



Comitato per la promozione e protezione dei diritti umani

SUBMISSION OF INFORMATION

To the **UNITED NATIONS**

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

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IN CONNECTION WITH THE CONSIDERATION OF
THE FOURTEENTH AND FIFTEENTH PERIODIC REPORTS OF

ITALY

Rome, February 2008

PRESENTATION

Comitato per la promozione e protezione dei diritti umani *Committee for the Promotion and Protection of Human Rights*

The *Comitato per la Promozione e Protezione dei Diritti Umani* (since now *Comitato*), is a network of 74 Italian non governmental organizations working in the field of human rights promotion and protection. It was established in January 2002, thank to the initiative of Fondazione Basso–Sezione Internazionale, created by a group of non governmental organizations working in the field of human rights, through the support of a team of human rights experts.

Structure

- a) the Assembly of member organizations of the *Comitato*;
- b) the Spokesperson;
- c) the Executive Secretariat or Coordinating Group.

The Coordinating Group deals with the operative management of the activities of the *Comitato* and includes the focal points of the various working groups coordinated by the Coordinator.

Since January 2006, Carola Carazzone, from VIS-Volontariato Internazionale per lo Sviluppo, has been appointed Spokesperson and Barbara Terenzi from Fondazione Basso-Sezione Internazionale, Coordinator together with Antonella Bucci of Terre des Hommes, Vice Coordinator. Each year Working groups are identified on the basis of the action plan set up by the Assembly.

The *Comitato* implements and participates in the activities identified by the Assembly, in line with its scope. The Spokesperson represents publicly the *Comitato*, substituted, when needed, by the Coordinator. In line with its team-work nature and with the aim of optimizing the limited resources available, participation to external events is also assigned to representatives of the member organizations of the *Comitato*, based on the inputs emerging from regular meetings of the Coordinating group.

Objectives

Main objective: to promote and sustain the legislative process for the creation in Italy of a “National independent commission for human rights”, in line with the standards promoted by the General Assembly of the United Nations endorsed in its resolution no. 48/134 December 20, 1993 and the Paris Principles.

In addition, it implements “cultural activities for the dissemination of information on human rights issues with particular attention to the Italian and European situation with the aim of raising public awareness on violations that can take place also in countries with a consolidated democracy.”

Activities at national level

In 2002, the “Juridical Working Group”, prepared a proposal for a draft bill for the creation of a national independent institution, presented in Rome at the conference held on December 13: “Human rights promotion and protection: a national independent and effective institution”.

A “Contact Working Group” integrated the juridical activity through systematic advocacy and lobby activities at parliamentary level based on a pluralist and traversal approach.

In 2005, during the XIV legislature, the proposal became Draft Bill n. 3300: ”Creation of the Italian Commission for the promotion and protection of human rights as per Resolution no. 48/134 UN

General Assembly of December 20, 1993”, first undersigner Senator Antonio Iovene and undersigned by other 28 senators. Notwithstanding specific UN Recommendations (2.11.2005; 26.11.2004; 18.3.2003) and pressure on behalf of civil society, the Draft Bill remained blocked in the Senate.

In 2006, at the beginning of the XV legislature, the Draft Bill was again presented to the Senate with first undersigner Sen. Antonio Iovene, undersigned by other 32 senators, with no. 247.

The Draft Bill was also presented at the Chamber of Deputies with first undersigner Hon. Tana de Zulueta.

Finally, in April 2007, after a long and complex examination process, the Draft Bill was adopted at the Chamber of Deputies with no. 1463 with the new heading “Creation of a national commission for the promotion and protection of human rights and the protection of the rights of people in prison or deprived of their personal freedom”. The text is the result of the joint efforts of various proposals presented by different political forces. It is presently awaiting to be discussed in the Senate.

In 2006, in line with its lobby and advocacy policy and with the aim of facilitating the institutional procedures for the establishment of the national independent commission for human rights in Italy, the *Comitato* in collaboration with the National Institutions Unit of the Office of the High Commissioner for Human Rights of the United Nations, co-organized an International Workshop with a high institutional profile, held on December 5, in Rome.

The event called together the United Nations, Italian institutional representatives and the civil society, including academic experts and media.

Parallel to the main activities connected with the creation of the national institution and following the positive feedback received to its Supplementary Report to the IV CDESCR Governmental Report, the *Comitato*, since 2005, started to develop and carry out a systematic monitoring process in order to monitor respect of civil, cultural, economic, political and social human rights in Italy, using as legal framework the ICESCR and ICCPR in an integrated perspective.

To this purpose a specific monitoring group was identified and set up to which 60 NGOs and associations participated, coordinated by VIS with the support of Fondazione Basso.

In order to implement this first phase of the monitoring exercise ad hoc technical instruments were developed, tested and applied, including a framework for data collection, 45 thematic forms, a synoptic table with an integrated definition of all human rights as per ICESCR and ICCPR, divided by topic and sub-topic with international and national sources and all pertaining literature available.

The results of the monitoring process were finally launched on 20th June 2007, the same day Italy became formally one of the 47 Member States of the Human Rights Council, through the publication of a monitoring report entitled “NGOs Monitoring Report of the Concluding Observations of CDESCR (26 November 2004) and CCPR (2 November 2005) to the Italian Government.”

The entire report is available in Italian at www.comitatodirittiumani.org.

The present Submission of Information is excerpted from this Monitoring Report.

Activities at international level

Starting from 2003, the *Comitato* has participated at international level in:

- the International NGO Coalition for the approval of the “Optional Protocol” to the International Covenant on Economic, Social and Cultural Rights (since November 2003);

- the elaboration of a non-governmental Supplementary Report to the IV Governmental Report presented by Italy on the implementation of the International Covenant on Economic, Social and Cultural Rights (Nov.2004);
- the delegation to Geneva for the examination of this report (8-26 November 2004);
- the elaboration of a submission of information to CCPR before the adoption of the list of issues (January 2005);
- Lisbon Forum 2007, Annual Forum of the North-South Centre in co-operation with the Venice Commission and the Office of the Commissioner for Human Rights of the Council of Europe, Lisbon, 16-17 November 2007;
- FRA Consultative Conference with the Civil Society on the Setting Up of the Fundamental Rights Platform, Brussels, 10-11 December 2007.

As already stressed, based on the positive reaction to the Supplementary Report to CESCR, the Assembly of the Member organizations decided:

- not to remain idle awaiting for the next Report to be presented in 2009;
- to extend action to civil and political rights;
- to monitor concluding observations to Italy made by the UN Committee for Economic, Social and Cultural Rights (Nov. 2004), and concluding observations of the Committee for Civil and Political Rights (Nov. 2005), merging the two original “Follow-Up” monitoring working groups into one unique “Follow-Up Working Group” based on the widely accepted vision for which rights cannot be fragmented nor considered independent segments, but are a transversal unicum which includes all components of a society based on democracy and equality (2006).

NON GOVERNMENTAL MEMBER ORGANIZATIONS:

Agenzia della Pace, A.Ge. AGEDO, AGESCI, Anfaa, Anolf, Antigone, Archivio Disarmo, Archivio Immigrazione, ARCI, Arcigay, ASGI-Associazione Giuristi per l'Immigrazione, Associazione Eleonora Pimentel, Assopace, ATD-Quarto Mondo, AUCI, AUSER, Banca Etica, Be Free, Casa dei Diritti Sociali, CGIL, Chiamalafrika, CIAI, CIPAX, CIPSI Coordinamento di Iniziative Popolari di Solidarietà Internazionale, CIR Consiglio Italiano Rifugiati, CISL Dipartimento Politiche Migratorie, CISMAI, CISP Comitato Internazionale Sviluppo dei Popoli, Cittadinanzattiva, CND Consiglio Nazionale sulla Disabilità, Comitato Milanese per i Diritti Umani, Donne in Nero, Federazione Chiese Evangeliche, Fondazione Centro Astalli, Fondazione Internazionale Don Luigi Di Liegro, Fondazione Basso-Sezione Internazionale, Fondazione Labos, FVGS, Giovani per un Mondo Unito, Gruppo Martin Buber, ICS Consorzio Italiano di Solidarietà, IISMAS Istituto Internazionale Scienze Mediche Antropologiche e Sociali, IMS, INTERSOS, Istituto Cooperazione Economica Internazionale, La Gabbanella, LAW Legal Aid Worldwide, Legambiente, Lega internazionale per i Diritti e la Liberazione dei Popoli, Libera, Medici contro la Tortura, Medici del Mondo, Movimondo, Oltre Babele, PaxChristi, Ponte della Memoria, Progetto Continenti, Rete Educare ai Diritti Umani, Save the Children, Terre des Hommes, Ubi Minor, UDI Unione Donne in Italia, UIL, UNICEF Italia, Unione Forense per la Tutela dei Diritti dell'Uomo, UniTs, Vides Internazionale, VIS Volontariato Internazionale per lo Sviluppo, WILPF Women's International League for Peace and Freedom

and with the collaboration of Amnesty International Italia, FOCSIV, Mani Tese, Medici senza Frontiere Italia.

SUBMISSION OF INFORMATION

ICERD, art. 2

With reference to the Question set by the Rapporteur in connection with the consideration of the Fourteenth and Fifteenth Periodic Reports of Italy (CERD/C/ITA/15, n. 5: “...inform the Committee on any developments regarding the establishment of an independent national human rights institution according to the Paris Principles” and taking into account the enormous importance that such institution would fulfil towards strengthening promotion and protection of all human rights recognized in ICERD,

We would like to submit the following information on the

ESTABLISHMENT OF AN INDEPENDENT NATIONAL HUMAN RIGHTS INSTITUTION

Italy is still one of the few States (www.nhri.net), lacking an independent national institution for human rights and still not fulfilling Paris Principles and the Resolution 48/134 endorsed by the UN General Assembly on December 20, 1993, in addition the Resolution of the Council of Europe (97)11, of September 30, 1997 and all specific pertaining recommendations made by each UN treaty body that have examined the Italian context in the last recent years (CRC/C/15/Add198 of March 18, 2003; CESCR/ ITA/ 04 of November 26, 2004; CCPR/C/ITA/CO/05 of November 2, 2005 and last CAT/C/ITA/CO/4 of May 18, 2007).

The Italian delay has no justification. The Italian Government, on May 8, 2007, committed itself in front of the UN General Assembly to “create the National Independent Commission for the Promotion and Protection of Human Rights and Fundamental Freedoms” while filing its membership to the new UN Human Rights Council for the coming three years (Italy was then elected on May 18, 2007 and formally took over the appointment on June 20).

With reference to the reasons for which Italy has an urgent need for a national institution for human rights, independent and effective, we would like to recall some specific aspects tightly linked to the issue:

- risk for proliferation and fragmentation of sectorial and local mechanisms;
- lack for a coherent, integrated and effective strategy also with regard to a permanent preventive approach;
- added value and advantage deriving from the experience and best practices of many other countries.

During the XIV Legislature Draft Bill no. 3300, “Istituzione della Commissione italiana per la promozione e la tutela dei diritti umani in attuazione alla Risoluzione n. 48/134 dell’Assemblea Generale delle Nazioni Unite del 20 dicembre 1993” (*Creation of the Italian Commission for the promotion and protection of human rights as per Resolution no. 48/134 UN General Assembly of December 20, 1993*) first undersigner Senator Antonio Iovene and undersigned by other 28 senators, presented at the Senate in 2004, could not start its legislative *iter* for discussion.

Notwithstanding specific UN Recommendations (2.11.2005; 26.11.2004; 18.3.2003) and pressure on behalf of the civil society, during this Legislature the Draft Bill was not even assigned to the competent Commissions of the Parliament.

In June 2006, at the beginning of the XV legislature, the Draft Bill with no. 247 was again presented to the Senate with first undersigner Sen. Antonio Iovene, undersigned by other 32 senators, and assigned to the Constitutional Affairs Commission and Justice Commission of the Senate.

The Draft Bill was also presented to the Chamber of Deputies with first undersigner Hon. Tana de Zulueta.

In line with its lobby and advocacy strategy, the *Comitato*, in collaboration with the National Institutions Unit of the Office of the High Commissioner for Human Rights of the United Nations, co-organized an International Workshop with a high institutional profile, held on December 5, 2006 in Rome, at the *Sala del Refettorio* of the Chamber of Deputies, to which a delegation from the United Nations participated together with institutional representatives, parliamentarians, academic experts, media and representatives of the civil society and members of ONGs.

As output, and under the impact of this workshop, the Draft Bill presented at the Camera was unified to the Draft Bill for an Ombudmans for the Rights of Detainees and of Persons Deprived of their Personal Liberty.

On April 5, 2007 the Chamber of Deputies approved the Draft Bill no. 1463: "Commissione Nazionale per la promozione e la protezione dei diritti umani e la tutela dei diritti delle persone detenute o private della libertà personale" (*National Commission for the Promotion and Protection of Human Rights and the Safeguard of the Rights of Detainees and Persons Deprived of Their Personal Liberty*), resulting from the unification of the Draft Bills presented by the parliamentarians Hon. Mazzoni (Draft Bill no. 626); Hon. Mascia, Hon. Forgione, Hon. Farina, Hon. Frias and Hon. Russo (Draft Bill no. 1090); Hon. Boato and Hon. Mellano (Draft Bill no. 1441) and Hon. De Zulueta (Draft Bill no. 2018).

Draft Bill no. 1463 is presently blocked at the Senate: in May 2007, the President of the Senate assigned it jointly to the Commissions Constitutional Affairs and Justice, but it has not yet been included on the agenda with a date for examination.

With regard to the *iter* for Parliamentary discussion that took place in the Camera during the time span between December 2006 to April 2007, it can be noted that - notwithstanding the specific Recommendations of CESCR no. 32 and CCPR no. 7 – and apart from the awareness of some of the parliamentarians, there has been no consultative procedure, inclusive, transparent and participatory taking into account and involving civil society.

Maybe, also due to the accelerated timing of the unification procedure of the Draft Bill no. 2018 to those for the Ombudsman for the Rights of Detainees and of Persons Deprived of their Personal Liberty, there was no hearing of the *Comitato* nor in the Commission nor in the plenary of the Chamber of Deputies.

This is in contrast with the Recommendations of the United Nations formally expressed by the Office of the United Nations High Commissioner for Human Rights, National Institutions Unit.

Paris Principles expressly recommend that the creation of a national institution for human rights be carried out through a transparent, participatory and inclusive process of all social forces of the civil society. To this purpose, Paris Principles (art. 1 of Section Composition and Guarantees of Independence and Pluralism) refer to a broad conception of civil society including non governmental organizations and associations active in the field of human rights and in the social sector, trade unions, professional categories, philosophical and religious thinking and university.

Paris Principles recommend the involvement and active participation of civil society at least in three phases of the life of the national institution for human rights:

- 1) *Creation*: the decision making moment that marks the beginning of the iter leading to the creation of the Human Rights Commission cannot exclude the involvement of the civil society, that has to express its opinion about the role and the functions of the Commission, mandate and powers, and finally the issues that it will have to deal with.
- 2) *Composition/Appointment of Commission Members*: it is important for credibility and legitimacy of the Commission that its members are expression of the principle of pluralism and variegated reality (social, ethnical, religious, and cultural) which each national entity represents. And, as from this depends most of the democratism of the institution, it is fundamental that civil society is involved both in the identification of appointment criteria for its members and in the consultation that will entrust assignments. In both cases, a broad, participatory and transparent process of consultation is desirable.
- 3) *Mechanisms and Methods of Cooperation Between the National Commission for Human Rights and Civil Society*: such mechanisms must be defined in the law establishing the institution, with the reservation that further definition or specification is remitted to the regulations the Commission must adopt once it has been established.

Concrete examples on how practical interaction with civil society can be envisaged, are:

- a) Foreseeing ad hoc civil society consultation mechanisms (a forum conveyed once or twice a year; appointment of an officer of the Commission responsible for the relationship with the civil society).
- b) Realization of coordination methods which allow the Commission to take advantage of the contribution offered by civil society all times needed in order to define or develop recommendations, opinions, etc. on national policies for the protection and promotion of human rights (annual strategic planning, elaboration of the Annual Report to the Commission on the state of human rights in the country). Such interaction will be even more constructive when the Human Rights Commission lacks decentralized offices. In such case, the civil society represents the lymphatic system of the institution, capable of making effective its impact all over the country.
- c) Dissemination of information on the state of human rights at national level (Government decisions, Parliament laws, etc.) and at international level (UN resolutions, decisions of the Human Rights Council, recommendations and observations of control mechanisms on the respect of international treaties and conventions of which the State is part, etc.). To this extent the Commission can set up an information bulletin, an electronic newsletter, etc.
- d) Joint elaboration of educational and training programmes on human rights both at school level and for professionals. The civil society can be involved by the Commission at both

levels as target of its training activities or as partner in conducting professional training or even in the educational sector, as identified by the Commission.

With regard to the contents of the Bill Draft no. 1463, approved by the Camera on April 5, 2007 and presently blocked at the Senate, in particular taking into account its conformity with international standards, it has to be recognized that the Camera took into consideration most of the recommendations expressed through the Technical Advice requested on January 30, 2007 by Hon. De Zulueta and provided on February 2, 2007, by the Office of the UN High Commissioner for Human Rights - National Institutions Unit.

Compared to the original draft of the Unified Text of December 2006, Draft Bill no. 1463 is more in line with Paris Principles, as also indicated by the second Advice provided by the National Institutions Unit of the Office of the UN High Commissioner for Human Rights, on May 1, 2007, as:

- there is increased balance between articles referring to the Commission and those referring to the Ombudsman (Chapters I and II);
- there is increased balance regarding human resources allotted to the functions of the Ombudsman for Detainees within the Commission (art. 9 par 2);
- attention to gender balance in appointment of commissaries (art. 1 par. 4);
- inclusion of human rights in school educational programmes (art. 2 par. 1 letter a);
- “national” dimension of monitoring human rights on behalf of the Commission (art. 2 par. 1 letter b);
- cooperation with international organizations (art.2 par. 2);
- envisaging a public competition for the selection of the personnel to be employed in the Commission (art.7 par. 2);
- envisaging a Commissary to coordinate the functions of the Ombudsman for Detainees (art.9 par. 2).

However, some features still need to be solved through the discussion in the Senate.

In order for the Commission to have an effective autonomy and independence, it is fundamental that both Chambers (Camera dei Deputati and Senate), and not only the Presidents as actually foreseen in Draft Bill no. 1463, express through a majority vote the appointment of the Commissaries and the President of the Commission.

In relation to the articles concerning the examination of human rights violations submitted to the Commission, the experience till today, built by human rights national institutions, shows a broad variety of alternative or non judicial remedies (*quasi-judicial competence*) the Human Rights Commission can utilize during the phase of prosecution of the case, without interference or overlapping the action of the ordinary judicial mechanisms.

To this purpose, we would like to recall the case, in Europe, of the Irish Human Rights Commission, as very well illustrated during the workshop held in Italy in December 2006.

There is quite an amount of concern regarding the fact that article 15 of Draft Bill 1463 refers to professional secret. To this extent it is important to recall Paris Principles where the full capacity of Human Rights Commissions to communicate directly with the public opinion or through the media, in order to publicize advices or recommendations, is clearly indicated.

With regard to article 16, Annual Report of the Commission, it would be most appropriate to specify that such report should be published the same day it is transmitted to the Parliament and other institutions. Its dissemination can be made via hard copy, or electronic version or both.

However, we would like to express here our concern about the low coverage given by national media to the topic of the creation of a National Independent Human Rights Commission.

Furthermore, the fact that media did not stress adequately the seriousness of some statements made by some politicians during the debate in the Camera is concerning (the national human rights institution is an issue concerning “third world countries” and does not concern “.countries with a high level jiridical civilization, with a cult and tradition for order and the “right”, as Italy..”, “...it is useless, plethoric and expensive...”).

The *Comitato per la promozione e la protezione dei diritti umani* wishes CERD will adopt in its Concluding Observations the following recommendations:

- To remind the **Government** of the pledge of “creating a National Independent Commission for the Promotion and Protection of Human Rights and Fundamental Freedoms” undertaken on May 8, 2007 with the UN General Assembly in filing Italy’s membership to the new UN Human Rights Council.
- To recall that from June 20, 2007 and for the next three years, Italy is Member of the new UN Human Rights Council and as such it is her duty to operate towards strengthening the promotion and protection and the respect of international standards for human rights, all around the world, including Italy.
It will be the right and duty of Italian NGOs to highlight Italy’s defaults of such international obligations, among which the immediate establishment of a human rights national institution, effective and independent, and in line with Paris Principles.
- To remind the **Government** and the **Parliament** that only a national institution coherent with Paris Principles can be accredited within the new UN Human Rights Council.
- To recommend to the **Presidents** of the two **Senate Commissions for Constitutional Affairs and Justice** to not further delay and fix a schedule in order to initiate the *iter* for discussion of the Draft Bill no. 1463, already approved in the Chamber of Deputies on April 5, 2007.
- To recommend, recalling formal recommendations of CRC, CESCR, CCPR and CAT, together with those of the National Institutions Unit of the Office of the UN High Commissioner for Human Rights, and in order to establish a constructive, participatory and transparent dialogue, the hearing of the civil society in the Commissions of the Senate.
- To recommend to the **Parliament** to avail itself of the Technical Advice of the National Institutions Unit of the Office of the UN High Commissioner for Human Rights in order to take advantage of its expertise with regard to the application of the standards indicated in Paris Principles and the best practices of many countries that have already complied with the requirements contained in the UN Resolution 48/134 of December 20, 1993 creating National

Commissions for the promotion and protection of human rights independent and effective.

- To recommend to the **Parliament** to consider the opportunity, as previously done for the Draft Bill for the Ombudsman for the Rights of the Detainees and of People Deprived of Their Personal Liberty, of examining the Draft Bills presented to the Chamber of Deputies and the Senate for the creation of an National Ombudsman for Children (C. 305, C. 1436, C. 1557, C. 1580 e S. 192, S. 660, S. 1280, S. 1304 e S. 1380) to be joint to Draft Bill no. 1463. This would include and take into consideration also the CRC Recommendation (CRC/C/15/Add.198, no.15 of March 18, 2003 and CRC General Comment no. 2 of 2003) of creating a National Independent Ombudsman for Children and Adolescents, as part, if possible, of the National Independent Human Rights Institution.

Also with reference to the General Measures of implementation of ICERD and strictly correlated to the lack in Italy of an independent national human rights institution according to the Paris Principles

We would like to submit the following information on the

NATIONAL INTEGRATED PLAN OF ACTION

The shortcoming highlighted by CESCR (CESCR/ ITA/ 04 on November 26, 2004, no. 33) with regard to the lack in Italy of a National Integrated Plan of Action for human rights in line with the obligations undertaken by the Italian Government in 1993 at the Vienna World Conference (par. 71 Vienna Declaration and related Plan of Action) is tightly connected with the lack in Italy of a National Independent Human Rights Institution and also with a political-institutional attitude characterizing also many other countries that define themselves as highly advanced democracies.

Too often the so-called consolidated democracy countries - Italy included – assume to already guarantee human rights and fundamental freedoms and, therefore, to be in a position for which it is possible to abstain from further strengthening promotion and protection, or even, respecting new or also old obligations undertaken at international level.

It is, instead, the development of the human rights promotion and protection system at national level – to which international UN and regional systems are only complementary – that has to be considered absolutely primary, also on behalf of the United Nations, for a full realization of rights and fundamental freedoms.

Therefore, just as any other country, Italy is responsible for upgrading and strengthening of promotion and protection of universal rights both of its citizens and migrants on the Italian territory. Italy, as any other State, can be at risk of violating fundamental rights and of being incapable of preventing violations.

Moreover, it can be very presumptuous to think that human rights issues concern only other countries and the need for a strategic Action Plan for human rights promotion and protection at national level is not a priority for Italy and therefore can be further delayed.

Italy has a broad number of governmental mechanisms that at various levels deal with sectorial issues, but no independent national mechanism is capable of setting and monitoring a defined and long-term integrated strategy, which at the same time is transparent and participatory. A strategy

which is capable of promoting and protecting, in a systematic and coherent way, all human rights in their indivisibility and interdependence involving all different sectors.

The risk for fragmentation and proliferation of sectorial and local mechanisms is presently high in Italy.

A national strategic plan for Italy, as recommended by CESCR in 2004, and, as foreseen in Vienna since 1993, is vital in particular with the aim of:

- 1) identifying specific objectives, expected outputs and monitoring indicators;
- 2) increasing coordination of present sectorial initiatives;
- 3) upgrading uniformity on the whole national territory today instead characterized by serious discrepancies at regional and/or local level;
- 4) implementing a stronger effectiveness in the use of available resources and in the allocation of the new ones;
- 5) implementing a more intensive action *ex ante* in disseminating a widespread background human rights culture capable of permanently preventing violations and in promoting an active and responsible citizenship (see par. human rights education);
- 6) developing an approach to social policies and international cooperation based on human rights international standards which exceeds the old and opposite approach based on needs and emergencies, especially if media oriented;
- 7) continuous monitoring of expected outputs and defined specific objectives, on the basis of specific indicators.

The *Comitato per la promozione e la protezione dei diritti umani* wishes CERD will adopt in its Concluding Observations the following recommendations:

- To recommend the **Government** and the **Parliament** the approval of the law for establishing the national independent institution for promotion and protection of human rights in Italy in line with Paris Principles and international standards, which cannot be further delayed. Since, it is to such mechanisms, the duty of mainly preparing an integrated action plan for human rights at national level.

In the respite of the creation of said Commission, the *Comitato* recommends **CIDU** (Comitato Interministeriale per i Diritti Umani) to consult civil society in order to identify a participatory approach for the identification of priorities to be included in the future National Action Plan for the protection and promotion of human rights.

Also with reference to the General Measures of implementation of ICERD

We would like to submit the following information on

HUMAN RIGHTS EDUCATION

CESCR (CESCR/ ITA/ 04 of November 26, 2004, no. 13, 29, and 31) has highlighted the lack for a widespread human rights culture in Italy from two different viewpoints: permanent education of judges and judicial personnel and education of young generations.

While expressing concern about the small number of judicial decisions referring to the provisions contained in the Covenant, considered as indicator of a lack in knowledge of the international law for human rights, CESCR has recommended the Government not only an increased effort in continuing education of magistrates, but also an increased commitment in a background human rights education through mainstreaming human rights education in school curricula.

While the rest of Europe is in the process of conforming their school educational programmes through the integration of traditional study subjects with all those considered of new generation, upto now Italy is still not compliant with the recommendations received at international level – from the United Nations and the Council of Europe – urging to mainstream human rights education in its school curricula.

In Italy, human rights is not a compulsory subject in teachers training nor it is mainstreamed in the new education plans for compulsory schooling or in high school, nor it is studied at University level, except as optional subject, not even in the Faculty of Law.

Reference national legislation and its application

On December 10, 2004 the UN General Assembly, with Resolution 59/113, established – as output of the UN Decade for Human Rights Education launched in 1993 at Vienna World Conference – the World Programme for Human Rights Education. This programme, divided into various steps, aims at facilitating in its first phase - 2005/2007 – the introduction of human rights education in governmental education programmes for primary and secondary schools at first and second level. Upto now the objectives for the first phase have not still been implemented by the Italian Government.

A few months back, two draft bills for the inclusion in governmental school programmes of a total of 18 hours per week of human rights education have been assigned to the competent parliamentary Commissions in order to initiate the *iter* for discussion.

- Draft Bill no. 896, first undersigner Hon. Pianetta, targeted to primary and secondary schools, has been transmitted to the President of the Chamber of Deputies on July 27, 2006 and assigned to the VII Commission for Culture (Ministry for Public Education and Cultural Heritage) in January 2007.
- The proposal for a *Legge di iniziativa popolare* - law on initiative of the people targeted to secondary school for first and second levels, was presented to the Chamber of Deputies during the XIV Legislation on July 29, 2003 and kept on the agenda according to art. 107, par. 4, of its Regulation. Only on July 16, 2006 it was assigned to the VII Commission for Culture.

Both Draft Bills are presently with the Commission and have not yet been included in the agenda for discussion in plenary at the Chamber of Deputies.

State of implementation

In carefully reading the Legislative Decree no. 226/2005, one of the three issued to facilitate the implementation of the Law 53/2003 – Moratti Reform – in Annex C to the same Decree (national guidelines for high school tailored study plans) the specific objectives for the high school learning programme entitled “Educazione alla Convivenza Civile” (Education for Civil Living Together) are indicated. These include topics as citizenship, road, environment, health and nutrition, relationships and affectivity.

It is important to stress that in order to facilitate an adequate educational route, aiming at upgrading the educational, cultural and professional profile of students, “education for civil living together” has been included in the study programmes for primary school (but kindergarten is still not comprised). These guidelines foresee that pupils at the end of the V year of their course of studies will have acquired competences on citizenship, road and environment. They, however, envisage only the possibility of studying human rights as an optional topic within the framework of “education to civil living together” as an independent subject and not mainstreamed in all the traditional subjects of the educational system.

From 2003 to now, the Dipartimento per l’Istruzione - Direzione Generale per la Formazione e l’Aggiornamento del personale della scuola (Department for Education – General Direction for School Staff Education and Training) - in collaboration with NGOs, universities and experts, has been active in offering TOT (training of trainers) courses on topics such active citizenship meaning both European citizenship and human rights education. These courses have had and still continue to have a spinning effect that each year is involving an average of 5.000 schools on all the national territory, but unfortunately remain an opportunity not structured and not offered on the whole national territory.

For the School Year 2007/2008, a Commission for the Revision of National Guidelines of 2004 has been appointed to examine the school programmes POF- Piani di Offerta Formativa (Plans for the Educational Offer). Such Commission will have the responsibility of reforming at national level guidelines for the contents of school programmes to which the Regions, within their power of autonomy, will have to adjust their local “policies” with regard to public education.

The *Comitato per la promozione e la protezione dei diritti umani* wishes CERD will adopt in its Concluding Observations the following recommendations:

- To recommend the **Ministry of Education**, Dipartimento per l’Istruzione - Direzione Generale per la Formazione e l’Aggiornamento del personale della scuola (Department for Education – General Direction for School Staff Education and Training) - to include a compulsory educational training on Human Rights Education, as subject mainstreamed into all educational topics, to be included in the training of teachers and in the primary and secondary school system;
- To recommend the **Commissione di Revisione delle Indicazioni Nazionali** (Commission for the Revision of the National Guidelines), to include Human Rights Education in the new National Indications Guidelines for school programmes as a mainstreamed subject, with specific contents to be comprised in the study of all traditional subjects (history, geography, sciences, etc.);
- To recommend the **Ministry for Education** to prepare specific monitoring indicators for human rights education in primary and secondary school in Italy capable of identifying:
 - number of human rights modules included in the curricula of any subject in the last 5 years;
 - number of human rights modules included in school texts in the last 5 years;
 - percentage of educational activities for teachers and experts dealing with human rights issues.

Also with reference to the General Measures of implementation of ICERD and in connection with the Specific Recommendation of CERD Concluding Observations adopted on 08/08/2001 (*CERD/Italy A/56/18, paras.298-320, no.319* “... The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the related Committee's Concluding Observations be similarly publicized. It encourages the State party to insert the Committee's Concluding Observations on the appropriate Ministry's Web site”

We would like to submit the following information on the

PUBLICATION AND DISSEMINATION OF CONCLUDING OBSERVATIONS

The obligation of publishing and disseminating Concluding Observations adopted by the Treaty-bodies, for the States that have ratified them, descends directly from the Conventions. Besides the obligation of realizing the legal rights recognized, the Member State has the obligation of providing periodical reports on the advancement of the concrete implementation of the provisions envisaged.

Therefore, on a periodical basis, the Member State has to provide the UN General Secretary, who will transmit to the appropriate Committee for examination, a Governmental report. Once the report is examined, the competent Treaty body adopts the specific Concluding observations/comments.

The Government is responsible for providing information on the implementation of such specific recommendations in the periodical report following the observations received and has the responsibility of publishing and disseminating them not only to its judiciary, legislative and administrative officers, but also to the public in general.

It is worth highlighting that also CCPR (CCPR/C/ITA/CO/05 of November 2, 2005) who utilizes in all the other Recommendations the conditional tense, in Recommendation 23, concerning the publication and dissemination of Concluding Observations, utilizes the imperative, specifically when dealing with an obligation that descends directly from the Covenant to the Member State. Many States execute such obligation publishing the Concluding Observations on hard copy and telematically on Web sites.

The Italian Government, in particular CIDU (Comitato Interministeriale per i diritti umani) as competent body, does not publish, and therefore, does not disseminate the Concluding Observations of CESC, CCPR, CAT.

Differently from the Concluding Observations on the implementation of the two Optional Protocols to the Convention on the Rights of the Child, addressed to Italy by the UN Committee on the Rights of the Child in June 2006, which have been jointly published by CIDU and UNICEF-Italia.

Our *Comitato* has repeatedly urged CIDU to translate, publish and disseminate CESC e CCPR Concluding Observations and has, however, translated as voluntary contribution and published the unofficial Italian translation made of CESC, CCPR and CAT Concluding Observations on the web site of the *Comitato* www.comitatodirittiumani.org.

The Italian translation is clearly an obligation of means, and not of results, instrumental to implement the legal duty of publication and dissemination.

The *Comitato*, therefore, does not consider sufficient to guarantee an appropriate follow-up the present procedure adopted, and repeatedly affirmed by CIDU, of internal draft copies (“working

copies”) of the Italian translation of the Concluding Observations of UN Committees provided, for various purposes, to all administrative and institutional bodies of the Government.

The *Comitato per la promozione e la protezione dei diritti umani* wishes CERD will adopt in its Concluding Observations the following recommendations:

- To recommend **CIDU** to translate and publish without delay the Concluding Observations both in hard copy and through telematics on the web sites of the Government and Ministries, in order to disseminate information to the public.
- To recommend the **Government** to provide CIDU with the needed resources in order to fulfil such task.

Associations and NGOs members of the *Comitato per la promozione e protezione dei diritti umani*:

A.GE

www.age.it
Via F. Baldelli, 41 - 00146 Roma

AGEDO

www.agedo.org
Via Bezzacca, 4 - 20135 Milano

AGENZIA DELLA PACE

Via della Viola, 1 - 06122 Perugia

AGESCI

www.agesci.org
Via Pasquale Paoli, 18 - 00186 Roma

ANFAA

www.anfaa.it
Via Artisti, 36 - 10124 Torino

ANOLF

www.anolf.it
Via Salaria, 89 - 00198 Roma

ANTIGONE

www.associazioneantigone.it
Via Dogana Vecchia, 5 - 00186 Roma

ARCHIVIO DISARMO

www.archiviodisarmo.it
P.zza Cavour, 17 - 00193 Roma

ARCHIVIO IMMIGRAZIONE

www.archivioimmigrazione.org

Via Tibullo, 11 - 00193 Roma

ARCI

www.arci.it

Via dei Monti di Pietralata, 16 - 00157 Roma

ARCIGAY

www.arcigay.it

Via don Minzoni, 18 - 40121 Bologna

ASGI

www.asgi.it

Via Aquileia, 22 - 33100 Udine, Sede legale: via Gerdil, 7 - 10100 Torino

ASSOCIAZIONE ELEONORA PIMENTEL

ester.basile@libero.it

c/o Ester Basile Via Camaldolilli, 24 - 80128 Napoli

ASSOPACE

www.assopace.org

Via Salaria, 89 - 00196 Roma

ATD QUARTO MONDO

www.atd-quartomondo.it

Via Sant'Agata dei Goti, 34 - 00184 Roma -

Circolo Culturale Quarto Mondo c/o Fondazione Labos Viale Liegi, 14 - 00198 Roma

AUCI

www.auci.org

Facoltà di Medicina e Chirurgia - Università Cattolica S.C. Largo Francesco Vito, 1 - 00168 Roma

AUSER

www.auser.it

Via Nizza, 154 - 00198 Roma

BANCA ETICA

www.bancaetica.org

Via Rasella, 14 - 00187 Roma

BE FREE

oriagargano@libero.it

Viale Glorioso, 14 - 00153 Roma

CASA DIRITTI SOCIALI

www.dirittisociali.org

Via dei Mille, 36 00185 Roma - Sportello immigrazione Via Giolitti 00185 Roma

CGIL

www.cgil.it

Corso d'Italia, 25 - 00198 Roma

CHIAMALAFRICA

www.chiamalafrica.it

Viale Baldelli, 41 - 000146 Roma

CIAI

www.ciai.it

Via Bordighera, 6 - 20142 Milano, Via G. Botero, 16/A - 00179 Roma

CIPAX

www.romacivica.net/cipax/

Via Ostiense, 152 - 00154 Roma

CIPSI

www.cipsi.it

Via Baldelli, 41 - 00146 Roma

CIR

www.cir-onlus.org

Via del Velabro, 5/A - 00186 Roma

CISL Dipartimento Politiche Migratorie

www.cisl.it

Via Salaria, 89 - 00198 Roma

CISMAI

www.cismai.org

c/o Associazione Artemisia Via del Mezzetta, 1 interno - 50135 Firenze

CISP

www.cisp-ngo.org

Via Germanico, 198 - 00192 Roma

CITTADINANZATTIVA

www.cittadinanzattiva.it

Via Flaminia, 53 - 00196 Roma

CND

www.cnditalia.it

Piazza Giovine Italia, 7 - 00195 Roma

COMITATO MILANESE PER I DIRITTI UMANI "SILVIA BARALDINI"

Via S. Giusto, 3 - 20153 Milano

DONNE IN NERO

www.donneinnero.it

c/o Uff. Parlamento Europeo Luisa Morgantini
Via IV Novembre 149 - 00187 Roma

FCEI

www.fedevangelica.it

Via Firenze 38 - 00184 Roma

FONDAZIONE BASSO – SEZIONE INTERNAZIONALE

www.internazionaleleliobasso.it

Via della Dogana Vecchia 5 - 00186 Roma

FONDAZIONE CENTRO ASTALLI

www.centroastalli.it

Via del Collegio Romano 1 - 00186 Roma

FONDAZIONE INTERNAZIONALE DON LUIGI DI LIEGRO

www.fondazione-diliegro.it

Via del Mortaro 26 - 00187 Roma

FONDAZIONE LABOS

www.fondazione-labos.org

Viale Liegi, 14 - 00198 Roma

FVGS

www.viedes.org

Via Gregorio VII, 133 - 00165 Roma

GIOVANI PER UN MONDO UNITO

www.mondounito.net

Via Capo d'Acqua, 2 - 00047 Marino (Roma)

GRUPPO MARTIN BUBER

www.martinbubergroup.org

Via Nomentana, 55 - 00161 Roma

ICS

www.icsitalia.org

Via Salaria, 89 - 00198 Roma

IISMAS

www.iismas.it

Via S. Gallicano, 25/A - 00153 Roma

IMS

www.medicinainternazionale.it

Via delle Milizie, 9 - 00192 Roma

INTERSOS

www.intersos.org
Via Nizza, 154 - 00198 Roma

ISTITUTO COOPERAZIONE ECONOMICA INTERNAZIONALE

www.icei.it
Via Breda, 54 - 20126 Milano

LA GABBIANELLA

www.romaciviva.net/gabbianella
c/o YWCA Via Cesare Balbo, 4 - 00184 Roma

LAW

www.lawonlus.org
Via Bruxelles, 59 - 00198 Roma

LEGA INTERNAZIONALE PER I DIRITTI E LA LIBERAZIONE DEI POPOLI

Via Ostiense 152 - 00154 Roma

LEGAMBIENTE

www.legambiente.it
Via Salaria, 403 - 00199 Roma

LIBERA

www.libera.it
Via IV Novembre, 98 - 00187 Roma

MEDICI CONTRO LA TORTURA

web.tiscali.it/obiezione/medicicontrotortura/
Via dei Mille, 6 - 00185 Roma

MEDICI DEL MONDO

www.mdmcentrosud.org
Sede Legale: Via Tiburtina, 1325 - 00131 Roma
Uffici: Largo Cairoli, 113 - 00186 Roma,
Viale Donato Giannotti, 13 - 50126 Firenze

MOVIMONDO

www.movimondo.info
Via di Vigna Fabbri, 39 - 00179 Roma

OLTRE BABELE

oltrebabele@gmail.com
Viale Luciano Berio, 5 - 53050 Radicondoli (SI)

PAXCHRISTI

www.paxchristi.it
Via Quintole per le Rose, 31 - 50029 Tavarnuzze (FI)

PONTE DELLA MEMORIA

c/o Segr srl
Via Castelfidardo, 26 - 00185 Roma

PROGETTO CONTINENTI

www.progettocontinenti.org
Via Baldelli, 41 - 00146 Roma

RETE EDUCARE AI DIRITTI UMANI

www.educareaidirittiumani.org

SAVE THE CHILDREN

www.savethechildren.it
Via Firenze, 38 - 00184 Roma

TERRES DES HOMMES

www.tdhitaly.org
Viale Monza, 57- 20127 Milano

UAAR

www.uaar.it
Casella Postale 749 - 35122 Padova

UBI MINOR ONLUS

Via delle Milizie, 9 - 00192 Roma

UDI

www.udinazionale.org
Via dell'Arco di Parma, 15 - 00186 Roma

UIL

www.uil.it
Via Lucullo, 6 - 00187 Roma

UNICEF ITALIA

www.unicef.it
Via Palestro 68 - 00185 Roma

UNIONE FORENSE PER LA TUTELA DEI DIRITTI DELL'UOMO

www.unionedirittiumani.it
Sede Legale: c/o Consiglio dell'ordine degli avvocati di Roma
Palazzo di Giustizia,
Piazza Cavour - 00193 Roma –
Presidenza:
c/o Studio legale avv Mario Lana
Via Emilio De Cavalieri, 11 - 00198 Roma

UniTs

Università del Terzo Settore
units@uniterzosettore.it
Via F. Turati, 6, 56125 Pisa

VIDES INTERNAZIONALE

www.vides.org
Via Gregorio VII, 133 Sc. B, int. 5 - 00165 Roma

VIS

www.volint.it
Via Appia Antica, 126 - 00179 Roma

WILPF

www.wilpf.org
Via della Lungara, 19 - 00165 Roma

With the collaboration of

AMNESTY INTERNATIONAL

www.amnesty.it
Via G.B. De Rossi, 10 - 00161 Roma

FOCSIV

www.focsiv.it
Via S. Francesco di Sales, 18 - 00165 Roma

MANI TESE

www.manitese.it
P.le Gambara, 7/9 - 20146 Milano

MSF

www.msf.it
Via Volturmo, 58 - 00185