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The Italian legal framework on arms transfers: a standard-setting model bearing the marks of time

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Abstract

Italy has long been regarded as a frontrunner in the regulation of international arms transfers. Already in 1990, its Law No 185 introduced an advanced framework anticipating principles of transparency later enshrined in the EU Common Position 2008/944/CFSP and the Arms Trade Treaty. The article first analyses the origins of Law 185, highlighting its distinctive features, including rigorous reporting obligations and parliamentary scrutiny, as well as introducing the licensing procedures established thereby. The contribution further examines parliamentary practice and recent judicial proceedings related to arms exports to Saudi Arabia, the United Arab Emirates, Ukraine, and Israel, illustrating the tensions between political discretion and legal constraints. Finally, it assesses the ongoing legislative reform of Law 185, arguing that the proposed bill risks weakening democratic oversight rather than addressing the law's shortcomings. Overall, the article contends that the Italian model, while formally robust, bears the marks of time and requires substantive reform to ensure compliance with international and European obligations on arms transfer controls.

1. Introduction

The Italian regulatory framework governing arms transfers warrants attention for several reasons. According to the most recent data published by the Stockholm International Peace Research Institute (SIPRI), Italy ranked as the sixth largest exporter of major conventional arms worldwide, accounting for approximately 4.8 per cent of global transfers between 2020 and 2024. This figure reflects a striking increase of 138 per cent compared to the previous 5-year period (2015–2019). A closer examination of the geographical distribution of such transfers reveals that nearly 71 per cent of Italian exports in this period were directed

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towards the Near and Middle Eastern region.[1] These international estimates appear consistent with the latest official figures provided by the Italian Government in its annual report to Parliament, submitted pursuant to Law No 185 of 9 July 1990, the cornerstone of Italy's system of arms control.[2] In 2024, the total value of military export authorizations exceeded €7.7 billion, registering a 35 per cent increase in the value of individual authorizations as compared to the previous year.[3]

A further element that renders the Italian case particularly worthy of closer examination lies in the fact that the legislative framework adopted in 1990 has been regarded as a pioneering model in the field of arms transfer regulation, and in several respects anticipated principles later reflected in international legal instruments.[4] Nonetheless, Law 185 is currently undergoing a phase of transformation, as a bill aimed at its reform is presently under discussion in Parliament.[5]

The Italian legal framework on arms exports has several distinctive features when compared with other national legislations. This is the case, for example, with the reporting obligation on banks: all banking operations connected with the export, import and transit of armaments shall be notified to the Ministry of the Treasury, whose authorization is necessary within 30 days. Parliament must be informed annually through a dedicated section of the government's report on the role of credit institutions in such transactions.[6] Furthermore, it is important to underline that Law 185 does not expressly regulate the transfer of small arms and light weapons (SALWs), as its scope was primarily conceived to govern the export of major conventional armaments.[7] Another element worthy of attention regarding the Italian case is the presence of litigation related to licences issued by the Italian Ministry of Foreign Affairs to Italian arms exporting companies. In recent years, albeit on a few occasions,

[1] Mathew George and others, 'Trends in International Arms Transfers' 2024 (March 2025) SIPRI Fact Sheet 2ff <www.sipri.org/sites/default/files/2025-03/fs_2503_at_2024_0.pdf> accessed 31 December 2025.

[2] Legge 9 luglio 1990, n 185, Nuove norme sul controllo dell'esportazione, importazione e transito dei materiali di armamento (Gazzetta Ufficiale n 163, 14 luglio 1990) (hereafter: Law 185).

[3] Camera dei deputati, 'Relazione sulle operazioni autorizzate e svolte per il controllo dell'esportazione, importazione e transito dei materiali di armamento per l'anno 2024' (Doc LXVII, n 3, 19ª legislatura, 2025) 6 <https://documenti.camera.it/_dati/leg19/lavori/documentiparlamentari/IndiceETesti/067/003v01/INTERO.pdf> accessed 31 December 2025.

[4] Law 185 established the principle that arms transfers cannot be treated as ordinary commercial transactions, but must remain consistent with Italy's foreign policy, its commitment to human rights, and the constitutional mandate of peace enshrined in art 11 of the Italian Constitution. The law also introduced the obligation for the Government to submit an annual report to Parliament on authorized operations and set out strict prohibitions on exports to countries engaged in armed conflict, responsible for serious human rights violations, or subject to international embargoes imposed by organisations, such as the United Nations, the EU, or the OSCE. By virtue of these features, the Italian framework has frequently been regarded as anticipatory of later developments at the European and international level, including the EU Common Position 2008/944/CFSP and the ATT. Cf. the analysis by the main Italian disarmament network, Rete Italiana Pace e Disarmo, 'Anniversary of Law 185/90: Parliament must exercise more control over arms exports' (11 July 2022) <https://retepacedisarmo.org/english/2022/anniversary-of-law-185-90-parliament-must-exercise-more-control-over-arms-exports/> accessed 31 December 2025.

[5] The reform bill was introduced on 11 August 2023 and was approved by the Senate on 21 February 2024. The proposal remains under examination before the Joint Committees III (Foreign and EU Affairs) and IV (Defence) of the Chamber of Deputies (see Section 6). For updated information on the progress of the legislative process, see <www.senato.it/leggi-e-documenti/disegni-di-legge/scheda-ddl?tab=datiGenerali&did=57435> accessed 31 December 2025.

[6] Most national regimes, such as Germany's *Kriegswaffenkontrollgesetz* (Bundesrepublik Deutschland, Gesetz über die Kontrolle von Kriegswaffen (Kriegswaffenkontrollgesetz, KWKG), 20 April 1961, last amended 19 February 2025 <www.gesetze-im-internet.de/krwaffkontrg/> accessed 31 December 2025), focus on export licensing, end-use certificates, and parliamentary oversight, without explicitly mandating bank reporting or traceable anti-money-laundering measures tied to arms-specific transfers. Similarly, major frameworks like the US ITAR (International Traffic in Arms Regulations), issued under the Arms Export Control Act (AECA) US Department of State, International Traffic in Arms Regulations (ITAR), pursuant to the Arms Export Control Act (AECA), codified at 22 CFR paras 120–130 <www.ecfr.gov/current/title-22/chapter-I/subchapter-M> accessed 31 December 2025, impose strict exporter compliance obligations but do not require banks themselves to report arms-related transactions directly to the state authority or licensing body.

[7] See Section 3.

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judicial proceedings have been initiated in connection with the export of bombs and aircraft components to Saudi Arabia and the United Arab Emirates, due to their alleged use in the conflict in Yemen. More recently, legal actions have also been brought before Italian courts concerning transfers of military equipment to Israel, with claimants arguing that such exports may contribute to violations of international human rights law in the context of the ongoing hostilities in Gaza.[8]

2. The origin and the content of the Italian legislation

The process that culminated in the adoption of Law 185 can be traced back to the late 1980s, when the steady increase of Italian arms exports to countries engaged in armed conflicts, governed by repressive regimes, or subject to international embargoes, prompted the mobilization of civil society advocating for stricter regulation of military transfers. At the same time, recurrent reports of illicit arms trafficking between Italy and the Near and Middle Eastern region gave rise to a broader civil society campaign, widely referred to as the movement 'against the merchants of death'.[9]

In response to these social pressures, legislative initiatives were introduced in Parliament with the aim of tightening control over the arms sector. The legislative process leading to the adoption of the law was marked by sharp political divisions. On the one hand, certain parties stressed the importance of safeguarding the national defence industry and advocated for a more flexible regulatory framework.[10] On the other, several political forces sought to reinforce restrictions on the international arms trade, particularly with states engaged in armed conflict.[11] The final version of the statute reflects a compromise between these competing positions: while preserving a degree of protection for domestic defence manufacturers, it simultaneously sought to give effect to the pacifist principle enshrined in Article 11 of the Italian Constitution, which 'rejects war as an instrument of aggression against the freedom of other peoples and as a means for the settlement of international disputes'.[12]

Law 185 introduced an authorization regime applicable to all national companies engaged in the export or transfer of arms. This marked a crucial shift from the previous framework governed predominantly by the *Regio Decreto* (Royal Decree) No 1161 of 11 July 1941, which treated arms transfers as matters of State secrecy, thereby excluding parliamentary scrutiny.[13]

[8] See Section 5.

[9] The movement was predominantly made up of Catholic and pacifist organizations, which, throughout the 1980s, engaged with parliamentary groups and sought to raise awareness among employees in arms manufacturing facilities of the need for more stringent controls on international arms transfers. Cf. the stenographic record of the 1 March 1989 session of the Third Committee on Foreign Affairs of the Chamber of Deputies <https://documenti.camera.it/_dati/leg10/lavori/Bollet/19890301_00_04.pdf> accessed 31 December 2025.

[10] This stance was expressed by the then Minister of Defence, Valerio Zanone, who, on 9 December 1987, while presenting draft law No 2033—which would later become Law No 185—emphasized the need to reinforce an economic sector characterised by significant employment levels and a substantial technological impact on the civil industry. The Minister's statement is available at the following link; see, in particular, page 3 <https://documenti.camera.it/_dati/leg10/lavori/stampati/pdf/20330001.pdf> accessed 31 December 2025.

[11] The Italian Communist Party, in contrast, advocated for the establishment of a regulatory framework in which economic considerations would be subordinated to political priorities. For further reference, see draft law No 1419 (6 August 1987) 3 <https://legislature.camera.it/_dati/leg10/lavori/stampati/pdf/14190001.pdf> accessed 31 December 2025.

[12] On this point, see Luigi Zuccari, *Il commercio di armi convenzionali nel diritto internazionale* (Edizioni Scientifiche Italiane 2024) 315ff.

[13] The Royal Decree No 1161 of 11 July 1941, titled 'Norme relative al segreto militare', established a regime where the export, import, and transit of armaments were subject to strict confidentiality and required authorization from the Supreme Defence Commission. Under this framework, there was no parliamentary oversight, and the criteria guiding arms transfers were primarily commercial in nature.

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The licensing procedure established by Law 185 involves the participation of several institutional actors with distinct responsibilities, and a central role assigned to the Ministry of Foreign Affairs. Within the Ministry, the *Unità per le autorizzazioni dei materiali di armamento* (Unit for the Authorisation of Armament Materials—UAMA) is responsible for examining applications submitted by private industries and for determining their compliance with the substantive requirements of the law. The UAMA ensures that no authorizations are granted in cases expressly prohibited by Article 1(6) of Law 185, which bans the export, import or transit of armaments towards states engaged in armed conflict in violation of Article 51 of the UN Charter, countries whose governments are responsible for serious human rights violations, and states subject to international embargoes imposed by the United Nations, the European Union (EU), or other relevant international organizations.

The legislation establishes two distinct authorization procedures: one governing exports to third countries—subject to particularly strict and comprehensive controls—and another, reserved exclusively for intra-EU transfers, which is based on simplified administrative mechanisms.[14] In the case of exports to third countries, companies are required to notify both the Ministry of Foreign Affairs and the Ministry of Defence at the outset of contractual negotiations with the prospective purchasing authorities. Within 60 days, either ministry may prohibit the continuation of such negotiations; if there is no prohibition, and once the negotiations have been concluded, the company may apply to the UAMA for the authorization to export, import, broker, or otherwise transfer arms (Article 9).

This application must contain, *inter alia*, detailed information concerning the type and quantity of the material, the overall contract value, the country of final destination, the identity of intermediaries, as well as an end-user certificate issued by the competent authorities of the importing State, expressly guaranteeing that the material will not be re-exported without prior consent of the Italian authorities (Article 11(3)(c)). The UAMA is required to decide upon the application within 60 days and, if successful, the Ministry issues an individual licence authorizing the relevant operation—be it brokering, relocation, transfer, export, import, whether permanent or temporary, or transit (Article 13(1)).

Once granted, the licence must be executed within the time limits expressly indicated, although companies retain the right to request an extension of up to 24 months prior to its expiry (Article 14). In specific cases, the authorization may be granted in the form of a global project licence, a category introduced under Directive 2009/43/EC to facilitate arms transfers between EU Member States.[15]

The law also introduces a mechanism of parliamentary oversight over the Government's licensing activities. Pursuant to Article 5, the Prime Minister is required to submit to the Parliament each year a comprehensive report detailing all transactions authorized and executed up to 31 December of the preceding year.[16] In principle, this reporting obligation is a cornerstone of transparency in governmental decision-making regarding arms transfers, enabling not only parliamentary scrutiny but also oversight by civil society. Yet, scholarly commentary has noted that the governmental practice of producing lengthy and

[14] This second procedure is provided for in compliance with Directive 2009/43/EC, which regulates intra-EU transfers of defence-related products, with a simplified licensing system for transfers between EU Member States. The Directive provides for general, global and individual transfer licences and introduces a certification regime for reliable recipients. It applies to products listed in the EU Common Military List and does not affect the export control regime applicable to transfers to third countries under Common Position 2008/944/CFSP.

[15] See Zuccari (n 12) 214ff.

[16] See, for example, the debate on the 2024 Report: Senato, 3ª Commissione permanente (Affari esteri e Difesa), martedì 13 maggio 2025, 131ª Seduta, 'Materie di competenza' <www.senato.it/show-doc?leg=19&tipodoc=SommComm&id=1455439&idoggetto=0&part=doc_dc-sedetit_mdc-genbl_rsoaespicdietdm> accessed 31 December 2025.

technically complex reports may, paradoxically, reduce the effectiveness of such oversight. By obscuring rather than clarifying the information provided, this practice risks undermining the very objectives of accountability that the reporting mechanism was designed to promote.[17]

3. The Italian legal framework from the perspective of international and EU law

Italy ratified the Arms Trade Treaty (ATT)[18] without enacting any specific implementing legislation. This was a conscious governmental choice, as reflected in the parliamentary debates of 2013. The ratification law[19] introduced no substantive amendments to the existing regulatory framework, on the rationale that Italy already possessed a sufficiently advanced system to ensure compliance with the Treaty, particularly through Law 185.[20]

Indeed, a closer examination of the Italian legislation reveals that, alongside provisions that are compatible with European and international obligations, there are also significant discrepancies. With regard to provisions compatible with supranational obligations, for example, reference should be made to Article 1(6)(c) of Law 185, which prohibits the export of arms 'to countries subject to a total or partial embargo on military supplies by the United Nations, the European Union, or the Organization for Security and Cooperation in Europe'. Such provision meets the requirements of Article 6 of the ATT, according to which, '[a] State Party shall not authorize any transfer of conventional arms […] if the transfer would violate its obligations under measures adopted by the United Nations Security Council acting under Chapter VII of the Charter of the United Nations, in particular arms embargoes', and with Article 2, criterion No. 1, of Common Position 2008/944/CFSP,[21] according to which, '[a]n export license shall be denied if approval would be inconsistent with, inter alia: (a) Member States' international obligations and commitments to comply with arms embargoes adopted by the United Nations, the European Union, and the Organization for Security and Cooperation in Europe'.

Of particular interest appears to be Article 1(6)(d), which prohibits arms exports 'to countries whose governments are responsible for serious violations of international human rights conventions, as determined by the competent bodies of the United Nations, the EU, or the Council of Europe'. A literal interpretation of this provision could imply that a formal condemnation by these bodies is essential to activate the prohibition, thereby excluding reports by NGOs or even the UN Secretary-General, which cannot be regarded as emanating from 'competent' authorities in the strict sense. Even more strikingly, a judgment of the International Criminal Court (ICC) finding that international crimes have been committed in the recipient State would not suffice to trigger the ban, since the ICC is not an organ of the UN, the EU, or the Council of Europe.[22]

[17] This is the opinion of Zuccari (n 12) 352.
[18] ATT (opened for signature 3 June 2013, entered into force 24 December 2014) 3013 UNTS 269.
[19] Legge 4 October 2013, n. 118, Ratifica ed esecuzione del Trattato sul commercio delle armi, fatto a New York il 2 aprile 2013, Gazzetta Ufficiale n. 242, 15 October 2013.
[20] Senato della Repubblica, Resoconto stenografico, 110[a] Seduta (25 September 2013) 43 <www.senato.it/service/PDF/PDFServer/BGT/716870.pdf> accessed 31 December 2025. On behalf of the Government, Senator Corsini stated: '[T]he Italian legislation on the control of armament materials (Law No. 185 of 1990) still represents today one of the most advanced and stringent regimes at the global level. Our country, also thanks to subsequent EU legislation, is already in a position to fully implement the provisions of the Treaty without the need for further domestic measures', translation by the authors.
[21] Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment [2008] OJ L 335/99.
[22] See Zuccari (n 12) 340.

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More generally, Article 1(6)(d) of Law 185 seems to stand in evident contrast with Article 7 of the ATT. Whereas the ATT requires States Parties to deny an export whenever there is a mere risk that the arms 'could be used to commit or facilitate a serious violation of international humanitarian law or international human rights law', the Italian provision limits its scope to situations in which the recipient State has been condemned by the 'competent bodies' of the UN, the EU, or the Council of Europe for serious human rights violations. This creates a double divergence: on the one hand, Article 1(6)(d) omits any reference to international humanitarian law, thereby narrowing the range of violations capable of triggering the export prohibition; on the other hand, the Italian framework is premised upon an *ex post* ascertainment of responsibility, whereas the ATT operates on an *ex ante* risk assessment, requiring States to adopt preventive measures and mitigation strategies. The Italian regime imposes a reactive standard, while the ATT demands a precautionary approach.[23]

A further divergence between Law 185 and international norms concerns the issue of diversion. Article 11 of the ATT requires exporting States to assess the risk that exported arms may be diverted and to adopt appropriate mitigation measures, including enhanced documentation, information-sharing, and post-export monitoring. Similarly, the EU Common Position 2008/944/CFSP explicitly lists the risk of diversion among the criteria to be considered when authorizing exports (Article 2, criterion No 7). In contrast, the Italian legislation does not provide for a specific mechanism to evaluate or prevent diversion, relying instead on the traditional requirement of end-use certificates. This limited approach leaves a significant gap, as it neither requires *ex ante* risk assessment nor provides procedures to address diversion once it has occurred, thereby falling short of the preventive standards set at the EU and international level.[24]

In this context, it is worth highlighting the Italian government's decision to accede to the 2021 framework 'Agreement on Defence Export Controls', to which Germany, France, Spain, and the UK are already parties.[25] Pursuant to this agreement, the authority to grant export authorizations rests solely with the contracting State in which the final manufacturer is established, acting in accordance with its national legislation, while the other contracting parties undertake not to oppose such exports, save in duly justified exceptional circumstances.[26]

Another shortcoming of Law 185 concerns its silence with respect to the regulation of exports of SALWs. In contrast, both the EU Common Position 2008/944/CFSP and the ATT expressly encompass this category of weapons. Whereas the Common Position refers in its preamble to a series of international instruments specifically addressing SALWs, Article 2 of the ATT explicitly lists them among the categories of conventional arms falling within the scope of the treaty.

In the Italian legal order, SALWs are instead covered by a different legal regime, namely Law No 110 of 1975,[27] which entrusts the Ministry of the Interior with the competence to

[23] However, it must be acknowledged that a forward-looking (prognostic) assessment cannot be conducted in the abstract, but must be informed, at least in part, by a careful examination of the recipient State's past conduct and established practice. Such an assessment would allow competent authorities to ground predictive judgments in empirical evidence, thereby enhancing the legitimacy of export licensing decisions.

[24] In this regard, art 1(5) of Law 185 merely states that 'The export and transit of military equipment, as well as the transfer of related production licenses, are prohibited (…) when there are no adequate guarantees regarding the final destination of the equipment.'

[25] Agreement on defence export controls, Paris, 17 September 2021 <https://assets.publishing.service.gov.uk/media/68b184e911b4ded2da19fc55/MS_5.2025_Agreement_Defence_Export_Controls.pdf>

[26] The English version of the Agreement can be consulted on the British government website at <www.gov.uk/government/publications/agreement-on-defence-export-controls> accessed 31 December 2025.

[27] Law No 110 of 18 April 1975, Norme integrative della disciplina vigente per il controllo delle armi, delle munizioni e degli esplosivi, Gazzetta Ufficiale No 105, 21 April 1975.

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authorize transfers, primarily from the perspective of internal security and public order rather than international humanitarian or human rights obligations. In particular, under Article 16 any firearm intended for export must undergo a customs inspection as well as verification by the national financial police. Moreover, the competence to grant the export licence lies with the *Questore* (the provincial head of police). This institutional arrangement highlights the focus of the Italian framework on internal security considerations, rather than on broader assessments linked to international law.

These gaps in the Italian legal framework on arms transfers have not gone unnoticed during the most recent cycle of the Universal Periodic Review (UPR) before the UN Human Rights Council. On that occasion, some States and civil society organizations raised concerns about the insufficiency of Italy's controls on arms exports, particularly those directed to conflict-affected regions. Iceland recommended that Italy ensure that all transfers are fully consistent with its obligations under the ATT, while Namibia urged the adoption of further measures to prevent transfers that could facilitate human rights violations, including gender-based violence disproportionately affecting women. Ecuador additionally recommended that Italy incorporate a human rights impact assessment into its export control mechanisms.[28] Italy formally accepted the recommendations of Iceland and Namibia, whereas Ecuador's proposal was only 'noted'. In responding, however, Italy did not engage with the core element of Ecuador's recommendation concerning the systematic integration of human rights impact assessments into its export licensing process, leaving a significant gap between international expectations and domestic practice.[29]

With regard to SALWs, on the other hand, reports by non-governmental organizations, as well as journalistic investigations, have shed light on instances in which Italian-manufactured arms have been diverted to contexts of repression and armed violence. A notable inquiry conducted in early 2025 revealed that Italy continued to authorize exports of arms and ammunition for purportedly 'civilian' use to Israel, some of which were subsequently channelled to illegal settlements.[30] This occurred in a context marked by escalating violence against Palestinians, notwithstanding repeated governmental declarations stating the suspension of arms transfers to Israel since 2023.[31] Within this framework, the absence of a centralized control mechanism for SALWs—analogous to the regime established under Law 185 for major conventional weapons—emerges as a structural weakness and raises doubts as to Italy's control system's effectiveness in ensuring compliance with international humanitarian law and human rights.

[28] Human Rights Council, 'Report of the Working Group on the Universal Periodic Review: Italy' (27 December 2019) UN Doc A/HRC/43/4 (Report of the Working Group) <https://docs.un.org/en/A/HRC/43/4> accessed 31 December 2025. See in particular para 148.232, 148.15, 148.7 for the statements of Namibia, Iceland, and Ecuador.

[29] See TMC Asser Instituut and Global Rights Compliance, 'Joint Submission to the United Nations Universal Periodic Review: Italy – 45th Session' (December 2023) 2 <www.asser.nl/media/797445/asser-grc-joint-submission-to-italy-upr.pdf> accessed 31 December 2025.

[30] See Elisa Brunelli, 'Armi e munizioni italiane in mano ai coloni nei Territori occupati' (1 January 2025) Altreconomia <https://altreconomia.it/armi-e-munizioni-italiane-in-mano-ai-coloni-nei-territori-occupati/> accessed 31 December 2025.

[31] See, for instance, the statement delivered by Defence Minister, Guido Crosetto, during a plenary session of the Senate on 14 March 2024 (169th Meeting, XIX Legislature), <www.senato.it/service/PDF/PDFServer/BGT/1411260.pdf> accessed 31 December 2025. On that occasion, the Minister noted that, following the Hamas attack of 7 October 2023, the Ministry of Foreign Affairs and UAMA had suspended the issuance of new arms export licences to Israel under Law 185. The Minister also stated that most licences issued prior to 7 October had already been executed, while the outstanding authorisations were being assessed on a case-by-case basis, with the exclusion of items deemed capable of affecting the civilian population in Gaza.

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4. Overview of cases and parliamentary practice

Parliamentary practice has historically played an important role in the Italian system of arms export control, both as a means of ensuring transparency and as an instrument of political oversight.

In this context, particular attention must be paid to the annual governmental reports submitted pursuant to Article 5 of Law 185. These reports, prepared by the Presidency of the Council of Ministers, constitute a primary source of official data, including information on the recipient States of Italian-produced military equipment, the companies that have benefitted from UAMA authorizations, and the categories of arms exported. Despite their relevance, however, the accessibility of such information is significantly hampered by the technical structure of the reports, which often extend over several hundred pages and rely extensively on complex systems of cross-tabulation.[32]

Pursuant to Article 5 of Law 185, the *Relazione sulle operazioni autorizzate e svolte per il controllo dell'esportazione, importazione e transito dei materiali di armamento* is submitted annually to the Parliament by the President of the Council of Ministers. Such report, which must be presented by 31 March of each year and provides an account of the authorizations granted with statistical data and the geographical distribution of licences up to 31 December of the preceding year, is examined within the competent parliamentary committees.[33]

The most recent report, related to the year 2024,[34] shows, *inter alia*, a decline in Ukraine's position as a recipient country—from second place to eleventh—with licences amounting to approximately 222 million Euro. The document also stresses, however, that arms transfers managed directly by the Ministry of Defence are excluded from the Report's statistics, as they 'do not require UAMA's authorisation'. Similarly, it is expressly stated that Israel does not appear among the data for 2024 because 'the nature of the Israeli intervention in Gaza in response to the criminal assault carried out by Hamas on 7 October 2023 led the UAMA National Authority to refrain from granting new export authorisations under Law No. 185/1990'.[35]

The supply of weapons to Ukraine raises complex issues arising not only from the gratuitous nature of the transfers, but also from the fact that the actors involved in the transaction are States themselves. Unlike ordinary transactions, where a private supplier exports arms to companies or entities duly authorized by the importing State, in this instance the transfers consisted of the direct cession of weapons, carried out by the Italian State itself, in its own name and on its own behalf, in favour of the Ukrainian armed forces. In this instance, the Government decided to rely on special legislative measures adopted after the outbreak of the conflict in 2022, circumventing the ordinary regime of Law 185.[36] Scholars contend that

[32] See Section 2.

[33] See, for example, the discussion on the 2024 Report, Senate, 3rd Standing Committee (Foreign Affairs and Defence), Tuesday, 13 May 2025, 131st Session <www.senato.it/show-doc?leg=19&tipodoc=SommComm&id=1455439&idoggetto=0&part=doc_dc-sedetit_mdc-genbl_rsoaespicdietdm> accessed 31 December 2025.

[34] Camera dei Deputati, 'Relazione sulle operazioni autorizzate e svolte per il controllo dell'esportazione, importazione e transito dei materiali di armamento per l'anno 2024' (Doc LXVII, no. 3, XIX Legislature) 7 <https://documenti.camera.it/_dati/leg19/lavori/documentiparlamentari/IndiceETesti/067/003v01/INTERO.pdf> accessed 31 December 2025, translation by the authors.

[35] ibid 30. Translation by the authors.

[36] The authorization was granted by decree-law No 14 of 25 February 2022, 'Urgent provisions on the crisis in Ukraine' (Official Gazette No 87 of 13 April 2022). Article 2-*bis* of the decree provides that 'subject to a resolution by Parliament, the transfer of military vehicles, materials and equipment to the Ukrainian government authorities is authorised, in derogation from the provisions of Law No 185 of 9 July 1990' (translation by the authors). On this point cf Marco Pertile, 'The Reaction to the Russian Federation's Invasion of Ukraine and the Debate on the Provision of Weapons to the State Victim of Aggression' (2022) 32 IYIL, 522; Antonino Alì, 'The Authorization of Military Assistance to Ukraine and the Recognition of the Holodomor as Genocide' (2023) 33 Italian Yearbook of International Law 544; Paolo Turrini, 'Italy's Support to Ukraine's War Effort: Neither Unconditional Military Aid, Nor Unconditional Peace' (2024) 34 Italian Yearbook of International Law 432.

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no derogation was, in fact, required, on the grounds that Law 185 does not apply to inter-State transfers of arms by virtue of an explicit exclusion clause provided for in Article 1(9), nor to transfers carried out free of charge, such as the current deliveries to Ukraine.[37] This case thus brings to the forefront the differentiated treatment of transfers managed directly by the Ministry of Defence versus those subject to UAMA authorization. Such distinction has the effect of creating gaps in the transparency of official reporting constraining Parliament's ability to scrutinize arms exports with substantial political significance. The exclusion of these transfers from the reporting procedure raises concerns about consistency with Italy's international obligations, including the ATT and EU Common Position 2008/944/CFSP, which aim to ensure that all transfers are assessed in light of human rights, humanitarian, and security considerations.

Parliamentary debates in previous cases, related to the export of arms to Egypt, Turkey, the United Arab Emirates, and Saudi Arabia reveal a broader tendency in governmental practice to rely predominantly on the domestic framework of Law 185, while failing to engage fully with the additional criteria arising from the ATT and EU Common Position, particularly the forward-looking assessment of the risk that exported arms may be used to commit serious violations of international humanitarian law.[38] This omission is significant because, as has been mentioned, Law 185 does not contain an autonomous criterion on compliance with international humanitarian law comparable to those found in the supranational instruments.[39] Following Turkey's launch of 'Operation Peace Spring' in north-eastern Syria in October 2019, for instance, the Government announced its intention to block arms exports to Ankara. In parliamentary debates, however, the Minister of Foreign Affairs suggested that, for the purposes of Law 185, a formal determination by an international organization of the existence of an armed conflict between Turkey and Syria was necessary to halt both new and ongoing authorizations.[40] This position was criticized as difficult to reconcile with the structure of Law 185, since Article 1(6)(a) does not appear to condition the prohibition of exports to States engaged in armed conflict on such prior international determination.[41]

The application of Law 185 has also been debated in connection with arms exports to Israel following the events of 7 October 2023. During multiple plenary sessions of the Senate, concerns were raised about the compatibility of such transfers with Article 1(6)(a), which prohibits exports to States engaged in armed conflict, except as authorized by the Council of Ministers or in compliance with Italy's international obligations.[42] Initial government

[37] See Antonello Ciervo, 'Critica delle armi. L'articolo 11 della Costituzione, la legge n 185/1990 e l'invasione dell'Ucraina da parte della Federazione Russa' in Gaetano Azzariti (ed), *Il costituzionalismo democratico moderno può sopravvivere alla guerra?* (Editoriale Scientifica 2022) 195ff; Antonello Lo Calzo, 'L'attualità del fenomeno bellico tra principi supremi e assetto delle fonti. L'ordinamento italiano di fronte alla guerra in Ucraina' (2023) Consulta Online 230ff <https://giurcost.org/contents/giurcost/studi/localzo5.pdf> accessed 31 December 2025. cf Marco Benvenuti, 'Le conseguenze costituzionali della guerra russo-ucraina. Prime considerazioni' (2022) 3 Osservatorio Costituzionale 35ff and Pierfrancesco Rossi, 'La compatibilità con il diritto internazionale e la Costituzione italiana dell'invio di aiuti militari all'Ucraina' (8 March 2022) SIDIBlog <http://www.sidiblog.org/2022/03/08/la-compatibilita-con-la-costituzione-italiana-e-il-diritto-internazionale-dellinvio-di-armi-allucraina/> accessed 31 December 2025.

[38] cf Iotam Lerer, 'The Position of Italy on the Cases of Arms Exports to Turkey, Saudi Arabia and the United Arab Emirates' (2020) 29 Italian Yearbook of International Law 495.

[39] Iotam Lerer, 'Arms Exports to Some Near- and Middle-Eastern Countries' (2021) 30 Italian Yearbook of International Law 534.

[40] See the statement by the then Minister of Foreign Affairs, Luigi Di Maio, during a plenary meeting of the Senate on 30 October 2019 (160th Meeting, XVII Legislature) <https://www.senato.it/service/PDF/PDFServer/BGT/01125229.pdf>

[41] Lerer (n 40) 497.

[42] See, in this regard, the statements made by the President of the Council of the Ministers Meloni in the Senate, 231st Meeting, XIX Legislature, 15 October 2024, stenographic report, pages 39 and 45: <www.senato.it/service/PDF/PDFServer/BGT/1429699.pdf> accessed 31 December 2025.

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statements asserting a full suspension of transfers to Israel were subsequently qualified in the light of the National Institute of Statistics (ISTAT) trade data.[43] In a later response to a parliamentary question, Minister of Defence Crosetto clarified that, following the Hamas attack, the Ministry of Foreign Affairs and UAMA had suspended the issuance of new licences to Israel. Licences issued prior to 7 October were largely executed, with the remaining assessed individually to avoid items impacting Gaza's civilian population. He also noted that both EU law and the ATT require item-specific, risk-based evaluations rather than general assessments of a state's conduct.[44]

Together with the case of Ukraine, these episodes highlight the complexities of Italy's arms export control system, particularly regarding the transparency and parliamentary oversight of politically sensitive transfers. In this regard, it is worth highlighting that in Italy the general framework governing State transparency obligations is established by Legislative Decree No. 33 of 14 March 2013 (the so-called Transparency Decree). Based on the exemptions contained in the decree, governmental authorities tend to deny disclosure requests. In administrative proceedings, UAMA has frequently argued that the release of documents relating to arms export negotiations would jeopardize the protection of public interests in the fields of international relations, defence, and national security. Moreover, it has been claimed that publication of such information could also harm private interests, particularly in relation to intellectual property and trade secrets, thereby justifying the refusal to disclose the requested materials.[45]

5. Overview of litigation

Italian case law on the implementation of international obligations relating to the arms trade is rather limited, despite extensive social and political debate on the subject. In the course of criminal proceedings, a key case concerned senior officials of UAMA and managers of the company RWM Italia, who were accused by three NGOs of murder, manslaughter, and abuse of office.[46] The proceedings arose from an air raid carried out by Saudi forces against a Yemeni village in October 2016, during which fragments of bombs manufactured by RWM Italia and exported to Saudi Arabia, under licences issued by UAMA in 2015, were recovered at the site. In 2021, the Judge for Preliminary Investigations (GIP) rejected the prosecutor's request for dismissal of the case and ordered the continuation of the investigation, albeit solely with respect to the charge of abuse of office, which required proof of an unlawful pecuniary benefit.[47] Ultimately, in 2023, following a second request from the public prosecutor, a

[43] ISTAT, 'Foreign Trade Statistics' (February 2024) <www.istat.it/en/press-release/foreign-trade-and-import-prices-december-2023/> accessed 31 December 2025, reporting Italian exports of 'arms and ammunition' to Israel with a declared value of €817,536 between November and December 2023.

[44] See (n 31). On this point, see Filomena M Tulli, 'The Ongoing Reform of the Italian Law on Arms Export and Recent Policy Trends in This Field' (2024) 34 Italian Yearbook of International Law 443.

[45] In this regard, see the requests for access to information (so-called 'Accesso civico generalizzato – FOIA') for the years 2017-2024, available at the following link: <www.esteri.it/it/trasparenza_comunicazioni_legali/altri-contenuti-canale/accesso-civico-altri-contenuti-accesso-civico/accesso-civico-generalizzato-c/> accessed 31 December 2025. In almost all cases, the reason for denying access to information related to arms exports, even to specific countries, is due to 'prejudice to the protection of public interests in international relations, defence and military matters; prejudice to the protection of private interests in intellectual property, copyright and trade secrets'.

[46] RWM Italia belongs to the Rheinmetall Group, a German firearms manufacturer. The complaint was filed by the NGOs European Centre for Constitutional and Human Rights (ECCHR), the Yemeni Mwatana for Human Rights and the Italian Rete Italiana Pace e Disarmo.

[47] The GIP's order, which also includes a reconstruction of the events occurred in Yemen and the reasons given by the public prosecutor in 2018 for dismissing the case, can be found together with a legal commentary in Maria Crippa, 'Licenze all'esportazione di armamenti verso l'Arabia Saudita: il G.i.p. di Roma ordina la prosecuzione delle indagini sulle responsabilità italiane per i bombardamenti in Yemen' (6 May 2021)

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different investigating judge ordered the case to be dismissed but acknowledged that UAMA officials were 'certainly aware of the possible use of the arms sold by RWM to Saudi Arabia in the conflict in Yemen to the detriment of civilians'.[48] Yet, from the standpoint of domestic law, while the court recognized that the defendants were aware of the risk of violations of Articles 6 and 7 of the ATT, it found that no unlawful pecuniary advantage had been obtained by RWM Italia. Finally, in July 2023, two relatives of the victims and one survivor of the 2016 attack brought a complaint against Italy before the European Court of Human Rights, alleging that the Italian authorities had failed to hold those responsible accountable for the violation of their right to life under Article 2 of the European Convention on Human Rights (ECHR), for which the admissibility ruling is now awaited.[49]

Parallel to the criminal proceedings, litigation also took place before the administrative courts. Following the Italian government's decision in January 2021 to suspend military export licences to Saudi Arabia, RWM Italia challenged the measure before the Lazio Regional Administrative Court (TAR). In April 2021, the TAR dismissed the company's appeal, stressing that 'the risks that the ordnance subject to the authorisations at issue may affect the Yemeni civilian population are amply substantiated and serious, contrary to the clear principles of national and international law'.[50] The decision was subsequently upheld by the highest administrative court, Consiglio di Stato, in July of the same year. As a result, the suspension of export licences for Italian companies supplying Saudi Arabia was confirmed.[51]

A second legal action, linked to more recent events, concerns the proceedings brought by a former resident of Gaza, Salahaldin Abdalaty. In April 2024, he filed an application before the Ordinary Court of Rome seeking to establish the Italian government's responsibility for 'joint civil liability' in 'human rights violations committed in Gaza by the Israeli authorities'. *Inter alia*, the application asked the Court to order: '1. the immediate imposition of a ban on the sale and/or transfer and/or delivery in any form, even indirect [...] of weapons, armaments, [...] 2. to prohibit the conclusion of new contracts relating to the above and to terminate existing ones. [...] 6. and in any case, the immediate suspension of any direct or indirect support for the military operations of the State of Israel in the Gaza Strip and the immediate suspension of any activity connected with it'. On 30 May 2024, the Court dismissed the application as inadmissible, citing both a lack of jurisdiction and asserting that the applicant requested 'the adoption of measures that affect the exercise of the political power of the State' that it would not be 'the responsibility of the Judicial Authority to judge the way in which the State exercises its sovereign functions'. The Court held that the judiciary has no competence to review the exercise of sovereign powers by the State—particularly acts performed in the sphere of international relations—which fall exclusively within the realm of political responsibility and cannot give rise to a legally protected interest.[52]

Sistemapenale.it <www.sistemapenale.it/it/scheda/gip-roma-2021-esportazione-armamenti-arabia-saudita> accessed 31 December 2025.

[48] The content of this latest dismissal order, although not officially published, was made public by the non-governmental organisations that appealed the case, which released some excerpts from it, available at: <www.ecchr.eu/fileadmin/user_upload/Analisi_giuridica_preliminare.pdf> (13 March 2023) accessed 31 December 2025.

[49] This news can be found on the website of the European Centre for Constitutional and Human Rights (ECCHR), at: <www.ecchr.eu/en/case/european-responsibility-for-war-crimes-in-yemen/> accessed 31 December 2025.

[50] TAR Lazio, order n. 02386 (22 April 2021) <https://mdp.giustizia-amministrativa.it/visualizza/?nodeRef=&schema=tar_rm&nrg=202103501&nomeFile=202102386_05.html&subDir=Provvedimenti> accessed 31 December 2025.

[51] Consiglio di Stato, sez. IV, order n. 202103676 (5 July 2021) <www.giustizia-amministrativa.it/web/guest/dcsnprr?p_p_id=decisioni_pareri_web_DecisioniPareriWebPortlet_INSTANCE_XKc17mrB8J10&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&_decisioni_pareri_web_DecisioniPareriWebPortlet_INSTANCE_XKc17mrB8J10_javax.portlet.action=search&p_auth=bMwr3YCm> accessed 31 December 2025.

[52] The application and the ruling of the Court of Rome are on file with the authors.

6. The bill of reform

In 2024, the Italian Senate approved a draft law introducing significant amendments to Law 185.[53] The proposal, which is currently under examination by the Chamber of Deputies,[54] has been officially presented as a measure to ensure coordinated political oversight of strategic decisions in the field of defence trade.[55] However, despite this declared purpose, several of its provisions have raised serious concerns among civil society organizations and scholars, particularly in relation to the transparency and accountability of the Italian export control system.

There are four main amendments introduced by the bill. The most notable change concerns the re-establishment of the *Comitato interministeriale per gli scambi di materiali di armamento per la difesa* (Interministerial Committee for the Exchange of Armament Materials for Defence—CISD). This body, originally envisaged in the 1990 law and subsequently abolished by Law No 537 of 24 December 1993, is now being reinstated with the declared objective of ensuring 'appropriate coordination at the highest political level' in the definition of Italy's strategic policies regarding the trade of armament materials. According to the draft reform, the CISD would be chaired by the President of the Council of Ministers and composed of the Ministers of Foreign Affairs, Interior, Defence, Economy and Finance, and Enterprises and Made in Italy. Under the wording of the newly introduced Article 6, the Committee would be entrusted with the task of formulating the general guidelines for the application of Law 185, setting general directives for the transfer of armament materials, and defining criteria for the application of prohibitions on transfers not deriving from international obligations.

While such a reform appears, at least formally, to strengthen political coordination at the highest level, its practical implications raise important questions. The composition of the CISD, which exclusively includes members of the executive, suggests a clear shift towards a more politically driven process of export authorization, potentially at the expense of the legal scrutiny that has traditionally characterized the activity of the UAMA.[56] Moreover, the draft law fails to clarify how the CISD's functions would interact with those of the UAMA, leaving room for institutional ambiguity. Civil society actors have expressed concerns that this reform could weaken the technocratic component of the authorization process, fostering a more automatic convergence between political and administrative decisions in the field of arms exports.[57] Equally problematic is the absence of any provision allowing for external input into the decision-making process: non-governmental organizations would no longer be in a position to submit information or raise concerns regarding the human rights situation in recipient countries.[58]

[53] Disegno di Legge, 'Modifiche alla legge 9 luglio 1990, n. 185, recante nuove norme sul controllo dell'esportazione, importazione e transito dei materiali di armamento', Atto Senato n 855, XIX Legislatura <www.senato.it/service/PDF/PDFServer/BGT/01387060.pdf> accessed 31 December 2025. For a comprehensive account of the Italian legal framework governing arms exports, particularly in light of the proposed reform of Law 185, see Marco Pertile, 'The Legality of Arms Transfers to Israel after 7 October: The Relationship Between the International Legal Framework on Arms Trade and Law No. 185 of 1990' (2023) 33 IYIL 538.

[54] To follow the progress of the bill's approval, refer to the Chamber of Deputies website at <www.camera.it/leg19/126?leg=19&idDocumento=1730> accessed 31 December 2025.

[55] Atto Senato n 855, XIX Legislatura 3.

[56] In this regard, see Zuccari (n 12) 381.

[57] This is the most critical aspect of the entire proposed reform, according to the Rete Italiana Pace e Disarmo (Italian Peace and Disarmament Network): <https://retepacedisarmo.org/2025/i-35-anni-della-legge-185-90-preservare-controllo-e-trasparenza-su-export-di-armi/> accessed 31 December 2025.

[58] This is the alarm raised by over 80 associations, including Rete Italiana Pace e Disarmo and Amnesty International Italy. The appeal can be viewed at <https://retepacedisarmo.org/petizione-legge185/> accessed 31 December 2025.

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A second major modification introduced by the reform concerns the Government's obligation to submit the annual report to Parliament on the export of armament materials provided for in Article 5 of Law 185. Under the existing framework, this report must be presented by 31 March of each year and includes a detailed set of tables providing comprehensive information on the authorizations granted, their financial value, and the destination countries. The proposed amendment extends the deadline to 30 April and, more significantly, reduces the level of detail required in the report. The new version would replace the current analytical tables with much more concise ones, lacking in detail on what has been exported, thus substantially limiting Parliament's ability to exercise meaningful oversight over export activities. Such a reduction in the informational content of the report would not only hinder the possibility of parliamentary control but also undermine one of the pillars which made Law 185 forward-looking at the end of the last century, namely transparency and accountability in the field of arms transfers.

Equally concerning is the proposed abolition of the obligation to report on the activities of credit institutions operating in Italy whose financial transactions support the trade of armaments. The existing Article 27(4) of the law currently requires the inclusion of a dedicated chapter in the Government's annual report, outlining the operations conducted by banks in relation to arms trade financing. The draft reform provides for the complete abrogation of this provision. This change would represent a major step backwards in terms of financial transparency, as it would eliminate the only official mechanism allowing Parliament and the public to monitor the role of Italian banks in supporting the defence trade sector.

Beyond these specific amendments, the draft reform maintains several structural shortcomings that have long been criticized by scholars and civil society. The law still makes no explicit reference to the ATT, despite Italy's ratification in 2013. Nor does it establish a clear prohibition on exports to countries where there is a serious risk of grave violations of international humanitarian law; the only criterion retained continues to be respect for human rights in general terms.[59] Furthermore, the export of small arms remains outside the scope of the law,[60] as these transactions continue to be authorized through ordinary police licences, thereby escaping parliamentary scrutiny altogether.

Taken together, these elements depict a reform that, rather than strengthening the original spirit of Law 185, appears to move away from its founding principles. The lack of official mechanisms for dialogue between the Government and civil society, the vague delineation of the CISD's functioning, and the reduction in both the quantity and quality of information available to Parliament risk eroding the balance between executive discretion and democratic control that the 1990 law had sought to establish.

7. Concluding remarks

The Italian legal framework on arms export control has long been recognized for its pioneering nature, introducing the principles of parliamentary oversight and respect for human rights into an area historically characterized by executive discretion. Yet, as this analysis has shown, the application of Law 185 is marked by ambiguities that challenge the credibility of Italy's export control policy.

Law 185 has revealed significant gaps in its material scope—most notably, the exclusion of small arms and light weapons, as well as the non-envisioning of international humanitarian law—and limited conformity with the criteria established by the EU Common Position and the ATT.

[59] See Sections 2 and 3.
[60] See Section 3.

Parliamentary practice and governmental reporting mechanisms, though formally comprehensive, have also proved insufficient to ensure accountability. The annual report to Parliament is cumbersome to interpret, and its informational value has been reduced over time. Parliamentary debates continue to play an important role in shedding light on sensitive export decisions, yet they rarely produce substantive consequences. The Ukrainian and Israeli cases have both exemplified the limits of such mechanisms, revealing a pattern of selective transparency in government communication.

Judicial practice, too, offers little reassurance. The cases examined show that Italian courts have not ignored the risks associated with arms transfers to States involved in armed conflicts: in both the criminal proceedings concerning RWM Italia and the administrative litigation on licences to Saudi Arabia, domestic judges expressly acknowledged the foreseeability of the risk that exported weapons could be used against civilians. Yet, the legal consequences drawn from that recognition have remained uneven. In the criminal context, the proceedings ultimately failed to establish liability, despite the finding that UAMA officials were aware of the possible use of the exported arms to the detriment of civilians. In the administrative context, the courts upheld governmental restrictions on exports, confirming the legality of suspending licences where the risk to the civilian population was substantiated. In the Gaza-related proceedings, where applicants sought judicial orders requiring the Government to suspend arms-related dealings with Israel, the court declined review characterizing the requested measures as affecting the exercise of sovereign powers. Taken together, these cases reveal that courts may recognize the relevance of international humanitarian law and the ATT but remain reluctant to translate such recognition into accountability for past authorizations.

In addition, if approved, the reform of Law 185 would risk exacerbating this trajectory. By reintroducing the Interministerial Committee for Armament Materials, the bill provides little clarity as to the balance between political discretion and technical assessment. The abolition of the reporting obligation concerning financial institutions involved in arms transactions, alongside the reduction in the detail of the annual report to Parliament, would signal a move away from the law's founding principle of transparency.

Overall, the combined effect of legal fragmentation, limited judicial engagement, and institutional reforms oriented towards executive centralization weakens the normative force of Law 185. Although Italy remains formally committed to the ATT and the EU Common Position, its domestic legislation reveals structural limitations, with certain provisions outdated or applied inconsistently.

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