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Date: 06/06/2018

DH-DD(2018)572

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Meeting: 1318th meeting (June 2018) (DH)

Communication from a NGO (29/05/2018) in the case of Talpis v. Italy (Application No. 41237/14).

Information made available under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1318^e réunion (juin 2018) (DH)

Communication d'une ONG (29/05/2018) dans l'affaire Talpis c. Italie (Requête n° 41237/14)
[anglais uniquement]

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

**Rule 9(2) submission to the Committee of Ministers of the Council of Europe
concerning implementation of Talpis v. Italy (application no. 41237/14)**

By

the ONG D.i.Re - Women Against Violence Network

28 May 2018

1. Introduction

The Talpis case against Italy (application no. 41237/14) concerns the failure of the Italian authorities to provide adequate protection to individuals (Ms. Talpis and her son) for the violation of articles 2 (Right to life), 3 (Prohibition of inhuman and degrading treatments) and 14 (Prohibition of discrimination) ECHR, as the Italian authorities, failing to act promptly before the complaint of the applicant, victim of domestic violence, and to diligently conduct the related criminal proceedings, have led to a situation of impunity, which has encouraged the reiteration of violent conduct, leading to the attempted murder of the woman and the murder of her son.

The decision highlights how, in matters of domestic violence, the task of a State does not end with the mere adoption of legal provisions that protect the most vulnerable subjects, but extends to ensuring that the protection of such subjects is effective. The inaction of the Authorities in applying these legal provisions must not result in a breach of the envisaged protection instruments.

2. The Court's decision: firstly, the Court reconstructed the positive obligations of States with regard to Articles 2 and 3 of the Convention. In particular, the article 2 of the ECHR requires not only to set up an effective and independent judiciary system to establish the causes of an individual's death and to punish the guilty (§ 99), but also to take preventive measures to protect the individual whose life is threatened by the criminal actions of others (§ 101). Article 3 of the ECHR, on the other hand, involves the positive obligation to protect the physical integrity of the individual, through the effective application of the law and the effectiveness of criminal proceedings (§§ 104-105). With reference to both the rules referred to and the positive obligations arising therefrom, according to the Court there is an implicit need for timeliness and reasonable diligence: it is not enough for national law to establish instruments of protection, but the protection mechanisms deriving from domestic law must work in practice within a reasonable time (§§ 99 and 106).

Contrary to these principles, in the Talpis case, the delay of the authorities in carrying out the investigative measures deprived the applicant of the immediate protection that the situation required (§ 114). In this regard, in the Court's opinion, the national authorities had the task of taking account of the precarious situation and the particular vulnerability - moral, physical and material - in which the applicant was and to assess the situation accordingly, offering adequate protection (§ 115 and § 130).

By delaying more than seven months before Ms. Talpis' hearing was held, the national authorities deprived the applicant's complaint of all effectiveness, creating a context of impunity favorable to the repetition of domestic violence actions by her husband (§ 117).

With regard to the requirements for the imminence and effectiveness of the risk for the life of the applicant and his son, which - on the basis of previous rulings by the Court (see *Opuz v. Turkey*, ruling of 9 June 2009, app. 33401/02) - must be taken into account in order to balance the need for protection of the individual with that of not imposing an unrealistic and excessive burden on the State (in this regard see the partially dissenting opinion of Judge Spano), the Court has deemed that the mistake of the Italian authorities was precisely that of not making any assessment of these risks (§§ 116 and 118), despite the recurrence of subsequent episodes of violence within the family (§ 122). In fact, this risk must necessarily be assessed with due regard to the particular context of domestic violence (§ 122). In this context, as the Court recalls, the rights of the aggressor cannot under any circumstances lead to a sacrifice of the rights of the victims to life and to physical and mental integrity, since the State has a positive obligation to take preventive concrete measures in order to protect the individual whose life is threatened (§ 123). The Court also held that the violence inflicted on the applicant, which included both physical injuries and psychological pressure, was sufficiently severe to qualify as a degrading treatment pursuant to art. 3 of the Convention. In this regard, after reiterating the validity of the considerations carried out up to now also with reference to art. 3 of the ECHR, the Court focused on the manner in which in this case the prosecuting authority had conducted investigations into the criminal proceedings for ill-treatment (§ 127 et seq.). In this regard, the Court has shown that simply spending time not only harms the investigation, but also risks to definitively compromise the outcome: in fact, the course of time inevitably erodes the quantity and quality of the available evidence, in addition the lack of diligence inevitably questions the good faith of the investigators in the eyes of the complainants, perpetuating their suffering (§ 128).

Finally, in light of its precedents (*Opuz v. Turkey*, cit.), the Court reiterated that the failure of the State to provide protection to women against domestic violence results in a violation of the prohibition of discrimination against breaches of art. 14 of the Convention, since it is not necessary that such failure be intentional (§141 et seq.). In this regard, the Court also stressed that the conclusions of the UN Special Rapporteur on violence against women, as well as those of the UN Committee on the Elimination of Discrimination against Women (CEDAW) and the National Bureau of Statistics (ISTAT), show the extension of the problem of domestic violence in Italy and the discrimination that women suffer in this context. These statistics, not opposed by the Government, show, in fact, that despite the reforms adopted by the Italian legislator, on the one hand, violence against women is still highly prevalent in Italy, with a high number of

femicides, on the other hand, that an alarming socio-cultural attitude of tolerance towards domestic violence still persists (§ 145).

3. This presentation shall be communicated by the ONG D.i.Re - Women Against Violence Network¹ - pursuant to Article 9 (2) of the Rules of Procedure of the Committee of Ministers for the supervision of the execution of judgments for the examination during the CM-DH 1318 meeting (June 2018). It responds to the Italian government's action report published on 4 April 2018.

The National Association "D.i.Re, Women Against Violence Network" represents today 80 Associations of women who manage Anti-violence Centers and Shelters operating locally throughout Italy. The birth of D.i.Re marked an important stage for the women's movement in Italy and is the result of a long journey and an experience of almost 30 years. It works at national, European and international level in synergy with other networks of women's associations; here I remember the European network "WAVE - Women Against Violence Europe", of which it is part and focal point for Italy, the "European Women's Lobby (EWL)", the international network of anti-violence Centers "GNWS - Global Network of Women's Shelter ". D.i.Re obtained in 2014 the consultative status of the United Nations Economic and Social Council (ECOSOC) and is registered in the register of the UN non-governmental organizations and the Unar register.

4. The government calls for the supervision of the Talpis c Italia case to be closed, considering it was an isolated case and claims to have implemented a series of general and legislative measures.

5. It is specified that A. T. was sentenced to life imprisonment at first instance, confirmed at second instance by the Court of Appeal. Subsequently, on 26 September 2017, with a sentence issued by the first section of the Supreme Court of Cassation, life imprisonment previously granted to A.T. was canceled. In fact, the aggravating circumstance of the consanguinity could not be applied to the case because the child was adoptive. The Venice Assize Court of Appeal will therefore have to redefine the sanctioning procedure, with a penalty of no less than 16 years. On this point the Committee of inquiry on femicide of the Senate in its concluding report² stated: *"An unacceptable discrepancy between the codes equally in force: the change in sentence was due to the fact that while in the civil code the adopted children are equated to biological children based on family law and civil reform on the filiation of 2013, in the penal code (article 577, second paragraph, legacy of the Rocco code of 1930) the reference to consanguinity remains only in recognition of the "true" child, as "natural" ". The murder of an adoptive son is therefore not considered as acting against a family member".* The Commission recommends the *"Necessity of the change of the criminal law: the legislator or the Constitutional Court will soon remedy this contradiction and legislative injustice, recognizing ALL the children equal dignity, regardless of their "biological" origin".*

¹ <https://www.direcontrolaviolenza.it/>

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http://www.senato.it/japp/bgt/showdoc/frame.jsp?tipodoc=SommComm&leg=17&id=01066513&part=doc_dc-allegato_a&parse=no

6. Finally, it is noted that Italy was again condemned by the Court Edu in the case V.C. c Italia (application no. 54227/14)³ on 1 February 2018 (The sentence became final on 1 May 2018) for violation of articles 3 and 8 of the Convention. The Court has again emphasized the need for timeliness and reasonable diligence: it is not enough for national law to establish instruments of protection, but the protection mechanisms provided for by national law must work in practice within a reasonable time. In the Court's opinion, therefore, the national authorities had to take into account the situation of precariousness and particular vulnerability in which the minor was located, offering adequate protection.

7. This presentation, while recognizing some measures taken by Italy, presents evidence and demonstrates that further measures are needed to combat male violence against women and those already adopted are taking much longer to take full effect. **As a result, the closure of the Talpis case is certainly not appropriate at this time. Key points are as follows:**

- Italy was again condemned by the Court Edu in the case V.C. c Italia (application no. 54227/14) on 1 February 2018 (The sentence became final on 1 May 2018) for violation of articles 3 and 8 of the Convention (para 6);
- Laws not adequate for the protection of women who suffer violence and lack of application of existing ones (para 9);
- Ineffectiveness of plans against violence (para 10);
- Absence of legislative changes for the hospitality of women victims in shelters (para 11);
- Lack of transparency in the spending of public funds and condemnation of the Court of Auditors (para 12);
- Lack of data (para 13);
- Violence against women remain widespread in society (paras 17, 18);
- Lack of a network of intervention and protection for women victims of violence in Italy (para 19, 20);
- Lack of specialized personnel and of instrumental means have not been solved, nor is the timely connection and coordination between the various operators of the penal system and not (para 21);
- Lack of application of risk assessment and excessive filing of criminal complaints (paras 22,23).

8. General measures

The measures indicated in the report on government action are far from the needs of women victims of violence, in particular the Italian government stresses that the facts brought to the Court's examination occurred in 2012 and argues that even before the Court's ruling, Italy has adopted a series of measures to protect women who are victims of violence. To this end he recalls the report on the activities of the Equal Opportunities Department of the XVIII legislature (March 2013 - March 2018) and the final report of the Commission of Inquiry on Femicide.

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[https://hudoc.echr.coe.int/eng#{%22languageisocode%22:\[%22FRE%22\],%22appno%22:\[%2254227/14%22\],%22documentcollectionid%22:\[%22CHAMBER%22\],%22itemid%22:\[%22001-180487%22\]}](https://hudoc.echr.coe.int/eng#{%22languageisocode%22:[%22FRE%22],%22appno%22:[%2254227/14%22],%22documentcollectionid%22:[%22CHAMBER%22],%22itemid%22:[%22001-180487%22]})

While this last document is public and can be found on the Senate website, the report of the Equal Opportunities Department mentioned above is not published on the institutional website, in breach of the principles of transparency.

The Italian government fails to report important reports drawn up by NGOs of women, presented in the UN international offices and the related recommendations that emerged, in particular:

- CEDAW Shadow Report Written by the Italian platform "CEDAW: Work in progress" With reference to the 7th periodic report on the implementation of the CEDAW Convention submitted by the Italian Government in 2015⁴;
- Cedaw Committee Concluding observations on the seventh periodic report of Italy⁵;
- Report on the implementation of the Beijing Platform for Action, Five-year survey: 2009-2014 What really has been done in Italy⁶.

The appellant refers to these documents as an integral part of the communication to the Committee of Ministers.

9. Legislative measures referred to by the Italian Government

The laws referred to by the Italian Government in the presented action plan have been widely already brought to the attention of the Court and presented by the same in its comments sent. The Court, in fact, in the sentence *Talpis c. Italy* takes note of a strict Italian regulatory framework especially in a repressive key, however, the same requires a little more on the side of measures that concretely, and not in an illusory and abstract way, can prevent and counteract the male violence against women through long-term policies with a view to the protection of human and universal rights.

9.1 With reference to Decree Law 93/2013 converted into Law 119/2013

Male violence against women is considered a problem of public order and not a cultural and social one, so much so that it is included in an emergency decree "in matters of security and for the fight against gender violence as well as in the field of civil protection and of closure of local

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http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ITA/INT_CEDAW_NGO_ITA_27675_E.pdf

⁵ <file:///C:/Users/Carrano%20Titti/Downloads/N1722749.pdf>

⁶ https://www.direcontrolaviolenza.it/wp-content/uploads/2014/08/Pechino2009_2014.doc_July-22_DEF-2.pdf?x20461

administrations (13G00163) (GU General Series n.242 of 15-10-2013)⁷ with heterogeneous content and is dealt with again in a fragmentary and sectorial way.

The NGOs of women and the anti-violence centers expected an organic and funded law, which faced all the civil, administrative and criminal aspects, with adequate support to the anti-violence centers. The DL, on the other hand, contains only criminal norms and has a heterogeneous content. The use of the penal instrument has always been the privileged form to counter violence against women (new types of crime, exacerbation of penalties, aggravating circumstances, etc.). Moreover, the familist view, which has characterized the policies of civil law in particular, prevents the recognition of the self-determination of the woman and her subjectivity, since the main objective is still that of the recomposition of the family unit. There is no relationship between this legislative policy and the life and freedom of women.

9.2 In particular, the Decree Law does not comply with the international obligations assumed with the Istanbul Convention, first of all that of applying the Convention through the adoption of a gender perspective, and ensuring equal protection to women victims of all forms of violence, much less complies with the obligations deriving from the membership of the European Union or responding to the recommendations of the 2011 Special Rapporteur Cedaw.

9.3 The Italian state with Law 119/2013 has foreseen a preferential lane for the formation of roles and treatment of criminal trials related to crimes of mistreatment, persecutory acts and sexual violence (Article 132 bis of the attuative measures of the penal procedure code), but has not foreseen any acceleration for the investigation times for which the terms of 18 months foreseen by the art. 407 p.p.c. (two years for the crimes of aggravated sexual violence, on minors or in groups). There is also no provision for the treatment of trials in the further degrees of judgment (appeal and cassation).

In practice, however, there are still times that are too long to carry out the investigations and the rapidity in the celebration of the first degree trials varies from court to court, while delays in setting the appeal judgments are found. The practice and the experience of many lawyers show very different applications (as an example: criminal proceedings for sexual violence (Article 609 bis of the criminal code) registered at the Monza Public Prosecutor's Office in December 2013, RGNR n.15466 / 2013, sentence of first instance issued on 08/03/2016 n.922 / 2016, appeal not yet fixed, criminal proceedings for sexual violence sentence of the Court of Florence of 13.9.2011 appeal set for 5.3.2018, criminal case for mistreatment Court of Pistoia first instance ruling of 15.6.2010 declared prescribed in appeal by the Court of Appeal of Florence with sentence of 4.10.2013 and much more can be mentioned).

9.4 With reference to the legislative decree 15 December 2015 n. 2128 which gave effect to the Directive 2012/29 / EU of the European Parliament and of the Council of October 25th 2012

⁷ <http://www.gazzettaufficiale.it/eli/id/2013/10/15/13G00163/sg>

In reality, the information on the rights of the person offended by the crime is not rendered in an understandable and above all usable, since it is NOT indicated where to turn to receive information or how to exercise these rights. Upon the first contact with the judicial authority, the victim is given a leaflet stating the legal text concerning the rights of the injured person, without - for example - expressly requesting to be informed in case of the release for reasons other than the request of the suspect/accused (only after a specific request to be informed the offended person will be entitled). The legislative decree still refers to the victims of all crimes.

9.5 With the legislative decree of 7 July 2016 n. 122 implementing Directive 2004/80 /EC, the Italian legislator has explicitly recognized and regulated the right to compensation against the State in favor of victims of violent intentional crimes. Compensation is however limited to the reimbursement of medical and welfare expenses only (with the exception of homicide and sexual assault offenses for which it is guaranteed irrespective of the demonstration of having incurred in such expenses) and is subject to the following conditions: 1) availability of funds (a special compensation fund has been set up in favor of victims for € 2,600,000.00 = including the victims of mafia crimes, extortion requests and usury); 2) income of the victim not higher than that required for admission to legal aid (for the year 2017 equal to € 11.528,41 gross annually); 3) having uselessly executed an executive action against the offender.

The amounts of the compensation have been established only recently (Decree of the Minister of the Interior 31.8.2017) and are equal to: *"a) for the crime of murder, in the fixed amount of € 7,200, as well, in the event of murder committed by the spouse, also separated or divorced, or by a person who is or has been linked by affective relationship to the injured person, in the fixed amount of euro 8,200 exclusively for the children of the victim; b) for the crime of sexual violence referred to in art. 609-bis of the penal code, unless the mitigating circumstance of minor importance occurs, in the fixed amount of € 4,800; c) for crimes other than those referred to in letters a) and b), up to a maximum of € 3,000 for the reimbursement of medical and welfare expenses."*

It is clear that such insignificant amounts do not guarantee "adequate" compensation for the victims, as provided for in C.I. and, even earlier, by Directive 2004/80 / EC.

The Italian judge (Sentence of Torino Court, 18.4.2017, No. 2067) has already assessed the legislation in question, considering the implementation profiles still unclear, failing when the application circulars were decided, believing that it was already lacking in the standard a complete reference to the case that must be protected with compensation. The issue of the circulars then confirmed this doubt, given the limitations indicated above.

Without prejudice to the difficulties inherent in ordinary civil procedures for obtaining compensation from the offender, the Italian legislator has not yet provided for a general and subsidiary obligation on the part of the State to recognize compensation when the victim has suffered serious physical injuries or damage to health as a consequence of one of the cases envisaged and penalized by the Convention itself (Article 35 CI), which do not necessarily fall within the definition of "violent intentional crimes" for which state compensation has been provided.

Compensation is limited to a few items of expenditure and is not recognized to all victims but is subject to a derisory income limit and subject to the availability of the funds. The amounts established in the decree of the Minister of the Interior do not however guarantee that "adequate compensation" indicated by the Istanbul Convention. Note then the incredible disparity in treatment between victims of gender violence and victims of usury or mafia. The Fund is the same, but with absolutely unequal figures!

9.6 The law of 11 January 2018, n. 4⁸ recently introduced, is certainly a step forward in the protection of orphans of domestic crimes. However, the funds made available (€ 2 million) are insignificant compared to the real needs and the objective to be achieved. There is a lack of specialization in interventions since the social service or the professionals of the health structures do not have the appropriate specialization to face problems such as those that derive from being orphans of femicide. The law is recently introduced and therefore it is not possible to verify its implementation and possible benefits.

9.7 Protection measures issued in civil proceedings pursuant to art. 342 bis of the Italian Civil Code

Already in 2001 with the Law 154, called *Measures against violence in family relationships*, innovative tools were introduced into Italian civil and penal systems aimed at combating male violence against women and to ensure rapid, even if temporary, protection of those who suffer violence within the family. Surely an excellent law that fills a previous gap, during which the woman had to move away from the family home with her children.

The Ministry of Justice has monitored the application of this institute in the years 2008 - 2014 and shows how the territorial distribution is very uneven with equal territorial density. In some cities (Bologna, Milan, Florence, partly Rome, Bari, Lecce), it seems to be a common practice. Elsewhere it is practically non-existent⁹. What are the social and cultural motivations behind this judicial discretion? Surely the cultural data and the lack of adequate training of the judicial operators on the recognition of violence and its seriousness.

9.8 The other laws mentioned in the action plan are recently introduced and therefore it is not possible to verify their actual implementation.

10. Measures taken by the Italian Government

10.1. Extraordinary plan against sexual and gender-based violence 2015 - 2017

⁸ Changes to the civil code, the penal code, the code of criminal procedure and other provisions in favor of orphans for domestic crimes. (18G00020) (GU n.26 of 1-2-2018)

⁹ Baldry, (2016) *Dai Maltrattamenti all'omicidio. La valutazione del rischio di recidiva e dell'uxoricidio*, Franco Angeli

In general, in the Extraordinary Plan against sexual and gender-based violence 2015-2017¹⁰ (in compliance with Law 119/2013) there is a single vision: "normalizing" violence and placing it in social assistance or socio-health interventions, adopting a neutral approach that denies the very genesis of violence as outlined in the preamble of the Istanbul Convention. The Plan did not include actions to monitor actions and presented major problems, did not respond to the needs of women and the current regulatory framework, in particular the Istanbul Convention.

10.2 The extraordinary action plan against sexual and gender-based violence 2015-2017 has been strongly criticized by the Anti-Violence Centers, by the associations of women committed to combating male violence and by civil society in general¹¹. The actions envisaged in this Plan are generic and lacking in substance and included in the governmental and legislative policy logic based on interventions in the emergency phase, with an almost exclusive focus on protection. The role of the Anti-Violence Centers is weakened in all the actions of the 2015/2017 Plan, as they are considered as mere executors of services in the same way as any other person in the social private sector, without considering the skills of the Anti-Violence Centers workers, matured in years of work and specific training courses on gender and violence¹². The Plan was not coordinated with specialized NGOs, although there were working groups. The chaotic system of "governance" outlined in this Plan did not guarantee the smooth functioning of the entire national system and also posed important legal problems of coordination at the local level, undermining the functioning of existing territorial networks, indispensable for adequate protection and support for women.

The distribution of resources is fragmented without an organic and competent direction. The language of the Plan is discriminatory with respect to gender: there is no feminine declination even when it comes to female professional figures. Finally, the function of ISTAT, the institution of the State that until now has collected, validated and processed data on gender violence, is deleted from the Plan. Actions were not monitored.

10.3 Strategic framework 2017 - 2020: 2017-2020 Strategic Plan is structured in 2017¹³. The Italian Government has formally involved various NGOs (not only women) active in the field as members of the National Observatory established by the Extraordinary Plan, but has finally received little of the observations and suggestions of these, despite the strong commitment,

¹⁰ *Piano d'azione straordinario contro la violenza sessuale e di genere* adopted by Decree of the President of the Council of Ministers on 7 July 2015

¹¹ <http://www.direcontrolaviolenza.it/piano-straordinario-contro-la-violenza-sessuale-e-di-genere-persa-unoccasione-storica/>;
<http://www.zeroviolenza.it/temi/violenzadonne/item/70921-violenza-di-genere-arriva-il-piano-d%E2%80%99azione-la-rabbia-delle-associazioni-%C3%A8-inutile>;
<http://www.internazionale.it/opinione/lea-melandri/2015/06/12/piano-violenza-sessuale>

¹² <file:///Intesa-CU-Requisiti-minimi-centri-antiviolenza-e-case-rifugio-GU-40-180215.pdf>

¹³ *Piano strategico nazionale sulla violenza maschile contro le donne 2017 – 2020* approved in November 2017 by the Unified Conference

participation and contributions also written (eg DiRe - Work in progress: Governance Action Plan, September 2017¹⁴). This Strategic Plan moves around the 4 P of the Convention, using an approach that focuses on the path of women, but in the declination of the actions never indicates the commitments in terms of human and economic resources for the public subjects involved and implementing measures identified as priorities (Ministries or Regions). For the first time, it provides a monitoring and evaluation mechanism. It does not adequately refer to the specialized services managed by women's associations in the declination of the measures adopted, identifying them as simply complementary to state interventions, intended to intervene in emergency and without a key role for prevention actions and training of general services operators. It separates the general plan from the technical aspects and from the network work at the local level, excluding NGOs from regional or national decision-making areas. This Action Plan includes measures that also concern workplace harassment, violence related to traditional practices, assisted violence, violence suffered by disabled women.

In particular with respect to the levels of governance (national, regional, local) it is to be noted that in fact and contrary to what was stated in the Plan in its preamble on the will to give substance to the principles of collaboration and subsidiarity constitutionally guaranteed and the integration between the sector public and private, the direction of the interventions, both at central and regional level, remains all institutional, effectively excluding the decision-making and evaluation places for the policies and measures implemented by the Anti-violence Centers; with a high risk of exclusion and / or marginalization of NGOs of women who manage specialized services (anti-violence centers and shelters) who work on the importance of the autonomy of women's choices and self-determination.

However, the available financial entity has not yet been defined for the new Action Plan.

10.4 It is striking that in Italy there is still no official national mapping of the different realities and services of specialized female support for women victims of violence and that the mapping available for the national toll-free number 1522 is full of gaps and non-adherent to the operational reality in Italy. It should be emphasized that in general all the shortcomings and fragility of the actions envisaged in these years by the various instruments (2015-2017 Plan and new 2017-2020 Plan) can be brought to the limited resources available, to the lack of clear criteria for distribution of the same, as well as the absence of a monitoring of the quality and compliance with the requirements requested by the C.I. offered by the services funded.

The aforementioned lack of a mapping of these specialized services and the fact that most of the resources are distributed in the territory through the local authorities (regions) without any predetermined criterion or constraint, leads to a non transparent policy characterized by unjustified and not understandable differences in the allocation of resources, with some regions that have allocated these funds to replace those initially planned in regional budgets.

¹⁴ Document describing on a regular basis how the DiRe Association identifies in a multilevel governance, which sees in every context the active presence of NGOs of women and civil society as primary interlocutors to define policies, programs and actions to be developed to prevent and combat violence against women.

The actions envisaged by the Strategic Framework are generic and lack concrete.

11. Anti-violence centers and women's shelters: Italian situation

It is striking that in Italy there is still no official national mapping of the various realities and specialized support services for women and children victims of violence. In various documents and contexts, the Italian Government speaks of 296 Antiviolence Centers and 258 Women's Shelters¹⁵ without giving any indication of the sources and / or criteria and the standard of intervention at the base of this survey.

There are several data collected by NGOs in Italy (some for 30 years) offering specialised services to women and their children in a situation of violence and operating on the Internet (eg the national association DiRe- Women in the network against violence that collects 81 NGOs throughout Italy or the information collected by ComeCiTrovì which collects 243 Centers, including those of DiRe¹⁶). In Italy, not all the anti-violence centers of specialized women shelter due to lack of funding. Since the last data collection (2017) of the Wave network, it emerges that in Italy the Equal Opportunities Department indicates 258 shelters¹⁷, but the criteria for detecting these data are not clear and intelligible; it is in sharp contrast with other data collected by the NGOs of women active in the field that indicate a significantly lower number, 79 (of which 50 of the DiRe national association network¹⁸) for a total of 627 beds. This number is certainly inadequate to respond to the needs and safety of women who suffer violence and in total violation of the recommendation (EG-TFV (2008) 6) which recommends safe accommodation in shelters for specialized women, available in each region, with a place bed for 10,000 inhabitants. According to the aforementioned research by Wave, in Italy 6,078 beds would be needed, 5,451 are missing. In 2015 e.g. in Italy 681 women and 721 children were hosted and 308 women did not find hospitality due to lack of places¹⁹. The presence of hospitality facilities is unevenly distributed throughout the country.

In addition to welfare cuts, the bureaucratic mechanisms often imposed by public funding bodies (hospitality of women and children "by social services" (72%) or "with a charge" (64%) or "shared" decision between the center and the funding body (in 58% of cases²⁰) seriously endangers the safety and protection of women and their children. Each region, to which the Italian legal system assigns the task of regulating the local reception services, uses various

¹⁵ <https://www.wave-network.org/resources/research-reports>

¹⁶ <https://www.wave-network.org/resources/research-reports>

¹⁷ <http://www.pariopportunita.gov.it/media/3387/la-violenza-sessuale-e-di-genere-sitocompressed.pdf>

¹⁸ www.comecitrovi.women.it

¹⁹ http://files.wave-network.org/researchreports/WAVE_Report_2015.pdf

²⁰ <http://www.direcontrolaviolenza.it/wp-content/uploads/2017/11/Report-finale-new.pdf>

references for the costs to be attributed to specialized reception and hospitality services, in some cases even within the same region, different regimes exist depending on the sensitivity and attention of the Municipality (which materially pays for services). This situation causes serious difficulties to NGOs which offer these services, also encouraged by the fact that resources are provided with times ranging from a few months to a year, thus creating serious management and hospitality problems. To this we can add that the methods of putting in protection may vary strongly from territory to territory, up to the risk of impossibility of the same.

11.1 It is recalled that in the case in question, Mrs Talpis had no more funds to house her in the structure she had taken refuge in²¹. In particular *"By letter dated 27 August 2012, the director of the social services of Udine informed the association that housed Ms. Talpis that there were no funds available to take charge of the applicant and to provide her with an alternative reception solution. Furthermore, since the appellant had not previously been taken over by the social services of the municipality of Udine, which dealt with the victims of violence in the context of another project called 'Zero Tolerance', the latter could not bear the costs of Association. According to the Italian government, women victims of violence must contact the social services for help, which the applicant would not have done"*²². The Italian authorities, therefore, did not assure Mrs Talpis of effective protection, favoring a context of impunity in which her husband was located. A social service or a municipal administration cannot assess the risk, the danger, the emergency in which a woman is found who suffers violence due to complete lack of training and specialized staff.

NGOs of women who offer specialized support to women victims of violence use a gender approach and integrate support and protection of women and their children, paying attention to their safety, within the framework of protection of human rights. However, they are present in a non-homogeneous way on the national territory, with a more significant presence in the center-north of the country (to a lesser extent in the south and on the islands), creating a strong discrimination and disadvantage for women in large areas of Italy. This presence in the leopard spot is mainly due to the absence of uniform policies and funding that is totally inadequate and increasingly scarce for welfare cuts.

²¹ In the case mentioned, Mrs. Talpis was hosted in an emergency shelter. After three months of hospitality, the costs of which were entirely borne by the shelter, the Municipality of Udine refused to assume the expense of expenses for Mrs Talpis, citing the absence of funds in the budget and because the cumbersome procedure had not been respected. provided for by the Municipality of Udine resolution (27.3.2006 No. 40). [https://hudoc.echr.coe.int/eng#{"languageisocode":\["FRE"\],"appno":\["41237/14"\],"documentcollectionid2":\["CHAMBER"\],"itemid":\["001-171508"\]}](https://hudoc.echr.coe.int/eng#{)

²²

[https://hudoc.echr.coe.int/eng#{"languageisocode":\["FRE"\],"appno":\["41237/14"\],"documentcollectionid2":\["CHAMBER"\],"itemid":\["001-171508"\]}](https://hudoc.echr.coe.int/eng#{)

One of the critical issues raised by D.i.Re (which associates the highest number of Centers and Shelters present in Italy) in its annual monitoring reports²³ is that of the difficulty in ensuring continuity of services offered to women, given the precariousness and instability of the guaranteed funds. Too often women's associations operate with the help of activists and / or professionals as voluntary work. Moreover, since public funds began to be allocated (albeit insufficient), the emergence of services provided by private bodies was seen, which from the field of assistance for other social problems (eg the elderly and the disabled) went to manage services for victims of gender-based violence and domestic violence, without any training and without an appropriate gender approach, ie not essentially providing specialized support services. This is also due to the lack of attention from public bodies that do not want to recognize specialist support services managed by NGOs of women of an adequate value, sometimes tacking them to be too biased (feminists) and not recognizing their quality and professionalism. Finally, the assignment of these services is done using the procedures of tenders in almost the whole country, penalizing the quality of services through the mechanism of the least cost.

Finally, in many territories there is the problem of putting into protection of adult women unaccompanied by underage children, or because they do not have children or age (too small, 18 to 25 years old, or too old, with adult children) for whom local authorities do not respond economically creating situations of objective risk for this gender-based target of violence.

The situation is very critical due to the tendency to provide financing to private services without experience but which can guarantee a lower cost of the services requested; these "discount" services obviously cannot guarantee adequate quality for the response to the problems of those seeking help. This tendency is also combined with the problem of the adequacy of resources destined for the reception and hospitality of single women or children, which do not allow to have an adequate number of Centers and Houses and their uniform distribution in the Italian territory. Finally, there is a constant risk of closure of specialized services, since there is no guarantee of continuity of their intervention.

These elements still determine a differentiated presence in the Italian territory of Centers and Houses, a difficulty in the continuity of the work of the same and a constant rebound of responsibility that often leads to a difficulty of hospitality for adult women unaccompanied by children minors.

11.2 To date, the regional laws and related regulations regarding the procedures for the hospitality of women victims of violence have not been modified and / or made homogeneous, nor has the decision to host women in case of urgency been delegated directly to shelters;

²³https://www.direcontrolaviolenza.it/wp-content/uploads/2018/02/Report-finale_dati_2016_DiRE.pdf?x20461; https://www.direcontrolaviolenza.it/wp-content/uploads/2017/04/Report_dati-2015-DEF.pdf?x20461; https://www.direcontrolaviolenza.it/wp-content/uploads/2015/11/Report_dati-2014.pdf?x20461

11.3 To date no specific measures have been adopted to guarantee the continuity of the services provided to victims by specialized NGO services of women, their quality assessment and the enhancement of skills and experiences that could also be borrowed in public services, where there is dedicated staff.

11.4 To date, the Italian government has not intervened to ensure that the antiviolence centers and shelters operate in compliance with international and national human rights standards and that there are mechanisms of imputation of public responsibilities to verify whether support and protection are provided. to women victims of violence.

12. Financial measures

The D.i.Re association carried out a monitoring to evaluate the impact of the resources provided to the Regions by the Department for Equal Opportunities of the Presidency of the Council of Ministers on the basis of the Prime Ministerial Decree of 24 July 2014²⁴ on the implementation of the division of resources related to the "Fund for policies relating to rights and equal opportunities" 2013-2014 referred to in Article 5, paragraph 2, of Decree-Law no. 93 of 2013.

These funds are destined to strengthen and improve the support of women victims of violence and their children, thus standardizing the availability of anti-violence centers and shelters in the national territory and strengthening the network of local services.

This monitoring was carried out in November 2015²⁵ and subsequently revised in November 2016²⁶. Generally speaking, there is a difficulty in comparing and relating with regional Offices that are not always competent and with political guidelines that aim to subdivide resources onto broad targets of non-specialized users and sometimes even without experience (associations, cooperatives, non-profit organizations in general), often in the absence of an assessment of the priorities in terms of benefits for women (victims) and response to their needs and not activating a process of listening and acknowledgment of the indications coming from those (such as centers and houses) who already operate from years and know well the fragility of the system in which they are working (for which the points to be strengthened).

With the Resolution of 5 September 2016, n. 9/2016 / G the Court of Accounts²⁷ has analyzed the availability and use of funds, reaching the conclusion that, on average, were assigned to each

²⁴ <http://www.gazzettaufficiale.it/eli/id/2014/09/01/14A06807/sg>

²⁵ http://www.direcontrolaviolenza.it/wpcontent/uploads/2017/05/Monitoraggio_Ripartizione-2015.pdf

²⁶ http://www.direcontrolaviolenza.it/wpcontent/uploads/2017/05/Monitoraggio_ripartizione-2016.pdf

²⁷ http://www.corteconti.it/export/sites/portalecdc/documenti/controllo/sez_centrale_controllo_amm_stato/2016/deliberazione_9_2016_g.pdf

Antiviolence Center € 5,862.28, and to each Women'Shelters € 6,720.18. Figures therefore absolutely inadequate to support the activities of the anti-violence centers and shelters.

12.1 With the aforementioned Resolution, the Court of Accounts has severely criticized the administrative and financial management of public policies against male violence and invites the Department for Equal Opportunities to the Presidency of the Council of Ministers to comply with current international and national regulations: " *With regard to the funding specifically dedicated to the strengthening of facilities to provide assistance to women victims of violence and their children, it should be noted that the management of the resources allocated for the years 2013-2014 was completely unsatisfactory, the only ones allocated during the period in exam. Communications from local authorities to the central authority proved to be inadequate with respect to the cognitive aims of the actual use of resources and the need for evaluation of results* ".

On the Actions of the extraordinary plan against sexual and gender-based violence 2015 - 2017 always the Court of Accounts stated " *against 40 million euro allocated by the legislator for the purposes of the plan, they have been spent only 6,000 euros (equal to 0.02%)* ". In light of what has emerged, the Court recommends to the Department for Equal Opportunities " *to use the powers of coordination and management required to give an acceleration to the whole system* ".

12.2 With a subsequent Decree of the President of the Council of Ministers of November 25, 2016²⁸, the resources were divided up into a single solution provided for by art. 5-bis Law 119/13, equal to € 9,119,826 for the year 2015 and € 9,007,627 for the year 2016. The problem remains of the adequacy of the resources destined to the reception and hospitality of single women or children, which certainly do not allow to have an adequate number of Centers and Houses distributed uniformly in the Italian territory, with the guarantee of the continuity of intervention.

13. Data collection: critical issues

In Italy there is no system of disaggregated and coordinated data collection, the state surveys on violence against women were two epidemiological studies on the phenomenon, one in 2006 and the last one in 2014²⁹.

There is no system of national detection of women who refer to situations of violence to health services (primary care physicians, consultants, emergency services, hospitals, specialized medicine, Dsm, Sert, etc.) and social services (public social services and private) and even when there is an observatory on violence against women by regional laws or protocols, with rare exceptions, the data does not consider sex and the relationship between the author and the

²⁸ <http://www.gazzettaufficiale.it/eli/id/2017/01/25/17A00488/sg>

²⁹ www.istat.it/it/archivio/161716

victim³⁰. Other essential data should be noted: the number and type of victims involved in the violence (for example the children of the victim or family members), the number of authors (competition of persons in the crime), the plurality of offenses committed in the dynamics of the violent act (crimes and complex offenses) and the type of violence exercised (economic, psychological). It is also necessary to ensure integrated detection in the social services information systems³¹.

In any case, there is not a homogeneous data collection system on the whole Italian territory. Even the sources of data from civil and criminal services are incomplete. The judicial data do not include the protection orders adopted by the Civil Judge and the administrative measures (such as the police's warning); just as it would be necessary to investigate the outcomes of the trials, penalties provided, recognized reparations, security measures adopted, etc. and identifying a range of crimes that - by frequency - are more expressive than gender-based violence against women. The number of cases of crime-related offenses is also important.

It should be noted that in Italian legislation there are no specifically expressive offenses of gender-based violence against women: for ex. the crime of mistreatment does not provide a separate detection by type of physical / psychological / economic violence, it also includes violence not of gender and violence occurring in the workplace, school sports; so also the stalking includes e.g. persecutory acts of condominium, sexual harassment in the workplace are not covered. From this it follows that to identify cases related to violence against women it is not possible to refer to the type of crime.

In the database of the SDI Police Forces (System of Investigation) there is no fundamental information, that is the author-victim relationship, while in SICP (Information System of Criminal Cognition) it is not obligatory, even if foreseen, to detect the sex of the guilty of the victim. The identification of the area in which the crime was committed and the victim-author relationship, such as for injuries and beatings, are even more problematic.

13.1 The National Bureau of Statistics (ISTAT) epistemological investigations have not detected femicide. The data do not use an exhaustive definition of a femicide. The data released on the femicide by the Ministry of the Interior refer to all the women killed, so they do not use an exhaustive definition of femicide that can give a content on the quality of the data. Even the recent research carried out by the Ministry of Justice³² on the sentences issued is partial because

³⁰ See Data Observatory Tuscany. Partial detection of first aid data, in part there is not even the sex of those who have suffered violence. The case of the Inter-institutional Table against Violence against Women in Reggio Emilia is different, where the members of the Table are required to provide data distinguished by gender, nationality, age, victim / author relationship, presence of children.

³¹ The Information System on social services, the so-called Casellario della Assistenza, part of the Social Services Information System (SISS)

³² Investigation with statistical analysis on femicide in Italy, by Fabio Bartolomeo Ministry of Justice - Directorate General for Statistics and Organizational Analysis, 2017.
[https://webstat.giustizia.it/Analisi%20e%20ricerche/Femminicidio%20in%20Italia%20-%20Inchiesta%20statistica%20\(2010%20al%202016\).pdf](https://webstat.giustizia.it/Analisi%20e%20ricerche/Femminicidio%20in%20Italia%20-%20Inchiesta%20statistica%20(2010%20al%202016).pdf)

it does not analyze in depth the dynamics that triggered the killing. Among other things are not considered the feminicides in which the author performs suicide because in this case the process is not celebrated. The data on convictions is not accompanied by any detection of the recidivism of the perpetrators and the amount of the sentence effectively discounted. The murder of women is confused, considering it tout court as feminicide or we are talking about feminicide only for crimes that took place within the family (e.e. Eures) without considering other crimes related to the murders of women linked to sexist reasons.

13.2 The Commission's report on femicide³³ also contains many detailed data on gender-related crimes in the prosecution, courts and appeal courts. The crimes were aggregated and not analyzed by calendar year but aggregated. Data from the juvenile court are missing. It is necessary that a survey of this thickness be repeated annually and not only on the occasion of the establishment of a parliamentary inquiry committee. For feminicide we should start from an appropriate and shared definition, which also analyzes the sentences, condemnations and dynamics that led to the crime highlighting the institutional responsibilities in cases where the woman or her context have given signs of risk. There is also no sufficient institutional attention in the study of orphans of women victims of femicide³⁴.

13.3 At the non-institutional level, the only survey on women victims of violence accepted by the Anti-violence Centers is the annual one conducted by the national association of anti-violence centers, D.i.Re³⁵, concerning women welcomed by the 80 associations belonging to the network. These associations, which manage anti-violence centers throughout Italy, are autonomous associations that absolutely respect the anonymity of women, a circumstance that does not hinder data collection.

The attempts made by some regions, including Lombardy, to include the operators of the anti-violence centers among the professional categories subject to the obligation to report on the offenses that can be prosecuted ex officio³⁶ are challenged by the centers and it is refused, as detrimental to privacy and women's safety, the method that conditions the provision of funds to the traceability of women accepted.

13.4 There are no data on measures introduced with the Special Plan against Sexual and Gender violence 2015-2017 as the risk assessment. There is no institutional inquiry into the costs of violence against women in Italy.

Data on economic violence are not reported and from a legal point of view there is no specific crime; often it is part of psychological violence (blackmail etc.) or is considered within domestic

³³ <https://www.senato.it/4731>

³⁴ Orfani speciali: chi sono, dove sono, con chi sono: conseguenze psico-sociali su figlie e figli del femminicidio / Anna Costanza Baldry, Milano, Angeli, 2017

³⁵ www.direcontrolaviolenza.it

³⁶ Demonstration in Lombardy on 12/09/2017; <http://www.glistatigenerali.com/milano/centri-antiviolenza-e-il-diritto-delle-donne-allanonimato/>

violence. Data on the lack of payment of the maintenance allowance by the fathers are missing. In the monitoring report of the centers of the Emilia Romagna region, 41.5% of the women who turn to the centers suffer economic violence (data for 2016, of 2,555 women accepted³⁷). This fact confirms the need to detect economic violence in addition to psychological violence.

The Istanbul Convention pays particular attention to the importance of data, recognized as an essential tool for designing social policies against gender-based violence. The data, however, must be of quality and therefore periodic and regular surveys are needed to collect complete, disaggregated and standardized data, which adequately represent the phenomenon and are read on the basis of a gender reading.

13.5 Currently, the sources of institutional character - in the health, legal, social - are not suitable to grasp the phenomenon in its entirety, often the data are not collected according to the gender of the author of the violence nor are the other personal characteristics detected and individual of all the subjects involved. Moreover, compared to non-institutional sources, data collection is almost never systematic and standardized. There are several information gaps, including insufficient data collection forms currently used in administrative sources, absence of a standardized, coordinated and shared detection system among all organizations, lack of certainty on the continuity of statistical reporting, training data detectors, elements that must represent a starting point for the work of structuring and designing an integrated information system.

13.6 The Collaboration Agreement of 24 March 2017 between the DPO and ISTAT, assigns the task to the CNR - National Institute of Research - with operational start-up at the beginning of September 2018. The mapping of the anti-violence centers to the territory is entrusted to the CNR and data collection sees the Regions as protagonists with a coordinating role. It should however be stressed that the collection method has not been clarified and the implementation guidelines are missing. The regions do not currently have data collection abilities respecting anonymity [example Lombardy Region] and it is not known how the Regional Observatories are integrated with the national one. The temporal criteria for data collection should be standardized and possibly also the territorial area.

It is essential to trace the path of the victim when she tries to get out of the violence by turning to the institutions but there is no standardized system for this purpose. Knowing how many complaints the woman has filed (for what crimes and after how long from the fact), what answers have been given by the police³⁸, such as coercive measures ordered by the judicial police, the interventions of agents at home (or otherwise carried out as a result of the call or complaint), the sending to local reception services, the risk assessment carried out and the

³⁷ Data from the Anti-violence Centers of the Regional Coordination of the Emilia-Romagna Region. Monitoring Report, 1 January-31 December 2016, Bologna, 2017

³⁸ See the EVA system, an operational dashboard for law enforcement agencies, fully implemented in 2017, to build a memory of all the operations of the steering wheels even without any complaint / complaint.

protection strategies implemented, would allow to trace the exit path from violence and then highlight the "flaws" of the institutions. Finally, there is no systematic data collection of the Quaestor's warnings³⁹ regarding the requests and the adoption of the provision, the violation and its consequences.

14. Community communication and awareness raising and assistance to victims

14.1 In Italy since 2006 the Department for Equal Opportunities has established the number of public utilities 1522, active 24 hours a day for every day of the year and accessible from the entire national territory free of charge, both from landline and mobile networks, with a welcome available in Italian, English, French, Spanish and Arabic. The latest annual data available from the government site are those relating to 2016, which shows that the women who contacted the service were 15,800, out of a total of 17,472 calls. The data reported show that the role of the government number is mainly information and vehicle to reach specialist support services, which remain those responsible for an effective response and close to the victims.

One of the critical issues that emerged from the Anti-Violence Centers is that since 1522 contacts have arrived with women who are not victims of violence, but bearers of various problems to which these services do not respond. This highlights the need for a better definition of the reference target in the telephone response, correctly addressing women to specialist services according to their needs. There was also a strong decrease in the connection of the service 1522 with the Anti-violence Centers, attesting the service on a standardized response that does not always accompany women towards the specialized service, channeling requests for help also towards non-specialized services and, in some cases, providing answers not adequate to the needs expressed by women. In this regard it should be emphasized that the mapping available to 1522 has revealed significant weaknesses in recent years and there is not adequate verification of the references contained in it since 2013.

14.2 The Italian situation with regard to the actions taken on the issue of sensitization to male violence against women presents a complex reality, despite being the subject of a specific recommendation by the Cedaw Committee in 2017 (26 a, b) and in 2011 as well as the UN Special Rapporteur (95 (a) and (d)). The issue of sensitization appears in Article 5 of Law No. 119 of 2013 and although the Italian government has carried out awareness campaigns, unfortunately it is necessary to consider how these have not been conducted on a systematic basis. Moreover, they often have been conceived by adopting an implicit stereotypical view of gender roles and models⁴⁰. In other campaigns there is an exclusively victimizing vision of the woman, as in the Antiviolenza spot of the 2017 campaign "Unlock courage". It was decided to prevent violence

³⁹ The database on warnings is left to a University initiative but is not taken as an institutional model.

⁴⁰ for example the communication campaign "Respect women. Respects the world "in which women are compared to a white rose and male violence to a dark evil:" a white rose, symbol of the candor of the female world, gradually becomes black, poisoned by that dark evil that is violence against women. A pain that remains private, silent - out of fear or shame "(quoted in " Respect women Respect the world ", 2009)

addressing almost exclusively to women, eliminating for example the representation and the target of the campaign the male presence as responsible. There is also the absence of campaigns on sexuality, consensus and the specific theme of sexual violence. No research has been carried out on the impact of these campaigns on the perception of the phenomenon itself. Violence prevention cannot consist solely of advertising spots and posters.

15. Measures on physical and psychological health adopted by the Italian Government

The measures envisaged by the Italian government and the recent approval of the national guidelines on rescue and social-health assistance to women who suffer violence⁴¹ have not yet been implemented and the health companies have not yet adapted, so it has not been possible to monitor the application and effectiveness to date.

16. Actions in the education sector adopted by the Italian Government

The recent issue (October 2017) of the National Guidelines "Educating to respect: for gender equality, prevention of gender violence and all forms of discrimination" - related to Article 1, paragraph 16 of Law 107/2015 - constitute an important reference point in the framework of the dissemination of practices of education to gender identity/differences/relations and the fight against violence against women and against all gender-based discrimination within public schools.

The document was drafted by a composite technical group, expression of different positions. The result of their comparison is reflected in the text in a not always consistent and sometimes weak form, especially in the chapter on the Prevention of violence against women (3) in which the reference to the "structural dimension" of the "phenomenon" appears only in one line, little explained and lacking that didactic attention that in other passages of the document instead shows an expressive care more aware of the widespread ignorance of these issues and of the relative newness of their transposition within the public school. There is a lack of training of the figures working in the school (managers, teachers, other workers).

17. Discrimination in numbers

Italy precipitates as a 'gender gap'. To record this situation is the World Economic Forum in the 'Global Gender Gap Index 2017'⁴². Italy is in 82nd position out of 144 countries examined in terms of gender equality. Only last year we were fifties, while in 2015 we were 41st in the ranking. Among the factors that lead Italy to the less virtuous countries also the daily work quota not paid (or paid inadequately) which reaches 61.5% for Italian women against 22.9% for men. In drawing up the rankings, several indices were analyzed which concern not only the disparities at work, in terms of participation, career opportunities and salaries, which have contributed in

⁴¹ <http://www.pariopportunita.gov.it/fags/un-nuovo-percorso-ospedaliero-per-le-vittime-di-violenza/>

⁴² <https://www.weforum.org/reports/the-global-gender-gap-report-2017>

a predominant manner to the poor result, but also education, social status, political representation and life expectancy. Women work more: about 512 minutes every day, compared to 453 for a colleague. Yet, as is known, unemployment is higher among women (12.8%) than among men (10.9%). According to the World Economic Forum, the gender gap that is being created in terms of health is a cause for concern. On this front, Italy recedes from 77th place in 2016 to 123rd of 2017. To determine this other bad result are also data on life expectancy in health: for women it has decreased to 73.7 years from 74 years of 2016, while for men it has risen to 71.8 years from 71.

18. Domestic violence in numbers

Violence against women is a widespread phenomenon. 6 million 788 thousand women have suffered some form of physical or sexual violence during their lives, 31.5% of women between 16 and 70 years old: 20.2% have suffered physical violence, 21% sexual violence 5.4% more severe forms of sexual violence such as rape and attempted rape. There are 652,000 women who have suffered rape and 746,000 victims of attempted rape, as is clear from the latest ISTAT survey⁴³.

18.1. The Eures in November 2017 made it known that at that time 114 women were killed by men in Italy⁴⁴. The number has increased to 140 in December 2017. The figure concerning the killing of 184 women victims of prostitution has been separated from the report. In 44.6% of the cases the women had reported - unfortunately, uselessly, given the outcome - the men from whom they had suffered violence or threats. The instrument of the complaint is still today without effectiveness.

Since the beginning of 2018, 30 women have been killed by partners or former partners. It should be noted the case, happened to Cisterna di Latina, by Luigi Capasso, the carabinieri who fired on March 1, 2018 to his wife, reducing her life and the two daughters aged 8 and 14, killing them in their sleep. The carabinieri, after barricaded himself at home for nine hours, committed suicide. The military had been suspended from service for two years and then reinstated. He had not been taken away from the weapon despite his wife had repeatedly turned to the carabinieri for ill-treatment and the girls were terrified of his behavior.

19. Lack of a network of intervention and protection for women victims of violence in Italy

19.1 From the report of the Senate Committee of inquiry on femicide ⁴⁵ clearly emerge *"Intervention flaws from social services, hospitals, law enforcement agencies"*. An examination of the Commission of Inquiry of 20 judgments for femicide shows that in 13 cases there was the

⁴³ <https://www.istat.it/it/archivio/161716>

⁴⁴ <https://www.eures.it/il-femminicidio-in-italia-nellultimo-decennio/>

⁴⁵ http://www.senato.it/japp/bgt/showdoc/frame.jsp?tipodoc=SommComm&leg=17&id=01066513&part=doc_dc-allegato_a&parse=no

intervention of law enforcement or services, but without follow-up or monitoring of women. What emerges with a certain gravity is the lack of intervention by the bodies in charge of high risk in the phases of prevention and monitoring and deficiencies in the intervention and in securing the victim. The Feminicide Commission of the Italian Senate concludes recommending the *"Need to change procedures and cultures: in the 20 judgments analyzed there is no planning for targeted and connected interventions. The cases analyzed therefore indicate the need to change procedures and methods of intervention by the bodies involved in the prevention and monitoring of high-risk situations, of which we are aware. It becomes necessary to change the mentality of the social actors and bodies involved, through careful training and coordinated work on the network, identifying those responsible for each individual case "*.

19.2 The Commission of Inquiry on femicide also dwells on the case of Talpis also on the sentence issued by the Court of Messina on 30.5.2017 with which, under the legislation on the civil liability of magistrates, the Presidency of the Council of Ministers has been ordered to compensate the plaintiff for damages reported following the omitted conduct of the investigating magistrates. *"In particular, the plaintiff in the judgment of responsibility identified the inexcusable negligence of the magistrates for not having carried out the due investigative measures including the interrogation of the suspect, the lack of solicitation to the health authorities regarding the adoption of the treatment health care, the failure to take precautionary measures. The first complaint that had been taken by the victim was achieved by the adoption of the measure of removal from the family home of the author of the violence. During the civil proceedings, in the cause of separation, the children were entrusted exclusively to the father (as unfortunately sometimes happens) and following this measure the public prosecutor had requested and obtained the lifting of the precautionary measure "*

20. The problematic relations between the criminal proceedings and the determinations in civil and juvenile law

The Senate Commission of Inquiry on femicide stresses the lack of coordination between the criminal court and the civil and juvenile court. It reports: *"The first point on which this Commission deems to make recommendations is that of the need to reduce as much as possible the hearing of victims in the various judicial contexts, providing in the legislation in accordance with the indications of the Istanbul Convention a concentration declarative contributions (possibly through the joint participation of the various judicial authorities) and / or the provision of a circularity of the related minutes. ... As we have seen previously, there are no information systems to which the juvenile judicial authorities can autonomously access, and from which to check the possible registration of civil proceedings in the various courts of the district, with attraction of the competence for minors. The solution to this issue therefore appears to be characterized by urgency, otherwise there exists the concrete risk that measures regarding the protection of minors are adopted by incompetent authorities, however, through the proliferation of proceedings, with all that follows for the parties.*

An even more serious matter is that relating to the relationship between the criminal proceedings registered for crimes related to gender violence and civil procedures for separation / divorce, in which it is necessary to take determinations in point of minor children. The cognitive activities

carried out by this Commission, through the acquisition of a copy of judicial documents and direct listening to subjects and associations having experience in the matter, have brought to light a tendential lack of communication between the two different contexts It is the opinion of this Commission that on this point there should be rigorous application of article 31 of the Istanbul Convention according to which, in the provisions concerning minors, any previous violent actions by the maltreatant subject must be assessed, not only in cases of direct violence against minors or assisted by them, but also in cases in which the maltreating conduct is perpetrated exclusively to the detriment of the other parent and in the absence of the children".

21. Specialization and training

In 2008 the national association D.i.Re carried out an important research in Italian courts and prosecutors on the criticality of the legal system and judicial practices detrimental to the victim of these crimes⁴⁶. The research revealed the lack of awareness of the seriousness of the phenomenon as well as the lack of training and specialization on the subject by all operators. These practices raise the risk for the safety of the women and children involved and exposed to violence and exacerbate the victim's vulnerability situation. The Superior Council of Magistracy, having acknowledged the research, issued two important resolutions in 2009⁴⁷ and 2014⁴⁸, with which it recommended the judicial offices to *"intervene, in compliance with the magistrates' training tasks and the organization of judicial work, through a resolution of address, to improve the response of justice in the context of family violence "*.

Despite all the problem persists in many courts and office of attorney, the structural problems of the lack of specialized personnel and of instrumental means have not been solved, nor is the timely connection and coordination between the various operators of the penal system and not.

Furthermore, the training of magistrates is still lacking. For example, in the training program envisaged for the year 2018 only one meeting is dedicated to violence against women, also in addition to the celebration of the international day against violence (25 November)⁴⁹. in 2017 there was only one decentralized training meeting⁵⁰.

22. Risk assessment

⁴⁶ <http://www.direcontrolaviolenza.it/wp-content/uploads/2014/05/all.1-dossier-2008.pdf>

⁴⁷ <http://www.direcontrolaviolenza.it/wp-content/uploads/2014/02/Gruppo-avvocate-luglio2009.pdf>

⁴⁸ http://www.direcontrolaviolenza.it/wp-content/uploads/2014/05/DELIBERA-CSM-12_3_2014.pdf

⁴⁹ <http://www.scuolamagistratura.it/formazione-permanente/2014-11-12-13-09-4.html>

⁵⁰ <file:///C:/Users/Carrano%20Titti/Downloads/T17029%20%20Programma%20del%20Corso.pdf>

In the Italian system, the victim's security interest is rarely at the center of the judicial activity, more focused on respect for the defendant's right of the author of the violence. The risk assessment is carried out in solitude by the individual, magistrate of the Public Prosecuting Office or judicial police officer who refers to them, who usually do not consider the literature on the subject nor use assessment and self-evaluation tools such as SARA and other tests. There is no institutionalized and organized procedure for risk assessment and management and for victim support.

23. Criminal denunciation and archiving

Finally, too high is the rate of filing also in relation to complaints-lawsuits for serious crimes, such as mistreatment and sexual violence, as well as the underestimation of sentinel offenses of beatings, minor injuries, threats, often considered minor offenses and addressed to the justice of the peace, with much longer times and frequent prescriptions⁵¹. The data relating to archiving is particularly uneven in the various districts of the Court of Appeal, highlighting once again the different sensitivity in relation to different geographical areas⁵².

Conclusions

This presentation, while recognizing some measures taken by Italy, presents evidence and demonstrates that further measures are needed to combat male violence against women and those already adopted are taking much longer to take full effect. **As a result, the closure of the Talpis case is certainly not appropriate at this time.**

⁵¹ Pecorella Claudia e Farina Patrizia, “la risposta penale alla violenza domestica: un’indagine sulla prassi del Tribunale di Milano in materia di maltrattamenti contro familiari e conviventi (art. 572 c.p.), in Diritto Penale Contemporaneo

⁵² Senate Committee of inquiry on femicide, 2018, p.161