Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Ref.: OL ITA 7/2024
(Please use this reference in your reply)

19 December 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Working Group of Experts on People of African Descent; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the human rights of migrants; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 50/17, 45/24, 52/9, 52/4, 52/20, 52/36 and 49/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning draft law No. 1660 on public safety, protection of personnel in service, as well as victims of usury and the penitentiary system *("Disposizioni in materia di sicurezza pubblica, di tutela del personale in servizio, nonché di vittime dell'usura e di ordinamento penitenziario"*), including provisions on counter-terrorism. The draft law, presented by the Ministry of Interior, Ministry of Justice and Ministry of Defense, would amend several legislative provisions including of the Criminal Code.

In the present communication, we comment on various provisions of the draft law, which, if not amended, may be at odds with the obligations of your Excellency's Government under international human rights law, in particular articles 9 (right to liberty and security and prohibition of arbitrary detentions), 12 (right to freedom of movement), 14 (right to a fair trial), 17 (right to privacy), 19 (right to freedom of expression and opinion), article 21 (freedom of peaceful assembly) and article 22 (freedom of association) of the International Covenant on Civil and Political Rights (ICCPR). In addition, some of the provisions have the potential to be implemented in a way that could disproportionately affect those from marginalized *inter alia* on the basis of race, colour, ethnicity, nationality and/or migration status, which would contravene protections against discrimination in international human rights law, including article 2(1) of the ICCPR and article 1 of the International Convention on the Elimination of Racial Discrimination (ICERD). The draft law may also be contrary to Italy's obligations under article 3(8) of the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), which requires Italy to "ensure that persons exercising their rights in conformity with the provisions of this Convention

shall not be penalized, persecuted or harassed in any way for their involvement". We recall that Italy ratified the ICCPR in 1978, ICERD in 1976, and the Aarhus Convention in 2001. Moreover, some of the provisions also appear to be contrary to provisions of the Italian Constitution.

Articles 1 and 7 of the draft law No. 1660: provisions on counterterrorism

Article 1 proposes amendments to articles 270 and 435 of the Penal Code, which target crimes associated with terrorism and public safety, in order to add two new offences. The first punishes with imprisonment from 2 to 6 years (a) knowingly procuring or possessing material containing instructions on the preparation or use of deadly war devices, firearms or other weapons or harmful or dangerous chemical or bacteriological substances, as well as on any other technique or method for carrying out acts of violence or sabotage of essential public services, for the purpose of terrorism.

The second introduces a new paragraph to article 435 of the Penal Code, which punishes with imprisonment from 1 to 5 years the manufacture or possession of explosive materials, for the purpose of threatening public safety. The new paragraph punishes with 6 months to 4 years' imprisonment the distribution by any means or the advertising of material containing instructions on how to manufacture such material.

We respectfully refer your Excellency's Government to the many resolutions of the United Nations General Assembly, Security Council and Human Rights Council reaffirming that any measures taken to combat terrorism and violent extremism must comply with international human rights law, refugee law and international humanitarian law.[1] Counter-terrorism measures must conform to fundamental requirements of legality, proportionality, necessity and non-discrimination. As the General Assembly noted in the United Nations Global Counter-Terrorism Strategy, effective counter-terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing.

We are concerned that the wording of article 1 of the draft law is vague and overly broad and risks criminalizing acts that are not truly terrorist in nature, particularly in regard to "knowingly procuring or possessing material containing instructions on the preparation or use". We are concerned that this provision does not require any danger that any terrorist act be committed; that the intent requirement ("for the purpose of terrorism") is insufficiently precise and does not appear to require a specific intention that the materials be used to commit a terrorist act; and that legitimate reasons for procuring or possessing such instructions (e.g. research, science, or journalism) may be unjustifiably criminalized.

We underline that the principle of legal certainty under article 15(1) of the ICCPR, which requires that criminal laws are sufficiently precise so that it is clear what types of behaviour and conduct constitute a criminal offence and the legal consequences of committing such an offence. This principle recognizes and seeks to

[1] Security Council resolutions 1373 (2001), 1456 (2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); Human Rights Council resolution 35/34; and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180, among others.

prevent ill-defined and/or overly broad laws which are open to arbitrary application and abuse, to target civil society on political or other unjustified grounds.[2] We further emphasize that States should ensure that counterterrorism legislation is limited to criminalizing conduct which is properly and precisely defined on the basis of the provisions of international counterterrorism instruments the General Assembly's Declaration on Measures to Eliminate International Terrorism (1994), and Security Council resolution 1566 (2004). Based on these authoritative sources, the model definition of terrorism advanced by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism provides clear, "best practice" guidance, by identifying conduct that is genuinely terrorist in nature and precisely defining the elements.

We are additionally concerned that the amendment to article 435, which punishes with 6 months to 4 years' imprisonment the "distribution by any means or the advertising of material containing instructions on how to manufacture explosive materials", lacks any requirement that the distribution or advertising be done with the intent to cause a terrorist act or that there exists a danger that such act be carried out. The broad wording of the provision appears to unduly infringe on the right to freedom of expression and opinion enshrined in article 19 of the ICCPR, including freedom of the media, and risks having a chilling effect on civil society as a whole.

We recall that the right to freedom of expression includes the right to seek, receive and impart information and ideas of all kinds. As interpreted by the Human Rights Committee in general comment No. 34, such information and ideas include, inter alia, political discourse, commentary on one's own and on public affairs, discussion of human rights, and journalism (para. 11), and that all forms of expression and means of their dissemination are protected, including electronic and internet-based modes of expression (para. 12). Restrictions justified on grounds of national security or counterterrorism, must have the genuine purpose and have the demonstrable effect of protecting a legitimate national security interest and should adhere to the principles of necessity and proportionality.

> Article 7 proposes amendments to law No. 91 of 5 February 1992, and aims at modifying the conditions under which citizenship may be revoked following a conviction for certain serious crimes, including terrorism-related offenses. Under the draft law, upon conviction, citizenship revocation is subject to the individual having *or being eligible* to obtain another citizenship, and the period within which citizenship revocation can be enforced is extended from three to ten years. According to information received, the amendment is intended to make it increasingly difficult for foreigners who have obtained Italian citizenship to remain in Italy if they have committed a crime.

While we acknowledge the critical importance of protecting national security from terrorism, international human rights law requires that any limitation on human rights must be necessary and proportionate to the achievement of a legitimate objective. We are concerned that the amendment to law No. 91 of 5 February 1992 does not require that the individual whose citizenship is being stripped have another citizenship but merely that they be "eligible" to obtain such citizenship, thereby

[2] A/70/371, para. 46(b).

allowing for the possibility of rendering the individual stateless.

We recall that article 8(1) of the 1961 Convention on the Reduction of Statelessness provides that States "shall not deprive a person of its nationality if such deprivation would render [them] stateless". We note that at the time of accession to the Convention in 2015, Italy declared that it availed itself of the right under article 8(3) of the Convention to deprive a person of their Italian nationality, even if it rendered them stateless, to the extent that Italian law at that time permitted deprivation where the person had, inter alia, conducted himself in a manner seriously prejudicial to the vital interests of the State. We nonetheless emphasize the serious and permanent impact of deprivation of citizenship, particularly where it results in statelessness. We believe that it should never be the first measure used to address any legitimate security concerns. As noted in the report of the Secretary-General on human rights and arbitrary deprivation of nationality, the consequences of any withdrawal of nationality must be carefully weighed against the gravity of the behaviour or offence for which denationalization is prescribed (A/HRC/25/28, para. 4). Further, "[g]iven the severity of the consequences where statelessness results, it may be difficult to justify loss or deprivation resulting in statelessness in terms of proportionality" (A/HRC/25/28, para. 4). In this regard, we emphasize that only acts which are seriously prejudicial to safeguarding a State's integrity and external security and protecting its constitutional foundations warrant deprivation of nationality that may lead to statelessness. Deprivation of nationality for an individual who commits such acts should only be used where protecting a State's vital interests cannot be achieved through other less intrusive means.

Decisions regarding citizenship revocation should also adhere to the UNHCR Guidelines on Statelessness No. 5[3], particularly paragraph 45, which emphasizes the state's obligation to assess the risk of statelessness before revoking citizenship. As underlined by the UN Special Rapporteur on protection and promotion of human rights and fundamental freedoms while countering terrorism "States may not deprive a citizen of nationality based on their own assessment that the individual holds another nationality where the other implicated State refuses to recognize the individual as a national. The question relevant to whether an individual will be rendered stateless through withdrawal of nationality is whether the individual currently possesses and has proof of another nationality. This assessment should not be made on the basis of one State's interpretation of another State's nationality law but rather should be informed by consultations with and written confirmation from the State in question."[4]

We relatedly emphasize that the Committee on the Elimination of Racial Discrimination has emphasized that States should eliminate laws, and notably counter terrorism legislation, that indirectly discriminate by penalizing certain groups without legitimate grounds (general recommendation No. 31, para. 4(b)). We urge the Government to ensure that the application of national counterterrorism legislation does not have a disproportionate or discriminatory impact on certain groups.

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[3] See the Guidelines on Statelessness No 5: Loss and Deprivation of Nationality under Articles 5-9 of the Convention on the Reduction of Statelessness.

[4] See Human Rights Consequences of Citizenship Stripping in the Context of Counter-Terrorism, UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, February 2022, p. 11.

Chapter 2 of draft law No. 1660: Provisions on urban safety

Article 10 proposes a new article 634-bis to the Penal Code which introduces the crime of arbitrary occupation of a property intended for someone else's domicile - or its appurtenances -, and article 13 proposes amendments to article 10 of legislative decree No. 14 of 20 February 2017, converted, with amendments, into law on 18 April 2017, n. 48) and imposes broader prohibitions when actions are performed in the areas of "infrastructure, fixed and mobile, railway, airport, maritime and local public transport, urban and extra-urban areas of transport and infrastructure".

Article 12 proposes an amendment to article 635 of the Penal Code regarding damage to property on occasion of demonstrations. It states "If the facts referred are committed with violence to the person or with threat, the penalty is imprisonment from one year and six months to five years and a fine of up to 15,000 euros." However, it does not define what constitutes 'damage to property' or 'violence'.

Article 14 amends article 1-bis of legislative decree No. 66 of January 22, 1948 and states that: "Anyone who impedes free circulation on ordinary roads, obstructing it with their body, is punished with imprisonment up to one month or a fine up to 300 EUR. If the act is committed by more people together, it is punished with imprisonment from six months to two years."

In its general comment No. 37 on the right of peaceful assembly, the United Nations (UN) Human Rights Committee clarified that "article 21 of the Covenant [ICCPR] protects peaceful assemblies wherever they take place: outdoors, indoors and online; in public and private spaces; or a combination thereof. Such assemblies may take many forms, including demonstrations, protests, meetings, processions, rallies, sit-ins, candlelit vigils and flash mobs. They are protected under article 21 whether they are stationary, such as pickets, or mobile, such as processions or marches" (CCPR/C/GC/37, para. 6).

The right of peaceful assembly also covers acts of peaceful civil disobedience by one or more persons. The international standards of protection of the right to freedom of peaceful assembly establish, that "collective civil disobedience or direct-action campaigns can be covered by article 21, provided that they are non-violent" and that "there is a presumption in favour of considering assemblies to be peaceful". General comment No. 37 also makes clear that "'violence' in the context of article 21 typically entails the use by participants of physical force against others that is likely to result in injury or death, or serious damage to property. Mere pushing and shoving or disruption of vehicular or pedestrian movement or daily activities do not amount to 'violence'." (General Comment No. 37, paras. 15, 16 and 17).

In its general comment, the UN Human Rights Committee has also clarified the scope of limitations that can be imposed on the location of peaceful assemblies, stating that "the international standards indicate that peaceful assemblies may in principle be conducted in all spaces to which the public has access or should have access, including streets. While rules concerning public access to some spaces, such as buildings and parks, may also limit the right to assemble in such places, the

application of such restrictions to peaceful assemblies must be justifiable in terms of article 21. As a general rule, there can be no blanket ban on all assemblies in the capital city, in all public places except one specific location within a city or outside the city centre, or on all the streets in a city" (general comment No. 37, para. 55, emphasis added).

Therefore, according to the above standards some of the amendments proposed in the bill may unduly restrict the exercise of the right to freedom of peaceful assembly in Italy, particularly the amendments extending the powers to impose blanket bans (including the prohibition of 'obstructing a road with the body').

In its general comment, the UN Human Rights Committee also states that "The designation of the perimeters of places such as courts, parliaments, sites of historical significance or other official buildings as areas where assemblies may not take place should generally be avoided, inter alia, because these are public spaces. Any restrictions on assemblies in and around such places must be specifically justified and narrowly circumscribed". Besides, article 24 states that where the act of defacement and soiling of other people's property is committed on movable or immovable assets used for the exercise of public functions, with the primary purpose of "damaging the honour, prestige or decorum" of the institution to which they belong, the penalty of imprisonment from six months to one year and six months and a fine from 1,000 to 3,000 euro shall apply (general comment No. 37, para. 24 and 56). This must apply also to all transport infrastructure.

The ICCPR makes clear that "No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others" (ICCPR, art. 22(2)). As it is understood from these provisions, any restriction on the exercise of peaceful assembly must comply with requirements (tripartite test) of legality (be contained in laws or administrative resolutions based on the law, which must be precise), necessity (considering the value of the assembly and taking into account collective objectives) and proportionality (measures that restrict the protected rights must be proportional to the interests that are intended to be protected, and the nature of the harmful effect must be weighed against the resulting benefit).

In its general comment No. 37, the Human Rights Committee indicates that "peaceful assemblies should not be relegated to remote areas where they cannot effectively capture the attention of those who are being addressed, or the general public"; "while the time, place and manner of assemblies may under some circumstances be the subject of legitimate restrictions under article 21, given the typically expressive nature of assemblies, participants must as far as possible be enabled to conduct assemblies within sight and sound of their target audience" (general comment No. 37, paras. 55 and 22). Importantly, the Human Rights Committee also clearly states that "Blanket restrictions on peaceful assemblies are presumptively disproportionate" (general comment No. 37, para. 38).

Therefore, according to the above standards it appears that the amendments proposed in articles 10 and 13 of the draft law, which will grant powers to impose

blanket restrictions on the possibility to conduct a peaceful assembly in all transport infrastructure may violate the public's right to peaceful assembly under article 21 of the ICCPR.

The Aarhus Convention Compliance Committee has also made clear that peaceful environmental protest is a legitimate exercise of the public's right to participate in decision-making as recognized in article 1 of the Aarhus Convention (Compliance Committee's findings on communication ACCC/C/2014/102 (Belarus), ECE/MP.PP/C.1/2017/19, para. 96). As clarified by the Aarhus Convention Compliance Committee, in the context of peaceful environmental protest, penalizing members of the public seeking to exercise their right to engage in peaceful environmental protest violates article 3(8) of the Aarhus Convention (Compliance Committee's findings on communication ACCC/C/2014/102 (Belarus), ECE/MP.PP/C.1/2017/19, para. 107). Any sanction imposed as a result of law-breaking committed during peaceful environmental protest must pass the test of being proportionate, reasonable and pursuing a legitimate public purpose. If not, the prosecution or sanction may amount to a violation of article 3(8) of the Aarhus Convention (Compliance Committee's findings on communication ACCC/C/2014/102 (Belarus), ECE/MP.PP/C.1/2017/19, para. 69). The proposed amendments to the Italian legal framework, including the criminalization of certain acts as well as the increase in penalties, may amount to disproportionate sanction in the context of peaceful environmental protest in violation of Italy's obligation under article 3(8) of the Aarhus Convention.

The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, reiterates that "everyone has the right, individually and in association with others, at the national and international levels […] To meet or assemble peacefully" for promoting and protecting human rights and fundamental freedoms (article 5). It also provides that states have a "responsibility and duty to protect, promote and implement all human rights and fundamental freedoms" by taking the necessary legislative, administrative and other steps to ensure the guarantee of the rights and freedoms referred to in the Declaration and create the necessary conditions for the exercise of these rights (article 2). The introduction of more severe restrictions on peaceful protests, including harsher punishments, may hinder human rights defenders' ability to freely organize and take part in peaceful protests, express dissent or criticism, and engage in acts of civil disobedience, thus hindering the exercise of their rights to freedom of peaceful assembly and freedom of expression. As civil disobedience acts are widely present in climate action, the proposed amendments might have a particularly negative impact on environmental defenders, by putting them at risk of being criminalized for their human rights activism and facing administrative or criminal consequences for their legitimate work.

Chapter III of draft law No. 1660: Measures for the protection of personnel of the police forces, the armed forces and the National Fire Brigade, as well as the bodies referred to in Law No. 124 of 3 August 2007

Article 19 introduces amendments to articles 336, 337, and 339 of the Penal Code and states that the penalty is increased by a third, "if the act is committed

against a judicial police or public security officer or agent, if violence or threat is placed in to be to oppose an officer or agent of judicial or public security police, due to the performance of duties or while performing an official act", and "if the violence or threat is committed in order to prevent the realization of a public work or a strategic infrastructure".

Article 20 introduces amendments to article 583-quater of the Penal Code regarding a new crime of personal injury to a judicial police or public security officer or agent in the act or because of the performance of his duties.

We recognize the vital importance of ensuring the safety of law enforcement officers, including those leading operations to facilitate peaceful assemblies, but broadly-worded provisions that do not clearly define what constitute violence, and that heavily restrict the exercise of freedom of peaceful assembly held in proximity of 'strategic infrastructure', lead to a lack of clarity and predictability that may open the door for the misuse of force against members of the public, including environmental defenders, exercising their fundamental rights. As was mentioned before, general comment No. 37 makes clear that there is a presumption that assemblies are peaceful. As currently proposed, however, articles 19 and 20 of the draft law would appear to damage the presumption of peacefulness and to be inconsistent with the right to hold peaceful assemblies, if those assemblies may prevent work on certain infrastructure being carried out.

General comment No. 37 further provides that "isolated acts of violence by some participants should not be attributed to others, to the organizers or to the assembly as such (general comment No. 37, para. 17). The question of whether or not an assembly is peaceful must be answered with reference to violence that originates from the participants. Violence against participants in a peaceful assembly by the authorities, or by agents provocateurs acting on their behalf, does not render the assembly non-peaceful. The same applies to violence by members of the public aimed at the assembly, or by participants in counterdemonstrations" (para. 18).

The Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests (A/HRC/55/60) indicates that "[l]aw enforcement officials must make every effort to facilitate peaceful protests in ways that respect the objectives and preferences of protest organizers and leaders by acting at all times in accordance with their obligation to respect and protect human dignity and maintain and uphold the human rights of all involved in a protest. Law enforcement officials must remain neutral and impartial throughout any protest, prevent harm and protect the right to life, liberty and security of person of those involved, while also fulfilling their duty to maintain public safety and social peace. The deployed officers should adhere to the cross-cutting principles of participation, accountability, non-discrimination, differentiation and attention to vulnerability and equality" (para. 68).

Article 21 provides the provision of video cameras to staff of the Police Forces, stating that "Police Force personnel employed in the services of maintaining public order, territorial control and surveillance of sensitive sites as well as in railway sector and on board trains can be equipped with wearable video surveillance devices, suitable for recording the operational activity and

its progress. In places and environments where if persons subject to restrictions on personal freedom are being held, video surveillance devices may be used".

The Model Protocol (A/HRC/55/60) establishes that "any use of digital technologies to facilitate a protest should be solely aimed at enabling the right to freedom of peaceful assembly. Protests should not be seen as opportunities for surveillance or the pursuit of broader law enforcement objectives through the use of digital technologies" (para. 39). It also states that "legal frameworks related to digital technologies conforming to international human rights law and standards, including data protection laws and robust regulation and oversight mechanisms, must be established and supported by practical guidance. The acquisition and use of any digital technologies in the context of protests must meet the requirements of legality, necessity and proportionality. This must be demonstrated effectively and supported by appropriate evidence" (para. 40). This applies equally to the storage of data collected before, during or after protest through the use of video cameras pursuant to the proposed amendments.

The digital component, that supplements the Model Protocol[5], includes relevant principles and recommendations that your Excellency's Government can consult for a broader set of standards regarding the use of digital technologies by law enforcement for the facilitation of peaceful protests.

Article 26 introduces amendments to article 583-quater of the Penal Code and introduction of article 415-bis of the Penal Code, strengthening the security of penitentiary institutions and states that "anyone who participates in a rebellion committing acts of violence, threat or resistance to the execution of orders given, committed by three or more people together, shall be punished with imprisonment from one to five years. For the purposes indicated, acts of resistance also include acts of passive resistance which, having regard to the number of people involved and the context in which the public officials or persons in charge of public service operate, prevent the performance of acts of the office or service necessary for the management of order and security. Those who promote, organize or direct the revolt are punished with imprisonment from two to eight years. If the act is committed with the use of weapons, the penalty shall be imprisonment from two to six years in the cases provided for in the first paragraph and from three to ten years in the cases provided for in the second paragraph".

Article 27 introduces amendments to article 14 of the legislative decree of 25 July 1998, No. 286, for strengthening of security of detention and reception facilities for migrants and includes the same provisions as article 26 but with different punishments for migrants in detention and reception facilities that are involved in "acts of resistance, even passive ones, in carrying out the orders given, carried out by three or more people together, promotes, organizes or directs a revolt". The punishments are similar to those in article 26.

[5] https://www.ohchr.org/sites/default/files/2024-03/Toolkit-law-enforcement-Component-on-Digital-Technologies.pdf

These two provisions, if they were to be adopted, would appear to severely limit the right of peaceful assembly and freedom of expression and opinion of persons deprived of liberty in penitentiary centers and migrants in detention and reception facilities. This may constitute an unnecessary and disproportionate restriction of the right to peaceful protest and expression carried out in these environments. Regarding the prison and detention context, this can create a deep detrimental impact on the prison system, including juvenile facilities, and inhibit reaching the lawful objectives of addressing security and guaranteeing reintegration processes. In addition, restricting the possibility to engage in peaceful protests and civil disobedience (including peaceful acts such as making noise, banging against walls and bars), could increase tensions within prisons, which defeats the objective of increasing security.

Besides, these provisions would appear to disproportionately impact youth offenders, women and mothers in prison, and migrants, exacerbating already high levels of vulnerability.

We remind your Excellency's Government that States have the primary responsibility and duty to protect, promote and fulfil all human rights and fundamental freedoms by taking the necessary measures to create the social, economic, political and other conditions, as well as the legal guarantees required, so that all persons subject to their jurisdiction, individually or collectively, can enjoy all these rights and freedoms in practice. As a Party to the Aarhus Convention, Italy also has an obligation under article 3(8) of the Aarhus Convention to ensure that persons exercising their rights under the Convention, including through participation in peaceful environmental protest, are not penalized, persecuted or harassed in any way for their involvement.

If adopted in their current form, the above-mentioned amendments to be introduced through the draft law pose a serious risk to the freedom of opinion and expression and freedom of peaceful assembly in Italy, including in prisons and migrant detention centres.

The Model Protocol (A/HRC/55/60) indicates that "States should foster a climate of respect and promotion of the right to freedom of peaceful assembly, including through an enabling legal framework. All laws, regulations, guidance and policies, including those related to national security, public order, emergencies, countering terrorism and violent extremism, technology or financial crimes, should be in line with international human rights law and must be publicly accessible. Their interpretation and application must not result in undue restrictions on freedom of peaceful assembly" (para. 34). The introduction of new crimes or increased punishment for the exercise of the right to peaceful assembly will reduce the civic space, stifling the voices of human rights defenders and other individuals engaging in peaceful protests and acts of civil disobedience, including environmental activists, and undermine the necessary safe and enabling environment to exercise participatory rights and conduct human rights work. In turn, this directly affects the fundamental pillars of democracy in Italy.

In this context, we emphasize again that protest bans covering an extended area or targeting specific individuals for a prolonged period of time are not a legitimate response to the exercise of the right to peaceful assembly, even if the

protest in question is disruptive. Similarly, prison sentences imposed on peaceful protesters is not a proportionate response to their participation in peaceful protest, no matter where it takes place or the level of disruption caused.

While we recognize the legitimate interest of your Excellency's Government to protect law enforcement from physical harm, this must be weighed against the rights of members of the public to engage in peaceful protest. Your Excellency's Government should therefore consider alternative means to the proposed articles 19 and 20 of the draft law to ensure the protection of law enforcement officers that do not infringe on other people's rights. For example, the Model Protocol (A/HRC/55/60) includes a section of recommendations for improving the wellbeing and safety of law enforcement officials that could be considered instead.

In light of the above, we urge your Excellency's Government to review the draft law No. 1660 to ensure it is in line with international human rights law and standards, including on the protection of the rights to freedom of expression and opinion and to peaceful assembly, the protection of environmental defenders in the context of peaceful environmental protests, including acts of civil disobedience, as well as with the principles of legality, necessity, proportionality, and non-discrimination.

As Special Procedures mandates of the United Nations Human Rights Council, we remain available to provide further technical assistance within our respective mandates on the subject matter addressed in this communication.

In accordance with the mandates given to us by the Human Rights Council, we would be very grateful for your cooperation and comments on the following matters:

1. Please explain in detail how draft law No. 1660 is compatible with your Excellency's Government's obligations under international human rights law and the standards detailed above, including articles 2, 17, 19, 21 and 22 of the ICCPR and article 3 (8) of the Aarhus Convention.

2. In your response, please provide Your Excellency's Government's position on the compatibility, in particular, of the following proposed amendments with Italy's obligations under international human rights law:

    a. The increase in powers to impose wide-spread bans on protest and specific individuals under article 13 of the draft law.

    b. The significant increase in terms of imprisonment and/or fines, including through articles 12 and 14 of the draft law.

    c. The text of the draft law, as amended, following the deletion of any provisions that are potentially inconsistent with Italy's obligations under international human rights law, including the Aarhus Convention.

3. Please explain how the criminalization of conduct under articles 1 and 7 of the draft law is narrowly construed so as to guarantee that measures taken pursuant to it comply with the principles of legality, proportionality, necessity and non-discrimination and do not unduly interfere with human rights, including freedom of expression, or infringe upon the legitimate activities of civil society.

4. Please indicate whether the proposal to deprive individuals of nationality where they are merely eligible for another nationality will be withdrawn.

5. Please provide information on the remaining stages and timeframes of the legislative process with regards to draft law No. 1660, including your Excellency's Government's plan to consult widely with civil society and interested individuals and groups, before its adoption.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting website after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

Gina Romero
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Gehad Madi
Special Rapporteur on the human rights of migrants

K.P. Ashwini
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Ben Saul
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism