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The Illusion of Protection: Italy's response to gender-based violence and the gap between law and reality

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1. Introduction

The 25th of November is the international day for the elimination of violence against women, a day designated in 2000 by the United Nations General Assembly to raise awareness of all forms of gender-based violence still present in contemporary society. This particular date was selected to honour three Dominican activists, the Mirabal sisters, brutally murdered under order of the country's ruler in 1960[1]. Twenty-six years after resolution 54/134, this day is needed more than ever.

Since the beginning of 2026, at least 70 femicides and around 115 attempted femicides have been recorded in Italy[2]. According to a recent survey by ISTAT[3], the Italian National Institute of Statistics, 31.9% of Italian women aged 16-75 have experienced physical or sexual violence, and 14.9% of them before the age of 16. For purpose of clarification, femicide, according to the newly-added article 577 *bis* of the Italian criminal code, refers to the "*the killing of a woman resulting from hatred, discrimination, an act of control, possession or domination over her because she is a woman, or in connection with her refusal to create or maintain an intimate relationship, or as a means of restricting her personal freedoms*"[4].

The cycle of violence is fostered by a culture of gender stereotypes, discrimination, the presence of unequal power relations which can only be eradicated through a thorough reform affecting not only the involved individuals, but the system as a whole. The Italian authorities have put in place an apparently strong legal framework, yet evidence shows that such reforms are really devoid of practical effects and the gap between law and reality remains wide. Overall, the Italian system for the prevention of male violence against women and the protection of victims of such violence is in crisis: disproportionate emphasis is placed on repressive measures, whereas greater attention should be devoted to preventive strategies, aimed at tackling the structural roots of this deeply entrenched problem.

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[1] Council of Europe (n.d.) *25 November – International Day for the Elimination of Violence against Women.* Available at https://www.coe.int/en/web/istanbul-convention/25-november-international-day

[2] Data of Osservatorio Nazionale Non una di Meno – anno 2026. Available at: https://osservatorionazionale.nonunadimeno.net/anno/2026/

[3] Istat (2026), *Violenza contro le donne dall'infanzia all'età adulta – Anno 2025*, 16 September 2026. Available at: https://www.istat.it/comunicato-stampa/violenza-contro-le-donne-dallinfanzia-alleta-adulta-anno-2025/

[4] *Codice penale italiano*, Art. 577-bis (1930). Available at: https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:regio.decreto:1930-10-19;1398:1~art577bis-comma2

2. International Framework

A cornerstone of efforts to combat violence against women is the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, known as the *Istanbul Convention*. This landmark human rights treaty, signed by 39 states, established a comprehensive legal framework to prevent and combat violence against women. It explicitly recognises gender-based violence as both a human rights violation and a form of discrimination. It is broad in its scope, as it encompasses several forms of violence against women to be criminalised, such as sexual harassment, domestic violence, forced abortion, and many more[5].

The Convention is built around four main pillars known as the "four Ps": Prevention, Protection, Prosecution, and integrated Policies. The four Ps highlight how states should behave to address violence in a comprehensive way. States should then (i) prevent violence through education and awareness raising; in case of failure, (ii) protect victims and provide support through specialised support systems, and (iii) prosecute perpetrators. All this must be done (iv) in cooperation with different actors which span from civil society organization to governmental institutions.

To ensure state compliance, a monitor mechanism is put in place through two bodies: The Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) and the Committee of the Parties. The former produces reports on countries following on-site visits and evaluation of the national strategy of implementation; the latter instead issues recommendations on the basis of GREVIO's reports concerning the measures to be taken for implementation.

Obligations for states also arise from judgements of the European Court of Human Rights: if found in breach of the European Convention of Human Rights, states must implement the Court's judgements through national policies. In cases concerning gender-based violence, the Strasbourg Court has repeatedly found Italy to be in violation of its obligations on account of the way its authorities have handled, or failed to handle, such cases. This highlights the systemic nature of the problem in Italy, as well as the persistent shortcomings in the authorities' response to gender-based violence. The most recent case, whose judgement became final in October 2026, *Ubeda and Others v. Italy*[6] (application no. 9993/24) provides concrete evidence in support of the argument outlined above. Italian Republic was, indeed, found in violation of articles 3 and 8 of the Convention. The case concerned the failure of Italian authorities to adequately protect victims of domestic violence, the

[5] Council of Europe (n.d.) *Key facts about the Istanbul Convention*. Available at: https://www.coe.int/en/web/istanbul-convention/key-facts

[6] European Court of Human Rights (2026) *Ubeda and Others v. Italy*, Application No. 9993/24, judgment of 2 July 2026. HUDOC, document reference 001-251247. Available at: https://hudoc.echr.coe.int/eng

failure to investigate effectively the applicants' complains, as well as delays in criminal proceedings. The applicants were a mother and their two children, who lodged a complaint against the former partner and father of the children, alleging that he had been violent towards them both physically and psychologically. In May 2021 the mother and the children were placed in a shelter, which they left three years later, in June 2024[7]. Once again, a situation concerning gender-based violence was downgraded and referred to as a "bad joke", since "it is normal for men to have overcome a minimum level of resistance that every woman tends to show when she is tired of everyday life"[8]. Moreover, an extreme slowness in the proceedings was registered, exceeding the reasonable time limit: by the time the parties presented their submissions before the ECtHR, no hearing occurred at the national level. Additionally, placing the applicants in shelters for over three years represents a restriction of their freedom, as well as secondary victimization[9]. All this amounts to a failure of the Italian authorities to fulfil their positive obligations of protection and effective investigation.

This case is just the tip of the iceberg. The group of cases *Talpis*[10] has been under enhanced procedure of the Committee of Ministers for years, still pending implementation by the Italian government. It includes the following applications: *Talpis v. Italy* (application no. 41237/13) concerning domestic violence inflicted on the victim by her husband, which escalated into the attempted murder of the applicant and the murder of her son; *De Giorgi v. Italy* (application no. 2375/19), concerning the rape of a woman by seven men, as well as secondary victimization; *M.S. v. Italy* (application no. 32715/19), concerning a woman reporting her husband multiple times for domestic violence, whose complaint was classified as a family dispute; *J.L. v. Italy* (application no. 5671/16), concerning the lack of protection from the state to the applicant with respect to complaints of ill-treatments and injuries inflicted by her husband, as well as delays and irregularities in the proceedings; and *Scuderoni v. Italy* (application no. 6045/24), concerning episodes of domestic violence and the failure of authorities in conducting an immediate risk assessment[11]. The group of cases thus mainly concerns violations of articles 2 and 3 of the Convention, resulting again from the lack of action of the Italian authorities in handling complaints related to domestic violence, their

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[7] European Court of Human Rights (2026), *Ubeda and Others v. Italy*, Press Release ECHR 174 (2026), 2 July

[8] Human Rights Centre, University of Padua (2026) 'European Court of Human Rights: case Ubeda and Others v. Italy (application no. 9993/24), violations of Articles 3 and 8 of the ECHR'. Available at: https://unipd-centrodirittiumani.it/en/topics/european-court-of-human-rights-case-ubeda-and-others-v-italy-application-no999324-violations-of-articles-3-and-8-of-the-echr

[9] Italian Supreme Court (Corte di Cassazione), First Civil Section, Order No. 11631 of April 30, 2024

[10] Committee of Ministers of the Council of Europe (n.d.) *Talpis v. Italy (Application No. 41237/14)*. Supervision of the execution of judgments of the European Court of Human Rights, HUDOC-EXEC, document reference 004-47826. Available at: https://hudoc.exec.coe.int/

[11] D.i.Re (2026), *Communication under Rule 9.2 in the group of cases Talpis v. Italy*, DH-DD(2026)1453, 19 October 2026

failure to carry out a complete risk assessment or adoption of protective measures, as well as delays and excessive lengths of the proceedings: another instance of the same pattern.

3. Italian Legal Framework

The Italian authorities have put in place an apparently strong framework to address gender-based violence and related issues, comprising of both legislative and non-legislative initiatives. Yet, most of them have proved to be inefficient.

In July 2019, law no. 69[12] ("Modifiche al codice penale, codice di procedura penale e altre disposizioni in materia di tutela delle vittime di violenza domestica e di genere"), known as *Codice Rosso* was passed, introducing reforms in both substantive and procedural criminal law. It accelerates proceedings regarding gender-based violence and domestic violence, strengthens preventive measures and imposes harsher penalties for violations. Law 69/2013 was subsequently further reinforced by law 168/2023[13] ("Disposizioni per il contrasto della violenza sulle donne e della violenza domestica"). This time it broadens the *questore*'s warning powers to cover additional offenses such as domestic trespass and private violence, and allows collecting summary information even without a formal complaint. Law 168/2023, though, leaves unchanged the style adopted by Italy, focusing increasingly on repression rather than prevention, without addressing the root cause of the problem, that is a deeply entrenched culture that still sees the woman as weaker and object of control.

Further shortcomings are registered in the use of anti-stalking electronic bracelets that became mandatory in 2023. In its first thematic evaluation of Italy, GREVIO highlighted the lack of units to meet demand, the presence of technical difficulties, the scarcity of information provided to victims who often are not aware on how the bracelets work. Therefore, the gap between formal provisions and practical applications remains wide.

As previously mentioned, the approach Italy is taking is tackling gender-based violence is purely punitive and repressive. ISTAT survey shows an alarming situation arising amongst young people: among 14- to 19-year-olds, 23,1% has stereotypes that justify sexual violence; 15,6 % blame the victim for their choice of clothing; 29,1% believes jealousy and control as a proof of love; and 13,7%

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[12] Repubblica Italiana (2019) *Legge 19 luglio 2019, n. 69. Modifiche al codice penale, al codice di procedura penale e altre disposizioni in materia di tutela delle vittime di violenza domestica e di genere*. Available at: https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2019-07-19;69

[13] Repubblica Italiana (2023) *Legge 24 novembre 2023, n. 168. Disposizioni per il contrasto della violenza sulle donne e della violenza domestica*. Available at: https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2023-11-24;168

downplay the significance of consent[14]. Given such preoccupying tendencies, it is vital to introduce modules in schools on emotional education and consent. Yet, Italy is moving in the opposite way. In 2026 law no. 104 was passed, severely restricting the teaching of sexual education in schools[15]. Not only it introduces mandatory parental consent in order for students to attend such modules, but it also forbids its teaching in kindergarten and primary schools[16]. This amounts to both a serious setback for violence prevention, and an erosion of the freedom of teaching guaranteed by Articles 33 and 34 of the Italian Constitution[17].

Additionally, Italy shows a lack of specific training for professionals dealing with cases of violence against women, namely judges and law enforcement agents. Following judgements of the European Court of Human Rights, training courses for magistrates were introduced by Law 168/2023. However, attendance at only one of such courses is mandatory, which means that professionals might not acquire a comprehensive and uniform understanding of the issue[18]. Indeed, the courses almost exclusively focus on procedural requirements, leaving untouched the intrinsic dynamic of violence. This reflects in the way cases regarding gender-based and domestic violence are handled. An emblematic case is the so-called *30-seconds case*. In 2018 a flight attendant was sexually harassed by a trade unionist who was acquitted in the first instance because, according to the judges, the woman would have had thirty seconds to react and stop the abuse. The judgement was initially upheld by the Court of Appeal and was only overturned after a further appeal before the Court of Cassation that ruled that "a delayed reaction does not imply consent[19]". Besides confirming the need for specific professional trainings to recognise violence and how to handle it, this case sheds light on the importance of consent. Yet, once again, institutions appear to be moving in the opposite direction of what is needed in practice. The Chamber of Deputies approved a draft law introducing the element of consent, defining rape as the "lack of free and current consent", which would perfectly align with

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[14] D.i.Re (2026), *Communication under Rule 9.2 in the group of cases Talpis v. Italy*, DH-DD(2026)1453, 19 October 2026

[15] Repubblica Italiana (2026) *Legge 9 giugno 2026, n. 104. Disposizioni in materia di consenso informato in ambito scolastico*. Available at: https://www.gazzettaufficiale.it/eli/id/2026/06/22/26G00121/SG

[16] Centro di Ateneo per i Diritti Umani (2026) 'Legge n. 104/2026 sul consenso informato in ambito scolastico: l'educazione sessuo-affettiva e il suo impatto sull'autonomia educativa'. Available at: https://unipd-centrodirittiumani.it/it/notizie/legge-n-1042026-sul-consenso-informato-in-ambito-scolastico-leducazione-sessuo-affettiva-e-il-suo-impatto-sullautonomia-educativa

[17] Costituzione della Repubblica Italiana – *Articles 33 and 34*. Available at: https://www.senato.it/istituzione/la-costituzione/parte-i/titolo-ii/articolo-33

[18] D.i.Re (2026), *Communication under Rule 9.2 in the group of cases Talpis v. Italy*, DH-DD(2026)1453, 19 October 2026

[19] Sky TG24 (2026) '"Molestia sotto 30 secondi", sindacalista condannato in appello bis: un anno e due mesi', 10 July. Available at: https://tg24.sky.it/cronaca/2026/07/10/molestia-30-secondi-sindacalista-condannato-appello-bis

article 36 of the Istanbul Convention. Nonetheless, the draft law never became law as it is still pending approval of the Senate. Senators moved, in fact, to remove the word *consent* focusing instead on *dissent* or *contrary will*[20]. This wording, though, not only leaves room for ambiguity (for example, in cases of freezing, when the victim is too terrified to react), but also places emphasis on the victim's behaviour rather than on the perpetrator. It then forces judges to ask uncomfortable questions, even though case law confirms that, where the victim does not react or remains silent, the perpetrator must stop[21]. Therefore, only explicit given consent removes every doubt.

It would, however, be inaccurate to describe the situation as entirely bleak. A breakthrough in the national legal framework occurred in 2025, when femicide became its own criminal offence. Law 181/2025 modified the criminal code adding article 577*bis*, marking a pivotal step in the fight against gender-based violence, as it finally recognises violence against women as a systematic phenomenon which has its roots in a culture that legitimises unequal power relations and discrimination. It also allows the collection of more accurate data, in compliance with article 11 of the Istanbul Convention. This provision is however quite recent and not free of doubts: it is yet to be seen its impact on the system.

4. Conclusion

In an interview with ASSEDEL, Luz Martinez Seijo, member of the Spanish Delegation to the Parliamentary Assembly of the Council of Europe (PACE), highlighted the importance of education as a means of eradicating gender-based violence[22]. The approach adopted by Italy, lacking the focus on education, has clearly demonstrated its inefficiency: prosecution cannot be the only focus; it must pair with prevention.

Often gender-based violence is regarded exclusively as a woman's issue. This is where the mistake lies: both men and women must be actively involved in this fight, as this is the only way to achieve profound change. In Italy, a strong legal framework is not enough, but an entire cultural renewal is needed. A new approach must then be adopted, starting from education and awareness raising: equality needs to be taught since very early ages, and young people must be equipped with the right tools to recognise early signs of violence that often go unnoticed. Episodes of violence

[20] Rai News (2026) 'Ddl stupri, cambia il testo: scompare la parola "consenso" e si differenziano le pene', 22 January. Available at: https://www.rainews.it/articoli/2026/01/ddl-stupri-cambia-il-testo-scompare-la-parola-consenso-e-si-differenziano-le-pene--6272a725-0d0d-4f14-91a3-35d09b0a4739.html

[21] Martini, E. (2026) 'Ddl stupri: il nuovo testo obbliga il giudice a tormentare la vittima', *Il Manifesto*, 8 March. Available at: https://ilmanifesto.it/ddl-stupri-il-nuovo-testo-obbliga-il-giudice-a-tormentare-la-vittima

[22] Full interview available at: https://assedel.org/en/news/interview-luz-martinez-seijo

cannot be reduced to just the criminal responsibility of the single perpetrator, we must question, first of foremost, the culture that instigate it and adopt the right instruments to change it.

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