

**Upcoming recommendations of the Committee of the Parties in
respect of Italy**

**Report from Italian women's NGOs
coordinated by D.i.Re - Donne in Rete contro la violenza**

April 2023

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Introduction

This submission has been compiled by a diverse group of Italian women organizations and experts, including those who have already worked on the Shadow Reports for the CEDAW and GREVIO (the last one coordinated by D.i.Re, the first and largest network of anti-violence centres in Italy). This document outlines non-exhaustive observations and proposals related to the Committee of the Parties' recommendations to Italy concerning the implementation of the Istanbul Convention. Each chapter showcases the competences and specialized knowledge of all contributing partners¹.

Some concerns highlighted in the present document are cross-cutting to all areas covered by the Committee of the Parties' recommendations.

Above all, despite an extensive legal framework, the Italian system hinders access to justice for survivors of violence against women and domestic violence. There are no mechanisms in place to evaluate the effectiveness of the Italian legislation. The set of rules and mechanisms that are in place fail to address the deeply entrenched sexism affecting the condition of women in general, and of those exposed to gender-based violence in particular.

The prevention and fight against violence against women are excluded from both the National Strategy for Gender Equality 2021-2026 and the National Recovery and Resilience Plan (PNRR). It is a decision that confines women's rights, including the right to live a life without violence, to policies and actions that are not integrated into the economic, social and cultural strategies and programs that regulate life in the country. Besides, there is a growing tendency to reinterpret and redefine gender equality policies in terms of family and maternity policies. In other words, the principle of equality is not fully integrated into government action as an essential and indispensable component in the implementation of every policy.

¹ The report is informed by the following documents: D.i.Re's input to inform the Special Rapporteur on violence against women and girls' report on the nexus between custody and guardianship cases, violence against women and violence against children, with a focus on the abuse of the concept of "parental alienation" and related or similar concepts; Submission sent by the Association D.i.Re – Donne in Rete contro la violenza under rule 9.2 of the Committee of Ministers regarding the supervision of the execution of judgements and terms of friendly settlements on the case *J. L. v Italy* (Application no. 5671/16); inputs and contributions from D.i.Re Lawyers Networks on the "Cartabia Reform".

I- Fundamental rights, equality, and non-discrimination (Article 4)

Refugee and asylum-seeking women

Many refugee and asylum-seeking women have experienced **multiple forms of sexual and gender-based violence** in their countries of origin as well as in transit countries. From the moment they arrive in Italy, many **structural circumstances exacerbate their vulnerability**, increasing their risk of being socially isolated, experiencing gender-based violence, being sexually or labour exploited, preventing their access to services such as social-sanitary services; sexual and reproductive health and rights services; anti-violence centres and anti-trafficking services. As a matter of fact, asylum-seeking and refugee women are still experiencing **several barriers in accessing gender-based violence against women support services**, at different levels - individual, community, organisational and institutional (*Living Violence. Living Safe. Project Evaluation Report 2017-2020*, <https://www.leavingviolence.it/en/>). Among the main barriers are: lack of knowledge on gender-based violence against women and girls support services, lack of trained cultural mediators, lack of staff trained to recognize gender-related vulnerabilities among stakeholders, especially those involved in identification procedures at border zones and entry points, the Territorial Commissions for the recognition of international protection, law enforcement officers, staff of the reception systems (Extraordinary Reception Centres - CAS; Reception and Integration System - SAI). This situation results in **lack of referral mechanism for gender-based violence against women and girls** detection, identification and support among relevant stakeholders and related low number of women asylum-seeking and refugees accessing specialised services, including anti-violence centres.

A **lack of training on gender-based violence against women and girls** still emerges among stakeholders, especially the ones involved in identification procedures at border zones and entry points and staff of the reception system. Progress has been made in the border areas, where recently the government has allowed access to first identification facilities (e.g. Hotspots, CARA - centres for refugees and asylum seekers) in addition to U.N. agencies, to some NGOs that in partnership with them work to identify, support and refer to adequate services vulnerable people, including women survivors of violence or victims of human trafficking. Despite this, the **conditions in these places of identification undermine the psychological and physical integrity** of the guests, making fragile individuals, including women and minors, even more vulnerable. In fact, these are places often characterised by overcrowding, where access to food, water and basic necessities is limited to even once a day, with crumbling dormitories with high promiscuity that facilitates episodes of violence against women, and sanitary facilities where the level of sanitation is well below the minimum acceptable standard. Moreover, the fact that migrants are not allowed to leave these facilities in any way makes them effectively in an **illegitimate detention regime**, thus undermining their right to liberty and security of person, and fuels conditions of insecurity and tension within the structures that damage the most vulnerable subjects, i.e. women, minors and people with special needs more exposed to unfavourable treatment and episodes of violence (see European Court of Human Rights, case *J.A. and Others v. Italy*, no. 21329/18, 30 March 2023).

Italy still lacks a referral mechanism for gender-based violence against women and girls detection, identification, and support among relevant stakeholders (Asylum Territorial Commission, reception system, women specialist services (WSS) above all) involved in asylum-seekers and refugee support. Nevertheless, significant progress has been the Standard Operating Procedures (SOPs) of the National Commission for Asylum on “the detection and referral of persons who survived – or at risk of – gender based violence in the context of the procedure for the recognition of international protection”, that sensitise and train officers on gender-based violence and on how to recognize related elements outlining, above all, standard referral procedures to Anti-violence centres. If properly implemented, the SOPs will provide opportunities for women to receive specialised support and to exercise their right to asylum.

There is a great **concern over the accelerated procedure**² regime under which applications for international protection of people from the safe countries of origin list are processed. By contracting the time limits for examining applications, this procedure becomes particularly unfavourable for persons carrying vulnerabilities who fail-or are not put in a position-to express them in a short time, or worse, are not readily identified as such by the relevant actors. It thus seems clear how this procedure disadvantages the most fragile individuals, including women survivors of violence or victims of trafficking, who need adequate time and specialised services to bring out their experiences. Furthermore, exacerbating this situation is the **recent addition to the list of safe countries**³ of origin of Nigeria, Gambia and Côte d'Ivoire, known for political instability, major conflicts and systematic violations of women's rights.

The enactment of Law 173/2020 sought to remedy the serious dismantling of the right to asylum caused by the so-called "security decrees" (D.1.132/2018 and D.1 77/2019). The gap left by the repeal of humanitarian protection, often granted to women victims of violence or trafficking, had been partially overcome by the introduction of a "residence permit for special protection to ensure the applicant's private and family life." However, Decree Law 20/2023, repealing the third and fourth paragraphs of Article 19 c.1.1, sanctions a major backlash from the improvements introduced by Law 173/2020. The SAI reception system introduced by law 173/2020 widened the range of people who can access it and began social inclusion paths, including support programs for people with fragility, such as women survivors of sexual and gender based violence. However the absence of places in the SAI system is considerable and leaves many eligible people out of this system, invalidating their right to structured pathways to social inclusion.

Women lacking a residence permit

Women experiencing violence who lack a residence permit face **additional difficulties**. These victims cannot work, cannot enter into a rent contract, and experience financial insecurity that is frequently opposed to their abusive father/partner's working condition. In family court proceedings, the abuser's defence frequently uses this argument to argue that the mother is unable to adequately care for her children. Mothers are often placed in mother-child care facilities. Courts request an assessment of parenting capacity by social services and, more than in other cases, allocate custody of the child to social services with subsequent limitations on the mother's parental rights.

The "residence permit for victims of domestic violence", introduced by Law 119/2013, is not fully implemented and the procedures for its application are far from homogeneous throughout the country. Its effectiveness is also compromised by the need to open criminal proceedings and is closely dependent on the expertise of the law enforcement officers. The latter therefore require specific training in order to overcome this barrier. According to the most recent available data from the Ministry of the Interior, from 2013 to 2018, a total of 111 residence permits were released.

Women of second generation

To avoid a "**second generation**" of uncertain legal status and family dependence, it is necessary to reconsider the *jus sanguinis* principle for citizenship. This legal criterion often seriously impacts girls suffering violence within the family network because it prevents them from becoming independent. When confronted with situations of violence and sexual control, this principle can pose the risk of forced marriages, with parents taking girls to their home country for this purpose. Specialised awareness and training campaigns are necessary, including for diplomatic representatives and consular staff abroad. Re-entry visas for young women who have been repatriated against their will should be provided, alongside simplified request and renewal procedures for residency permits which are often purposefully allowed to expire to prevent their return.

² Art. 28-bis (Accelerated procedures) and art.2-bis (Safe Countries of Origin) Legislative Decree 25/2008.

³ Decree 17 March 2023, "Periodic updating of the list of safe countries of origin for applicants for international protection".

Women experiencing trafficking and exploitation

Secondary victimisation becomes even more evident among trafficked women. Courts do not consider the vulnerability of victims of trafficking and migrant women when assessing their parental capacity for child custody proceedings. The European Court of Human Rights sentenced Italy in *A. I. v. Italy* for failing to consider the foreign origin and vulnerability arising from trauma experienced by the applicant as a victim of human trafficking. It is necessary to overturn the current anti-trafficking policies, basing them on the principle of respect for women's human rights, empowerment and active listening to women, as well as avoiding any form of paternalism. The traditional identification model gives immigration and police forces the exclusive powers to decide on all trafficking cases, a situation that does not ensure that women are heard or effectively evaluated in terms of personal and social vulnerability.

Lesbian women experiencing violence

Despite very little data available on this in Italy, abusive relations do exist also within **lesbian couples**. Furthermore, lesbian couples with children face a very heterogeneous reality regarding the recognition of children born within a same-sex family. Recognising and bringing this violence to the surface is especially difficult given the traditional gender binary and gender stereotypes on the identity and roles of men and women are still deeply entrenched within our society. Particular attention must be given to the cultural messages and forms of discrimination that reinforce these stereotypes, as well as public support and resources for organisations working on these issues and for the rights of these people.

Women with disabilities

On the specific issue of women with disabilities, the National Strategic Plan on Male Violence against Women 2021-2023 includes some specific references, never considered before, though implementation procedures are demanded to a forthcoming plan which has not been presented so far.

Concrete actions to implement the aforementioned national plan are lacking, such as:

- The identification of the most vulnerable groups;
- Actions for the emergence and contrast of violence against women victims of multiple discrimination;
- Awareness raising campaign targeting fragile categories such as elderly women and women with disabilities who are victims of gender-based violence.

No clear specific commitments are taken nor operational indications are given so far both at national and regional level concerning awareness-raising actions targeting fragile groups (such as women with disabilities) who are victims of gender-based violence but planning to engage. As regards the support and assistance facilities, we underline their **physical and cultural inaccessibility** to women and girls with disabilities.

Awareness-raising and prevention campaigns, if any, **do not target girls and women with disabilities**, especially those with intellectual and/or psychosocial disabilities. There is no information provided in "easy-to-read" or "easy-to-understand" format and no reference in videos, spots and/or written communication regarding situations that can involve girls or women with sensorial disabilities, physical disabilities, intellectual and/or psychosocial disabilities. Girls and women with sensorial disabilities are also not benefiting from these campaigns because their disabilities are not supported with appropriate languages and tools (sign language, subtitles, audio descriptions, braille format, etc.).

Concrete measures are lacking for the coordination between the helpline 1522, anti-violence centres, shelters, law enforcement agency, territorial networks, and the judicial system supporting women with disabilities when approaching the helpline 1522. **Minimum requirements for anti-violence centres**

and shelters do not include “accessibility”, with the consequences that women with disabilities may not be granted adequate access to such protection services.

Furthermore, references to women with disabilities are missing in the Axis “Prosecute and Punish” of the 2021-2023 National Strategic Plan on Male Violence against Women, which includes the whole area of “access to justice”, an area in which women with disabilities are frequently discriminated against and exposed to **secondary victimisation**.

In the 2021-2023 National Strategic Plan, the need to oversee the implementation of the Plan considering the cross-cutting nature of some issues, such as disability and immigration, was established in the “Assistance and Promotion Axis”. Such meetings, which had to take place every six months, have not been activated yet.

II. Comprehensive and co-ordinated policies implemented under the responsibility of an adequately mandated and resourced co-ordinating body (Articles 7 and 10)

National Strategic Plan on Male Violence against Women 2021-2023

On 17 November 2021, the Government adopted the National Strategic Plan on Male Violence against Women 2021-2023. The Plan presents a programmatic structure theoretically consistent with the indications of the Istanbul Convention and with the objectives of the UN 2030 Agenda. The Plan is divided into Axes, in line with the Istanbul Convention: Prevention, Protection and Support, Prosecution and Punish, Assistance and Promotion. Specific Priorities are associated with each Axis, which address the most significant dimensions of male violence against women.

The drafting of the Plan took advantage of the evaluation of the 2015-2017 Plan, published on the website of the Viva project of CNR-IRPPS (<https://viva.cnr.it/>), appointed by the Department for Equal Opportunities (DEO), the political Authority directly in charge of gender equality and equal opportunities policies, for evaluation and monitoring, and of other documents and results of ad hoc investigations merged into the section of the ISTAT (National Institute for Statistics) website, set up as part of the Agreement between ISTAT and the Department for Equal Opportunities (<https://www.istat.it/it/violenza-sulle-donne>).

The 2021-2023 National Strategic Plan is essentially a steering document with respect to the interventions deemed necessary to implement the legislative provisions and for the continuation of the initiatives launched in the previous three-year period. The document envisages a very large number of actions, often having similar aims, which can generate possible risks of overlapping between similar or analogous actions which are repeated within one or more objectives.

As with the previous National Plans, the 2021-2023 Plan envisages the drafting of an Executive Plan, which should outline the list of actions to be implemented, correlating them with priorities, responsibilities and resources. To date, **such an Executive Plan has not been adopted**, although it is a fundamental document for outlining the responsibilities, actions, objectives, times and resources needed to achieve the intended goals.

It is important to emphasise that the National Strategic Plan does not contain a detailed description of objectives, priorities, short, medium or long-term actions and expected results. Apart from the indication of the period of validity (2021-2023), there are **no indications regarding the timing of the implementation of the envisaged activities, nor the subjects who are responsible** for implementing a given action and the administrative procedures to be activated. The objectives are stated in a generic way and, in some cases, specific activities are not clearly connected to them. There are **no clear indications about the allocation of resources** with respect to each of the intervention priorities and there is no link between the lines of action and the breakdown of the available financial resources.

While acknowledging the lessons learned in the previous three-year planning period which identified critical issues related to the implementation of the 2017-2020 National Strategic Plan, **the commitments set out in the 2021-2023 Strategic Plan are not being implemented**.

Furthermore, despite paragraph 2.5 “*Lessons learned and points of attention for the 2021-2023 National Strategic Plan*” and the establishment of forms of collaboration and involvement both in priorities and in the governance system, **the role of women specialist services, women's associations, and civil society is actually weakened in both the implementation and evaluation phase**.

Governance of the National Strategic Plan

As for the “Governance Model” provided for in para. 4.1 of the Strategic Plan, it has to be noted that the National Steering Committee was established only in March 2022. The Observatory, the only governance body in which civil society is present, was established in April 2022.

The **National Steering Committee** has functions of political guidance and strategic connection between the institutional levels, including local ones, involved, in order to ensure coordination between actions at central and local level. The participation of civil society is not foreseen. The Observatory carries out functions of monitoring, analysis, study and proposal, also for the purpose of elaborating and implementing the National Strategic Plan against violence against women and domestic violence. The **Observatory** also carries out functions of support to the Department for Equal Opportunities in the preparation of the Plan.

The Observatory is chaired by the President of the Council of Ministers or by the political Authority delegated to equal opportunities. Bodies of the Observatory are:

- a) the President;
- b) the Assembly;
- c) the Technical-Scientific Committee.

Women specialist services (WSS) are only included in the Observatory **Assembly**. Out of more than 30 actors (including representatives of Ministries and other institutions, trade unions, employers’ organisations) represented in the Assembly, only 10 are designated by NGOs. Among those, only 3 represent WSS (D.i.Re, Differenza Donna, Telefono Rosa). **Once again, the role of anti-violence centres is weakened.**

The appointment of the experts of the **Technical-Scientific Committee** also falls within the political decision-making power and there has not been a transparent process for the identification and appointment of the aforementioned experts. The appointment came shortly before the general election. No public information on the selection procedure was available and no informed participation was guaranteed. CVs of appointed experts are not available on the DEO website.

The works and opinions possibly expressed by the Technical-scientific committee are not made public. Finally, no NGOs representing women or persons with disabilities are part of the Technical-Scientific Committee, in contrast to the United Nations Committee on the Rights of Persons with Disabilities General Comment no. 7 on the participation of persons with disabilities.

Since its appointment, the Observatory Assembly has been convened only twice. The first time was in September 2022, shortly before the general election; the second in February 2023. **On the DEO website no or only scant public information is available on the activity and decisions of the Observatory.** In the September 2022 meeting, NGOs were informed about the incumbent adoption of two important documents. The first of these was the revised “Minimum standards for anti-violence centres and shelters” - originally adopted in 2014 - and the second was the “Minimum standards for programmes for perpetrators”. The adoption of both documents were not announced before and, most significantly, the one on “Minimum standards for programmes for perpetrators” was drafted without whatsoever consultation or participation by WSS. In both cases, **the lack of consultation with WSS raises concerns about the recognition of WSS as central actors as well as about the lack of coordinated and integrated policies.** The exclusion of WSS in the definition of the minimum requirements for perpetrators programmes is an indicator of lack of transparency and holistic approach in the adoption of standards that are paramount for women’s fundamental rights to live free from violence.

The *de facto* exclusion of the anti-violence centres from the decision-making bodies entails the **actual risk of marginalisation of women specialist services** (anti-violence centres and shelter) that place women's autonomy and self-determination at the core of their work, as well as the risk of adopting a **gender-neutral approach**. The Observatory, due to its composition, is not independent and therefore is subject to political power and to government turnover.

Implementation of the National Strategic Plan

As for the "**Methods of implementation**" (para. 4.2), the Strategic Plan provides for full transparency with a widespread and articulated consultation activity to consolidate and expand the governance of the Plan. Mechanisms for sharing the elaboration of public policies to fight male violence against women and, possibly, the finalisation of the intervention tools had been foreseen. This provision, which was intended to overcome the critical issues identified in the previous 2017-2020 Plan, is **totally unfulfilled**.

As of today, the only available resources on the Department for Equal Opportunities website are: the Strategic Plan; the decrees establishing the National Steering Committee and the Observatory; the decrees for the transfer of resources to the Regions; the links to the available mappings of women specialised services; the link to so-called "integrated system of information concerning the violence against women in Italy" run by ISTAT as well as to the links of the reports carried out by IRPPS-CNR.

The implementation of the National Strategic Plan, moreover, is delegated to the regional level of governance. While all Italian Regions have adopted legislation on violence against women, not all have adopted comprehensive legislation and policies. Only few regional plans mention intersectional discrimination. Disparities among Regions create inequalities and discrimination on a territorial basis, especially for women exposed to multiple and/or intersectional forms of violence and discrimination such as girls and women with disabilities.

No documents useful for the necessary assessment and monitoring of the implementation of the National Strategic Plan are available, nor have these been provided to the members of the Observatory, in contradiction with the principles of transparency and accountability recognized in the Italian legal system with Legislative Decree 33/2013 "Reorganisation of the regulations concerning the right of civic access and the obligations of publicity, transparency and dissemination of information by public administrations".

To date, only the monitoring reports on the ex post evaluation of the 2015-2017 Strategic Plan have been published. An ex ante and ongoing evaluation of the 2017-2020 Strategic Plan has not been published, even if the 2021-2023 Strategic Plan (page 19) builds on the results and critical issues of the previous National Strategic Plan. Results obtained thanks to the agreement signed between the Department for Equal Opportunities (DEO) and the National Research Council (CNR – IRPPS) for the implementation of the ViVa project - Monitoring, Evaluation and Analysis of interventions to prevent and combat violence against women.

Assessment on the use of resources

A number of critical issues concern the financial resources for the implementation of the National Strategic Plan allocated to the Department for Equal Opportunities (on this point, see also Chapter III). Despite the transfer to the Regions of the resources intended to strengthen the intervention systems had been implemented (albeit with delay and without considering the harmonisation with the timing of the preparation of the regional budgets), no information is currently available on regional programming. In addition, there is an uneven situation with respect to their use, as also noted by the Report from the Ministry to the Parliament of 30 June 2022, which analyses the use of resources on the allocation of funds to the Regions pursuant to articles 5 and 5-bis for the years 2017-2021.

As regards direct funding initiatives, the Department for Equal Opportunities has promoted just one initiative in the area of communication and awareness raising for the prevention of male violence against women. The results of the Public call, published in February 2022, are not yet available.

There is no information relating to the allocation of resources foreseen for 2023 relating to the strengthening of the monitoring of policies and projects on the prevention and fight against male violence against women; to the public call to select projects on preventing and combating male violence against women; to the establishment and strengthening of centres for male perpetrators of violence (in implementation of article 26-bis of decree law no. 104/2020, converted, with amendments, by law no. 126/2020).

Human and financial resources allocated to the co-ordinating body

Despite its broad mandate, the Department for Equal Opportunities has always suffered as a political institution given its secondary (sometimes regarded as inferior) position within the hierarchy of Government. Any action carried out by the policy maker in charge of the Department has always been undermined by a lack of resources, short terms in office and therefore a lack of experience and specialisation on gender-related issues.

III - Financial resources (Article 8)

The Italian national, regional, and local authorities annually allocate resources to support the anti-violence centres and shelters. **At national level**, Decree-Law no. 93/2013 requires the political Authority directly in charge of gender equality and equal opportunities policies to distribute the so-called anti-violence resources. Since the approval of 2021 and 2022 Budget Laws, the State must also fund the **National Strategic Plan against Violence against Women and Domestic Violence with 15 million euros a year**. The current National Strategic Plan launched on 23 November 2021 is rather ambitious in terms of the number of objectives to accomplish and activities to implement. Thus, **the amount of money allotted cannot cover all the actions listed**. Moreover, as of April 2023, no executive plan has been published detailing roles, responsibilities, timelines, and financial allocations per pillar and action foreseen (see also Chapter II). Furthermore, **the treatment programmes for perpetrators** of domestic violence and violence against women envisaged by Law no. 234/2021 (Art. 1, paras. 661-669) **are not yearly funded**. Indeed, ad hoc funding was allocated only for 2022, but no resources were allotted for 2023 by the related annual Budget Law. No specific funds for co-ordination or for actions in favour of women and girls with disabilities is provided.

Even though the national funding has increased since the adoption of Decree-Law no. 93/2013, **no comprehensive assessment of the economic resources necessary to properly fund the Italian anti-violence system has ever been carried out**. As a result, shelters and anti-violence centres are severely underfunded and daily endure several challenges to meet survivors' needs. Indeed, **the budget allocation of the anti-violence funds mirrors the lack of a regular comprehensive needs assessment**. Between 2013 and 2021, 75% (140 million euros) of the overall funds (185,5 million euros)⁴ was designated for the Protection pillar, 14% (19 million euros) for the Prevention pillar, 2% (3,6 million euros) for the Assistance and Promotion pillar, no accessible information is available on the remaining 9%⁵.

At local level, all Regions have their own anti-violence law but not all of them annually earmark financial resources for prevention and protection activities. Moreover, the amount of funding widely differs according to the territory, thus widening or generating territorial inequalities in terms of services and opportunities available to women willing to leave an abusive partner or already supported by an anti-violence centre.

It is important to underline that the **Italian authorities do not adequately address all forms of violence against women as envisaged in the Istanbul Convention (IC)**. The abovementioned funds are mostly destined to the ordinary functioning of shelters and anti-violence centres in compliance with Art. 5-*bis* of the Decree Law no. 93/2013. As for the prevention and fight against **forced marriages** (Art. 37 IC), sporadic funds were designated to merely issue guidelines to identify potential or actual cases (2018), whereas none were allocated to prevent and fight **crimes committed in the name of so-called 'honour'** (Art. 42 IC).

As for the **female genital mutilation (FGM)** (Art. 38 IC), since the enactment of Law no. 7/2006, the annual Budget Law assigns funds for awareness raising campaigns, a national hotline, and training of health professionals and other practitioners directly working with the affected communities. To implement these activities, the Budget Laws assigned 917.129 euros both in 2021 and 2022, and 1.239.845 euros in 2023 to the Department for Equal Opportunities, the Ministry of Health, and the Ministry of Interior. However, no public information is available on the use of these funds. Upon the submission of a FOIA request (ActionAid, 2022), the Minister of Interior – which manages the national hotline against FGM (800 300 558) – officially replied that 13 calls were received between 2020 and 2021: only 4 were referred to the police. For this two-year period, the Ministry of Interior got 680.000 euros. Between 2019 and 2022, the Department for Equal Opportunities (DEO) allocated about 1.200.000 euros on FGM-related activities but, again, no comprehensive, easily accessible information

⁴ The funds allotted for the Prosecution pillar were not included in this overall calculation, which is based on the publicly available information.

⁵ ActionAid, [Cronache di un'occasione mancata. Il sistema anti violenza italiano nell'era della ripartenza](#), 2021.

is available on how this money has been used. For instance, a study on estimates on FGM in Italy⁶ funded by the DEO in 2020 can be downloaded only from an external source.

Both lack of accountability and a difficult coordination between national and regional level on the matter of FGM make it difficult to monitor funds and to have a comprehensive picture of the activities developed on the territory. Therefore, the Italian government should fund a Monitoring & Evaluation report of all activities carried out to tackle FGM within these frameworks, including a compilation of good practices and lessons learned at regional level, to be disseminated to all relevant stakeholders. The Italian government should also review the FGM national hotline, in particular by integrating it within a broader support number for all forms of gender-based violence, making it available in multiple languages and making it managed by civil society or by the DEO.

The lack of transparency as to the usage of funding, the activities carried out and their related outcomes is a key issue that concerns all authorities involved in the implementation of the anti-violence framework in Italy. Yet, **transparency is instrumental to properly monitor, assess, and adjust the public funds in order to improve the response** in terms of prevention and fight against male violence against women as well as protection of women survivors.

It is also important to note that in the first version of the National Recovery and Resilience Plan (PNRR), violence against women was explicitly recognized as an obstacle to the full participation of women in the social, economic and political life of the country. Despite this, only one planned action aimed at supporting women who have suffered violence, that is, access to credit for the creation of businesses. A limited measure which later disappeared in the final version of the PNRR, which was instead financed with resources from the Department for Equal Opportunities (see below).

NGOs managing shelters and anti-violence centres are financially supported by the national authorities through Art. 5-bis of Decree Law no. 93/2013 (see supra). Between 2013 and 2022, the State had to allocate by law at least 10 million euros per year. In 2023 the amount was increased, amounting to 14 million for the same year and to 16 million for the years to follow (Law no. 197/2022, Art. 1, paragraph 340). Except for the period 2013-2016, when the Italian authorities allotted less money than that established by law, starting from 2017 the political Authority in charge of gender equality and equal opportunities policies has assigned a higher annual amount of funds. In 2022, the overall funding reached 30 million euros (+369% since 2013). **Despite the steady increase over the years, the resources allocated are still largely inadequate.** It is estimated that the budget for 2022 provided each anti-violence centre with about 39.000 euros and each shelter with about 36.000 euros⁷. Against this background, **it is necessary to significantly raise by law the annual funding**, so to avoid that such a decision is dependent on the will of the given political authority in power. Most importantly, the amount of funding to be annually allocated should result from a **regular in-depth assessment of the national and local needs and costs** incurred by the anti-violence centres and shelters throughout the country.

Finally, it must be noted that the annual national funds managed by the regional and municipal authorities take on average about 14 months to reach their final destination⁸, i.e., the anti-violence centres and shelters. So far, the Italian authorities have not taken any **measures to speed up the funds transfer procedures**. This has a massive impact on the sustainability of both shelters and anti-violence centres, which must cope with the institutional inefficiency to ensure women survivors their right to live a life from violence.

It is necessary to underline some critical issues concerning the information provided by the Italian authorities on the economic support for women fleeing violence. Between 2020 and 2022, the State allocated 12 million euro for the **Freedom Income (Reddito di libertà)** aimed at women survivors of male violence. In this time span, 2,500 women were granted 400 euros a month for 12 months. In 2023, 300 additional women will access the 1.8 million euros allocated. **These funds are insufficient to**

⁶ <https://www.neodemos.info/2020/07/03/le-mutilazioni-genitali-femminili-in-italia-un-aggiornamento/>.

⁷ [Decreto del Presidente del Consiglio dei Ministri, 2 settembre 2022, Ripartizione delle risorse del «Fondo per le politiche relative ai diritti e alle pari opportunità» - Annualità 2022.](#)

⁸ ActionAid, [Tra retorica e realtà. Dati e proposte sul sistema anti violenza in Italia](#), 2020; [Cronache di un'occasione mancata. Il sistema anti violenza italiano nell'era della ripartenza](#), 2021.

support all survivors eligible. In fact, according to the National Institute of Statistics (ISTAT), each year 21000 women survivors could benefit from income support schemes⁹. In addition, the monthly payment is inadequate for the cost of living, and it does not account for discrepancies of purchasing power in different areas of the country, thus, running the risk of exacerbating existing regional inequalities and even creating new ones¹⁰.

The Freedom Income could play a vital role for women in their recovering process from violence, if the overall scheme is improved at least as follows:

- § **Statutory status:** The minimum amount of funding to be allocated should be put on a statutory footing in the national budget and calculated on actual needs, by also considering the number of women supported by anti-violence centres. Equally, the maximum funding of each Region should be based on a thorough assessment of local needs rather than being calculated on the number of female residents.
- § **Flexible duration:** The Freedom Income should be provided for at least 12 months and, whenever necessary, extended for a longer time to meet the specific needs of the assisted women. The anti-violence centres and the social services should jointly assess the length of the contribution, according to national guidelines.
- § **Payment:** It would be helpful to adjust payment according to individual needs (e.g., monthly instalments or a one-off payment).
- § **Reducing geographical inequalities:** To avoid an inequality of opportunities, Regions should contribute to financing the Freedom Income taking into account discrepancies in purchasing power in different areas of the country. The disjointed nature of the interventions and the scattered allocation of funds exacerbate existing geographical inequalities as well as hinder a timely evaluation of the effectiveness of the Freedom Income.

Finally, the **Microcredit Fund for Freedom (*Microcredito di libertà*)** was funded with 3 million euros but its implementation only started in April 2022. To date this measure is not financed on an ongoing basis and no publicly available information to evaluate its effectiveness is available.

⁹ Istat, [Audizione dell'Istituto nazionale di statistica Dott.ssa Linda Laura Sabbadini presso la XI Commissione \(Lavoro pubblico e privato\) della Camera dei deputati Roma](#), 8 February 2022.

¹⁰ ActionAid, [Rights at Stake. Income, housing, and employment for the socio-economic empowerment of women recovering from violence](#), 2022.

IV - Non-governmental organisations and civil society (Article 9)

See also Section II on Comprehensive and co-ordinated policies implemented under the responsibility of an adequately mandated and resourced co-ordinating body

The importance of involving NGOs and civil society in the definition and implementation of policies and measures to combat violence against women is explicitly recognized in Article 9 of the Istanbul Convention. Law 119/2013 in art. 5 requires the involvement of women's NGOs and women specialist services (anti-violence centres and shelters) in the planning of National Plans. Moreover, art. 5-bis recognizes the need for all public institutions to collaborate closely with associations and civil society organisations committed to providing support and assistance to women victims of violence.

The 2021-2023 National Strategic Plan on Male Violence against Women was adopted in the total absence of confrontation and participation of civil society. Civil society organisations were only partially involved, especially in the decision-making processes. Only one meeting was held with women's NGOs, on three specific areas indicated by the Department for Equal Opportunities. **The suggestions made by the NGOs were neither discussed nor implemented.**

Although consultations represent a formal and legal obligation for the Department for Equal Opportunities, there was no inclusive approach. For the drafting of the 2021-2023 National Strategic Plan, there were no formal and systematic consultations between governmental and non-governmental bodies involved in the field of preventing and combating violence against women and domestic violence.

The governance envisaged by the current National Strategic Plan severely reduces the participation of women specialist services and civil society. Women specialist services are placed under the direction, even local, of public institutions, not considering that territorial anti-violence networks in Italy are often governed by anti-violence centres. The National Strategic Plan is therefore adopting the example of those regions (in particular Lombardy) which have institutionalised anti-violence networks, weakening their role as essential interfaces with the (potential) victims.

It is necessary to strengthen the recognition of the value and expertise that NGOs bring in terms of a gender approach to violence against women through their substantial, systematic and continuous involvement both in the planning phase of the Plan and in the phases of implementation, management, monitoring and evaluation of the planned interventions. In order to allow for a truly capillary process, it is necessary that the involvement of civil society and women's associations takes place throughout the territory and that this involvement is constantly monitored.

The recognition of the expertise and experiences of women's and feminist organisations must also take place through an exchange of best practices that have gradually been structured in order to allow learning about the interventions and methods of implementation that have proved to be more effective both in the field of women's protection and empowerment, and in the fields of prevention and education in schools.

V - Data collection and research (Article 11)

Administrative data collection

State responses on administrative data collection represent extemporaneous actions since they are not based on a perspective of continuity and long-term planning. Some actions have been implemented: the data collection to verify the application of the so-called “Red Code”, the data collection on requests for help on the 1522 number, the monitoring of the impact of Covid-19 on domestic violence.

The need to create a complete and integrated system is reiterated in the various documents and laws. Despite this, the systematic start of data collection by important institutional sources is still missing - in the health, legal, social fields.

The Extraordinary Action Plan against sexual and gender-based violence 2017-2020 went in this direction, which included a project for the creation of an integrated system for collecting and processing data. The agreement between the DEO and ISTAT assigned the task to the latter, starting at the beginning of September 2018. Once again, the latest National Strategic Plan on Male Violence against Women 2021-2023 emphasises the need to create an integrated system of data on violence. Therefore the Plan established a new agreement between the DEO and ISTAT to extend data sharing.

Currently, on the basis of the agreement, ISTAT carried out the "Surveys on anti-violence centres, shelters and their users". The integrated information system on violence against women is a multi-source system (Regions, anti-violence centers, shelters) which contains data relating to violence against women in its various forms. It is however important to underline that the system is mostly populated with information collected by anti-violence centres. Such a workload, required by law to anti-violence centres, is often not sustainable due to lack of human (frequently voluntary) and financial resources. For this reason, the State should support anti-violence centres' data collection economically, through adequate funding.

Law 53 of 2022 on gender data collection

The last governmental action in which, once again, reference is made to data collection, dates back to the provisions of the Senate of the Republic through law 53 of 2022, which in article 2 defines the "general obligations of data collection".

However, the law:

- does not clearly identify the data sources;
- does not define "how" the different subjects must collect the data, thus not guaranteeing either the standardisation or harmonisation of the data collected;
- despite the commitment provided for in the law, the National Institute of Statistics (ISTAT), the Ministries of Interior, Justice and Health, must process and disseminate disaggregated data by gender, ...**but not by gender and disability**;
- does not provide any type of financial support to the subjects responsible for the implementation of the various data collection systems, which should flow into the single integrated system;
- enhanced the collection of statistical data on gender-based violence in criminal justice only. Despite the fact that the Femicide Commission has repeatedly stressed the complete lack of data on civil cases, there is **no provision in the law for any survey regarding violence in civil proceedings**.

As of today, there are no signs of the implementation of the integrated data collection system.

Furthermore, no follow-up to GREVIO's recommendation to continue carrying out gender-sensitive surveys and to design appropriate surveys to provide sociologically oriented insights into the general situation, opinions and attitudes of the population towards violence against women had been implemented. Since 2014, no new general survey on violence against women and girls have been conducted or published by ISTAT. The latest and only report carried out by ISTAT on stereotypes and prejudice dates back in 2019.

Lack of data on violence against women and girls with disabilities

Specific research on the phenomenon of violence against girls and women with disabilities have been carried out only by women's organizations and organizations of women with disabilities. The shortage of data, statistics, and research on women with disabilities does not highlight the inter-sectorial discrimination that girls and women with disabilities undergo in all areas of their lives and the consequent lack of adoption of effective policies, adequate legislative measures of protection against violence and abuse. In the field of violence and abuse, the available statistics still do not report data on girls and women with disabilities.

It is therefore suggested to:

- further foster and implement data collection and provide statistics on gender-based violence on women and girls with intellectual or psychosocial disabilities, those living in institutions, and on the occurrence of forced sterilisation;
- collect data on the accessibility of anti-violence centres and shelters, to abate the various existing barriers for women with disabilities in accessing services, perpetuating a situation of discrimination;
- To develop systematic investigations and research studies on inter-sectorial discriminations affecting women and girls with disabilities, on their participation in social life and their access to equal opportunity in all areas of life;
- To foster a new up-to-date population survey collecting disaggregated data on gender and disability in order to describe the phenomenon of violence against women with disabilities and to implement targeted policies and programs for this target.

Data by law-enforcement agencies and the judiciary

Data on proceedings are few, uneven, and difficult to read as they are not collected on a systematic basis and lack disaggregated analysis by gender.

There are two reports in addition to the 2018 ISTAT report data on sexual violence¹¹. A survey referring to 2018, and the recent Draft Law 2530¹² (see also Chapter VII and VIII). The latter document includes data from the Minister of Justice for the years 2019/2021.

Both documents show that for crimes related to violence against women the **primary definition pattern is dismissal**. Available data (up to 2021) reveal that in **about 50% of cases** of rape and sexual assault, ill-treatment, stalking, forced marriage and illicit diffusion of sexually explicit images or videos without the consent of the persons **are dismissed before prosecution is exercised**.

Conviction rates are equally low. For the crimes of rape and sexual assault, there are approximately around 1,000 convictions per year - compared with crime registry entries of more than 7,000.00 cases per year (2019, 2020, and 2021). For the crime of ill-treatment, convictions are around 2,500-3,000 per year - compared with crime registry entries of more than 37,000 cases per year (2019, 2020, and 2021).

¹¹ <https://www.istat.it/it/violenza-sulle-donne/il-fenomeno/violenza-dentro-e-fuori-la-famiglia/numero-delle-vittime-e-forme-di-violenza>.

¹² Draft Law 2530 on Provisions for the Prevention and Counteraction of the Phenomenon of Violence against Women and Domestic Violence, <https://www.senato.it/service/PDF/PDFServer/BGT/01334668.pdf>

Recommended actions include:

- Carrying out a critical/independent analysis and evaluation into the reasons why the numbers of dismissed cases are so high and the conviction rates so low;
- Improving data collection in line with the requirements of Article 11 of the Istanbul Convention (gender-disaggregated data); making it mandatory also to civil family proceedings, and making it available to a civil society with particular reference to judicial data.

VI - Custody, visitation rights and safety (Article 31)

European Court of Human Rights judgements concerning Italy in 2022

Four judgments of the European Court of Human Rights against Italy were issued within a few months in 2022. **The complaints were all related to a lack of appropriate action or passive attitude attributed to the Italian Judiciary:**

- 7 April 2022, *Landi v. Italy*¹³: the lack of protection from the State led to the murder of a child by his abusive father, who had previously been reported to the police by the mother.
- 16 June 2022, *De Giorgi v. Italy*¹⁴: a woman reported her husband seven times for domestic violence against her and her children; **the complaint was qualified by the Judiciary as family conflict.**
- 7 July 2022, *M.S. v. Italy*¹⁵: the applicant did not receive protection from the State despite several allegations of ill-treatment and injuries inflicted by her husband. Moreover, many proceedings were time-barred due to delays in the investigations and procedural defaults.
- 10 November 2022, *I.M. and Others v. Italy*¹⁶: the case concerned the allegation by the applicants (a mother and her two children) that the Italian State had failed in its duty to protect and assist them during contact sessions with the children's father, who is a drug addict and alcoholic, accused of ill-treatment and threatening behaviour during the sessions. The case also related to the decision of the domestic courts to suspend the mother's parental responsibility. The courts regarded her as a parent who was "hostile to contact with the [children's] father", on the grounds that she had refused to take part in the sessions, citing a history of domestic violence and safety concerns.

Secondary victimisation

Critical issues on access to justice for survivors were highlighted in a survey conducted by the lawyers of the D.i.Re Association¹⁷ on the secondary victimisation of women in the courts and the non-recognition of domestic violence in civil and juvenile courts.

The Italian Senate Joint Committee of Inquiry on Femicide and all forms of gender-based violence (hereinafter Femicide Commission) has published multiple reports analysing the judicial system and the situation of existing anti-violence centres and shelters in Italy (WSS). All have reaffirmed the importance of "*valuing a gendered, non-neutral, integrated approach that cross-culturally addresses economic, social and political gender inequalities, a cultural context in which violence against women is generated*"¹⁸. In a first report in June 2021, the Femicide Commission highlighted the **invisibility of gender-based and domestic violence in civil courts**¹⁹. In another report published in May 2022, the Femicide Commission found that in 96% of separations involving violence against women, courts did not consider violence relevant for child custody. This fact is reflected in the numbers of children who are fostered to social service, which is in 55.2% of cases (175 cases out of 317)²⁰. In 54% of the cases, juvenile courts allowed free contact with violent fathers.

¹³ <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-216854%22%5D%7D>

¹⁴ <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22de%20giorgi%22%5D%2C%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%2C%22CHAMBER%22%5D%2C%22itemid%22:%5B%22001-217718%22%5D%7D>

¹⁵ <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-218130%22%5D%7D>

¹⁶ <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-220989%22%5D%7D>

¹⁷ <https://www.direcontrolaviolenza.it/nuova-ricerca-il-non-riconoscimento-della-violenza-domestica-nei-tribunali-civili-e-per-i-minorenni/>

¹⁸ <https://senato.it/service/PDF/PDFServer/DF/353297.pdf>

¹⁹ <https://www.senato.it/service/PDF/PDFServer/DF/361580.pdf>

²⁰ <https://www.senato.it/service/PDF/PDFServer/DF/372013.pdf>

GREVIO stressed that the use of the concept of parental alienation and similar notions entails a great risk of not identifying and/or questioning violence against women and their children, because it ignores the gendered nature of violence. The Italian Supreme Court of Cassation ruled clearly on the lack of scientific basis and credibility of court-appointed expert opinions, expert reports and other medical reports establishing a diagnosis of parental alienation syndrome²¹. **Despite these rulings, lower courts frequently refer to concepts related to Pas.**

Secondary victimisation suffered by women with disabilities

In case of women with disabilities who have reported the violence, further discrimination is found during child custody proceedings, also following a formal complaint. Women with disabilities are often subjected to assessments of their parenting skills without taking into account the condition of disability, instead using standard parameters in an undifferentiated way with consequent negative results. Women with disabilities who turn to anti-violence services often have cognitive or intellectual and psychiatric difficulties but are not taken into due consideration by the institutions, which should provide the necessary support to better exercise the role of mother, keeping their children with them.

Although women with disabilities are among the victims of gender-based violence most exposed to secondary victimisation, also in relation to their role as mothers, in the recent report entitled "*Secondary victimisation of women who suffer violence and their children in proceedings on the custody and parental responsibility*" of the Femicide Commission of May 2022, women with disabilities appear completely and seriously ignored.

Court-appointed technical consultants and other professionals

Italian law allows a judge to use expert opinions when deciding on custody or visitation rights. There is a general trend to medicalize the judicial process by involving social workers, psychologists, and court-appointed technical consultants (CTU). The victim of violence and the perpetrator are put on the same level and there is frequently an actual reversal of the evidential framework: that is, the woman who becomes blamed for everything.

The aforementioned survey of D.i.Re 's lawyers demonstrated that in almost all cases, the questions that CTUs are asked to answer are standardised and not defined according to the individual case being examined. The queries do not mention violence (as many as 94% of cases do not include any questions on violence suffered and/or witnessed). CTUs do not have any specialisation or training on the topic of gender-based violence against women and girls and are expensive to engage²².

The survey shows that Italian legislation is not applied according to the Istanbul Convention and that, in all considered cases, the Convention is never mentioned in court orders or decisions. It shows also that, in Civil Courts, violence is rarely mentioned and instead the issue of conflict continues to be referred to. In almost all cases examined, shared custody is ordered even when allegations and evidence of violence are provided. CTUs often disguise the issue of violence and engage in mediation processes that end in secondary victimisation. Finally, Civil Courts and Juvenile Courts do not use risk assessment tools.

Research by the University of Trieste shows that the training process of CTUs surveyed is fragmented and diversified. The requirements to serve as a CTU are both general and different from court to court. Specifically, the importance of the father figure for the healthy development of the child is highlighted from the CTU accounts, an importance that lies in what the father symbolically represents rather than

²¹ Court of Cassation, ord. **24/03/2022 n. 969**. Besides the Supreme Court, the Minister of Health has also expressed its opposition to PAS, in response to a parliamentary question in 2020 (No. 4-02405) noted that "*ad oggi non è riconosciuta come disturbo psicopatologico dalla grande maggioranza della comunità scientifica e legale internazionale [...] Detta "sindrome" non risulta inserita in alcuna delle classificazioni in uso*".

²²<https://www.direcontrolaviolenza.it/nuova-ricerca-il-non-riconoscimento-della-violenza-domestica-nei-tribunali-civili-e-per-i-minorenni/>

in his actual behaviours. The CTU interviews conducted during the research also revealed significant misogynistic biases about women and stereotypes that lead to the devaluation of victims' accounts of domestic violence²³.

In all cases, the court, after acquiring the CTU report, adopts in its ruling (final or interlocutory) the CTU's suggestions, with no critical evaluation of the CTU report. In the absence of a critical analysis of this report, the ruling transforms into one with the sole purpose of achieving shared parenting. Untrained professionals and services that are unable to recognize violence against women turn places of supposed care into places of secondary victimisation²⁴.

Social and health care professionals who are in charge of case assessments are biased by stereotypes and insufficiently trained. In Italy, there are 46,784 social workers²⁵ whose professional training rarely includes the ability to recognize violence (on this point see also Chapter VII).

Parental responsibility

Despite the fact that the Italian legal system provides for the forfeiture (Art. 330 civil code) and suspension/limitation (Art. 333 civil code) of parental responsibility, there are very few cases where the abusive parent is disqualified from parental responsibility.

Again, the issue is the failure of the system to acknowledge that violence is a factor in the case: as long as violence is ignored, any claim to limitation and/or forfeiture of parental responsibility or sole custody is considered unfounded and illegitimate. The traditional family perspective prevails time and time again, permeating decision-making and subtly infiltrating custody and/or parental responsibility proceedings²⁶.

The Italian Supreme Court reaffirmed that the best interests of the child shall prevail over the right to co-parenting (*bi-genitorialità*) claimed by the individual parent²⁷. It also stated that the grave traumas that may result from removing the child from the mother, who is deemed to be uncooperative, cannot be ignored, without violating Article 8 of the European Convention on Human Rights²⁸.

Prejudices as a general problem in the civil process

Signatory states of the Istanbul Convention are required to prevent secondary victimisation under article 18. The Italian state can be said to have failed at it. Unfortunately, this is a widespread phenomenon that takes place not only in criminal proceedings for sexual violence or rape, but also in civil proceedings. Two recent judgments have particularly stigmatised this phenomenon.

A first example comes from the Supreme Court in United Sections n. 35110 of 17th November 2021 . The Supreme Court claimed that the state of abandonment of a child in no case can be based on the state of subjection the mother lives in as a result of the repeated and serious violence suffered by her partner. It also considered it necessary to report how, on the whole, the suspension of the woman's parental responsibility for her children and the adoption procedure opened as to the applicant's daughter are clearly a form of 'secondary victimisation'. This was in clear violation of the 'international provisions on preventing and combating violence against women and domestic violence', contained in

²³<https://www.sistemapenale.it/it/scheda/osservatorio-violenza-contro-le-donne-2021-3>

²⁴ See "La responsabilità della violenza" a cura di Letizia Lambertini, modello socio-educativo sviluppato a partire dal 2014 sull'esperienza dei Servizi Sociali per l'Unione Valli del Reno Lavino e Samoggia.

²⁵<https://cnoas.org/wp-content/uploads/2022/10/2022-Assistenti-sociali-iscritti-allAlbo-professionale-al-30-settembre.pdf>

²⁶<https://www.direcontrolaviolenza.it/nuova-ricerca-il-non-riconoscimento-della-violenza-domestica-nei-tribunali-civili-e-per-i-minorenni/>

²⁷ Supreme Court, Ord. 6 July 2022, no. 21425, overturning the father's custody of the daughters on the grounds that the judges did not assess the consequences on the lives of the two minor daughters of the couple, deprived abruptly of their mother figure they had always lived with while peacefully cultivating their own interests as children.

²⁸ <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%22001-218130%22%5D%7D> A.I. v. Italy.

the Istanbul Convention of 11th May 2011 (Article 18). The Court therefore emphasised how, in every judicial procedure, the situation of a victim of violence must be assessed more carefully, given the new consideration of the victim's position in the panorama of fundamental rights, both national and supranational.

On 20th January 2022, the European Court of Human Rights condemned Italy for violating Article 8 of the ECHR (right to respect for private and family life). The Court declared a minor adoptable without considering other, less drastic solutions - which would have made it possible to safeguard the very close relationship with the mother, a victim of serious ill-treatment in the family (*D.M. and N. v. Italy*, appeal 60083/19, 20th January 2022,).

It is, indeed, a common practice in Italian jurisprudence to consider a mother who has suffered violence as unfit (and, above all, with no hope of recovering her parental capacity). An example of this approach can be found in a recent judgement of the Civil Supreme Court. The father, alcohol addicted, had violently abused his wife - even in the presence of the child; the child was declared adoptable (Civil Supreme Court, Section I, Judgment No. 3546 of 4th February 2022) .

The language and judicial argumentation do not diverge from the widespread stereotypes still present in Italian society.

Civil process reform

The recent civil process reform²⁹ introduced some of 2020 GREVIO recommendations in a new section on "Domestic and gender-based violence", with special provisions applying to proceedings involving family abuse or domestic or gender-based violence.

This reform has not included any provision for risk assessment. Many of the provisions entered into force in February 2023, so at this time it is impossible to assess their effectiveness.

Progress in this field should be measured by data and analyses of case law illustrating how family courts consider incidents of violence and how they motivate their decisions on custody and visitation rights.

²⁹ Legislative Decree. 149/2022, so-called "Cartabia Reform".

VII - Immediate response, prevention, and protection (Article 50)

This chapter must be read in conjunction and co-ordinated with the ones on “Emergency barring and restraining order” (VII) and “Data collection” (V). As it will become clear in Chapter VIII, the analysis on immediate response, prevention and protection is biased because of fragmented and segmented data. Indeed, if on the one hand data is provided and made public by the Ministry of the Interior, on the other hand no similar data from the Public Prosecution Offices/Ministry of Justice are available.

Therefore, it is necessary to refer to reports by the Italian Senate Joint Committee of Inquiry on Femicide and all forms of gender-based violence (hereinafter “Femicide Commission”), which provided documented and official analyses of the State's response to male violence against women.

The Femicide Commission's analysis looked at the intervention of the judicial police in some cases that eventually resulted in femicide and identified some recurring critical issues³⁰.

- underestimation of violence reported by the woman (minimisation, failure to identify violence and to distinguish it from a conflict, pacifying interventions, failure to read red flags);
- in cases of mutual complaints, the judicial police gave priority to those relating to petty crimes filed by the man for obvious retaliation, although the woman had previously filed serious complaints of violence against herself and her children;
- failure to report offences to the competent public prosecutor's offices;
- failure to protect the victim;
- very few cases in which the police, though intervening, adopted precautionary measures such as arrest or urgent barring order.

Clearly, the limits identified in the action of the judicial police have a direct impact on the activity of the public prosecutor.

Training in both areas is crucial. Law 69/2019 (the so-called Red Code Law) provided for continuous training of law enforcement. Unfortunately, three years after the approval of Article 5 of Law 69/2019, no decree has been issued to set out the contents of the Law.

However, the visible effort on training and awareness-raising among law enforcement deserves to be mentioned. Evidence of the approach and interest is well demonstrated by the participation in the EU project Never Again (<https://www.vittimizazionesecondaria.it/>) among law enforcement with over 1,000 registered participants.

Finally, it should be recalled that, as more fully reported in Chapter VI, all 2022 ECHR judgments against Italy on violence against women were mainly related to the inadequate response by the judiciary and in particular by public prosecutors.

One critical aspect of the criminal justice reform (so-called Cartabia Reform)³¹, amongst others, is that it binds the prosecution to a new criterion: the reasonable expectation of conviction (previously, the criterion for prosecution was linked to the ability to uphold the accusation in court).

The concern is that this new criteria will weaken the prosecution of gender-based violence against women. If criminal prosecution is bound to the prediction of conviction, and it is known that conviction rates for violence against women related crimes are alarmingly low (see Chapter VIII), there is a great risk that prosecution will be discouraged in a circularly depressing mechanism. Therefore, it is of paramount importance that this new prosecution criterion will be closely monitored to assess its implications for violence against women related offences.

³⁰ <https://www.senato.it/service/PDF/PDFServer/DF/366054.pdf>, pp. 46-59.

³¹ Legislative Decree 150/2022.

Identification and careful analysis of any failure of protection

To the authors' knowledge, no failure-of-protection review of cases have been taken at any level of state authority. The only known analysis that can be considered a review of failure-of-protection cases is the one conducted by the Femicide Commission on femicides perpetrated in Italy in the two-year period 2017 and 2018³². And yet the analysis of individual cases would allow for a more efficient learning of critical points and opportunities to take corrective action. The lack of any retrospective analysis also hinders accountability for the lack of protection.

Deficiencies of the public Social Services

In situations of violence, social services play a crucial role. This applies both in cases where they are called upon by the justice system to conduct investigations and make assessments regarding the protection of children involved and in cases where there are no judicial requests or orders.

The ability to identify and name violence, the technical expertise to confront it and support targeted interventions to stop it, "to avoid making victims responsible for stopping violence", **but rather holding the perpetrators accountable, are still very limited.**

The prevalent intervention model in Social Services is referral to anti-violence centres and, more rarely, to perpetrators programmes. However, this model often fails due to the inability to recognize violence and therefore to direct toward protection, support, and treatment programs. Where referral works, there is often a lack of methodological and thought alliance between Social Services, anti-violence centres, and perpetrators programmes that guarantees coherence and linearity in the care paths.

Another model is institutionalisation, which involves establishing public Social Services in anti-violence centres. This model separates intervention from its feminist origin, contextualises it to individual cases, and deprives it of the political value of structural-cultural action.

Another model is specialisation. It presupposes the ability to recognize and name violence, awareness of the risks of secondary victimisation perpetrated by the public institution, and reference to anti-violence centres and perpetrators programmes for synergistic action of contrast. Of these three models, it is the least widespread but most promising for consolidating a network for authoritative and effective contrast.

As highlighted in the recent report of the Femicide Commission, "violence is invisible to the eyes of operators [...] who, even in cases where it is detected, [...] are not able to design interventions that include combating it as a fundamental component." This blindness becomes even more serious when children are involved in situations of violence, and evaluations of parental competence are requested (see also Chapter VI). In the majority of cases, Social Services evaluations result in inadequacy or incapacity of mothers because "violence is placed in the background of the evaluation" and "the principle of joint custody" is given precedence over the rights of the child, even if the father is violent. **The public Social Service still lacks adequate training** to read violence and effectively counter it without victimising women and their children. A massive and widespread training effort is needed, starting with a university education. In addition to being necessary for acquiring feminist theoretical references and related practices, training must be oriented towards constructing and consolidating alliances between public Social Services and anti-violence centres, and perpetrators programmes.

³² <https://www.senato.it/service/PDF/PDFServer/DF/366054.pdf>.

VIII - Emergency barring, restraining or protection orders (Articles 52 and 53)

Despite the existence of an articulated system of emergency barring, restraining and protection orders in both criminal and civil law, **several critical shortcomings in its implementation are still present.**

In judicial practice more generally, there is excessive mistrust and a rather restrictive attitude in **both criminal and civil case law** in issuing the protection measures provided for, especially in the absence of physical injury. Application often still depends to a considerable extent on the sensitivity of the individual judges, so that according to women's specialist services experience, the use of restraining or protective orders by the Italian judiciary has an uneven trend.

Restraining or protection orders provided by the Italian Code of Criminal Procedure (Art. 282-bis and Art. 282-ter) **are not granted expeditiously as needed.** According to ISTAT data on 2021³³, the time elapsed in order to obtain restraining or protection orders is:

- From 1 to 7 days: 17,4% of cases
- From 8 to 14 days: 17,7% of cases
- From 15 to 30 days: 20,3% of cases
- From 31 to 60 days: 15,8% of cases
- More than 2 months: 14% of cases.

The investigations necessary for the decision on issuing a precautionary measure should be carried out expeditiously. No time limits are currently set for the Public Prosecutor or the Preliminary Investigation Judge. Moreover, there is no obligation for the magistrate of the Public Prosecutor's Office to reply in writing to the victim in the case of a refusal to solicit the request for a precautionary measure.

A rare and exceptional application is found in the provision of alimony provided for by Art. 282-bis, paragraph 3, of the Code of Criminal Procedure.

As for **emergency barring orders**, Article 384-bis of the Code of Criminal Procedure provides for the emergency removal from the family household. Such measures, however, **are seldom enforced by the police.** According to a 2022 report of the Ministry of Interior, the number of emergency barring orders for all violence against women related crimes issued had been:

- 2014: 279
- 2015: 247
- 2016: 264
- 2017: 280
- 2018: 362
- 2019: 357
- 2020: 402
- 2021: 377
- 2022 (Jan-Sept): 285

The main consequence is that in most situations, in order to find protection women are left with no choice but to leave their house, often with their children.

As for the **effective enforcement of protection orders**, at present, monitoring procedures by electronic or other technical means (so-called electronic bracelet) are not fully implemented.

³³ <https://www.istat.it/it/files//2022/11/REPORT-UTENZA-CAV-2021.pdf>.

Law 69/2019 had criminalised the violation of orders of removal from the family home and the prohibition to approach places frequented by the offended person (Article 387-bis). From August 9 2019 to September 30 2022 (3 years), **6.499 violations of restraining or protection orders had been reported**. The number is quite alarming, especially considering the fact that a violation of a protective measure is a strong indicator of a potentially high-risk situation. Another alarming data is the conviction rate. According to a report attached to Draft Law no. 2530, the number of convictions for the year 2019 were 8, for 2020 97, for 2021 105.

As for the **protection order provided by civil law** (Art. 342-bis and 342-ter of the Civil Code), a report of the Femicide Commission found that such provisions – during the three-year period 2016-2018 – **had a very limited application**. In the first place, in fact, only 35 courts (equal to 27 percent) keep a record of protective ordered applications and, out of these, only 21 were able to quantify the orders of protection requested and adopted in the three reference years. Overall, the 21 courts reported they requested 125 protection orders in 2016, 127 in 2017 and 149 in 2018. Even fewer requests were accepted: 40 in 2016, 53 in 2017 and 68 in 2018.³⁴

Despite the fact that Articles 342-bis and 342-ter of the Civil Code provides that - in urgent cases - barring/restraining order may be issued by the judge *inaudita altera parte*, such option is rarely exercised. In most cases, civil courts apply the “ordinary” procedure according to which, after the filing of the request for the protection measure, the judge must set the hearing for the appearance of the parties, as well as the deadlines for notification of the case.

While data on emergency barring orders issued by law-enforcement officials are regularly provided by the Ministry of Interior. The available data by the Ministry of Justice refers to the number of **restraining or protection orders (criminal) granted at the national level**, but without reference to the related criminal offences. This makes it impossible any assessment on their application to violence against women related crimes.

³⁴ <https://www.senato.it/service/PDF/PDFServer/DF/361580.pdf>

XI. Specific recommendations

Italian response to sexual violence

In Italy, with no specialised rape crisis centres or sexual violence referral centres, women's centres run by D.i.Re members provide specialist support, sometimes in collaboration with family counselling centres. Hospitals provide forensic and medical care, following a forensic procedure as required under Italian law.

For over thirty years, Italy has developed WSSs (anti-violence centres and shelters) based on a clear feminist political decision that they did not separate the issue of sexualised violence (SV) from all forms of VAWG, knowing that most women (especially those in a DV situation) would only mention SV once they have established a trustworthy relation. That is why women's centres (including all which belong to the D.i.Re network, but also others) have intentionally built their policy and practice to include a full range of the specialised services needed by SV survivors, such as assessment, specialist psychological care, specialist SV advocacy services, community awareness and education for prevention. They also cooperate with the national health system for those SV cases where clear forensic and medical care procedures are required by Italian laws. Because this has been the model adopted in Italy, it has not been considered necessary to develop specific rape crisis centres or sexualised violence referral centres after the model of other countries which do not have such a system.

Absence of effective civil remedies against any state authority

With regards to the absence of effective civil remedies against any state authority that has failed in its duty to take the necessary preventive or protective measure within the scope of its powers, there are no new legislative developments.

The lack of remedies was also recognized by the European Court on Human Rights in its recent *Landi v. Italy* judgement³⁵.

63. [...] *La Cour note que l'objet de la requête est avant tout de savoir si les autorités ont fait preuve de la diligence requise pour empêcher les actes de violence dirigés contre la requérante et ses enfants. En effet, la Cour est d'avis que les dispositions invoquées par le Gouvernement (voir paragraphe 57 ci-dessus) avaient pour finalité de remédier à des atteintes déjà commises. Aussi, s'il est vrai qu'en se constituant partie civile avec sa fille, dans la procédure pénale menée contre N.P. pour meurtre et tentative de meurtre, la requérante et sa fille se sont vues reconnaître, sur une base provisoire, 100 000 euros en réparation du préjudice subi de la part de N., la Cour estime qu'une action en dommages-intérêts introduite ultérieurement devant les juridictions civiles contre les autorités publiques impliquées n'aurait pas été de nature à offrir une réparation à la requérante quant à ses griefs examinés sous l'angle de l'article 2 de la Convention. En tout état de cause, la Cour constate que rien n'indique dans le dossier que le recours civil mentionné par le Gouvernement aurait pu être introduit par la requérante afin d'engager la responsabilité de l'État et, en particulier, de l'appareil judiciaire pour manquement à l'obligation positive de protéger, dans le cadre des violences domestiques, sa vie et celle de ses enfants et afin d'obtenir une reconnaissance de la violation ainsi qu'une réparation adéquate.*

³⁵ Landi c. Italie requete n. 10929/19 <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-216854%22%5D%7D>

Risk-assessment

There is no formal, integrated risk assessment procedure in Italy. In criminal proceedings, risk assessment can and should be carried out first and foremost by law enforcement officers, but the ultimate assessment is the judge's responsibility.

The lack of judicial training and organisation in risk assessment has been highlighted by the Femicide Commission in each of its reports³⁶. These same critical issues were highlighted in a survey conducted by the lawyers of the D.i.Re on the secondary victimisation of women in the courts and the non-recognition of domestic violence in civil and juvenile courts³⁷. The survey revealed a lack of any form of risk assessment in procedures of separation and regulation of custody and visit rights.

Furthermore, the three already mentioned judgements of the ECHR against Italy refer to lack of action or passivity attributed to the judiciary. In all those cases the judiciary had failed to act on/despite the correct risk assessments reported by police officers.

The recent civil process reform introduced a new section on "Domestic and gender-based violence"³⁸, with special provisions applying to proceedings involving family abuse or domestic or gender-based violence. This reform **has not included any provision for risk assessment**, in the same way as no specific assessment was introduced in the criminal justice system reform.

Ex parte and ex officio prosecution

The State has not complied with the Committee of the Parties' recommendations on prosecution of both crimes of physical violence and sexual violence.

As for **physical violence** and in particular injuries (Art. 582 of the criminal code), ex parte prosecution was actually expanded. The criminal justice reform (the so-called Cartabia Reform³⁹) made the offence of injuries up to 40 days punishable on complaint with no distinction in the case of injuries committed in a family or domestic context (prior to the reform, injuries between 20 and 40 days committed in a domestic context were ex officio punishable). The offences of harassment, private violence and kidnapping also became prosecutable ex parte/on complaint.

What is worrying is that extinguishing mechanisms such as reparation of damages (Art. 162 ter c.p.p.) are widely available and that restorative justice is made accessible for any type of crime, at any stage of the proceeding and trial with no exemption or attention paid to cases of male violence against women.

As far as the crime of **sexual violence** is concerned, **no legislative developments** have occurred neither in terms of prosecution nor with respect to consent-based definition.

Consent-based definition of sexual violence

The provision punishing/criminalizing sexual violence and rape in Italy (Art. 609 bis c.p.) is not based on consent, as correctly observed by the GREVIO experts who called for its amendment as a matter of

³⁶ <https://www.senato.it/20301>.

³⁷ <https://www.direcontrolaviolenza.it/nuova-ricerca-il-non-riconoscimento-della-violenza-domestica-nei-tribunali-civili-e-per-i-minorenni/>.

³⁸ Legislative Decree. 149/2022, so-called "Cartabia Reform".

³⁹ The reform aims at a more efficient and faster system with the target of a 25 per cent decrease in the length of proceedings, as stipulated in the National Recovery and Resilience Plan goals (explanatory memorandum).

urgency⁴⁰. Even the UN Special Rapporteur on violence against women in her 2021 report on sexual violence⁴¹ recommends that the definition of rape should explicitly include lack of consent⁴².

In this regard, it is worth noting that the Italian Supreme Court has long applied an interpretation of the issue of consent within rape and sexual violence consistent with the Istanbul Convention. Unfortunately, territorial courts often do not comply with this interpretation.

Had this interpretation been complied with, no need for a new law would have arisen. The actual problem is the strong presence and impact of prejudices and stereotypes affecting investigations and decisions on this topic. In Italy, judicial stereotyping is an issue still greatly underestimated⁴³.

A bill was proposed in 2021 to amend Article 609 bis of the Criminal Code to include the absence of consent⁴⁴, but it was not even debated.

The CEDAW Committee's recent view on an Italian case also brings to light the pernicious influences of stereotypes on judicial decisions. The CEDAW Committee found in *A.F. v. Italy* (148/2019), on 20 June 2022, that the Italian State had violated Articles 2, 3, 5 and 15 of the Convention on the Elimination of All Forms of Discrimination against Women in the case of a woman who, the day after her ex-husband had assaulted her, reported that she had been raped precisely by the police officer in charge of the investigation, C.C., who showed up at her flat claiming falsely to have information about her case. In its view, the CEDAW Committee adopted the following recommendations:

- Amending the definition of all sexual offences involving victims capable of giving legal consent, to include consent as the defining element;
- Where consent is raised as a defence, the burden of proof should not be on the victim to show that she communicated an unequivocal lack of consent but must shift to the accused who, in relying on the defence, must substantiate a well-founded belief in affirmative consent; and
- removing the requirement in defining elements of sexual crimes for the victim to prove penetration, force or violence, unless the same is required to establish an additional or aggravating offence.

At present, no state action, follow up or updates have been reported.

⁴⁰“It strongly encourages the Italian authorities to consider amending their legislation to base the offence of sexual violence on the notion of freely given consent as required by Article 36, paragraph 1, of the Istanbul Convention” - <https://rm.coe.int/grevio-report-italy-first-baseline-evaluation/168099724e>

⁴¹<https://www.ohchr.org/en/calls-for-input/2021/rape-grave-and-systematic-human-rights-violation-and-gender-based-violence>

⁴²“Definitions of rape should explicitly include lack of consent and place it at its centre, stipulating that rape is any act of sexual penetration of a sexual nature by whatever means committed against a person who has not given consent”.

⁴³ Di Nicola, Judge of the Supreme Court, who wrote books and published several articles on prejudices and stereotypes, <https://www.sistemapenale.it/it/opinioni/tribunale-roma-2021-pregiudizi-giudiziari-violenza-di-genere>

⁴⁴ https://www.senato.it/leg/18/BGT/Schede/Ddliter/testi/54613_testi.htm.