection, policing and justice, accountability and redress.**

113. **Ensure by legislation the required capacity to collect, compile, analyse and publish data, disaggregated by race or ethnic origin and additionally by other factors, on direct interactions of the population with law enforcement and the criminal justice system, including stop-and-search, arrests, racially motivated crimes, the use of force, and on related complaints, investigations, prosecutions, and convictions.**

114. **Ensure that refugee status determination and international protection procedures are purely administrative and processed without delay. Transfer these responsibilities to civilian state agents outside of police stations and within or nearby affected communities.**

115. **Cease readmissions, rejections and expulsions of foreign citizens who declare themselves to be minors at borders, in compliance with Italian law and the principle of non-refoulement.**

116. **Adopt a human rights-based approach to migration and address racism within the ranks of immigration authorities, including structural and institutional factors. Ensure that the use of force by law enforcement officers operating in hotspots and repatriation centres and participating in forced-return operations is governed by clear regulations and reporting procedures in accordance with international standards. Take measures to ensure adequate living conditions in repatriation centres.**

117. **Enhance legal support, police training, and community assistance to prevent the separation of migrants’ families.**

118. **Develop clear programs to provide mental health care and wellness for law enforcement officials.**

119. **Adopt a national strategy to reduce the overrepresentation of Africans and people of African descent in criminal detention. Pursue efforts to improve conditions of detention and alleviate the overcrowding of penitentiary institutions and other detention facilities, in line with the UN Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules) and other relevant international standards. Privilege the application of alternatives to detention in accordance with the UN Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules).**

120. **Review and reinforce strategies and programs to prevent suicide and self-harm in penitentiary facilities and ensure they are adequately resourced. Ensure that healthcare services, including mental health services, are available in all penitentiary facilities.**

121. **Establish universally accessible drug rehabilitation services for detainees and ensure seamless continuity of care both within and between detention facilities and the outside world.**

122. **Ensure that allegations of torture and other ill-treatment are investigated in an independent, impartial, prompt, thorough, effective, credible and transparent** **manner and that suspected perpetrators are duly prosecuted, tried and, if found guilty, punished in a manner that is commensurate with the gravity of their acts.**

123. **Maintain torture as a distinct and grave offense in the Italian Criminal Code.**

1. \* The summary of the report is being circulated in all official languages. The report itself, which is annexed to the summary, is being circulated in the language of submission only. [↑](#footnote-ref-2)
2. \*\* The present report was submitted after the deadline in order to reflect the most recent developments. [↑](#footnote-ref-3)
3. https://www.ohchr.org/en/hrc-subsidiaries/expert-mechanism-racial-justice-law-enforcement/experts. [↑](#footnote-ref-4)
4. See <https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=85>. [↑](#footnote-ref-5)
5. The Mancino Law brought into penal law the concept of “aggravating circumstances”, which allows judges to increase a sentence by up to one-half for offences committed with the purpose of discrimination or hatred based on ethnic, national, racial or religious grounds. [↑](#footnote-ref-6)
6. See [http://dati-censimentipermanenti.istat.it/?lang=en&SubSessionId=d84f93d3-07d5-41ee-a4c8-5c371d3a2aed#](http://dati-censimentipermanenti.istat.it/?lang=en&SubSessionId=d84f93d3-07d5-41ee-a4c8-5c371d3a2aed). [↑](#footnote-ref-7)
7. See [http://dati-censimentipermanenti.istat.it/?lang=en&SubSessionId=d84f93d3-07d5-41ee-a4c8-5c371d3a2aed#](http://dati-censimentipermanenti.istat.it/?lang=en&SubSessionId=d84f93d3-07d5-41ee-a4c8-5c371d3a2aed). [↑](#footnote-ref-8)
8. See <https://www.tuttitalia.it/regioni/> [↑](#footnote-ref-9)
9. See <https://www.tuttitalia.it/province/> [↑](#footnote-ref-10)
10. See <https://www.tuttitalia.it/comuni/popolazione/>. [↑](#footnote-ref-11)
11. See <https://www.interpol.int/en/Who-we-are/Member-countries/Europe/ITALY>. [↑](#footnote-ref-12)
12. A/HRC/47/53. [↑](#footnote-ref-13)
13. Ibid. [↑](#footnote-ref-14)
14. See <https://fra.europa.eu/sites/default/files/fra_uploads/lgbti-survey-country-data_italy.pdf> and <https://fra.europa.eu/sites/default/files/fra_uploads/fra-2024-lgbtiq-equality_en.pdf>. [↑](#footnote-ref-15)
15. See <https://www.europarl.europa.eu/doceo/document/E-9-2019-002542_EN.html>. [↑](#footnote-ref-16)
16. See law No. 47/2017 on measures for protection of unaccompanied foreign minors, of April 2017. [↑](#footnote-ref-17)
17. See <https://www.asgi.it/wp-content/uploads/2021/07/ASGI_Unaccompanied-Minors_DEF.pdf> [↑](#footnote-ref-18)
18. In this regard, the Expert Mechanism is concerned about Law 132/2018 of 1 December 2018 on Immigration and Security, that introduces the provision of “safe country of origin” as a ground for declaring an application for international protection unfounded and Law 50/2023 of 6 May 2023, that impact the proper safeguarding of migrants, asylum seekers, and refugees making them more susceptible to human rights abuses. [↑](#footnote-ref-19)
19. CERD/C/ITA/CO/21. [↑](#footnote-ref-20)
20. CERD/C/ITA/CO/19-20, paras. 12-13. [↑](#footnote-ref-21)
21. CERD/C/ITA/CO/21, CAT/C/ITA/CO/5-6, and OHCHR Report of mission to Italy on racial discrimination, 2019. [↑](#footnote-ref-22)
22. A/HRC/39/L.19/Rev.1. [↑](#footnote-ref-23)
23. See in particular A/70/335, which provides an overview of the normative framework, role and benefits, and human rights safeguards in relation to collecting disaggregated data. [↑](#footnote-ref-24)
24. See CERD/C/ITA/CO/19-20, paras. 8-9, 15-17 and 27-28; CEDAW/C/ITA/CO/7, paras. 28-29; CRC/C/ITA/CO/3-4, paras. 16 and 25. See also A/HRC/35/10, para. 52, and OHCHR report of the mission to Italy on racial discrimination, 2019, para 26. [↑](#footnote-ref-25)
25. See <https://hatecrime.osce.org/italy?year=2022>. [↑](#footnote-ref-26)
26. Ibid. [↑](#footnote-ref-27)
27. Data for 2023 was not yet available. [↑](#footnote-ref-28)
28. See<https://sherloc.unodc.org/cld/uploads/res/document/ita/1930/codice_penale_html/Codice_Penale_-_edizione_aprile_2022.pdf>. [↑](#footnote-ref-29)
29. See <https://www.refworld.org/legal/decreees/natlegbod/1931/en/101116>. [↑](#footnote-ref-30)
30. CCPR/C/ITA/CO/6. [↑](#footnote-ref-31)
31. As underlined by the Code of Conduct for Law Enforcement Officials of 1979, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials of 1990 and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement of 2020. [↑](#footnote-ref-32)
32. See CERD General recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials. CERD/C/GC/36, paras. 13-20. [↑](#footnote-ref-33)
33. CERD/C/GC/36, para. 26. [↑](#footnote-ref-34)
34. See https://assembly.coe.int/LifeRay/EGA/Pdf/TextesProvisoires/2020/20201127-EthnicProfiling-EN.pdf. [↑](#footnote-ref-35)
35. Ibid. [↑](#footnote-ref-36)
36. Based on information received, the most prominent foreign criminal groups are from Nigeria, Albania, and China. For more information on organized crime in Italy, see: <https://ocindex.net/2023/country/italy>. [↑](#footnote-ref-37)
37. See Presidential Decree No. 309 of 9 October 1990 (latest amendments published on 13 August 2024). [↑](#footnote-ref-38)
38. See [subm-s-ohchrs-report-csos-forum-droghe-101.pdf](https://www.ohchr.org/sites/default/files/documents/issues/drug/cfi-hrc54-drug-policy/submission/subm-s-ohchrs-report-csos-forum-droghe-101.pdf). [↑](#footnote-ref-39)
39. See <https://www.politicheantidroga.gov.it/media/ix0b0esf/relazione-al-parlamento-2023.pdf>. [↑](#footnote-ref-40)
40. A/HRC/54/69. [↑](#footnote-ref-41)
41. A/HRC/47/40. For recent statistics, see: <https://www.giustizia.it/giustizia/it/mg_1_14_1.page?contentId=SST1413109>. [↑](#footnote-ref-42)
42. The frequency of racial profiling by the police is also highlighted here: [subm-s-ohchrs-report-csos-forum-droghe-101.pdf](https://www.ohchr.org/sites/default/files/documents/issues/drug/cfi-hrc54-drug-policy/submission/subm-s-ohchrs-report-csos-forum-droghe-101.pdf). [↑](#footnote-ref-43)
43. See A/HRC/54/53. [↑](#footnote-ref-44)
44. See also UNODC’s Handbook on police accountability, oversight and integrity: <https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/PoliceAccountability_Oversight_and_Integrity_10-57991_Ebook.pdf>. [↑](#footnote-ref-45)
45. See OHCHR Report of mission to Italy on racial discrimination, 2019, para. 47. [↑](#footnote-ref-46)
46. In the specific context of protests, see A/HRC/55/60, para. 5.1. [↑](#footnote-ref-47)
47. See <https://www.ilpost.it/2024/07/26/governo-emendamento-bodycam-codici-identificativi/>. [↑](#footnote-ref-48)
48. Ibid. [↑](#footnote-ref-49)
49. The data collected by UNAR is disaggregated based on the different grounds for discrimination listed in art. 604-bis of the criminal code: race, ethnic origin, nationality, religious belief, as well as on disability, language minority, sexual orientation and gender identity. [↑](#footnote-ref-50)
50. See <https://www.ohchr.org/sites/default/files/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf>. [↑](#footnote-ref-51)
51. A/73/354. [↑](#footnote-ref-52)
52. OHCHR, Disaggregated data to advance the human rights of people of African descent: progress and challenges. 2023, p. 17. [↑](#footnote-ref-53)
53. For data on migrants entering Italy via the Mediterranean, see: <https://www.interno.gov.it/sites/default/files/2024-08/cruscotto_statistico_giornaliero_06-08-2024.pdf>. [↑](#footnote-ref-54)
54. See <https://www.rescue.org/eu/report/wait-please-irc-italy-april-202.4> [↑](#footnote-ref-55)
55. See OHCHR Report of mission to Italy on racial discrimination, op. cit., para. 45; CAT/C/ITA/CO/5-6. [↑](#footnote-ref-56)
56. Law No. 50 of 5 May 2023; Decree of 14 September 2023 of the Ministry of Interior; Decree-Law No. 124 of 19 September 2023. <https://integrazionemigranti.gov.it/it-it/Ricerca-news/Dettaglio-news/id/3202/DL-202023-DL-Cutro-ecco-come-stato-modificato-in-Parlamento>. [↑](#footnote-ref-57)
57. CERD/C/ITA/CO/19-20. Although Law 173/2020 introduced some legal basis into hotspot detention, the practice remains poorly regulated and not in line with international standards. See: <https://asylumineurope.org/reports/country/italy/detention-asylum-seekers/legal-framework-detention/duration-detention/>. See also: European Court of Human Rights, J.A. and Others v. Italy (30 March 2023). [↑](#footnote-ref-58)
58. See the National Guarantor’s 2023 report to the Parliament, p. 193: <https://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/24447ddbb0b3093d479d7da93ebcda98.pdf>. [↑](#footnote-ref-59)
59. Some health services remain under the control of the National Health Service (NHS), for example to assess the compatibility of a person's health conditions for admission in the facility. [↑](#footnote-ref-60)
60. In particular, the Mechanism received information that the food provided was sometimes expired and contained worms. See <https://naga.it/2023/10/25/il-report-e-online-al-di-la-di-quella-porta/?fbclid=IwZXh0bgNhZW0CMTAAAR1hKJ8fcXr9QLimwgMnQsj6kPQipU-iFmopTmRN2APxQH_I4cB7tLc1utE_aem_HVxshHUhU1PSwv3F88vOMw>. [↑](#footnote-ref-61)
61. See <https://ecre.org/mediterranean-italy-albania-deal-takes-another-step-forward-%E2%80%95-syrian-refugees-go-back-and-forth-between-cyprus-and-lebanon-despite-apparent-return-agreement-%E2%80%95-more-crossings-and-death/>. [↑](#footnote-ref-62)
62. See <https://www.amnesty.org/en/wp-content/uploads/2024/01/EUR3075872024ENGLISH.pdf> [↑](#footnote-ref-63)
63. See <https://www.frontlinedefenders.org/en/case/italian-court-dropped-charges-against-migrant-human-rights-defenders-iuventa-case>. [↑](#footnote-ref-64)
64. https://www.giustizia.it/giustizia/it/mg\_1\_14\_1.page?contentId=SST1410631. [↑](#footnote-ref-65)
65. See <https://www.prisonstudies.org/country/italy>. [↑](#footnote-ref-66)
66. The percentage of foreigners among women detainees is 28%. (<https://www.giustizia.it/giustizia/it/mg_1_14_1.page?contentId=SST1410603>). [↑](#footnote-ref-67)
67. <https://www.giustizia.it/giustizia/it/mg_1_14_1.page?contentId=SST1410631>. [↑](#footnote-ref-68)
68. Penitentiary institutes for juveniles are primarily meant to accommodate children. However, they also host a young adults (up to 24 years old) who committed an offence when they were minors (<https://www.giustizia.it/cmsresources/cms/documents/IPM_anno_2023.pdf>). (<https://www.giustizia.it/cmsresources/cms/documents/Analisi_Servizi_minorili_30.04.2024_G.pdf>). [↑](#footnote-ref-69)
69. Decree-Law No. 123 of 15 September 2023. [↑](#footnote-ref-70)
70. See <https://www.ilpost.it/2024/02/29/carcere-minorile-detenuti-rapporto-antigone/>. [↑](#footnote-ref-71)
71. See <https://www.ragazzidentro.it/le-inferiori-opportunita-dei-giovani-stranieri-nel-circuito-della-giustizia-penale/>. [↑](#footnote-ref-72)
72. This was the case at the Cesare Beccaria juvenile detention centre visited by the Mechanism. See <https://www.antigone.it/upload/Prospettive_minori_Antigone_Eng.pdf>. [↑](#footnote-ref-73)
73. United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); United Nations Rules for the Protection of Juveniles Deprived of their Liberty (The Havana Rules). [↑](#footnote-ref-74)
74. <https://www.prisonstudies.org/country/italy>. [↑](#footnote-ref-75)
75. See <https://www.antigone.it/news/3555-carceri-antigone-sovraffollamento-a-livelli-di-guardia-non-bastano-gli-interventi-minimali-no-alla-riapertura-degli-opg>. [↑](#footnote-ref-76)
76. The organization Prison Insider reports a general ratio of one prison guard for 6 detainees in 2023 in Italy (<https://www.prison-insider.com/en/comparer/outil-de-comparaison?profiles=151108>). [↑](#footnote-ref-77)
77. Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules), Rule 24. [↑](#footnote-ref-78)
78. CAT/C/ITA/CO/4 and CAT/C/ITA/CO/5-6. Italy also received recommendations to tackle overcrowding in prison during the 2019 UPR review ([A/HRC/43/4](https://uhri.ohchr.org/en/document/a0ba38d0-a9cb-417b-bf3b-7a8304df0653)). [↑](#footnote-ref-79)
79. A/HRC/30/19 and A/HRC/55/52 para. 7. [↑](#footnote-ref-80)
80. See [subm-s-ohchrs-report-csos-forum-droghe-101.pdf](https://www.ohchr.org/sites/default/files/documents/issues/drug/cfi-hrc54-drug-policy/submission/subm-s-ohchrs-report-csos-forum-droghe-101.pdf). [↑](#footnote-ref-81)
81. See <https://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/e980579383af7d99bf7486793d75f1a0.pdf>. [↑](#footnote-ref-82)
82. See [ae5bcfb891a75b81929ede794548df04.pdf (garantenazionaleprivatiliberta.it)](https://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/ae5bcfb891a75b81929ede794548df04.pdf). [↑](#footnote-ref-83)
83. In a meeting with the Mechanism, Parliamentarians expressed their interest in investigating violent incidents in detention facilities for juveniles and their possible link with racial discrimination. [↑](#footnote-ref-84)
84. During the visit, the Mechanism requested further information on this case, without having received any further information at the moment. [↑](#footnote-ref-85)
85. Draft law N. 341 16 of November 2022. [↑](#footnote-ref-86)
86. See <https://www.amnesty.org/en/documents/eur30/7322/2023/en/>. [↑](#footnote-ref-87)
87. UNCAT, art. 2. ICCPR, art. 4. [↑](#footnote-ref-88)
88. UNCAT, art. 4. [↑](#footnote-ref-89)
89. [A/HRC/47/53](https://www.ohchr.org/en/documents/reports/ahrc4753-promotion-and-protection-human-rights-and-fundamental-freedoms-africans) and A/HRC/47/CRP.1. [↑](#footnote-ref-90)
90. A/HRC/57/71. [↑](#footnote-ref-91)