



**Franciscans International**  
A voice at the United Nations

## **UNIVERSAL PERIODIC REVIEW**

### **ITALY**

#### **JOINT STAKEHOLDER SUBMISSION**

*Submitted by*

**Franciscans International (FI)**

(NGO in Consultative Status with ECOSOC)

and

**Ordine Franceseano Seolare - Sardegna  
(Order of Franciscans Secular - Sardinia)  
(OFS)**

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## Introduction

1. Franciscans International ([www.franciscansinternational.org](http://www.franciscansinternational.org)) was founded in 1989 and has had General Consultative Status at the UN since 1995. FI supports Franciscans and partners working at local and national levels all over the world and assists in bringing their concerns and expertise to the UN to address structural causes of human rights violations.
2. The Order of Franciscans Secular (OFS) - Sardinia – is one of the regional entities of the Order of Franciscans Secular of Italy and joins Franciscans International in this joint submission.
3. Franciscans International (FI) made submissions in relation to the first two cycles of the Universal Periodic Review (UPR) of Italy in September 2009, and jointly with Antigone, a non-governmental organization concerned with prisoners' rights and guarantees in Italy, in March 2014. These submissions covered the conditions of persons who are detained, the rights of migrants, and the environment. These same topics will be covered in this submission and issues related to the right to health. The matters will be considered in the context of the country's third cycle recommendations where applicable.
4. This report will comment on the implementation of the recommendations and voluntary pledges assumed in Italy's previous UPR (2019). The data for this submission comes from various sources, including first-hand information from Franciscans and partners working with individuals and groups affected by human rights violations.

### I. Right to health

#### *(a) Legal and Institutional Framework*

5. Article 32 of the Italian Constitution recognises the right to health as a fundamental right of each individual and of the community, guaranteeing free treatment to the indigent. The right to health is, therefore, an inviolable and absolute individual right of importance for the entire community. Italy has adopted relevant legislation, regulations, and other measures to fulfil the constitutional mandate. Law no. 833/1978 was promulgated in 1978, establishing the National Health Service (*Servizio Sanitario Nazionale* - SSN). It is the fundamental health institution in Italy and is comprised of functions, structures, services and activities intended for the promotion, maintenance and recovery of the physical and mental health of the entire population.
6. After the reform of Title V of the Constitution (art. 117 of the Constitution), the competences in health matters have been reassigned, providing that at the higher level, it is the State that has the exclusive competence for international preventive medicine and determines the "essential levels of services concerning civil and social rights which must be guaranteed on the national territory", while, at the lower level, each Italian region must ensure health and hospital care services. From 2001, public health care in Italy has been based on agreements between the national government and the regions. In order to compare regions, it is necessary to look at essential levels

of services. In the health sector, the concept of the essential level of services concerning civil and social rights is rendered in the term “Essential Level of Care”. These services are categorized under three macro levels of assistance, viz, the Prevention Area, the District Area, and the Hospital Area.

*(b) Comment*

7. The Independent health observer GIMBE (*Gruppo Italiano di Medicina Basata sulle Evidenze*) in its sixth report presented in the Senate of the Republic in Rome on 10<sup>th</sup> October 2023<sup>1</sup> gives, with the Ministry of Health of Italy, the most current accurate statistics as regards the Italian National Health Service. In its reports it has monitored the state of compliance with the essential levels of care and noted the deep inequalities between the northern and southern Italian regions –which include the islands of Sardinia and Sicily. In the sixth report, which considered cumulative data between 2010 and 2019, all the southern regions including Basilicata fell in to the last two quartiles, that is they did not reach a 76% compliance level. In its previous report Basilicata was in the top two quartiles of compliance.
8. The global health emergency, caused by Covid-19, has accentuated these inequalities with an overall detriment to those in the south of Italy, where the per capita spending on health is on average much lower than in the north. This is reflected in data on infant mortality, collected by Istat.<sup>2</sup> In 2021, within the first year of life for every 1000 live births there were 1.8 deaths in Tuscany, 3.9 in Sicily and 4.1 in Calabria. It is also reflected in the new way of monitoring the delivery of essential levels of care called the New Guarantee System. In the data from 2020 and 2021 the southern regions continued to be in the two lower quartiles, as calculated by GIMBE, and were often non-compliant with the requisite level of services. GIMBE comments at the conclusion of a consideration of this data:

“The total points score emphasizes once again the North-South gap: indeed, in the first two quartiles no region of the south appears, and the points total of Puglia is the lowest of the 11 regions which are in compliance. On the other hand, with the sole exception of the autonomous province of Bolzano, only southern regions are to be found”.<sup>3</sup>

9. The overall context for this is of course spending on health in Italy. The Organisation for Economic Co-operation and Development (OECD) statistics for 2022 show that Italy’s health spending was 6.8% of its Gross Domestic Product (GDP). Thirteen European countries spend more than this with a gap of 4.1% in respect of Germany down to 0.3% in respect of Iceland. The European average is 7.1%. GIMBE, making a pro-capita comparison in dollars spent on health, remarks that it

“puts Italy amongst the poorest countries in Europe, only Portugal, Slovenia, Lithuania, Latvia, Estonia, Poland, Hungary, Greece, and Slovakia spending less.”<sup>4</sup>

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<sup>1</sup> 6° rapporto GIMBE sul Servizio Sanitario Nazionale

<sup>2</sup> The National Institute in Italy for Statistics: <http://dati.istat.it/Index.aspx?QueryId=26469>

<sup>3</sup> p.75 6<sup>th</sup> Report of GIMBE

<sup>4</sup> p.38 GIMBE 6<sup>th</sup> Report

10. Another complicating factor in regard to the provision of health services throughout the country is the concept of “differentiated autonomy”, whereby regions may request such a status, and this could have an impact on public health generally especially in a situation where health resources are more concentrated in the northern and central areas of Italy and health professionals are attracted to the area where there are more resources. Statistics show both the health care variances<sup>5</sup> between north and south, which results in movement from the south to receive assistance in the health facilities in the north and central regions.
11. The goal of widespread presence of health facilities is one of the points of the National Recovery and Resilience Plan (*Piano Nazionale di Ripresa e Resilienza*, PNRR), which is the package of investments and reforms set out by the Italian Government in response to the “Next Generation EU” proposed by the European Union to assist in the relaunch of the member states after the global health emergency brought on by Covid. Whilst this has been downsized since the original plan, the data set out above indicates the need to provide health facilities in a homogeneous manner throughout the entire Italian territory. Such an action would also serve to counterbalance the risks of “differentiated autonomy” which appears to have the potential to favour the richer regions.

*(c) Recommendations*

12. During the 3<sup>rd</sup> UPR cycle, Luxembourg’s recommendation was to: “Implement necessary measures to limit regional disparities in accessing health care, including for migrants.” Italy accepted this recommendation. However, regional disparities seem to have increased rather than decreased. Accordingly, we recommend the Government of Italy to:
  1. Take concrete measures to redress the inequitable distribution of health services between the regions
  2. Ensure accessibility to health services in all regions, particularly peripheral and disadvantaged areas.
  3. Increase health spending to bring it in line with the OECD average.

## **II. Right to a clean, healthy and sustainable environment**

*(a) Legal and Institutional Framework*

13. In July 2022, the United Nations welcomed the recognition by the General Assembly of the right to a clean, healthy, and sustainable environment. This is recognised in the Italian Constitution under the combination of Articles, 9, 32 and 117. The landscape is protected by Article 9 (2) and the right to health for all is protected under Article 32. Article 117(2) clarifies that the protection of the environment and of the eco-

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<sup>5</sup> For example, there is a higher cancer mortality rate in the South, 9.6%, compared with 8% in the North. il Sole 24 ore <https://www.sanita24.ilsole24ore.com/art/aziende-e-regioni/2024-02-07/-svimez-save-the-children-sud-peggiori-condizioni-sanitarie-meno-prevenzione-e-mortalita-tumori-piu-elevata-fuga-mezzogiorno-curarsi-mobilita-oncologica-lungo-raggio-43percento-calabria-l-autonomia-113339.php?uuid=AFmAjZdC>

system is expressly reserved to the State legislative power, while the legislative power belongs to the State and Regions for the enhancement of the environmental heritage.

14. Italy adopted Legislative Decree No. 34 of April 3, 2018, on Forests and Supply Chains.<sup>6</sup> The legislation aims at, among other goals, protecting the ecological diversity of forests, preventing natural and man-made risks, protecting rivers, securing the participation of local communities in forestry development, and promoting forestry research and environmental education. It also recognizes the national forest heritage as part of the national natural capital and as a significant asset, which is in the public interest to be protected and enhanced for stability and well-being of present and future generations.

*(b) Comment*

15. Ninety percent of the forested areas in Italy are either managed in an unsustainable manner or simply not managed at all.<sup>7</sup> Since the 1970s, due to the abandonment of active management of the forests, Italy is losing a patrimony which is unique in the world for biodiversity as well as the principal resource for tackling climate change. The abandonment may have as its reasons the increased cost of labour, the lack of infrastructure, a crisis in the wood market, but these factors are simply symptoms of a much greater problem the lack of awareness that healthy woods are vital for a healthy environment for humans.
16. At the local level the councils no longer have the resources to compile a Forestry Management Plan and are unable to provide a Forest Guard or technical services for such planning, including for: the execution of the necessary forestry works for wood production; the fight against forest fires; the safeguarding of bio-diversity, conservation of wildlife; and fixing carbon dioxide levels. Thus almost 75%<sup>8</sup> of the wood produced by the forest remains there even though Italy is the second highest importer in the world of wood for burning.
17. With a lack of management Italian forests have become older, and denser with a lot of dry combustible material. Statistically forest fires are nine times more likely in such circumstances compared to forests which have certified forestry planning.<sup>9</sup>
18. In the high forests where pruning has been effectuated for decades, competition for light draws the treetops to go higher and higher with the result that the trees become thinner and more unstable, this leads to less oxygenation and fixation of CO<sub>2</sub> and a loss of value in terms of the variety of wood and the eco-systems of the forests. Italy is losing its old forest, replaced by newer less diverse species which leads to a loss of biodiversity overall. Whilst reports on the state of the forests note an increase in wooded areas as an enrichment of the Italian patrimony, in effect Italy is losing in quality in respect of old forests, high forests and copse being replaced by chaotic formations of non-native plants and thornbushes.

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<sup>6</sup> Legislative Decree No. 34 of April 3, 2018, Consolidated Text on Forests and Supply Chains, available at <https://www.gazzettaufficiale.it/eli/id/2018/04/20/18G00060/sg>

<sup>7</sup> Data from National Forestry inventory – there is 1,003,503 ha certified as sustainable of 11,054,458 ha covered by forest. See <https://sinfor.sian.it/#/reportistica>

<sup>8</sup> Source: National Forestry Inventory (Inventario Forestale Nazionale)

<sup>9</sup> <https://www.pefc.it/news/incendi-boschivi-modalita-e-strategie-per-darci-un-taglio>

19. It is unfortunately the case that thickets of thorns and alien plant species are invading rural regions and the meadows and terraced fields which were once prized features of our mountain countryside, and symbol of laborious agricultural management are now lacking. To the damage done to nature may be added that to historic, archaeological and touristic sites which are at risk of abandonment and degradation from spreading roots.<sup>10</sup>

(c) *Recommendations*

20. In the Third UPR Cycle of Italy, there was no recommendation on the right to a healthy environment or regarding forests. We recommend the Government of Italy to:
1. Adopt a national action plan on Sustainable Forestry Management to deal with the issues of the abandonment of mountain territories, loss of old forest, the use of the wood available and fixing of carbon dioxide levels to ensure that Italian citizens enjoy a clean, sustainable and healthy environment.
  2. Provide necessary resources to implement the Sustainable Forestry Management plan with the technical capacities needed, beginning with forestry under State or local control.

### **III. Human rights for detained persons**

(a) *Legal and Institutional Framework*

21. Italy is a state party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) since 12 January 1989. Italy is also State Party to the Optional Protocol to the Convention (OPCAT) since 3 April 2013. One of the reasons for the ratification of the OPCAT for this was the *Torreggiani*<sup>11</sup> case where the European Court of Human Rights in Strasbourg recognized the systemic and non-occasional character of the degrading conditions of Italian jails.
22. The Court in the *Torreggiani* case specifically found that inhuman treatment due to prison overcrowding was a flaw of the whole Italian prison system. As in 2022, Italy was one of the 11 European Union members that experienced overcrowding.<sup>12</sup> The overcrowding, at least in part, is due to laws such as the Bossi-Fini Law of 2002, as well as other measures that lead to foreign citizens being detained in Centres for Repatriation.<sup>13</sup> These also account for the high number of detainees who are non-Italian in the prison system. The problem of addiction to drugs is also a factor in the over-population of prisons pursuant to the decree of the President of the Republic n. 309/1990. Drug related crimes is the third main reason of the incarceration in Italy.<sup>14</sup>

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<sup>10</sup> Information based on the observation of our network working in the region.

<sup>11</sup> *Torreggiani and others –v- Italy*, 8 January 2013

<sup>12</sup> Information on Prison occupancy statistic from the Eurostat Statistic Explained available at [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Prison\\_occupancy\\_statistics#countries\\_experienced\\_overcrowded\\_cells\\_in\\_2022](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Prison_occupancy_statistics#countries_experienced_overcrowded_cells_in_2022)

<sup>13</sup> D.Lgs n. 130/2020

<sup>14</sup> Information according to Statista, available at <https://www.statista.com/statistics/575447/prison-population-of-italy-by-crime-type/>

*(b) Comment*

23. The first issue to be raised is that adverted to in relation to the definition of torture in Italian penal law as compared to that of the CAT. While there is no difference for the purposes of the Convention between physical and mental suffering in Italian law, Law n. 110/17, introducing article 613 bis, the mental suffering must be verifiable which puts a greater onus on the victim where there are no visible signs.
24. Perhaps the most graphic indicator of the condition of prisoners is the high prevalence of instances of self-harm in Italian prisons. Prisoners have cut themselves, swallowed objects ranging from razor blades to batteries, beaten their heads against the wall, stubbed out cigarettes on their skin and even sewn up their lips.<sup>15</sup> In the latest Antigone report, no. XX,<sup>16</sup> the figure for self-harm is expressed in terms of an average for each 100 prisoners, viz 18.1. This, with a prison population of over 60,000, amounts to roughly 11,000. This is an increase on the figure of 10,368 given for 2018.<sup>17</sup>
25. Monthly figures are available for suicides, the most extreme form of self-harm, and also deaths from other causes in prisons.<sup>18</sup> These show that from 1992 until the present a total of 4,720 people has died in prison, with 1,772 suicides and 2,948 dying from other causes. The worst yearly figure for suicides was as recently as 2020 with 84 persons taking their own lives. However, the rate for 2024 is on track to be even higher than that with 48 people having committed suicide in prison in the first six months. The suicide rate in prison is some eighteen times higher than in external society.<sup>19</sup>
26. There is little accountability in cases of abuse and death of prisoners. Antigone in its annual report no. XVII<sup>20</sup> lists nine incidents where some form of action is being taken through the legal system in respect of allegations of torture.
27. The first of these concerns the prison in Ferrara where a prison warder was sentenced to 3 years imprisonment after beating up a prisoner in 2017. He became the first ever public official to be convicted of the crime of torture on 15 January 2021. This was to be followed a few weeks later by the conviction of 10 warders in respect of the savage beating of a Tunisian in the prison of San Gimignano, as well as a doctor who did not report. This incident dated back to 2018. The small number of convictions, however, show that the prison walls afford a great deal of cover for the abuse of human rights of prisoners and a lack of transparency.

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<sup>15</sup> As reported in *Il Carcere in Italia Oggi* (Prison in Italy today) - Livio Ferrari. Published by Associazione REM 2024 at p.61.

<sup>16</sup> Information is available at [antigone.it](http://antigone.it)

<sup>17</sup> Antigone Annual Report XV – information available at [antigone.it](http://antigone.it)

<sup>18</sup> Information is available at the website [ristretti.it](http://ristretti.it)

<sup>19</sup> [Affollamento, chiusure, suicidi. La fotografia delle carceri nel rapporto di Antigone](#)

Press release on Antigone's XX Report 22<sup>nd</sup> April 2024

<sup>20</sup> [La tortura in carcere in Italia. La panoramica sui processi. - XVII rapporto sulle condizioni di detenzione \(rapportoantigone.it\)](#)

28. The latest figures in relation to capacity and number of individuals in detention available from the Ministry of Justice are up to 31 May 2024.<sup>21</sup> These show a prison capacity of 51,241, but actual detainees at 61,547, of which 19,259 were non-Italian. The situation in regard to overcrowding has evidently worsened considerably since the last UPR of Italy and despite the voluntary acceptance of the obligation to address overcrowding and improve conditions of detention. In fact, the Antigone report of 22 April 2024 notes the increase in the number of detainees from 2020 (which was 53,364) and underscores that “the numbers of overcrowding bring us back to 2013 and the finding of the famous *Torreggiani* case.”<sup>22</sup>
29. Indeed, the situation seems to have regressed to the point reached in 2013 where urgent action needs to be taken in respect of overcrowding and the rising levels of suicides in prison. In that year, as noted in the UPR Joint submission by FI and Antigone the then President of Italy, Giorgio Napolitano wrote a formal letter to Parliament referring to the tragic living conditions in prisons and requested the adoption of effective measures to remedy the situation.
30. We referred above to the Bossi-Fini law and the Presidential decree regarding severely penalizing those with drug addiction problems, leading to increased incarceration where other penalties may be more appropriate. The final matter to be mentioned concerns the length of prison sentences and judicial pronouncements on these. It has been established by the European Court of Human Rights that “whole life” sentences are contrary to Article 3 of the Convention. Thus, a person sentenced in this manner has a right to have a review of the sentence by an organization independent of government.<sup>23</sup> In Italy this situation is provided for, but the detained person must first pay his/her debts, compensation to the victims, legal costs and have a place to reside before asking to be freed. This renders such a circumstance very unlikely. The Italian Constitutional Court has ruled in a judgement of 15 April 2021 that a life sentence without parole is incompatible with the Constitution, but the Italian Parliament has not acted on this. The communication from the Constitutional Court makes clear that the judgement dealt particularly with mafia type criminality.<sup>24</sup>

*(c) Recommendations*

There were specific recommendations related to conditions of detention in the third cycle of the UPR of Italy, and relatedly on the Administration of Justice, which echo the same substantive points. These were calls to improve the conditions of detainees, address the issue of overcrowding, reduce the high rate of imprisonment and fair treatment of migrants. These issues remain to be resolved.

We recommend the Government of Italy to:

1. Ensure that prisoners’ rights are respected and that procedures are in place to ensure accountability for transgressions of those rights.

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<sup>21</sup> From website [giustizia.it](http://giustizia.it)

<sup>22</sup> [rapportoantigone.it](http://rapportoantigone.it)

<sup>23</sup> See *Vinter and others –v- United Kingdom* ECHR 9<sup>th</sup> July 2013

<sup>24</sup> [https://www.cortecostituzionale.it/documenti/comunicatistampa/CC\\_CS\\_20210415170603.pdf](https://www.cortecostituzionale.it/documenti/comunicatistampa/CC_CS_20210415170603.pdf)



2. Take urgent action to reduce the numbers of detained persons, including by modifying laws particularly regarding drug and immigration offences which may be dealt with by means other than custodial sentences, so that the rights of individuals are respected.

#### **IV. Human rights of migrants**

##### *(a) Legal and Institutional Framework*

31. As a member of European Union, Italy is a party to the European Union Pact on Migration and Asylum. This pact, originally proposed by the European Commission in 2020, was passed by the European Parliament in April 2024, approved by the Council in May 2024 and entered into force on 11 June 2024. It is to commence application on 12 June 2026. Its aim is to have

“a comprehensive approach that delivers a common European response to migration. It allows the EU to manage migration in a fair and sustainable way, ensuring solidarity between Member States while also providing certainty and clarity for people arriving in the EU and protecting their fundamental rights.”<sup>25</sup>

32. The basis of the Pact is stated to be to show solidarity with the Member States that protect the external borders and with those facing particular migratory pressure, while preventing irregular migration to the European Union. Italy as a Member State will be intimately involved in this new procedure.

33. Italy, as a country, remains bound by international law pertaining to migrants but the entrance into force of a European wide approach to migration sets it in a wholly new context. That context was noted in the report<sup>26</sup> of the UN Special Rapporteur on the human rights of migrants delivered on 25 June 2024 at the 56<sup>th</sup> Session of the Human Rights Council, to which reference will be made in this submission. One of the arising new issues is also the proposed externalization of the asylum procedure via a Third Country, namely Albania.

##### *(b) Comment*

34. Franciscans offer support to migrants in different ways and in different parts of Italy. They work with young families in Sicily and for decades here have offered aid to learn and study Italian language and assist them, in particular young migrants, with the various bureaucratic practicalities involved in securing legal status in the country. The aim is to welcome and provide them with hope. Integration into a new society is a long and complex process that requires not only the disposition of the persons migrating from their native land to build their future, but also citizens of the state who are open and trusting in respect of their encounters with different peoples and cultures.

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<sup>25</sup> [Migration and asylum - European Commission \(europa.eu\)](https://european-council.europa.eu/media/en/press-areas/infographic/item/11147?en)

<sup>26</sup> Revisiting migrants' contributions with a human rights-based approach: a discussion on facilitating and hindering factors - Report of the Special Rapporteur on the human rights of migrants A/HRC/56/54

35. A commitment to welcome, promote, include and integrate behooves both parties, the migrants who feel themselves as foreigners and the local administration, schools, and indeed every citizen to show themselves open to exchange, mutual greeting, and respect for each other's tradition.
36. The young migrants with whom Franciscans work are encouraged to stay in the smaller centres of population where they have constructed ties instead of moving to big cities, where they may have less support. Whilst in many cases there is a necessity to work to pay debts and help their family, encouragement to study and nurture their dreams is important. The aim must be to provide concrete assistance to integration without creating dependency. Through relationships, dialogue, meeting and friendship a society acknowledging each other's rights may be created.
37. This approach on the micro-level is reflected in the macro-sphere in the points made in the 2024 report of the UN Special Rapporteur on the human rights of migrants.<sup>27</sup> Migrants are "rights holders"<sup>28</sup> who are to be protected without regard to what contributions they may make to the new society they are joining and the Special Rapporteur regrets the fact that migration-related disinformation and xenophobia are on the rise. He goes on to set out the contributions that migrants make to countries of destination in terms of sociocultural, as well as civic/political and economic contributions. He then sets out factors which hinder migrants' contribution inter alia discrimination, irregular status and access to labour markets and social protections.
38. With respect to promoting a positive and evidence-based approach to migrants' contributions, he lists several initiatives which support them. These include the protection of the human and labour rights of migrants irrespective of their status, expanding regular pathways and regularization programmes, as well as integration legislation, policies and programmes. The Special Rapporteur remarks that successful integration reaps benefits for both the migrants and the host communities. and cites the example of Canada.<sup>29</sup> and it is perhaps that example which most epitomises a commendable approach to migration

*(c) Recommendations*

39. There were some twenty-two headings under which recommendations were made as regards migrants in the 3<sup>rd</sup> UPR cycle of Italy. Our organizations, however, make their recommendations based on the experience of Franciscans working with migrants

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<sup>27</sup> See A/HRC/56/54, Report of the Special Rapporteur on the human rights of migrants, Revisiting migrants' contributions with a human rights-based approach: a discussion on facilitating and hindering factors available at

<https://documents.un.org/doc/undoc/gen/g24/o6g/76/pdf/g24o6g76.pdf?token=ig4vrCUybO48l7KLeq&e=true>

<sup>28</sup> Ibid. From summary.

<sup>29</sup> Immigration, Refugees and Citizenship Canada, *2023 Settlement Outcomes Report: Data-driven Insights for the Future of the Settlement Program* (2023) p.15. "The investment made by Canada in integration, (Can \$1.1 billion for 2023/2024) has yielded positive outcomes: an employment rate of over 75 per cent among newcomers and a strong sense of connection for 90 per cent of migrants"

on the ground and on the macro-level in line with the report of the Special Rapporteur on the human rights of migrants.

We recommend the Government of Italy to:

1. Take measures to implement the European Union Pact on Migration and Asylum without delay.
2. Take concrete measures to ensure the integration of migrants into Italian society.
3. Provide the migrants with access to public services including health and education,
4. Consider conferring Italian nationality on children born in Italy to migrant parents.
5. Make efforts to provide information on the positive contributions of migrants to society and avoid using or amplifying any disinformation, xenophobic rhetoric, etc.