



*Permanent Mission of Italy
to the International Organizations
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Genève*

0965

Dear Ms. Balbin,

Following UN Letter, dated October 22, 2018, I have the honour to submit Italy's reply to Joint Communication by two UN Special Procedures that have requested Italian Authorities to provide them with information about draft law, known as Pillon Decree and the issue of "spaces for women in Rome".

By this reply, we take the opportunity to reiterate our firm willingness to continue to fully and extensively cooperate with all UN Special Procedures Mandate-Holders.

Should additional information be made available, allow me to ensure you that we will promptly share it with you.

Please accept, Ms. Balbin, the assurances of my highest consideration.

Sincerely yours,


Ambassador Gian Lorenzo Cornado
Permanent Representative

Geneva, 29 May 2019

To the attention of the UN Special Rapporteur on violence against women, its causes and consequences and the Un Working Group on the issue of discrimination against women in law and in practice.

ITALY



***MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL COOPERATION
INTER-MINISTERIAL COMMITTEE FOR HUMAN RIGHTS***

**ITALY'S REMARKS,
IN RESPONSE TO THE JOINT COMMUNICATION
(OL ITA 5/2018) FROM TWO UN SPECIAL PROCEDURES,
DATED OCTOBER 22, 2018**

May 27, 2019

ITALY'S REMARKS

Further to letter, dated October 22nd, 2018, by two UN Special Procedures (Special Rapporteur on violence against women, its causes and consequences; and Working Group on the issue of discrimination against women in law and in practice), Italian Authorities are in a position to provide the following remarks:

Introduction

1. The Italian (rigid) Constitution 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 (Articles 2 and 5); the importance of work, as a central value of the Italian community (Articles 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 level¹.

- 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 the event 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 may 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.

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.

- 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 Article 134 of the Italian Constitution.
- The Constitutional Court decides (and its decisions cannot be appealed) 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.

4. More generally, this Court decides on the validity of legislation, its interpretation and if its implementation, in form and substance, is in line with the Constitution. Thus, when the Court declares a law or an act with the force of law unconstitutional, this norm ceases its force by the day after the publication of this Court's decision.

5. Within this framework, mention should be made also of the "Legislative Process" as set forth under Section II of Part II of Italian Constitution:

"Art. 70

The legislative function is exercised collectively by both Houses.

Art. 71

Legislation may be introduced by the Government, by a Member of Parliament and by those entities and bodies so empowered by constitutional amendment law. The people may initiate legislation by proposing a bill drawn up in sections and signed by at least fifty-thousand voters.

Art. 72

A Bill introduced in either House of Parliament shall, under the Rules of procedure of such House, be scrutinised by a Committee and then by the whole House, which shall consider it section by section and then put it to the final vote. The Rules shall establish shorter procedures to consider a Bill that has been declared urgent. They may also establish when and how the consideration and approval of bills may be referred to Committees, including Standing Committees, composed so as to reflect the proportion of the Parliamentary Groups. Even in such cases, until the moment of its final approval, a bill may be referred back to the whole House, if the Government or one-tenth of the members of the House or one-fifth of the Committee request that it be debated and voted on by the House itself or that it be submitted to the House for final approval, following explanations of vote. The Rules shall establish the ways in which the proceedings of Committees are made public. The ordinary procedure for consideration and direct approval by the House is always followed in the case of bills on constitutional and electoral matters, delegating legislation, ratification of international treaties and the approval of budgets and accounts.

Art. 73

Laws are promulgated by the President of the Republic within one month of their approval. If the Houses, each by an absolute majority of its members, declare a law to be urgent, the law is promulgated within the deadline established therein. A law is published immediately after promulgation and comes into force on the fifteenth day following publication, unless such law establishes a different deadline.

Art. 74

The President of the Republic may send Parliament a reasoned opinion to request that a law scheduled for promulgation be considered anew. If such law is passed again, it shall be promulgated.

.....

Art. 76

The exercise of the legislative function may not be delegated to the Government unless principles and criteria have been established and then only for a limited time and for specified purposes.

Art. 77

The Government may not, without an enabling act from the Houses, issue a decree having force of law. When the Government, in case of necessity and urgency, adopts under its own responsibility a temporary measure, it shall introduce such measure to Parliament for transposition into law (....)".

Turning to specific issues

6. As earlier mentioned, from a constitutional standpoint, the general principle of equality between women and men is enshrined in Article 3 of the Constitution, "*All citizens have equal social dignity and are equal before the law without distinction of sex, race, language, religion, political opinion, personal and social conditions. It is the duty of the Republic to remove those obstacles of an economic or social nature which constrain the freedom and equality of citizens, thereby impeding the full development of the human person and the effective participation of all workers in the political, economic and social organization of the country*". For further details, and a more specific overview of the Constitution, the powers of State, and the constitutional and non-constitutional guarantees, please kindly refer to the Common Core Document of Italy forming part of the reports of States parties (UN Doc. HRI/CORE/ITA/2016, dated July 25, 2016).

7. With regard to Senate Act No. 735 (A.S. 735), the first signatory of this draft Text is Senator Simone Pillon (thus, this text is known as the so-called '*Pillon Decree*'). This Text was presented for the first time, last August 1st 2018, before the Senate Justice Commission. This draft Text is still pending before the Parliament. In particular, it is currently under examination before the Justice Commission of the Senate, in the referring office.

8. Over last months, the above Commission requested the following Commissions of the Senate to express their opinion on this Text: Constitutional

Affairs, Budget, Finance, Public Education, Labor, Health, European Affairs and Regional Affairs Commissions.

9. As for the initiatives undertaken by the Municipality of Rome (*Roma Capitale*) with regard to buildings used by not-for-profit organizations in order to provide shelter and support to women who have been subjected to domestic or gender-based violence, we are in a position to report, as follows:

10. *“Heard the competent offices, there appears to have been no loan granted breaking Legislative Decree No.117/2017 nor that Roma Capitale has undertaken initiatives aimed at obtaining the payment of undue leases”.*

Conclusion

The Italian Authorities take this opportunity to reaffirm their broad commitment to fully cooperating with UN Special Procedures and all other relevant international mechanisms.

The Italian Authorities will remain seized of the matter and will send further elements as soon as they are made available.

