



## European network of legal experts in gender equality and non-discrimination

### FLASH REPORT

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| <b>Country:</b>                   | Italy  |
| <b>Title:</b>                     | The Government's commitment in tackling gender-based and domestic violence   |
| <b>Date:</b>                      | 1 July 2019  |
| <b>Expert:</b>                    | Simonetta Renga  |
| <b><u>Context</u></b>             |  |
| <b>Issue at stake:</b>            | Gender violence  |
| <b>Grounds of discrimination:</b> | Gender   |
| <b>Field of application:</b>      | Other field  |
| <b>Source:</b>                    | National legislation, Policy development,  |
| <b>Applicable law:</b>            | Bill A.S.1200 on amendments of the Penal Code, Code of Criminal Procedure and of other provisions aimed at the protection against gender-based and domestic violence |

### Content

**Legal development:** A bill on the improvement of criminal and redress protection of victims of violence has been approved by the Chamber of Deputies by a large majority and is now standing for approval at the Senate. It has been called the "Red Code" referring to the colour red as a reminder of the bill's necessity, as the problem of violence is extremely present in Italy. The Bill is also targeted to accelerate legal proceedings regarding domestic violence and gender-based violence and consequently regulating the issue of emergency orders for preventing violence.

The bill is a further step towards full implementation of the *Istanbul Convention* which Italy signed on 27 September 2011 and ratified with Act No. 77 of 27 June 2013. The new bill strengthens and completes numerous laws implementing the Istanbul Convention which were passed over the last years regarding amendments to the penal code and the code of criminal procedure.<sup>1</sup>

In particular, the bill is targeted to accelerate legal proceedings regarding domestic violence against women and to improve privacy in these cases; specific crimes are also introduced by this bill and include; reputational damage and online revenge porn. Compulsory professional training is provided for police forces regarding domestic and gender-based violence. The "Red Code" also intends to fill the gap of the absence of specific provisions on online violence and online harassment of women and girls.

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<sup>1</sup> Examples include Decree of 14 August 2013, No.93 (converted in Act No. 119/2013, which improved measures aimed at tackling domestic violence sexual violence and 'persecutory acts'), prevention measures (such as for instance Act 13 July 2015 No. 107 on the reform of the national education system which regarded gender equal opportunities and the contrast to gender violence as principles to be promoted in all schools), and measures to sustain the victims of gender violence (such as for instance Article 23 of Decree of 15 June 2015 No. 80 on the protection and conciliation of working, care and family life which awarded a period of remunerated leave of three months to women victims of gender-based violence, including to domestic worker following the amendments provided by Act 27 December 2017 No. 205).

Some amendments of the "Red Code" to the Code of Criminal Procedure (from now on C.C.P.) have been introduced to accelerate legal proceedings regarding domestic violence and gender based violence. In the cases of gender-based and domestic violence, the police will have to report to the state prosecutor immediately and the latter will have to hear the victim and the person who reported within three days. A possible delay will be admitted only in cases of the unavoidable need to protect a minor, or of maintaining secrecy on the police investigation which is also in the victim's interest (Article 362 para 1 *ter* of the C.C.P.). Subsequently, the police will have to carry out the investigation as required by the state prosecutor without any delay, promptly referring the outcome (Article 372 para 2 *bis* of the C.C.P.).

The effectiveness of the restraining order from the victim and his/her house in case there is a threat to life or personal safety, will be strengthened by the possibility to oblige the persecutor to wear an electronic bracelet or another technical device which can trace his/her whereabouts (Article 282 *ter* para 1, C.C.P.).

Information regarding the rights of the victim and her/his counsel for the defense will also be provided regarding both the adoption of measures for the person who is under police investigation (such as for instance the issue of a release order, or of an order to cease coercion measures or debarment statement) and other events which can increase the risk for the victim (such as the escape from prison or the termination of different emergency orders preventing violence). The judge of the criminal trial for domestic or gender violence will also have to promptly inform the judge of the civil trial in cases of divorce, or other parental responsibilities including foster care, regarding orders issued against one of the parties (Article 90 *ter*, 282 *quarter*, art 299 para 2 *bis*, C.C.P.).

Moreover, the bill also provides for some amendments of Act N. 354/1975 regarding the Prison System. Specific psychological assistance aimed at rehabilitation and maintenance of convicted persons for domestic and/or gender-based violence will be required to have access to penitentiary benefits (Article 165 of the Penal Code, P.C. from now on).

Compulsory professional training for police and military forces will be carried out regarding these issues, of which the content will have to be decided at national level by a Decree (Article 5 of the bill).

Moreover, following the Istanbul Convention, four new crimes as well as an increase in the penalty for gender-based and domestic violence are introduced in the Penal Code.

Under Article 583 *quinquies* P.C., permanent reputational damage is punished from 8 to 14 years in prison and life imprisonment in case of death of the victim. The latter is also entitled to a refund by the State.

Under Article 612 *ter* P.C., revenge porn on the web is punished from one to six years in prison and a sanction from EUR 5 000 to 15 000.

Under Article 558 *bis* P.C., compulsory or coerced marriage is punished with one to five years in prison, and more if the victim is a minor. The crime is to be prosecuted also when it has been committed abroad by an Italian citizen or a foreigner living in Italy or against an Italian citizen or foreigner living in Italy.

Under Article 387 *bis* P.C., the infringement of the restraining order from the victim and his/her home, is punished by six months to three years in prison.

Further amendments of the Penal Code provide for more severe punishment in case of criminal acts and sexual violence. In case of sexual violence the reform also extends the term within which the victim can report the crime, and makes the aggravating circumstance harsher in case the victim is under aged (Article 609 *bis* and 612 *bis* P.C.).

New aggravating circumstances are introduced for both murder and sexual intercourse with a minor, respectively linked to a personal relationship between the perpetrator and the victim, and on the age of the victim (under 14) or on the offering of money or other benefits. Finally, some amendments regard domestic violence providing for the enforcement of precautionary measures against a suspect, including a restraining order from the victim, as well as special aggravating circumstances in case the victim is a minor, a disabled person, a pregnant woman, or if weapons are used. Moreover, a minor witnessing domestic violence is always to be regarded as a victim (Article 572 P.C.).

**Key points of analysis:** The bill largely takes the advice of the Parliamentary Commission which has been set up in 2017 in order to investigate the dimension and the causes of femicide and violence against women. In fact, the Commission, in the light of the principles of the Istanbul Convention, recommended the issue of improved criminal legislation in relation to child witnesses, the issue of emergency orders for preventing violence, identity injuries and femicide; the promotion of a socio-cultural evolution through education, professional training of police, social services and physicians, guidelines to the media on how report on gender violence; the adoption of specific norms on online violence and online harassment; the improvement of psychological assistance for men perpetrators of violence.

On the whole this intervention will mark a step forward in tackling gender violence, as changes regarding substantial and procedural criminal law show some attention both to the protection of the victim (with the "urgency procedure", the improvement of precautionary measures, and the introduction of new crimes) and to the prevention (providing for professional training of experts and health and social help/assistance aimed at the rehabilitation of the perpetrator).

Prevention is crucial to combat violence and the respective measures are unlikely to work at little or no cost.

Actually, on 23 November 2017, a second Extraordinary Plan against gender violence for the period 2017-2020 was promoted by the Government, including measures aimed at the prevention of violence against women by raising social awareness, professional training and social education, treatment of abusers; support of women who have experienced violence with the creation and the consolidation of specialist support services and shelters, economic and financial empowerment of women and incentives to housing autonomy; prosecution and punishment of violent perpetrators; regularly monitoring of plan effects and impact; constitution of a sort of control room in order to coordinate the local and national policies geared to face violence against women. The plan has been financed with EUR 35,4 million for 2018 and 33,1 million for 2019 (following a cut decided by the Minister of Economics and Finance for all State Departments). This shows an improvement in tackling violence both by the last Government, which remarkably increased the financing, and by the present Government, which is carrying on the reform mentioned above, also confirming the enforcement of the Extraordinary Plan against gender-based violence which was approved before its installation.

**Internet link source:**

[https://temi.camera.it/leg18/temi/tl18\\_il\\_contrasto\\_alla\\_violenza\\_contro\\_le\\_donne.html](https://temi.camera.it/leg18/temi/tl18_il_contrasto_alla_violenza_contro_le_donne.html), including a dossier on the bill;  
<http://www.pariopportunita.gov.it/wp-content/uploads/2018/03/testo-piano-diramato-conferenza.pdf>, Extraordinary Plan against gender violence 2017-2020.  
[http://www.senato.it/documenti/repository/commissioni/femminicidio/DocXXII-bis\\_9.pdf](http://www.senato.it/documenti/repository/commissioni/femminicidio/DocXXII-bis_9.pdf), Report of the Parliamentary Commission set up by the Senate on 18 January 2017 on gender violence, approved on 6 February 2018.