

Annual Rule of Law
Report - Council of
Europe input

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

2021

Directorate General Human Rights and Rule of Law (DG I)

Italy

I Justice System

A. Independence

CEPEJ

CEPEJ – Country profile Italy - Scoreboard (2019 data) (*content of the link will be available after acceptance of the CEPEJ Study for the Scoreboard by DG-Just*)

[CEPEJ Country Profiles Italy Scoreboard](#)

CEPEJ European Judicial Systems Evaluation Report – Evaluation cycle 2018-2020 (2018 data) – Part 2 Country profile Italy

[CEPEJ Evaluation Report - Country Profiles – Italy](#)

CEPEJ website – General Country profile Italy (including answers to the Evaluation Scheme)

[General CEPEJ Country profile](#)

European Judicial Systems CEPEJ Evaluation Report – Evaluation cycle 2018-2020 (2018 data) – Part 1 Tables, graphs and analysis

[CEPEJ Evaluation Report 2020 Part 1](#)

CEPEJ Dynamic database of European judicial systems

[CEPEJ-STAT](#)

1. Appointment and selection of judges and prosecutors

GRECO

<https://www.coe.int/en/web/greco/evaluations/italy>

4th round: corruption prevention in respect of MPs, judges and prosecutors

3rd round: incrimination and transparency of Party Funding

2. Irremovability of judges, including transfers of judges and dismissal

GRECO

<https://www.coe.int/en/web/greco/evaluations/italy>

4th round: corruption prevention in respect of MPs, judges and prosecutors

3rd round: incrimination and transparency of Party Funding

3. Promotion of judges and prosecutors

GRECO

<https://www.coe.int/en/web/greco/evaluations/italy>

4th round: corruption prevention in respect of MPs, judges and prosecutors

3rd round: incrimination and transparency of Party Funding

4. Allocation of cases in courts

GRECO

<https://www.coe.int/en/web/greco/evaluations/italy>

4th round: corruption prevention in respect of MPs, judges and prosecutors

3rd round: incrimination and transparency of Party Funding

5. Independence (including composition and nomination of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

GRECO

<https://www.coe.int/en/web/greco/evaluations/italy>

4th round: corruption prevention in respect of MPs, judges and prosecutors
3rd round: incrimination and transparency of Party Funding

6. Accountability of judges and prosecutors, including disciplinary regime and ethical rules.
GRECO

<https://www.coe.int/en/web/greco/evaluations/italy>

4th round: corruption prevention in respect of MPs, judges and prosecutors
3rd round: incrimination and transparency of Party Funding

7. Remuneration/bonuses for judges and prosecutors

8. Independence/autonomy of the prosecution service
GRECO

<https://www.coe.int/en/web/greco/evaluations/italy>

4th round: corruption prevention in respect of MPs, judges and prosecutors
3rd round: incrimination and transparency of Party Funding

9. Independence of the Bar (chamber/association of lawyers)

10. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

GRECO

<https://www.coe.int/en/web/greco/evaluations/italy>

4th round: corruption prevention in respect of MPs, judges and prosecutors
3rd round: incrimination and transparency of Party Funding

11. Other - please specify

PACE

Democracies facing the Covid-19 pandemic

Rapporteur : Mr Ian LIDDELL-GRAINGER, United Kingdom, EC/DA

[Doc. 15157](#)

Consultative Council of European Judges (CCJE)

Statement by the President of the CCJE on the role of judges during and in the aftermath of the COVID-19 pandemic: lessons and challenges (24 June 2020)

<https://rm.coe.int/ccje-2020-2-statement-of-the-ccje-president-3-lessons-and-challenges-c/16809ed060>

Opinion No. 23 (2020) of the CCJE on the role of associations of judges in supporting judicial independence (6 November 2020)

<https://rm.coe.int/opinion-23-en-ccje-2020/1680a03d4b>

Consultative Council of European Prosecutors (CCPE)

Opinion No. 15 (2020) of the CCPE on the role of prosecutors in emergency situations, in particular when facing a pandemic (19 November 2020)

<https://rm.coe.int/opinion-no-15-ccpe-en/1680a05a1b>

GRECO

[9 December 2020 – International Anti-Corruption Day - Newsroom \(coe.int\)](#)

GRECO President: “No quarter to corruption in healthcare, governments must lead by example”

CPT

Report on the CPT’s 2016 periodic visit, [CPT/Inf \(2017\) 23](#), para. 14

EU Directive 2013/48 has been integrated into the national legislation in 2016 (though the Legislative Decree 184/2016). However, the changes introduced apply only in the case of European Arrest Warrant and not in case of “ordinary arrest” (arresto or fermo). The legislator considers the current legal framework as already compliant with the EU Directive. In accordance with the Italian legislation a person subject to arrest or fermo has the right to meet and confer with a lawyer since his/her deprivation of liberty (Section 104 of the CCP). In case of serious criminal offences such as those related to terrorism the access to a lawyer can be delayed up to five days. The great majority of persons interviewed by the CPT’s delegation indicated that they had the possibility to speak with a lawyer only prior to the confirmation hearing with the judge for preliminary investigation (i.e. approx. two days after the apprehension). (CPT’s finding during the 2016 visit which is supported by a recent report of Antigone).

B. Quality of justice

CEPEJ

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[CEPEJ-STAT](#)

12. Accessibility of courts (e.g. court fees, legal aid)

13. Resources of the judiciary (human/financial)

14. Use of assessment tools and standards (e.g. ICT systems for case management, court statistics, monitoring, evaluation, surveys among court users or legal professionals)

15. Other - please specify

European Commission for the Efficiency of Justice (CEPEJ)

<https://www.coe.int/en/web/cepej/country-profiles/italy>

C. Efficiency of the justice system

CEPEJ

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GRECO

<https://www.coe.int/en/web/greco/evaluations/italy>

4th round: corruption prevention in respect of MPs, judges and prosecutors

3rd round: incrimination and transparency of Party Funding

16. Length of proceedings

Department for the Execution of Judgments of the European Court of Human Rights

4 groups of cases in ENHA concerning the excessive length of criminal (*Ledonne No. 1*), civil (*Trapani*), administrative (*Abenavoli*) and bankruptcy (*Collarile*) + another group concerning some remaining problems re. the compensatory domestic remedy (*Olivieri*).

Presentation on Hudoc.Exec: [Olivieri](#)

Latest decisions of the Committee of Ministers: [CM/Del/Dec\(2020\)1390/H46-14](#)

Latest information : [DH-DD\(2020\)1084](#) (also relevant for *Abenavoli*)

No recent submissions in 2020 or 2021, but links to Hudoc.exec provided for information: [Trapani ; Ledonne No. 1](#)

Cestaro v. Italy (6884/11) (ENHA) : group of case concerning, *inter alia*, statutory limitation rules, in the context of cases concerning impunity for State agents when they are suspected of torture or ill-treatment.

No recent information in 2020 or 2021, but link to Hudoc.exec provided for information: [Cestaro group](#)

17. Enforcement of judgements

18. Other - please specify

European Court of Human Rights - country profile

https://echr.coe.int/Documents/CP_Italy_ENG.pdf

Execution of Judgments of the European Court of Human Rights - country factsheets

<https://rm.coe.int/1680709750>

II Anti-corruption framework

Where previous specific reports, published in the framework of the review under the UN Convention against Corruption, of GRECO, and of the OECD address the issues below, please make a reference to the points you wish to bring to the Commission's attention in these documents, indicating any relevant updates that have occurred since these documents were published.

A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

GRECO

Guidelines addressed to GRECO 50 Member States

Corruption Risks and Useful Legal References in the context of COVID-19
Published 21/04/2020

Office of the Commissioner for Human Rights

Corruption undermines human rights and the rule of law [Corruption undermines human rights and the rule of law - Human Rights Comments - Commissioner for Human Rights \(coe.int\)](#) – published on 19 January 2021

GRECO

<https://www.coe.int/en/web/greco/evaluations/italy>

4th round: corruption prevention in respect of MPs, judges and prosecutors

3rd round: incrimination and transparency of Party Funding

19. List of relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption. Where possible, please indicate the resources allocated to these (the human, financial, legal, and practical resources as relevant).

B. Prevention

GRECO

Guidelines addressed to GRECO 50 Member States

Corruption Risks and Useful Legal References in the context of COVID-19
Published 21/04/2020

GRECO

<https://www.coe.int/en/web/greco/evaluations/italy>

4th round: corruption prevention in respect of MPs, judges and prosecutors

3rd round: incrimination and transparency of Party Funding

20. Integrity framework: asset disclosure rules, lobbying, revolving doors and general transparency of public decision-making (including public access to information)

21. Rules on preventing conflict of interests in the public sector

22. Measures in place to ensure Whistle-blower protection and encourage reporting of corruption

23. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for preventing corruption in these sectors. (e.g. public procurement, healthcare, other).

24. Any other relevant measures to prevent corruption in public and private sector

C. Repressive measures

GRECO

<https://www.coe.int/en/web/greco/evaluations/italy>

4th round: corruption prevention in respect of MPs, judges and prosecutors

3rd round: incrimination and transparency of Party Funding

25. Criminalisation of corruption and related offences

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2017)025 English 10/10/2017 - Public

[Amicus curiae brief for the European Court of Human Rights in the case of Berlusconi v. Italy, adopted by the Venice Commission at its 112th Plenary Session \(Venice, 6-7 October 2017\)](#)

26. Overview of application of sanctions (criminal and non-criminal) for corruption offences (including for legal persons)

27. Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)

III Media pluralism

A. Media regulatory authorities and bodies

28. Independence, enforcement powers and adequacy of resources of media authorities and bodies

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2005)017 English 13/06/2005 - Public

[Opinion on the compatibility of the Laws “Gasparri” and “Frattoni” of Italy with the Council of Europe standards in the field of freedom of expression and pluralism of the media adopted by the Venice Commission at its 63rd Plenary Session \(Venice, 10-11 June 2005\)](#)

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation Rec \(2000\) 23 of the Committee of Ministers to member states on the independence and functions of regulatory authorities for the broadcasting sector](#)

29. Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media authorities and bodies

B. Transparency of media ownership and government interference

30. The transparent allocation of state advertising (including any rules regulating the matter)

31. Public information campaigns on rule of law issues (e.g. on judges and prosecutors, journalists, civil society)

Office of the Commissioner for Human Rights

[Time to take action against SLAPPs - Human Rights Comments - Commissioner for Human Rights \(coe.int\)](#) – published on 27 October 2020

32. Rules governing transparency of media ownership

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation CM/Rec\(2018\)1 of the Committee of Ministers to member States on media pluralism and transparency of media ownership](#)

PACE

[The impact of the Covid-19 pandemic on human rights and the rule of law](#)
(Rapporteur : [Mr Vladimir VARDANYAN](#), Armenia, EPP/CD)

[Doc. 15139](#) / See also the [Opinion](#) by the Committee on Culture, Science, Education and Media on the aforementioned report.

C. Framework for journalists' protection

33. Rules and practices guaranteeing journalist's independence and safety and protecting journalistic and other media activity from interference by state authorities

34. Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation CM/Rec\(2016\)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors](#)

35. Access to information and public documents

Office of the Commissioner for Human Rights

[Access to official documents is crucial – let's make it a reality - Human Rights Comments - Commissioner for Human Rights \(coe.int\) – published on 1 December 2020](#)

36. Other - please specify

Office of the Commissioner for Human Rights

[Tapping the full potential of Equality Bodies for a fairer Europe Tapping the full potential of Equality Bodies for a fairer Europe - Human Rights Comments - Commissioner for Human Rights \(coe.int\) – published on 26 June 2020](#)

Platform to promote the protection of journalism and safety of journalists

<https://www.coe.int/en/web/media-freedom/italy>

Freedom of expression chapters of the annual reports of the Secretary General of the Council of Europe featuring indicators on media pluralism and transparency of ownership, media independence and safety of journalists as well as country-specific assessments:

2018

<https://rm.coe.int/state-of-democracy-human-rights-and-the-rule-of-law-role-of-institutio/168086c0c5>

2017

<https://edoc.coe.int/en/an-overview/7345-pdf-state-of-democracy-human-rights-and-the-rule-of-law.html>

2016

https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680646af8

2015

https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090000168058e01e

IV Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

37. Stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), transparency of the legislative process, rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2015)009 English 19/06/2015 - Public

[Opinion on the Citizens' bill on the regulation of public participation, citizens' bills, referendums and popular initiatives and amendments to the Provincial Electoral Law of the Autonomous Province of Trento \(Italy\), adopted by the Council of Democratic Elections at its 51st meeting \(Venice, 18 June 2015\) and by the Venice Commission at its 103rd Plenary Session \(Venice, 19-20 June 2015\)](#)

38. Regime for constitutional review of laws

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2017)025 English 10/10/2017 - Public

[Amicus curiae brief for the European Court of Human Rights in the case of Berlusconi v. Italy, adopted by the Venice Commission at its 112th Plenary Session \(Venice, 6-7 October 2017\)](#)

B. Independent authorities

39. independence, capacity and powers of national human rights institutions, ombudsman institutions and equality bodies

C. Accessibility and judicial review of administrative decisions

40. modalities of publication of administrative decisions and scope of judicial review

41. implementation by the public administration and State institutions of final court decisions

D. The enabling framework for civil society

42. Measures regarding the framework for civil society organisations

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2015)009 English 19/06/2015 - Public

[Opinion on the Citizens' bill on the regulation of public participation, citizens' bills, referendums and popular initiatives and amendments to the Provincial Electoral Law of the Autonomous Province of Trento \(Italy\), adopted by the Council of Democratic Elections at its 51st meeting \(Venice, 18 June 2015\) and by the Venice Commission at its 103rd Plenary Session \(Venice, 19-20 June 2015\)](#)

43. Other - please specify

Conference of INGO's of the Council of Europe

<https://rm.coe.int/report-visit-of-the-conference-of-ingos-to-italy-2019/1680981493>

Expert Council on NGO Law report on criminalisation of NGO activity in relation to migration and a compendium of developments 2017-2019 in NGO law, freedom of association

<https://rm.coe.int/expert-council-conf-exp-2020-1-ngos-developments-in-standards-mechanis/16809ccd3a>

<https://rm.coe.int/expert-council-conf-exp-2019-1-criminal-law-ngo-restrictions-migration/1680996969>

Private Office procedure on human rights defenders interacting with the Council of Europe

https://www.coe.int/en/web/secretary-general/news-2019-thorbjorn-jagland/-/asset_publisher/9j1gCsAwfdMt/content/revised-private-office-procedure-on-human-rights-defenders-interacting-with-the-council-of-europe