



Comitato per la promozione e protezione dei diritti umani

SUBMISSION OF INFORMATION

To the UNITED NATIONS

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

91st Session

21 November - 9 December 2012

IN CONNECTION WITH THE CONSIDERATION OF

THE NINETEENTH -TWENTIETH CONSOLIDATED PERIODIC REPORTS OF

ITALY

Rome, October 2016

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PRESENTATION

of the

Comitato per la promozione e protezione dei diritti umani

Committee for the Promotion and Protection of Human Rights

Established in 2002, the Comitato per la Promozione e Protezione dei Diritti Umani, is a network of 101 Italian nongovernmental organizations working in the field of human rights promotion and protection, with the aim of establishing in Italy an national independent human rights institution (NHRI) in compliance with Paris Principles and international standards.

In 2008 participated in the 72nd CERD Session in connection with the consideration of the 14th and 15th Periodic Reports of Italy, in Geneva, in joint elaboration with the Gruppo di Lavoro for the CRC with three Submissions of Information. In 2012 participated in the 80th CERD Session in connection with the consideration of the 16th to 18th Periodic Reports of Italy, in Geneva with a consolidated Submission of Information with six Submissions of Information.

During 2010 the *Comitato* participated in the Human Rights Council UPR-Universal Periodic Review of Italy, in Geneva and participated in 2014 in the second round of the UPR reviewing Italy.

Member organizations: Anfaa, Anolf, Antigone, Archivio Disarmo, Archivio Immigrazione, ARCI, Arcigay, Articolo 21, ASGI-Associazione Giuristi per l'Immigrazione, Associazione Ananke Onlus, Associazione Campanari d'Arrone, Associazione Eleonora Pimentel, Associazione Astro Nascente, Assopace, Associazione Senza Confine, 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, Comitato per i Diritti Umani, Comitato Singh Mohinder, Comitato UNRWA Italia, Donne in Nero, EMA, Federazione Chiese Evangeliche, Federazione Italiana per il Superamento dell'Handicap-FISH, Fondazione Centro Astalli, Fondazione Internazionale Don Luigi di Liegro, Fondazione Basso-Sezione Internazionale, Fondazione Labos, FVGS, Giovani per un Mondo Unito, Gruppo Martin Buber, Guardavanti – Onlus per il futuro dei bambini, INTERSOS, Intervita, IRMA, Istituto Cooperazione Economica Int., Istituto di Medicina del Soccorso, Laboratorio Diritti Umani, La Gabbianella, LAW-Legal Aid Worldwide, Legambiente, Lega Internazionale per i Diritti e la Liberazione dei Popoli, Libera, MED.eA, Medici contro la Tortura, Medici per i Diritti Umani, Movimondo, Oltre Babele, Ossigeno per l'Informazione, PaxChristi, Ponte della Memoria, PRO.DO.C.S., 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 Umani, UniTs, Vides Internazionale, Vis-Volontariato Int. per lo Sviluppo, WILPF-Women's International League for Peace and Freedom *and with the collaboration of Amnesty International, Focsiv, Mani Tese, Medici senza Frontiere.*

SUBMISSION OF INFORMATION

ICERD, art. 2

With reference to the Concluding Observations of the Committee on the Elimination of Racial Discrimination, ITALY, in connection with the consideration of the fourteenth and fifteenth periodic reports of Italy (CERD/C/ITA/CO/16-18, 4th April 2012, C. Concerns and recommendations no. 13: “...encourages the State party to actively involve civil society actors in this process and to revise draft Law no. 4534 to ensure that the institution is fully compliant with Paris Principles. The Committee encourages the State party to request technical assistance from the Office of the United Nations High Commissioner for Human Rights OHCHR).

and in consideration of the extreme importance that the NHRI would cover for the promotion and protection of all human rights recognized by the 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 human rights institution for, not fulfilling Paris Principles and Resolution 48/134 endorsed by the UN General Assembly on December 20, 1993, in addition to 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 decade (CRC/C/15/Add198 of March 18, 2003; CESCR/ ITA/ 04 of November 26, 2004; CCPR/C/ITA/CO/05 of November 2, 2005; CEDAW, 2005 A/60/38(SUPP); CAT/C/ITA/CO/4 of May 18, 2007, CERD/C/ITA/CO/15 of May 16, 2008), CERD/CITA/CO 16-18 of April 4, 2012, and made by the UPR A/HRC/14/4/Add.1 of May 2010 and UPR A/HRC/28/4/Add.1 of March 12, 2015.

The Italian delay has no justification. The Italian Government, on May 8, 2007, while filing for its first membership to the new UN Human Rights Council for the following three years (Italy was elected for the term 2007-2010) formally 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 Freedom...s”.

However, disregarded this official engagement, the Italian Government, in 2011, reapplied for a second term to the Human Rights Council and, in its Voluntary Pledge, in front of the UN General Assembly, renewed the commitment to “create the National Independent Commission for the Promotion and Protection of Human Rights in accordance with Paris Principles...” during its second mandate to the new UN Human Rights Council: 2011-2014 (elected on May 20, 2011, formally took over on June 19).

We would like to recall some reasons for which Italy has an urgent need for a NHRI, independent and effective:

- 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.

The road map towards a NHRI in Italy has been long and suffered.

- Only during XIV Legislature, in 2004 - after a Draft Bill prepared in 2002 by the experts of our *Comitato* in 2002, launched and proposed to various parliamentarians - **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 n. 48/134 UN General Assembly of December 20, 1993*), was presented to the Senate, but never started its legislative *iter* for discussion. Notwithstanding specific UN Recommendations (2.11.2005; 26.11.2004; 18.3.2003) and pressure of the civil society, the Bill was not even assigned to the competent Parliament Commissions.
- In June 2006, at the XV legislature, the **Draft Bill no. 247** was again presented to the Senate, and assigned to the Constitutional Affairs Commission and Justice Commission. The Draft Bill was also presented to the Chamber of Deputies, first undersigner Hon. Tana de Zulueta.
At the same time our *Comitato*, in collaboration with the National Institutions Unit of the Office of the High Commissioner for Human Rights of the United Nations, co-organized in Rome an International Workshop with a high institutional profile and the participation of a delegation from the United Nations, institutional representatives, parliamentarians, academic experts, media and representatives of the civil society.
- Finally in 2007, also under the impact of this workshop, the Draft Bill was reformulated and approved with 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 Person Deprived of Their Personal Liberty*), resulting from the unification of the Draft Bills presented by the 9 parliamentarians. Nevertheless, once again **Draft Bill no. 1463** after arriving to the second Chamber, the Senate, and, assigned to the Joint Commissions for Constitutional Affairs and Justice, remained block and never succeeded in being scheduled in the agenda for discussion until the end of the Legislature.
- For a second time, in 2011, Italy, applying for a new mandate in the United Nations Human Rights Council, formally committed itself to establish a national human rights independent institution. In the same year, a new consolidated **Draft Law no. 4534**: "Istituzione della Commissione Nazionale per la promozione e protezione dei diritti umani" (*Establishment of the National Commission for human rights promotion and protection*) prepared by the Government with no involvement of the civil society, presented by 27 parliamentarians, has been approved in the Senate in July and presented in late 2011 to the second Chamber, Camera dei Deputati for discussion where it is still standing.

With regard to the *iter* for the Parliamentary discussion it can be noted that apart from the awareness of some of the parliamentarians, in these years, from 2004 to 2012 there has been no consultative procedure, inclusive, transparent and participatory taking into account and involving civil society in all the various steps leading to the establishment of a independent national human rights institution in line with Paris Principles and international standards.

And this also 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 the creation of a NHRI to be carried out through a transparent, participatory and inclusive process of all social forces of the civil society broadly considered (art. 1 of Section Composition and Guarantees of Independence and Pluralism) with its involvement and active participation at least in three phased of NHRI life: creation, composition/appointment of Commission Members and mechanisms and methods of cooperation between the NHRI and Civil Society.

Comparing the compliance of **Draft Bill no. 4534** with Paris Principles and international standards, the following aspects can be evidenced:

- the President and two components of the Commission cannot be appointed or selected among public officers of other administrations (article 2, par. 2);
- gender balance in appointing the President and the two components should be taken into consideration (article 2 par.3);
- human rights should be included in school educational programs (article 3 par. 1 letter b);
- the Commission should be responsible for monitoring human rights throughout the country (art. 3 par. 1 letter a);
- the Commission should cooperate with United Nations, international and regional organizations and institutions dealing with human rights promotion and protection (article 3 par. 1 letter f);
- the Commission, in order to perform its functions, will avail itself of its own office, headed by a Director appointed by the Commission and in charge for the period corresponding to the mandate of the Commission. (article 5, par. 1);
- the Commission, in order to perform its functions, will avail itself of a Human Rights and Fundamental Freedoms Council composed of not more than forty members, eighteen of which selected among individuals designated by the major nongovernmental organizations active at national and international level in the promotion and protection of human rights and humanitarian law (article 6, par. 1, letter a).

Several weaknesses of Draft Bill no. 4534 under the compliance with the Paris Principles should be taken into consideration.

In order for the Commission to have an effective autonomy and independence, it is fundamental that the President and the two components are selected through a public contest and not by the Senate and the Camera dei Deputati through a 2/3 majority as foreseen in article 2 par. 4 of the Draft Bill.

In addition the staff appointed to perform the activities and functions of the Office should be selected among individuals with expertise in human rights.

Article 9 of Draft Bill 4534 referring to professional secrecy is also quite disturbing. As it is important to recall Paris Principles where the full capacity of Human Rights Commission 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 10, par. 2, 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.

For an update to the actual situation we are including herewith a brief summary, which can contribute to understand

During the XVII Legislatura (started on 15 March 2013 with regard to the establishment of a NHRI, as per Resolution 48/134, UN General Assembly 20 December 1993, 7 legislative proposals were presented: 4 at the Camera dei Deputati and 3 at the Senato della Repubblica.

- **S.1939** - 17^a Legislatura
Sen. Nicola Morra (M5S)
Istituzione della Commissione nazionale indipendente per la promozione e la protezione dei diritti umani e delle libertà fondamentali
15 maggio 2015: Presentato al Senato
2 dicembre 2015: In corso di esame in commissione
- **S.1908** - 17^a Legislatura
Sen. Luigi Manconi (PD) e altri
Istituzione del Garante nazionale dei diritti umani
4 maggio 2015: Presentato al Senato
2 dicembre 2015: In corso di esame in commissione
- **C.2529** - 17^a Legislatura
On. Mario Marazziti (PI) e altri
Istituzione della Commissione nazionale per la promozione e la protezione dei diritti umani
9 luglio 2014: Presentato alla Camera
10 ottobre 2014: Assegnato (non ancora iniziato l'esame)
- **C.2424** - 17^a Legislatura
On. Emanuele Scagliusi (M5S) e altri
Istituzione della Commissione nazionale indipendente per la promozione e la protezione dei diritti umani e delle libertà fondamentali
29 maggio 2014: Presentato alla Camera
23 ottobre 2014: Assegnato (non ancora iniziato l'esame)
- **C.1256** - 17^a Legislatura
On. Barbara Pollastrini (PD)
Istituzione della Commissione parlamentare per la promozione e la tutela dei diritti umani
24 giugno 2013: Presentato alla Camera
Da assegnare
- **S.865** - 17^a Legislatura
Sen. Emma Fattorini (PD) e altri
Istituzione della Commissione nazionale per la promozione e la tutela dei diritti umani
21 giugno 2013: Presentato al Senato
2 dicembre 2015: In corso di esame in commissione
- **C.1004** - 17^a Legislatura
On. Khalid Chaouki (PD) e altri
Istituzione della Commissione nazionale per la promozione e la protezione dei diritti umani
20 maggio 2013: Presentato alla Camera
29 luglio 2013: Assegnato (non ancora iniziato l'esame)

On December 2, 2015 the Commissione Affari Costituzionali of the Senato della Repubblica has initiated the legislative iter of the Draft Laws presented, adopting as unified text “testo base” the Draft Law Atto S. 1908 presented by Sen. Luigi Manconi, Presidenti of the Commissione straordinaria per la tutela e promozione dei diritti umani. This text, differently from the others, foresees an institution ombudsperson for human rights. It is a monocratic structure, we consider it not in line with Paris Principles, in place of a pluralistic structure in its composition, as foreseen by all other draft laws presented in both Chambers. Even if Paris Principles do not expressly exclude this solution, they highlight the pluralistic representation of all social stakeholders, hence, a collegial body would be more effective. Always in the same occasion the term for amendments was established 15 December 2015.

The following session on December 15, 2015 the Commissione Affari Costituzionali confirmed, also under the input of the Comitato per la promozione e protezione dei diritti umani, that a further deepening through hearings of the civil society and experts was necessary.

Following this, a hearing was held with the representative of CIDU (Comitato Interministeriale per i Diritti Umani) of the Foreign Ministry who also expressed the opinion that such draft law was not in line with Paris Principle. At this point the legislative iter has stopped.

Schema dei lavori della Commissione Affari Costituzionali.

Sedute di Commissione primaria

Seduta	Attività	Interventi
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1ª Commissione permanente (Affari Costituzionali) in sede referente

N. 275 (pom.) 20 maggio 2015	Congiunzione di S.865	
N. 282 (pom.) 16 giugno 2015	Congiunzione di S.1939	
N. 344 (pom.) 2 dicembre 2015	Adottato testo base S. 1908. Fissato termine per la presentazione degli emendamenti: 15 dicembre 2015 alle ore 13:00	

1ª Commissione permanente (Affari Costituzionali) (sui lavori della Commissione)

N. 348 (pom.) 15 dicembre 2015	Discusso congiuntamente: S.865 , S.1939 (proposte audizioni)	
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Besides highlighting that civil society has never been involved in all these procedures, nor any open and transparent consultation has been implemented, as clearly indicated in the Paris Principles.

It can be noted that in all these years apparently at parliamentary and governmental levels there is no open attitude towards conforming with international standards.

It is vital that the NHRI is in the position of a continuing and permanent exchange with civil society and also while drafting law proposals, the role of civil society is completely ignored or extremely mild when foreseen, not based on a regular and fair involvement and consultation.

It is also vital that the NHRI can access all places where human rights violations occur to collect information, and in case, with the help of the organs of the State.

Furthermore the NHRI should be in the position to present to the Parliament, besides its report, also general recommendations and observations on specific draft laws.

Finally to guarantee its independence and effectiveness it should be staffed through transparent and qualified procedures and not through seconded staff from other governmental institutions or

ministries, e.g. not staff from UNAR which is an equality body directly depending from the Ministry of the Interior.

In Italy there is already a system set up for the promotion of human rights, but it should be rationalized and simplified, as foreseen by Paris Principles, in order to guarantee independence and effectiveness to such structures as: Garante per l'infanzia e Osservatorio sui detenuti (OPCAT) in relation with organs of the government such as the Ministero delle Pari Opportunità, the Comitato Interministeriale per i diritti umani (CIDU) and the Ufficio antidiscriminazioni razziali (UNAR), and also Parliamentary organs such Commissione straordinaria per la tutela e la promozione dei diritti umani del Senato della Repubblica and Comitato diritti umani within the Commissione Affari esteri della Camera dei Deputati.

In addition, 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 is concerning and often reappearing (e.g. the National human rights institution is an issue concerning “third world countries” and does not concern “...countries with a high level juridical civilization, with a cult and tradition for order and the “right”, as Italy...”, “...it is useless, plethoric and expensive...” “...it is a useless “carrozzone” (a caravan)“... a new money eater agency...” “...created to establish a new caste...”).

Finally we would like to highlight the existence today in Italy of an equality body which has been undergoing various phases including the risk of being shut down, even if it is a governmental structure:

UNAR, Ufficio Nazionale Antidiscriminazioni Razziali, a governmental antidiscrimination agency which, notwithstanding its specific role covered in these years with regard to multiple discrimination, remains a governmental body incardinated within the Department for Equal Opportunities and the Council of Ministers, as officially repeatedly defined also by the past Minister of Equal Opportunities, and therefore, not independent, with its offices physically established within a governmental building, staffed with public personnel.

The activities implemented through UNAR in the field of antidiscrimination have been intense and successful because of its governmental nature but cannot comply nor Paris Principles nor can for its nature and structure substitute or be transformed into the functions and characteristics of a NHRI fulfilling such Principles and Resolution 48/134 endorsed by the UN General Assembly on December 20, 1993, in addition to the Resolution of the Council of Europe (97)11 of September 30, 1997.

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 for the first time Italy’s membership to the Human Rights Council, pledge again repeated in filing for the second mandate 2011- 2014.

To recall that from June 19, 2011, and for two terms, Italy has been Member of the new UN Human Rights Council and as such it was 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, in order to re-establish at international level our Country’s credibility and the credibility of our democratic system following the unfulfilled commitments made during the first

mandate. Presently Italy is exploring the possibility of re-entering the UN Human Rights Council and still one of the major commitments in human rights promotion and protection has not been fulfilled, notwithstanding the promises made.

Therefore, it is right and duty of Italian NGO 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, highlighting the fact that the existence of an equality body such UNAR, which, notwithstanding its specific role covered in these years with regard to discrimination, remains a governmental body incardinated within the Department for Equal Opportunities and the Council of Ministers and therefore, not independent, is physically in a governmental building, staffed with public personnel.

To recommend the **Government** to complete the procedures for the establishment as soon as possible of the NHRI in compliance with Paris Principles exploring the possibility of setting up a Draft Law in dialogue with civil society and with the support of the UN Office of the High Commissioner for Human Rights.

To recommend, recalling formal recommendations of CRC, CESCR, CEDAW, CCPR and CAT, CERD together with those of the National Institutions Unit of the Office of the UN High Commissioner for the Human Rights and of the two UPR exercise, in order to establish a constructive, participatory and transparent dialogue and hearing of the civil society in the NHRI establishment procedure.

To recommend 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 48134 of December 20, 1993 creating National Commissions for the promotion and protection of human rights independent and effective.

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 various Treaty Bodies and and CERD (CERD/C/ITA/CO/16-18 n.27) 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 Plano f 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 non citizens 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 to 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 the

PUBLICATION AND DISSEMINATION OF THE 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.

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 various Treaty Bodies and CERD also (CERD/C/ITA/CO/16-18 n.32 of April 4. 2012) reiterates again the publication and dissemination of Concluding Observations.

Many States execute such obligation publishing the Concluding Observations on hard copy and 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, CERD, UPR.

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 (Comitato Interministeriale per i diritti umani) to translate, publish, and disseminate CESC and CCPR Concluding Observations and has, however, translated as voluntary contribution and published the unofficial Italian translation made of CESC, CCPR and CAT Concluding Observations, and UPR Recommendations on the web site of the *Comitato* www.comitatodirittiumani.net.

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 fulfill such task.



Submission of Information

To the UNITED NATIONS

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

“RACIAL DISCRIMINATION IN ITALY AGAINST WOMEN WITH PARTICULAR ATTENTION TO GENDER VIOLENCE”

Special report by ANANKE

*The Ananke Onlus Association, founded in 2005, is characterized by its exclusively female team with statutory objectives fight against violence to women and children and promotion, design, organization and management of interventions and services (shelters and/or homes) for women who have suffered abuse in the family and/or sexual violence, their offspring and children regardless of their legal status or citizenship victims of mental and physical, sexual, economic violence or abuse. It organizes events and outreach projects to promote gender culture, the dissemination of human rights and equal opportunities. Since 2005 it has started in Pescara an **anti-violence center** connected to the national **women anti-violence hotline 1522** (initiated by the Ministry for Equal Opportunities) with a direct call transfer. Since 2008 it is member of Di.Re, Women Against Violence Network, the national association of anti-violence centers today including 75 centers. Each year, the D.i.Re. network centers open the doors to fifteen thousand Italian and foreign women seeking help.*

Considering all Concluding Observations of the Committee of the Elimination of Racial Discrimination to Italy in 2012;

Given that the Italian Government submitted its report, under article 9 of the Convention XIX to XX Periodic Reports of States Parties, in 2015;

Considering the last Recommendations to Italy contained in the Universal Periodic Review of the UN Human Rights Council in 2010 and 2014;

Considering that the Committee of the Elimination of Racial Discrimination will review Italy in the next 91st Session, and precisely the 1st of December 2016,

ANANKE would like to submit to the Committee of the Elimination of Racial Discrimination (CERD) the following special report with regard to racial discrimination in Italy against women with particular attention to gender violence.

Considering that

1. L'Italia has signed and ratified in 1985 the Convention on the Elimination of all forms of discrimination against Women of 1981 (CEDAW), the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) with law no. 77/2013. The latter Convention entered into force in 2014.

In the period between the ratification by Italy and the entry into force of the Convention, the law was passed n. 119/2013 on security and the fight against gender violence.

This law is not a specific law to address gender violence but concerns also other issues. With regard to gender violence, it introduces some amendments to the Criminal and Criminal Procedure Code, in particular, it lays down certain rules for the protection of the injured party of the crime such as, for example, the right to appoint a lawyer and benefit from free legal aid expenses regardless of income in case of sexual violence, abuse and stalking. It establishes the priority of processes on violence and ensures that victims of violence are informed about the judicial condition in which is the accused. And it foresees the arrest in flagrante delicto for abuse and stalking. The penalties are stricter, the aggravation of the sentence is introduced when the offense is committed against people with whom you have or had an emotional relationship and in the presence or damage of pregnant women or minor. The police are allowed to remove from the house the spouse or violent partner and restrain him from the places frequented by the woman.

It is now possible, under certain conditions, to issue a residence permit for irregular migrant victims of domestic violence.

This provision was deemed discriminatory since for the protection of an irregular migrant victim the requirements and conditions required are different from those for Italian women or for those legally residing. Therefore, it violates the principle of full protection established by the Istanbul Convention which defines violence against women a human rights violation.

Finally, the law n. 119/2013 art. 5 paragraph 1 provides the resources for the prevention and protection of women who suffer violence and the breakdown mode by creating an extraordinary plan against sexual and gender based violence. This plan, drawn up by the Minister Delegate for Equal Opportunities with the support of relevant government departments, women associations engaged in the struggle against violence and with the agreement of the Conferenza Stato Regioni, prepared in cooperation with the European Union for the new programming 2014-2020.

From paragraph 2 to paragraph 5 of Article 5 it is determined that:

2. The Plan, with the aim of ensuring homogeneous action in national territory, has the following aims:

- a) prevention of the phenomenon of violence against women through information and awareness raising of the community, strengthening the awareness of men and boys in the process of the elimination of violence against women in conflict resolution in interpersonal relationships;
- b) raise awareness among media operators for the creation of a communication and information, including the commercial, respectful of gender representation and, in particular, the female figure through the adoption of self-regulatory codes by the same operators ;
- c) promote adequate training of school staff to report and against violence and gender discrimination and promote, within the framework of national guidelines for the curriculum in kindergarten and the first cycle of education, national indications for the secondary schools and guidelines for technical and vocational schools, in the curriculum and extra-curriculum

teaching planning of schools of all levels, awareness raising, information and training of students in order to prevent violence against women and gender discrimination, including appropriate enhancement of the topic in textbooks;

- d) strengthen forms of assistance and support to women victims of violence and their children through consistent procedures for strengthening the network of territorial services, of women shelters and support services to women victims of violence;
- e) ensure training of all professionals who come into contact with episodes of gender violence or stalking;
- f) increase the protection of victims by strengthening the cooperation between all the institutions involved;
- g) promote the development and activation throughout the national territory, of actions based on proven methodologies and consistent with the guidelines specifically crafted, of recovery and accompanying the individuals responsible for acts of violence in relationships, in order to enhance recovery and to limit the cases of relapse;
- h) provide for a structured collection periodically updated, at least once a year, of the phenomenon data, including census of women shelters , also through the coordination of existing databases;
- i) foresee specific positive actions that take into account the skills of the administrations engaged in prevention, contrast and support of victims of gender violence and stalking and experiences of the associations that carry out assistance in the sector;
- j) define a structured system of governance between all levels of government, which is also based on the different experiences and good practices already implemented in local networks and on the territory.

3. The Deputy Minister for Equal Opportunities transmits annually to the Chambers a report on the implementation of the Plan.

4. For financing the Plan, the Fund for policies relating to the rights and equal opportunities is increased by 10 million euro for the year 2013. The costs shall be covered by the corresponding reduction of the authorization of expenditure referred to in Article 61, paragraph 22, of the Decree-Law of 25 June 2008, n. 112, converted with amendments by Law 6 August 2008, n. 133, and following changes.

5. For the implementation of the provisions contained in this article, except as provided by paragraph 4 of that Article and Article 5 bis, the use of human resources, equipment and financial resources available under current legislation, with no new or increased burdens on public finances, will be utilized.

Finally art. 5 bis *Azioni per i Centri antiviolenza e le case rifugio* (Actions for the antiviolence centers and shelters) establishes that:

1. In order to implement the provisions of article 5, paragraph 2, letter d) of this Decree, the Fund for policies relating to the rights and equal opportunities, in Article 19, paragraph 3, of decree-law of July 4, 2006, n. 223, converted with amendments by Law 4 August 2006, n. 248, is increased by 10 million euro for the year 2013, 7 million euro for 2014 and 10 million euro per year from the year 2015. The costs shall be shall, as to 10 million euro for the year 2013, by the corresponding reduction in the authorization of expenditure referred to in Article 61, paragraph 22, of the decree-law of 25 June 2008, n. 112, converted with amendments by Law 6 August 2008, n. 133, as amended, and, as per the 7 million euro for 2014 and the 10 million euro per

year from the year 2015, by a corresponding reduction in the authorization of expenditure referred to in Article 10, paragraph 5, decree law 29 November 2004, n. 282, converted, with amendments by Law 27 December 2004 n. 307, relating to the Fund for structural economic policy. The Minister of Economy and Finance is authorized to issue, by decree, the necessary budgetary changes.

2. The Deputy Minister for Equal Opportunities, subject to agreement within the Standing Conference for relations between the State, regions and autonomous provinces of Trento and Bolzano, provides annually to be distributed among the regions the resources referred to in paragraph 1 keeping in mind the:
 - a) regional planning and already operational measures to combat violence against women;
 - b) the number of existing public and private anti-violence centers in every region;
 - c) the number of existing public and private shelters in every region;
 - d) the need to balance the presence of anti-violence and shelters in every region, reserving one-third of the funds available to the establishment of new centers and new shelters in order to achieve the aim of the recommendation Expert Meeting on violence against women -Finland, 8- 10 November 1999.

3. The anti-violence centers and shelters, which are guaranteed anonymity, are sponsored by:
 - a) local authorities, individually or collectively;
 - b) associations and organizations in the field of support and help to women victims of violence, who have gained experience and expertise in the field of violence against women, which use a method of accommodation, based on the relationship between women, with staff specifically trained
 - c) entities referred to in subparagraphs a) and b), in consultation, in concert or in consortium.

4. The anti-violence centers and shelters operate in an integrated manner with the network of health, social and care territorial care services, taking into account the fundamental needs for the protection of persons who suffered violence, even in the case they carry out the functions of a specialized service.

5. Regardless to the intervention methods adopted and the specific professional profiles of the operators involved, the training of professionals for women centers and shelters promotes an integrated approach to the phenomena of violence, in order to guarantee the recognition of the different dimensions of the violence suffered by people, at relational, physical, psychological, social, cultural and economic levels. It is also part of the training of the operators of anti-violence centers and shelters to recognize the dimension scale of violence that can be brought back to gender discrimination.

6. The regions designated for the allotment the resources have send to the Delegate Minister for equal opportunities, by March 30 of each year, a report on the initiatives undertaken in the previous year to apply on the same resources.

7. On the basis of information provided by the regions, the Deputy Minister for Equal Opportunities before the Chambers, by June 30 of each year, reports on the use of the resources allocated under this article.

The President of Di.Re Network has recently stated: "Despite the legislative prediction and the size of the problem, only six regions have organized meetings with us. The point is that the laws are there, but it is as if there were not. Because no one respects them. And with the money it is even worse. The funding is allocated. But the bureaucracy blocks them. " So, waiting for someone to put his hand to the bureaucratic swamp, the centers close. The last two were Le Onde of Palermo that in twenty years has helped ten thousand women and that it is now reduced to the help line and Casa Fiorinda of Naples, a structure seized from the Camorra. Scars that multiply, running from Sicily to Lombardy, Sardinia, Veneto. "Meanwhile, according to Istat, in Italy one in three women continues to be the victim of violence" . We also of the Anti-violence centers National Network (DiRe) have worked in recent months to a first independent collection of data on funding to the 73 Anti-violence centers that make up our network.

The first sensational data we want to bring to the attention of the public opinion is that in only six regions the confrontation or a mutual exchange of information between the local public authority and the associations, yet it is clear that it is a essential confrontation to set up coherently the spending of resources.

Furthermore, only in very few cases the regional mappings of needs and resources present on the territory have been made, and even in these rare cases without verifying in the field and without any exchange with the Associations. We have always opposed this approach, because it inevitably leads to disservice and inefficiency.

Another relevant information that emerges from our survey is that, in the overwhelming majority of the regions, in November 2015 the funding had not yet been spent and sometimes it had not even been provided to the commitment of resources. We have observed that many regional offices appointed to this task have not sufficient expertise, and therefore tend to distribute the resources to unskilled users, even without any experience of working on violence against women. An assessment of priorities in terms of benefits for women who suffer violence lacks completely. Such an assessment cannot be made without hearing the views and seeking the advice of centers and shelters that operate for years in the territories, and therefore are well aware of the weaknesses and the strengths of the system.

It is also very difficult, and sometimes impossible, to access information on the allocation of funds and the criteria that guide it. Public documents need to be available on Internet, together with lists and monitoring of available interventions, to ensure transparency, fairness, effectiveness of the public intervention ".

The Association ANANKE onlus wishes CERD will adopt in its Concluding Observations the following recommendations:

- 1. To the Delegate Minister for Equal Opportunities and other competent authorities to give full effect to the provisions of the Law 119/2013 on the protection of women who suffer violence and in particular to act without delay to the re-allocation of resources to be allocated in accordance with the provisions in the Istanbul Convention signed and ratified by the Italian State .A very small percentage of 16.5 million euro distributed to the regions for antiviolence centers were paid and 18 million euro earmarked by law 119/2013 for 2015-2016 have not yet been disbursed.*
- 2. To the Delegate Minister for Equal Opportunities and other competent authorities to ensure the overcoming of every bureaucratic block for the funds disbursed by the government and to prevent the distribution to the associations that are run by anti-violence centers which always offer a service of prevention and protection of women who suffer violence, and therefore can remain open and fully operational.*

Rome, 31 October 2016

Submission of Information

To the UNITED NATIONS

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

**“RACIAL DISCRIMINATION IN ITALY AGAINST MIGRANTS AND
ASYLUM SEEKERS AND HATE SPEECH”**

Special report by ASGI – Association for Juridical Studies on Immigration

The Association for Juridical Studies on Immigration (ASGI) is a membership-based association focusing on all **legal aspects of immigration**. As a pool of lawyers, academics, consultants and civil society representatives, ASGI's expertise relates to various areas of immigration and migrants' rights, including but not limited to **antidiscrimination and xenophobia, children's and unaccompanied minors' rights, asylum and refugee seekers, statelessness and citizenship**.

ASGI's members provide their contribution at various levels: administrative, policy-making and legal, both in **national and European contexts**.

Considering all Concluding Observations of the Committee of the Elimination of Racial Discrimination to Italy in 2012;

Given that the Italian Government submitted its report, under article 9 of the Convention XIX to XX Periodic Reports of States Parties, in 2015;

Considering the last Recommendations to Italy contained in the Universal Periodic Review of the UN Human Rights Council in 2010 and 2014;

Considering that the Committee of the Elimination of Racial Discrimination will review Italy in the next 91st Session, and precisely the 1st of December 2016,

ASGI would like to submit to the Committee of the Elimination of Racial Discrimination (CERD) the following special report with regard to racial discrimination in Italy against migrants and asylum seekers and hate speech.

Access to many social services continues to be limited in practice to non-EU citizens with a long term residence permit or foreign citizens in possession of a international protection permit with the exclusion of all others. The excluded foreign citizens represent around the 47% of foreigners on the Italian territory and, being the one which have less stability in the territory are also the more affected by poverty.

In the last decade various strategic litigations have been made which have conducted to the elimination by the Constitutional Court of the restriction in the access to disability benefits originally introduced by art. 80 paragraph 19 of Act No 388/2000 (Constitutional Court rulings no. 306/2008, No 11/2009, No 187/2010, No 40/2011, No 329/2011, No 40/2013, No 22/2015, No 230/2015). Now, even without a legislative reform, disability benefits have to be recognised to all the foreign citizens with the only requirement foreseen by art 41 of the migration law (Testo Unico Immigrazione) which is to have a permit of at least one year. Concerning the other social benefits such as maternity allowance or buyer's card there were various litigations based on the clause of equal treatment foreseen by art 12 of the 2011/98 directive. Many have had already positive results but the dispute it's still ongoing.

ASYLUM SEEKERS GENERAL ACCESS TO RIGHTS

Asylum seekers find difficulties in access to the health system and labour market due to the procedures required to inscribe to those services. In fact the Tax Office, the Ministry of Economics and the Ministry of Health – with the aim of applying artt. 21 e 22 D. Lgs. 142/2015 - have introduced a temporary numerical fiscal code for asylum seekers since the verbalisation of their asylum request (valid as temporary permit) to allow them to have access to their rights. But this fiscal code, being different (shorter) than the one given to all other citizens, has the effect of discriminating asylum seekers determining the practical impossibility to register them to health services, professional courses, work market due to the incapacity of informatics system to recognise this code.

FOREIGNERS AND ACCESS TO SOCIAL BENEFITS

As mentioned above access to social services in Italy continues to be limited to non-EU citizens having an EU long-residence permit or international protection excluding all other foreigners. Therefore, migrants find limitations compared to Italian citizens and UE citizens in accessing social benefits. This approach is in contrast with art.5 let e) of ICERD and the European legislation on equal treatment (in particular art. 12 directive 2011/98 on the right to equal treatment of third country nationals with a single permit to work/permesso unico lavoro) and it has been frequently recognised as discriminatory by national courts.

Here are some examples about the social benefits limited to certain categories of foreigners and therefore discriminatory:

a) The **Buyer's Card** meant for the purchase of goods and services by members of vulnerable groups was reserved only to Italian citizens in accordance with Art. 81 Legislative Decree No 112/2008 (converted into Act No. 133/2008). With art. 1 c. 216 Law 147/13 and Ministerial Decree of the Ministry of Finance and Economy, 3 February 2014, it has been extended to non-EU citizens in possession of a EU long-residence permit, non-EU family members of EU citizens and to refugees. Yet, foreigners with the so-call “permesso unico lavoro” are excluded from this social benefit.

b) **Allowance for large families** with at least three children, living in conditions of economic hardship. This benefit, in accordance with art. 65 L. 448/98, was foreseen only for Italian or EU citizen and excluded non-EU citizens with the exception of refugees. With art.7 Law 97/2013 this benefit has been extended to EC long-residence permits and non-EU family members of EU citizens while an administrative provision (circolare INPS n. 9 del 22/01/2010) has extended the benefit to refugees. Yet, foreigners which have the so-called “ permesso unico lavoro” are excluded from this social benefit. The exclusion of this category, which has been considered discriminatory by different courts around Italy, will be discussed in front of the CJEU (<http://www.asgi.it/banca-dati/corte-appello-genova-ordinanza-rimessione-alla-cgue-del-1agosto-2016/>)

c) **Basic Maternity Allowance.** provides for every child born into impoverished families. Art. 74 Legislative Decree 151/2001 reserves the benefit to women from outside the EU who hold long-term EU residence permits and refugee women, excluding all non-EU citizens who are legal residents but holding only regular residence permits. This exclusion has been recognised as discriminatory by all the national courts which have decided on the issue (Tribunale di Alessandria, 9 December 2014 <http://www.asgi.it/notizia/il-tribunale-di-bergamo-rinvia-lindennita-di-maternita-di-base-alla-corte-costituzionale/>). Moreover the lack of extension to all foreigners with the so-call “permesso unico lavoro” will be discussed in January 2017 in front of the Italian constitutional court.

d) **Maternity Allowance Paid by the State.** Pursuant to art. 75 of Legislative Decree no. 151/2001 is intended only for Italian and EU citizens residing in the territory and women residents from non-EU countries who hold EU residence permit for long-term residents. All the other categories of foreigners are excluded.

e) **Check for new born (art. 1, comma 125 Law 23 December 2014, n. 190)** intended for Italian, EU citizens, non-EU citizens who hold residence permits for long-term residence. This benefit cannot be received by all non-EU citizens legally residents but holding only regular residence permits. This exclusion has been recognised as discriminatory by all the national courts which have decided on the issue on the base of art. 12 directive 2011/98.

f) **Benefit for active inclusion (SIA – sostegno per l’inclusione attiva – intra ministerial decree 26 May 2016)** intended for Italian, EU citizens, non-EU citizens who hold residence permits for long-term residence and non-EU family members of EU citizens. The decree doesn't include non-EU citizens who are legal residents but holding only regular residence permits and refugees (who are anyway included in the format to present for the request).

g) **Social Allowance** reserved for those over 65 years old in difficult economic conditions who meet the criterion for 10-year length of residence in Italy (according to Art. 20 c. 10 Legislative Decree No 112/2008, converted into Act No. 133/2008) and the possess the long term permit to stay (according to article 80 paragraph 19 of act No 388/2000 – see below -). Both the requirements are suspected to be discriminatory. The first one, required to all, Italian citizens and foreigners, can indirectly discriminate foreign citizens who have less possibility to be on the territory since such a long period. An Italian Court has recognised this requirement as discriminatory (<http://www.asgi.it/notizia/cade-il-requisito-dei-dieci-anni-di-residenza-ai-fini-del-diritto-allassegno-sociale-per-i-familiari-di-cittadini-dellunione-europea/>). The second requirement has been considered potentially in contrast with some articles of the Constitution and the Bergamo Court has therefore referred the matter to the Constitutional court which will have

to decide in the next months.

HATE SPEECH

Hate speech and its contrast have been at the center of long discussions by the public and at political level. The issue became particularly relevant in the past years because of the humanitarian crisis that has affected Europe and which became the topic of the journalistic narrative, the utterances on behalf of politicians and of common citizens. In particular, the media did not always provide an image consistent with the reality of facts, especially about the migration phenomenon at national and global level. In such a scenario, the expressions of incitement to racial hatred towards asylum-seekers, foreigners in general, ethnic minorities (such as Roma), persons professing the Muslim religion have become always more increasing. The "virtual places" where such hate speech found increased expression are the social networks (eg. Facebook); Facebook pages of online newspapers (especially the local newspapers) that allow you to comment on articles and current events; the online fora of newspapers.

With reference to the Italian legal framework, enforcement bodies and the case law developed on these issues, the absence of a contrast specific legislation for hate speech can be detected. Particularly in view of a debate, still open and full of interventions, about the relationship between hate speech and the constitutional freedom of expression.

As per journalism, there has been limited (almost absent) moderation on behalf of the newspapers on what is published on their online fora or on their Facebook pages, while commenting on current events concerning migrants (particularly asylum seekers) . This is despite an express provision of the "Consolidated Text of the duties of the journalist" (approved by the National Council of the Order of Journalists on 01.27.2016), according to which the journalist "applies the principles of ethics in the use of all means of communication, including social networks "(art. 2, letter. g).

There have been discussions on this matter; concerning the relationship between freedom of criticism and need for a legislation (and related control tools: the so-called social media policy). All this fits into a wider perspective: as the activity of a journalist is no longer limited to the narration of concrete facts, but also it affects the interaction with the reader-user and the moderation of the comments expressed by the same. This is to prevent that the lawful opinion becomes a prohibited incitement to racial hatred. The reality on the web is very difficult to monitor.

There are some survey and observation activities undertaken by UNAR (National Office against Racial Discrimination), carried out based on the alerts to its Contact Centre and directly from the office. In 2014, UNAR has recorded 347 cases of xenophobic expressions on the socials, of which 185 on Facebook and the other on Twitter and Youtube. Recorded cases are on the rise in 2015.

Monitoring is also carried out by OSCAD (Osservatorio per la Sicurezza Contro gli Atti Discriminatori - Observatory for Security Against Discriminators Acts). In 2013 231 reports of discriminatory acts were recorded. 65 of them concerned the Web: Internet sites or Facebook profiles with discriminatory content.

Legislative overview

In Italian legal system there is no specific legislation against hate speech, but there are different norms to contrast racial hatred, propaganda of ideas based on racial superiority and hatred, insults, defamation and threats which are applied in cases of hate speech.

With regard to this topic first of all the principle of equality as in art. 3 of the Italian Constitution can be highlighted. Starting from this fundamental principle laws contrasting racial discrimination in time have been introduced. The first of such was the ratification of the Convention against all forms of racial discrimination, signed in New York on March 7, 1965.

More precisely, article 3 L 654/1975 punished with imprisonment from one to four years "those who in any way spreads ideas based on racial superiority or hatred" and "those who incite in any way discrimination or incitement to commit or commit acts of violence or provocation to violence against persons because they belong to a national, ethnic or racial group". From one to five years of prison was the punishment for participants in associations or organizations that among their aims have that to "incite hatred or racial discrimination". Following, in 1993, a comprehensive legislation in the field of anti-discrimination was introduced: the so-called Mancino law. It extends the repression also to discrimination based on religion and distinguishes the actions of "disseminating ideas" and "incitement to discrimination", punished with milder penalty prescribed by law, from those for incitement to violence, or violence, or provocation to violence, punished more severely. The Mancino Law was amended in 2006. Now it is an offense the conduct of those who "propagandize ideas based on racial or ethnic superiority or hatred"; of those who "incite to commit or committing acts of discrimination on racial, ethnic, national or religious grounds"; of those who "incite to commit or committing acts of violence or provocation to violence on racial, ethnic, national or religious grounds". Even with such sustained changes, the Mancino Law is today a fundamental tool for combating racial discrimination. The law does not specify what should be the medium used to spread propaganda and xenophobic ideas. As a result, it is possible to apply the law even to hate speech disseminated via the web (except for the problems of identification of the person responsible).

In addition to the special rules, valid contrast media used in the case law are the criminal cases of abuse (art. 594 Criminal Code) and defamation (art. 595 Criminal Code).

More recently, an attempt to introduce specific regulatory instruments for hate speech online. Examples are the rules on contrasting cyber bullying and the right to be forgotten in the process of discussion and approval.

In 2015 the "Italian Internet Bill of Rights" was introduced, which contains declarations of principles about the access to and use of Internet. Significant is art. 13: "the protection of the dignity of people from abuses related to behaviours such as incitement to hatred, discrimination and violence should be guaranteed."

Among the international legal instruments worth mentioning is the Budapest Convention on Cybercrime of the Council of Europe of 2004 (ratified in 2008). It is the first international treaty on crimes committed via the web and its Additional Protocol adopted by the Council of Europe in 2003, particularly regarding the fight against cyber crime, and introducing the scope of contrasting forms of xenophobia, racism and denial of genocides is very important.



Submission of Information

To the UNITED NATIONS

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

“RACIAL DISCRIMINATION IN ITALY AGAINST ROMA AND SINTI COMMUNITIES”

Special Report by Associazione 21 luglio

Associazione 21 luglio ONLUS is an independent non-governmental organization committed to the promotion of Roma and Sinti rights in Italy, mainly through the protection of children’s rights and the fight against any form of discrimination. Its main activities are human rights research and advocacy, human rights education and strategic litigation. Associazione 21 Luglio was established in Rome on 6 April 2010. It is registered in the National Anti-Discrimination Office’s register of anti-discrimination organizations.

Associazione 21 luglio kindly submits the following information concerning Italy as a contribute to the joint submission to the Committee on the Elimination of Racial Discrimination coordinated by the Committee for the Promotion and Protection of Human Rights.

Considering all Concluding Observations of the Committee of the Elimination of Racial Discrimination to Italy in 2012;

Given that the Italian Government submitted its report, under article 9 of the Convention XIX to XX Periodic Reports of States Parties, in 2015;

Considering the last Recommendations to Italy contained in the Universal Periodic Review of the UN Human Rights Council in 2010 and 2014;

Considering that the Committee of the Elimination of Racial Discrimination will review Italy in the next 91st Session, and precisely the 1st of December 2016,

Associazione 21 luglio would like to submit to the Committee of the Elimination of Racial Discrimination (CERD) the following special report with regard to discrimination in Italy against the Roma and Sinti communities.

1) THE NATIONAL STRATEGY FOR THE INCLUSION OF ROMA, SINTI AND CAMINANTI

In February 2012 Italy submitted its National Roma Integration Strategy (NRIS) to the European Commission¹. Despite lacking an effective monitoring and evaluation mechanism and a set of quantifiable objectives and result indicators, the document foresees a set of integrated policies focusing on four key areas (Housing, Employment, Education, Health), and represents a formal commitment towards Roma and Sinti social inclusion. The Italian NRIS explicitly recognizes the inadequacy of the “camp”² policy and the excessive use of forced evictions against Roma and Sinti settlements and its substantial inadequacy³.

In general, the NRIS is characterized by a non-homogeneous territorial implementation and by high degrees of discretion concerning the translation of the foreseen measures at the central level into concrete measures at the local level, resulting in a lack of impact on the ground.

Concerning housing, the main national policies do not present elements in blatant contrast with the NRIS, but within the Italian decentralization context local authorities have a certain degree of autonomy in designing and implementing local policies⁴. Within this framework, and in lack of a mechanism of accountability, the local authorities have a degree of discretion which can lead to the implementation of policies in contrast with the principles of the NRIS. Associazione 21 luglio documented the housing policies targeting Roma implemented by some Italian local authorities starting from 2012, which contrast with the NRIS as they reiterate housing and social segregation through the construction or the extraordinary refurbishment of Roma-only “authorised” settlements. In the period 2012 – 2016 (30 September), Associazione 21 luglio documented the following measures:

- 9 new Roma-only settlements constructed
- 4 Roma-only settlements currently under construction
- 15 Roma-only settlements underwent or are currently undergoing extraordinary refurbishment
- 8 new Roma-only settlements in advanced planning (project approved)
- 2 new Roma-only settlements currently under debate

2) HOUSING SEGREGATION

Italy is legally bound to protect, respect and fulfil the right to adequate housing and to non-discrimination by a number of international and regional instruments, and it has been repeatedly urged by a number of human rights monitoring bodies to put an end to discriminatory practices and policies affecting Roma living within its territory. The Italian authorities have repeatedly failed to meet these international obligations and recommendations, as they continue with the practice to officially construct and manage “authorised” settlements, and to provide Roma and Sinti families with housing units inside them. The “authorised” settlements are designed and managed as to constitute a parallel and permanent housing system specifically designed for Roma and Sinti, in alternative to ordinary housing solutions, as for example the social housing system⁵. According to a mapping performed by

¹ Italian National Strategy for the Inclusion of Roma, Sinti and Caminanti, February 2012.

² Since the 80s, as it will be further discussed in a following section of this submission, Italian authorities started to build and manage the so called “nomad camps”, authorised settlements directly managed by the authorities and explicitly addressed to accommodate only Roma, under the wrong perception that Roma are an homogeneous group pursuing a nomadic lifestyle.

³ Forced evictions usually target inhabitants of informal settlements, which differ from the “authorized” settlements as they are not directly managed by the authorities and usually rise on occupied land presenting makeshift dwellings which, despite some exceptions, averagely house small group of peoples.

⁴ See: Italian Constitution, Part II, Title V.

⁵ While the public notices do not include any clause directly excluding Roma from applying for social housing, in practice they hardly meet the criteria needed in order to obtain a high score in the rankings and have a social housing unit

Associazione 21 luglio, Italy currently manages 145 “authorised” Roma-only settlements throughout Italy⁶. Housing segregation of Roma communities is a widespread and systematic issue and it is not just limited to the main Italian cities, as many medium municipalities also manage Roma-only settlements. The residents are not exclusively non-citizen Roma, as many acquired Italian nationality through naturalization while others belong to Roma or Sinti communities settled in Italy since centuries, such as the Italian Roma community living in the Scordovillo Roma-only settlement in Lamezia Terme (390 persons)⁷. None of the settlements visited BY Associazione 21 luglio meets the international standards set forth in the CESCR’s General Comment No. 4, while all the households visited in the “authorised” settlements fall inside the definition of “slum household” provided by the UN-HABITAT⁸.

3) FORCED EVICTIONS

Differently from evictions from private housing or from irregularly occupied social housing, the Italian legislation does not offer a clear framework concerning evictions from informal settlements. This translates in a high degree of discretion by the authorities, meaning that their action is unlikely subject to jurisdictional control, particularly when they act without the support of a formal administrative order resulting from a formal procedure which could be challenged in Court. Roma and Sinti continue to be repeatedly forcibly evicted from their dwellings by the authorities throughout Italy. When collectively evicting Roma and Sinti families, the Italian authorities hardly ever apply all the procedural protections foreseen by international instruments⁹: in most of the documented cases, evictions are carried out in absence of formal eviction orders and without a formal notice, therefore impeding the access to a legal remedy, and without an adequate advance notification, in absence of any kind of consultation and without taking into consideration the individual circumstances of each family; often evictions result in the arbitrary loss of private property without compensation and in people being rendered homeless, as no adequate alternative housing solution is provided to those unable to provide for themselves. When alternative housing is offered, either it usually foresees the division of households (only mothers with children are offered temporary shelter in emergency structures), or it takes the form of a sub-standard and inadequate housing unit in a segregated Roma-only “authorised” camp or Roma-only reception facility¹⁰. The most common arguments brought by the authorities to justify forced evictions are related

assigned (e.g. the housing sub-standard conditions of the “authorized” settlements are not taken into consideration, being forcibly evicted from a spontaneous settlement does not count as being evicted from a conventional house, the assignment of a housing unit in an “authorized” settlement is already deemed as a kind of institutional assistance and thus does not allow for a high score), or they lack some of the requirements to apply at all (e.g. citizenship, formal residency, permit of stay of the duration of more than one year), thus only few Roma families succeeded in being assigned a social housing unit. The municipality of Rome deserves a specific focus, as in early 2013 the Department for Housing Policies issued a discriminatory circular explicitly excluding Roma residing in “authorized” settlements from having recognized a high score in the rankings for social housing units (see: <http://www.errc.org/article/italy-municipality-of-rome-denies-social-housing-to-roma-living-in-formal-camps/4096>). Following the intervention of international and national NGOs, the Municipality withdrawn the circular and ceased its effects. Despite the positive development, it must be stressed that only few of the Roma living in “authorized” settlements in Rome meet the eligibility criteria (e.g. residency, stay of permit of more than 1 year, ID papers) for applying for a social housing unit, thus, with the present criteria, social housing cannot be identified as the unique response in order to desegregate Roma communities living in “authorized” settlements.

⁶ The mapping is constantly updated and intended for internal use. It is not publicly available for privacy and security concerns.

⁷ As mentioned in the previous chapter, the Municipality of Lamezia Terme is currently debating a project proposal to construct a new segregated settlement to re-house the Roma community currently living in Scordovillo.

⁸ UN-HABITAT, *Streets as Tools for Urban Transformation in Slums*, 2015, p. 4, available at: <http://unhabitat.org/books/streets-as-tools-for-urban-transformation-in-slums/>.

⁹ Committee on Economic, Social and Cultural Rights, General Comment No. 7, 20 May 1997.

¹⁰ These kind of facilities are supposed to offer a temporary shelter as inclusion projects tailored on the families should be implemented in order to gradually allow them to reach sustainable autonomy, but most often there are no projects in place and the families remain in the segregated housing facilities for long period of times without any clear prospective concerning their future.

to the precarious hygienic-sanitary conditions of informal settlements. Forced evictions do not result in restoring housing adequacy, but in reiterating housing inadequacy in another place while further increasing the vulnerability and exacerbating the living conditions of those affected.

4) HATE SPEECH AND VIOLENCE

Anti-gypsyism is a specific form of racism¹¹ and a powerful obstacle in preventing Roma and Sinti inclusion¹². In Italy, according to Pew Research Center, 86% of the population hold a negative opinion about Roma¹³. Among the different shapes that anti-gypsyism can acquire, hate speech against Roma is the most pervasive in the Italian context. These episodes are usually not promptly and firmly condemned by Government officials, politicians and relevant head of political parties. While those cases of hate speech adopting explicit and racist rhetoric may fall within the provisions set forth by the Law No. 205/1993 (and following amendments), for those cases adopting a more indirect and subtle expression of bias, the current Italian anti-discrimination framework does not provide for effective means to address and discourage them, leaving anti-gypsyism and its promoters enough space to irresponsibly fuel anti-Roma sentiments with blatant dangerous effects. The action of the National Office Against Racial Discrimination (UNAR) is considerably limited due to the lack of sanctionatory and/or deterrent means to address and discourage episodes of this kind¹⁴.

¹¹ ECRI, General Policy Recommendation no. 13: On Combating Anti-Gypsyism and Discrimination Against Roma, June 2011.

¹² Council of Europe Commissioner for Human Rights, The discrimination of Roma in Europe: a human rights perspective, September 2010; Council of Europe Commissioner for Human Rights, Positions on the Human Rights of Roma, May 2010.

¹³ Pew Research Center, Report: Faith in the European Project Reviving, June 2015, available at: <http://www.pewglobal.org/2015/06/02/faith-in-european-project-reviving/>.

¹⁴ In various meetings with Associazione 21 luglio UNAR representatives repeatedly highlighted the lack of available instruments to effectively tackle these kind of episodes. For more detailed information about UNAR, please refer to the dedicated section within this submission.

Rome, 31 October 2016

Submission of Information

To the UNITED NATIONS

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

**“RACIAL DISCRIMINATION IN ITALY AGAINST MIGRANT CITIZENS, WOMEN AND
LABOUR, AND WORKERS WITH DISABILITY”**

Special report by CGIL

CGIL is the largest trade union organization in Italy, with more than 5.800.000 members, based on programmatic, multi-ethnic, consensual and democratic nature. CGIL promotes the freedom of association and the collective protection of male and female workers, along with those employed in cooperative and self-managed forms, subcontracted, unemployed or first time job seekers, pensioners and elderly women and men. Membership is on a voluntary basis. Its National Secretariat is composed by women at 50%. CGIL is a Confederation of branch sectors (federations) organized on three levels: national, regional and local. CGIL is affiliated to the European trade Union Confederation (ETUC) and the International Trade Union Confederation (ITUC). CGIL has the consultative status at the UN. Due to the complexity of the structure, and for a more complete description of the tasks, please see CGIL web site: <http://www.cgil.it>

Considering all Concluding Observations of the Committee of the Elimination of Racial Discrimination to Italy in 2012;

Given that the Italian Government submitted its report, under article 9 of the Convention XIX to XX Periodic Reports of States Parties, in 2015;

Considering the last Recommendations to Italy contained in the Universal Periodic Review of the UN Human Rights Council in 2010 and 2014;

Considering that the Committee of the Elimination of Racial Discrimination will review Italy in the next 91st Session, and precisely the 1st of December 2016,

CGIL would like to submit to the Committee of the Elimination of Racial Discrimination (CERD) the following special report with regard to racial discrimination in Italy against migrant citizens, women and labour with particular attention to Sicily and Puglia and workers with disability.

1) Discrimination Against Migrant Citizens

In Italy, as in the rest of Europe, immigration has long been a structural phenomenon: immigrants constitute 8.1% of the resident population and account for more than 5 million, 15% of births in 2013, 9.0% of pupils (school year 2013/2014) and 10.5% of the total working people and 7.8% of all entrepreneurs.

Because of those data, the migration phenomenon cannot be considered as an emergency, hence, an interim and temporary element, as it is a component of the Italian society.

Unfortunately, these data are not taken in due consideration by the public institutions, which consider the issue as a matter of public policy, with a security-based approach, leading to the approval of the various regulations and national and local special measures which have de facto discriminated and continue to discriminate the migrant citizen as regards access to the fundamental rights of the person laid out by the Italian legal system, subjecting him/her to a lower legal status compared to the native citizens.

For these reasons, they remain often confined within a position of blackmail, suffering discrimination in various areas related to:

- Wages and under skilled qualification while working
- Difficulty in accessing welfare, and right to health
- Difficulty in accessing public and private housing
- The possibility of obtaining citizenship after the years of residence remains a discretionary concession with extremely long time required to complete the concerned procedures
- The right to vote in local elections after a certain amount of regular residence is still not foreseen
- The regularity of the stay in the territory is over taxed
- There is no provision that allows children born and raised in Italy to obtain citizenship (*Ius Soli*).

2) Severe exploitation of foreign construction workers in Italy under the false regularity of posting work

More than 2 million in Europe and more than 50 000 in Italy, 50% of which in construction, are the workers who, under the fake regularity of the European legislation on posted workers of 1996, implemented in Italy in 2000, move from one European country to another, organized by brokerage houses, recruited in Romania, Poland, Bulgaria, but also Slovenia, Lithuania and Latvia with sometimes apparent regular contracts, sometimes totally irregular. They work up to 26 days per month, 10 hours a day, with pitiful wages, 5,00 euro per hour, with run-down and unsanitary housing, unpaid contributions and no health insurance, European workers in all but their rights.

This is the apparently legal situation faced by many foreign construction workers, but also in other sectors such as transportation and agriculture, this is a reality that conceals an area of substantial exploitation and social dumping, situations often unknown or kept well hidden and that not even the trade unions are capable to reach except in extreme cases of serious injuries at work.

The Eastern European companies are clearly very attracted by the Italian market highly fragmented and structurally weak, with the capability of providing services at a lower price than the Italian companies, because of the lower labor costs that still characterizes these countries. In Italy you can import workers without too many controls and then insert them easily among the thousand meshes of subcontracting, among a thousand steps in the construction industry, hide them to the Labour Inspection, the revenue authorities, and the same unions.

Some companies offer with impunity, as goods on sale, groups of workers, up to 50 units, at a very low cost, with no food, accommodation, willing to sleep in containers, with no toilets. They are the new slaves, a new form of export of arms, often already resident in Italy, sometimes rented in bulk, whole teams, with no social assistance, often unaware of their rights, is the new face of illegal hiring

the “caporalato”, the one seemingly clean, that even if it is discovered it is very difficult to punish. If a worker is posted to another European country he/she should receive the same remuneration and contractual and regulatory coverage of the host country, while the contribution remains in the country of origin, but who can check that this really happens? In Italy these controls are extremely difficult and rare. There is no European contributions database, there is no European coordination of inspection services, and also the rules governing the EU posting are hard, difficult to interpret, even for the lawyers or judges who very rarely come into contact with court cases of false posting, illegal hiring or labor brokerage. It is often difficult to distinguish these crimes, they are intertwined with each other, some is a criminal offense and some a civil one. In the case of posting without requirements the penalty is a simple fine of EUR 50,00 and therefore at the end the entire procedure will be nullified. More than once we found ourselves in front of cases that clearly in our opinion were crimes, yet skillful lawyers and the fragility and weakness of the same workers victims of exploitation and often blackmailed have prevented the prosecution go through with it.

It is the case of a group of Sardinian workers in Arbatax that, recruited by an Italian company that had moved since a few years in Poland, were signing seemingly regular contracts, as if they were Polish workers who came to Italy to work, obviously within the group there was also some Polish worker, but this enterprise was addressing with the same contract Sardinian workers, who never went to Poland.

Or the case discovered in Pesaro of workers exploited by criminal organizations that took over 700,00 EUR out of 1000,00 EUR salary, or Milan, where for Expo 2015 buses loaded with Romanian workers arrived who were regularly exploited, blackmailed, hidden from the spotlight of the largest international event.

It is also the case of dozens of companies from Eastern Europe that do business with agencies and brokers in L'Aquila to work in the lucrative area of post-earthquake reconstruction.

As Construction Trade Union Federation, together with the CGIL Confederation, we filed a complaint with the Prosecutor's Office, which started a transactional survey called "social dumping", and people from Abruzzo and Romania were arrested on the charges of recruitment and labor exploitation. A criminal organization was dismantled that committed an undetermined number of criminal offenses, tax offenses, self laundering, however, after months of investigation, collection of evidence and procedures the same people who were arrested were then released.

Our institutions INPS, INAIL and Construction Funds carried out the necessary research and the posting of the eleven workers victims of serious exploitation in L'Aquila did not exist. It was not possible to know if these people were paid, whether their contributions had been paid in Romania, where and how they lived in Italy, real ghosts. Those arrested people were envisaged as true and real transactional “corporals”, who were making illicit brokering taking advantage of the coverage of a legislation applied illegally and illegitimately, however, also this that could have been considered a pilot case, was not successful.

The interpretation and analysis of the international posting phenomenon in Italy is extremely difficult because of the lack of official data or reliable estimates that can be destroyed by the productive sectors. The impact of the phenomenon of posting in the construction sector in Italy still does not seem to be particularly relevant, and in any case is very localized geographically being present almost exclusively in the Northern regions and in the capital. But in the case of companies (often Italian-owned) with regional offices in the new EU Member States, in particular in Romania and Poland, their presence seems to launch competitive mechanisms that lead to a clear and obvious lowering of working conditions. The necessary documents are easily forged and, above all, do not allow a constant check of the maintenance of the regularity, nor the maintenance of employment in the country of origin. This is also demonstrated by the difficulties encountered by the Inspectorate in trying to get concrete information tools for monitoring and verifying the employment conditions of workers active in their area, but employed by companies established in other countries.

Strategies for monitoring and controlling of the phenomenon, and, in the event of irregularities, to take action, have a strong international connotation and require large investments in terms of

continued collaboration between institutions and labor organizations in the various countries. The collaboration strategy should be pursued through closer cooperation and a more formal cooperation through the establishment of formal protocols.

Posting is essentially perceived by the various parties in two ways: the Italian workers posted abroad and workers from the new EU Member States who are employed in Italy through the posting mechanism because they "cost less." In general, the Posted Workers Directive seems to be seen more as a regulation that enables companies, particularly in Eastern Europe, to be more competitive by means of a normal mechanism, as competition in the housing market, at this time, seems to consist in having the lowest possible cost, in particular as regards the labor force.

The current economic crisis has produced a sudden increase in the construction sector of undeclared labor or even completely illegal. In a sector in which the presence of these phenomena is structural, the crisis has exacerbated these trends even more, the exploitation of foreign workers has increased exponentially and foreigners seconded by another country are the weakest link, the victims mostly affected by wage, social, existential dumping. The phenomenon of dumping and exploitation linked to the secondment, the illegal hiring "caporalato", exploitation in construction is widespread throughout Europe, but in Italy the percentages are very high and worrying.

3) Women's work. The case of Sicily.

Evening biserica. Abuse and exploitation in the Sicilian countryside

Sera biserica, serra chiesa, it is said in the Romanian language: the origin is in the greenhouse structure, as a church, they have an iron cross, which according to tradition should protect the greenhouse from the wind, breaking it with the cross, preventing it from producing irreparable damage to things and people. If the cross protects against weather agents, however, it does not always protect from human violence and under that cross abuses and injustices are consumed, as well-known by many women workers in the large majority Romanian, who work in the greenhouses between Ragusa and Vittoria.

"The transformed end" between wealth, migration and rights denied

In the area considered, the so-called "transformed end" which includes the municipalities of Santa Croce, Achate, Ispica and Vittoria the agricultural production in greenhouses represents an important and fundamental part of the economy of this territory and notwithstanding the crisis it maintained stable employment levels.

The production of vegetables in this area for quantity and quality is among the first places, as well as the vegetable market of Vittoria is among the most important of all Italy. The fruit and vegetable Ragusa District is the first Italian pole for the gross agriculture production sale, with the 47% of the horticultural and floriculture greenhouse production. The greenhouse cultivation has deseasonalized the production, making manpower necessary almost the entire year.

In the "transformed end" since the seventies the manpower in agriculture was mostly foreign. Initially the origin was above all from Maghreb; since 2007, with the entry of Romania into the EU, it has a different geography of the employed people with important migrant flows from Romania and in particular from the regions of Botosani, Iasi and Bacau, where a subsistence agriculture is practiced. Entire families move to work in the greenhouses but many are women alone who arrive in this area of Sicily, and only with the arrival of the Romanian community has started the use of women labor the greenhouses.

Some numbers

From the data of the subscribers registered in the lists of agricultural workers, in the Province of Ragusa there are 27,000 workers and of these about half is not Italian by birth, peaking at 69.41% in Santa Croce, 68,50% in Acate, 53,72% in Ispica, 48.45% in Vittoria where over 10,000 workers are enrolled. To these figures the workpower, men and women illegal workers, must be added..

Among productions of excellence and comparative prosperity heavy phenomena of exploitation are not lacking at the expense of workers employed in agriculture and especially of women, mostly foreigners and in particular of Romanian nationality, the predominant nationality within that part of the foreign manpower working in agriculture.

The "case" of Romanian women laborers and the action of FLAI CGIL

More than 2,000 Romanian women workers work in greenhouses and many of them suffer besides the labor exploitation condition also serious violence and sexual blackmail.

From the findings since years through direct and constant work on the territory carried out by FLAI CGIL the phenomenon of underpayment has appeared (from 10 to 30 euro per day), working black, gray work made of payrolls with incorrect data, all associated with housing conditions and logistics, that favors the isolation of the women workers and thus their dependence from various points of view from their "masters" or "corporals".

This situation of isolation and dependence is also degenerated in a condition of exploitation and sexual violence, as denounced for years by FLAI CGIL and by other elements of civil society such as the Association Proxima and the Church with Father Beniamino Sacco, that assisting many women workers could intercept stories of abuse and denied rights.

The number of people involved (over 1,000), the organization of this machine of exploitation and the veil that wanted to make invisible the phenomenon have contributed to make the Romanian women laborers of the Ragusa area become a "case".

A veil that decisively has been torn in the past year and a half, when the complaints and the reports carried out by the union have also become the subject of major investigations by journalists, who have made the problem known in its crudity.

31 October 2014 Dario Di Vico on the pages of *Corriere della Sera* wrote: "Until a few weeks ago the trend in the city was to consider the reconstructions of the priest and the CGIL FLAI the same way as rural legends, as if behind there was not a real condition of lawlessness that was and must be addressed and overturned. "

Instead, the "agricultural feasts" are not rural legends, appointments after the working hours in the greenhouse to please the desires of some employer accompanied by friends. From here the stories of deaf violence, violence dictated by a state of necessity, from the blackmail that unless one does not please the landlord the evening the next day you will have difficulty to accompany your children to school, to go to a supermarket or a pharmacy.

The workers and therefore the women workers live, the vast majority, in hollow brick lodges, shelters, ruins which can cost 300 Euros per month, with no bathrooms and no hot water, through narrow streets in the midst of kilometers and kilometers of greenhouses, passing one can see them stretching to the horizon, until they merge with the sea.

Even in the face of such a situation of isolation not only social, but also material, FLAI CGIL has invested for fielding a protective action of the rights directly in the countryside, through the street union mode; in this way the union has come into contact with women and men who need on one hand, the labour and pension protection and on the other, the need for social and health care.

Since 2012 it is active with the Association Proxima, the Solidal Transfert Project aimed at reaching the workers in the places far from the urban centers to break the isolation and protect their rights.

To protect in particular women a stable and organic connection with the national anti-trafficking network was established, taking advantage of the Ministerial protection programs set up by the Department of Equal Opportunities.

Another fact that is an alarm bell, and makes us understand the extent of the phenomenon of exploitation and sexual blackmail is in the number of abortions: the Hospital of Vittoria they were 300 in the year 2014, one third were practiced to Romanian women, many very young, many forced into this choice.

Vittoria is the first town in Italy for the number of abortions compared to the number of inhabitants. The protection, and then the opportunity of getting out of this tunnel, is always difficult as the formal complaint to the competent authorities is difficult, of course the first enemy is fear: the fear of further violence, fear of not having even that little, i.e. 10-15 euro per day and the roof of a cabin on the head. Therefore, many are the accounts, the harrowing stories, the help requests collected by FLAI and the associations, but few ones turn into complaints from which to spring surveys.

Investigation and story of Erika

In some cases, however, investigations have identified the culprits, as it happened in the month of April 2015.

Salvatore Nicosia, of Vittoria aged 67, owner of a farm, was arrested by the police of Ragusa for aggravated kidnapping and aggravated continued sexual violence..

The victim is a Romanian woman of 45, that we shall call Erika. Erika, arrived in Italy in 2006, she found employment, together to many compatriots, on a farm in the province of Ragusa, leaving in Romania six children to support.

After a few weeks, the employer showed an authoritarian attitude, controlling also the little free time, arriving to stop her from go out alone, in an escalation that has unfortunately led to repeated rape. Four times Erika got pregnant, and had four times abortion alone. After years of silence, she found the strength to escape, but the "master " found it, bringing her back to Achate. By day she had to work without even a Sunday break, the night had to undergo the "master's" violence . In late April, the nightmare is over: the woman has been able to tell all to the police, who could piece together the various episodes consumed over time and reported to the judicial authorities.

The survey seems to be framed in the wider investigations of all Departments of the Provincial Command of Ragusa on the phenomenon of foreign women used and exploited in agriculture.

New impetus to the investigation, following the phenomenon of exploitation and illegal employment "caporalato" with particular attention to the fate of women, came from the constant and obstinate action of FLAI CGIL.

Women's work. The case of Puglia

The collective image of the laborer is masculine. However the reality is prosaically different, especially in Puglia, where women's work is complementary to the male but is subject to a system of exploitation and blackmail (even sexual) that can achieve unprecedented ferocity. Between 2013 and 2014, workers in the agriculture in Puglia past from 141,149 to 140,566: the decline is all female. The Italian women lose 1,555 employees, while men earn 972. Only in the Provinces of Foggia and BAT there is an increase of recorded women: in all other provinces they disappear. Where have they disappeared? In fact they have disappeared from the seasonal statistics but are very present in the fields and warehouses. As if that were not enough, the man/woman relationship tends to favor the first also in the number of employees who are entitled to pension schemes. In percentage terms, women entitled (Italian and foreign) impact on the total of those eligible for 47.3 percent; the Italian women for 48.7 percent; the foreign to only 39.3.

To the statistical picture, which in itself tells a hard story against the female in agricultural work, those qualitative variables describing a subjugated, blackmailed and not rarely of enslaved condition must be added.

The days worked recorded for women are significantly lower than those recorded for men, which reveals how weakness and fragility have become structural characteristics of the situation of women farm workers in Puglia. Women wages are lower, even lower than those of immigrants. The wage differential estimated by FLAI CGIL Puglia between males and females is 20/30%: in essence to the already low male daily wages, the result of a contractual fake downward of competences and recorded days, must be subtracted a fair amount and not infrequently decisive to determine the difference between poor and less poor. The strong female social weakness descends also from an overload of domestic/nursing workload not supported by municipal public institutions. There are no facilities on the Apulian territory for night service for children for single laborers or cohabiting with men who work at night; and this despite the fact that local governments were literally filled with money in the last decade to strengthen the offer of places - day and only daytime - in kindergartens and crèches. The figure is serious because the buses of the "caporali" depart from the municipalities in the province of Brindisi or Taranto to reach Bari and BAT, where is the highest concentration of companies of a certain size, so women laborers commute daily for tens of kilometers remaining outside their homes for no less than twelve/fifteen hours. To this picture, already so dramatic, sexual blackmail must be added. In companies (even in some producer organizations supported through regional and European public funding) it may happen that the women laborers are sexually blackmailed to keep their jobs. It is the case of Romanian or Central African women, selected according to the loveliness and desires of "caporali" and, not infrequently, the owners. It is not surprising that foreign women, especially if young and alone, are more 'popular' of Italians, because to the already fragile condition of womanhood the one even weaker of immigrant is added. Finally the ghettos, where you can slip from the condition of laborer into forced prostitution without solution of continuity. A prostitution at the service of their masters, the "caporali", of the laborers countrymen and not, of who passes by occasionally in the countryside.

This is especially true in areas of Foggia and Lecce, where ghettoization is a phenomenon temporarily ineradicable mainly because of a criminal institutional indolence. Ultimately in the condition of the women laborers of Puglia is reflected the inhumanity of a deregulated labor market, little guarded, imprisoned by the vulgarity of a job application that makes women extremely valuable goods at very low cost.

4) Discrimination concerning workers with disabilities

Abstract

The regulatory framework is adequate but worrying is the use of temporary contracts, even for workers with disabilities. Companies, especially private ones, prefer to hire people with disabilities, the mandatory percentage, with fixed-term contracts, which is the prevailing mode, or through conventions, not granting job security to those who have not even a citizenship stability.

In addition, the resources of the Fund for the employment of persons with disabilities are scarce.

The Jobs Act, by Legislative Decree 151/2015, introduced the generalized call by name as the unique means for employing of persons with disabilities.

The nominative call of workers with disabilities to be employed includes elements of "natural selection" unacceptable in a democratic system such as ours based on work, the protection of the people's dignity, the principle that it is the duty of the State to remove the economic and social obstacles which prevent the equality of the same. The nominative call is an institution with deeply discriminatory contents: it is discriminatory because it entrusts the employer with the choice of the person with disability to recruit, regardless of elements such as the varying degrees of disability, the family burden, the family income, seniority of registration to the employment list, the nature and duration of unemployment; it is discriminatory because it favors recruitment not on an objective

basis and patronizes the employment of people with minor disabilities compared to peoples with more severe disabilities, equally capable of working and producing and income.

In Italy, as in Europe, for many years actions have been undertaken to achieve real integration of people with disabilities. However, the economic and employment crisis of recent years has allowed governments to dismantle the welfare state in a wild way in the name of efficiency and individual competitiveness. But over the years people with disabilities have "learned" to group, raise their voice to defend the rights acquired over the years, with the support of CGIL.

Even in the most developed societies obstacles survive preventing people with disabilities to enjoy their rights and individual freedoms, a hindrance that represents a serious discrimination for the full participation in the social life of their communities.

Worrying is the use of temporary contracts, even for workers with disabilities. Companies, especially private ones, prefer to hire people with disabilities, the mandatory percentage, with fixed-term contracts, which is the prevailing mode, or through conventions, not granting job security to those who have not even the citizenship stability.

In addition, there are limited resources for the employment of persons with disabilities.

An extraordinary plan for the employment of persons with disabilities is needed. Just over 18,000 job placements in 2013 are very few, this was the lowest figure recorded since the approval of Law 68/99.

A policy of employment and social inclusion of the vulnerable categories, in the active society should be promoted through positive and targeted policy actions.

On one hand the need is that all people with disabilities are treated in the same manner and with the same purposes.

An example: the concept of the right to independent living, which often makes one think about a physical disability or derived from illness, should instead be applied equally also to cognitive and social disabilities, taking into account that in any kind of disability the purpose must be pursued as much as possible in order to minimize the cases of non-applicability. On the other hand, however, the knowledge of the characteristics of each type of disability must always be present, while often it is not. People with cognitive and behavioral disabilities almost always need a brokerage to represent them to achieve their own purposes (e.g. support administrator, which leaves a larger sphere of independence and self-determination for the person supported).

In conclusion: often cognitive disability is not considered as a specific group, when the occasion would require it.

Conversely, when the occasion would require it, often the cognitive disability is not included in the general measures of disability. The legislative framework is satisfactory, but it could be improved. Its application is, however, almost always unsatisfactory. So it can be said in general that the needs of people with cognitive and relational disability are not met by existing measures as a whole (definitely it is so with reference to the appearance of the resources allocated to the problem).

The UN Convention is a good starting point, because it has the value of the universal declarations: to bring together in a single act the will of the majority of the peoples of the Earth. The Convention is a very interesting approach for the development of policies concerning advanced disabilities, in the perspective of the definition of human dignity with a great cultural depth. Such a conception of disability represents the right approach to go beyond the ambiguities of cultural inspirations that put human dignity in relation to skills or to certain effective properties of the people, such as holding particular cognitive or physical capabilities.

Certainly, at European level there have been important movements of various organizations, such as the ETUC (European Trade Union Confederation) in this direction. Moreover, the European Union, with Directive 2000/78, has deleted the marginalization and exclusion of persons with disabilities.

Even if, as it is known, the European Court of Justice (causa.c-312/11) condemned Italy for failing to correctly and completely transpose Article 5 of the EC Directive n. 2000/78, which imposed on

Member States to introduce an obligation to adopt, on behalf for employers, public and private, "reasonable solutions" in the workplace for people with disabilities.

The European Court noted that it was not sufficient to this purpose that Italy had established public measures of incentive and support to strengthen an inclusive policy, but that it was the task of the State to require all employers the duty of adopting measures effective and practical, in relation to the needs of the specific situations, in favor of all people with disability which concerned the various aspects of employment and working conditions which would enable such people to have access to a job, to carry it out, to have a promotion or to receive training.

As a result, Italy, with the law n. 98/2013, adapting to the above conviction, has introduced a requirement for all employers to take reasonable adaptations in the workplace to ensure an equal condition with others, with the only limitation of the disproportion of the financial burden to be taken. This principle, in its generic version, was still not fully understood in its innovative strength and it was tried to downplay its scope compared to the findings in the EU. Indeed, the European Court of Justice, in the adoption of solutions or reasonable accommodations, in the decision for the cause HK Danmarc, made clear that the scope of the EC Directive Article 5 was concerning not only the physical accessibility of workplaces, but the work environment compatibility with the functioning of the person, including also the organization and working hours.

The Italian Government, through the Jobs Act, by Legislative Decree 151/2015, introduced the generalized call by name as the unique means for employing of persons with disabilities.

The nominative call of workers with disabilities to be employed might show elements of "natural selection" unacceptable in a democratic system such as the Italian, based on work, the protection of the people's dignity, the principle that it is the duty of the State to remove the economic and social obstacles which prevent the equality of the same, principles these, set out by the Constitution.

The nominative call is an institution with deeply discriminatory contents: it is discriminatory because it entrusts the employer with the choice of the person with disability to recruit, regardless of elements such as the varying degrees of disability, the family burden, the family income, seniority of registration to the employment list, the nature and duration of unemployment; it is discriminatory because it favors recruitment not on an objective basis and patronizes the employment of people with minor disabilities compared to peoples with more severe disabilities, equally capable of working and producing and income.

Submission of Information

To the UNITED NATIONS
COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

**“RACIAL DISCRIMINATION IN ITALY WITH REGARD TO DISABILITY WITH
PARTICULAR ATTENTION TO MIGRANT CHILDREN AND YOUTH AND TO
MIGRANTS”**

Special report by FISH and DPI Italia onlus

***FISH** –Federazione Italiana per il Superamento dell’Handicap(Italian Federation to Overcome Handicap) established in **1994** is an umbrella organization formed by the most **representative associations** engaged, at local and national level, in policies aimed **to the social inclusion** of persons with disabilities. The principles of the **UN Convention** on the rights of persons with disabilities (CRPD) are the ideal **manifesto** for the Federation and its **associative network** that recognizes and identifies in the FISH its **unique voice** towards the major institutions of the Country. FISH acts to ensure non-discrimination and equal opportunities for all persons with disabilities in **all spheres** of their life.*

*Through the collaboration with **Forum Italiano sulla Disabilità (FID)**, the umbrella organization representing Italy in the **European Disability Forum (EDF)**, links the national policies with those international, ensuring that the **contribution of the Italian movement** for the rights of persons with disabilities is consistently represented, for example, at the European Union or the United Nations.*

***DPI Italia ONLUS** is the Italian member of **Disabled Peoples’ International** a global organization present in 142 countries and recognized by the major International and European agencies and institutions. DPI Italia has worked since 1994 for the **promotion and protection** of human and civil rights of persons with disabilities, both in the political and cultural field, basing its activities on the most important international documents on disability, in particular the UN CRPD. It is member of FISH.*

Considering all Concluding Observations of the Committee of the Elimination of Racial Discrimination to Italy in 2012;

Given that the Italian Government submitted its report, under article 9 of the Convention XIX to XX Periodic Reports of States Parties, in 2015;

Considering the last Recommendations to Italy contained in the Universal Periodic Review of the UN Human Rights Council in 2010 and 2014;

Considering that the Committee of the Elimination of Racial Discrimination will review Italy in the next 91st Session, and precisely the 1st of December 2016.

FISH and DPI Italia onlus would like to submit to the Committee of the Elimination of Racial Discrimination (CERD) the following special report with regard to racial discrimination in Italy with regard to disability in with particular attention to migrant children and youth and to migrants’ health.

The double discrimination of Migrants with disabilities

Migrant children and adolescents with disabilities.

The existing national statistics do not provide data and information capable to identify the double condition of those minors children of migrants and with disabilities.

To date we have on the one part research and statistics on persons with disabilities and on the other research on migrants, without being able to comprise the size and characteristics of the phenomenon in its wholeness, and above all without being able to know the living conditions of the people who suffer every day this dual risk of discrimination.¹⁵

There is not a unique General Register (Municipality, Regional and Local Health Authority) on migrant children and adolescents with disabilities that give us the exact data. Further ambiguities arise from the use of the term "foreign" used improperly even for those children of migrants born in Italy (over 37%, including children Roma, Sinti and Travelers)¹⁶.

Migrant children and adolescents with disabilities and psychosocial disabilities have a rate of presence in residential structures higher than the total number of children with disabilities and psychosocial disabilities: 34 migrant children institutionalized every 100.000 migrant minors resident against 26 children (no migrants) every 100.000 minors resident.¹⁷

Proposed Recommendation

Build a (Unique) National General Register on migrant children with disabilities and children with disabilities RST (Roma, Sinti and Travelers).

Implement support measures to prevent the institutionalization of minors with disabilities children of migrants.

Migrant students with disabilities

Overall in the school year 2013/2014 foreign students with disabilities of state and non-state schools of all kinds and levels were 26.626, of which 8.617 with severe disabilities. The majority of them is present in the primary school (42.2%) and in the secondary school level (30.8%). From the school year 2007/2008 to date foreign students with disabilities have more than doubled, going from 11.760 to 26.626.¹⁸

The tools used today, both on the diagnostic plan that didactic-pedagogic, namely Functional Diagnosis, the Functional Dynamic Profile and the Individualized Education Plan (IEP), which are the evaluative and planning instruments used to identify the capabilities and needs of pupils with disabilities and to define educational objectives, not taking account of the multicultural dimension.¹⁹

A survey conducted in the schools of the City of Bologna, later expanded at national level²⁰, did not find a single example of the PEI writing in an official language of migrant parents. The school does

¹⁵ Migranti con disabilità: Conoscere i dati per costruire le politiche. PON Governance e Azioni di Sistema FSE 2007-2013 – Obiettivo Convergenza – Asse D – Obiettivo specifico 4.2 – Azione 4

¹⁶ Caldin R., Dainese R., L'incontro tra disabilità e migrazione a scuola in A.Canevaro, L. d'Alonzo, D. Ianes e R. Caldin, L'integrazione scolastica nella percezione degli insegnanti, Trento, Erickson, 2011, pp. 89-114

¹⁷ Indagine ISTAT sui presidi residenziali socio-assistenziali e socio-sanitari, 2012-2013

¹⁸ Ongini V., Alunni di cittadinanza non italiana con disabilità, in Santagati M., Ongini V. (a cura di), "Alunni con cittadinanza non italiana. Tra difficoltà e successi. Rapporto nazionale A.S. 2013-2014", Quaderni Ismu 1/2015, Fondazione ISMU, Milano, 2015

¹⁹ Alain Goussot (a cura di), Bambini "stranieri" con bisogni speciali. Saggio di antropologia pedagogica, Aracne editrice, 2011.

²⁰ Caldin R., Dainese R., L'incontro tra disabilità e migrazione a scuola in A.Canevaro, L. d'Alonzo, D. Ianes e R. Caldin, L'integrazione scolastica nella percezione degli insegnanti, Trento, Erickson, 2011, pp. 89-114

not implement "the language support measures", nor for children or for adults.²¹

The difficulties of communication and involvement of migrant families impedes the construction of a trusting relationship and an educational alliance between the school and the family of migrants, which in turn hinders a positive schooling of students with disabilities children of migrants²².

In schools do not seem to be any strategy of specific actions for pupils with disabilities children of migrant. Educational policies and teaching practices seem to follow the same one-track approach: the actions and the measures put in place consider separately the aspect of the foreign origin and the condition of disability.²³ One-sided training (or just for disability or just for the migration) of school staff risks of attributing to one of two areas every difficulty.²⁴

Proposed Recommendation

Enter in the school staff training on the inclusion of students with disabilities, the aspects of the educational needs of students with disabilities that are also children of migrants. Put in place (in the school) language support measures for migrant parents of children with disabilities. Provide to migrant parents the PEI and all school records relating their children with disabilities in their own language.

Health

The foreign-born parents face trouble with respect to the complexity of our health services system. Migrant parents of children with disabilities often express themselves with difficulty, have a very low understanding of what is said to them, they suffer from the lack of clarity in communications (son's diagnosis with disabilities, sending motivation on the part of the school etc.) and may face enormous difficulties in accessing service system. The health services are hardly achieved because the awkward process of access. It can be problematic to face complex procedures (such as the process for the certification of disability). Even the telephone contacts are often inaccessible.²⁵ For those have a little knowledge of the Italian language and cannot benefit of documents translated into their language fail to navigate between the numerous acting subjects in the area, are lost in the complex bureaucratic procedures, do not know the specific technical languages of each area of intervention used by the different professionals involved in the care of the child with disabilities.²⁶ Furthermore the unilateral training (or just for disability or just for migration) of services staff risks attributing to one of two areas each question (eg. The health services fail to recognize the suffering of the migrant parent derived from the child's disability or the behavioral problems as index of developmental disability in children and (the health services) ascribe them to the migration).²⁷

Proposed recommendation

Simplify the access to general health services and early detection, including telephone contacts, for minors with disabilities children of migrants

²¹ Ibidem

²² Migranti con disabilità: Conoscere i dati per costruire le politiche. PON Governance e Azioni di Sistema FSE 2007-2013 – Obiettivo Convergenza – Asse D – Obiettivo specifico 4.2 – Azione 4

²³ Ibidem

²⁴ Caldin R., Dainese R., L'incontro tra disabilità e migrazione a scuola in A.Canevaro, L. d'Alonzo, D. Ianes e R. Caldin, L'integrazione scolastica nella percezione degli insegnanti, Trento, Erickson, 2011, pp. 89-114

²⁵ Ibidem

²⁶ Migranti con disabilità: Conoscere i dati per costruire le politiche. PON Governance e Azioni di Sistema FSE 2007-2013 – Obiettivo Convergenza – Asse D – Obiettivo specifico 4.2 – Azione 4

²⁷ Caldin R., Dainese R., L'incontro tra disabilità e migrazione a scuola in A.Canevaro, L. d'Alonzo, D. Ianes e R. Caldin, L'integrazione scolastica nella percezione degli insegnanti, Trento, Erickson, 2011, pp. 89-114

Submission of Information

To the UNITED NATIONS

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

“RACIAL DISCRIMINATION IN ITALY WITH REGARD TO ACCESS TO JUSTICE”

Special report by LAW

The Legal Assistance Worldwide (LAW International) is an association of lawyers, jurists and judges with the aim to promote and give effect to the judicial protection of Human Rights, as defined in the Universal Declaration of the United Nations and various International Conventions. LAW gives legal and technical support in the world and in Italy, emphasizing a systematic approach consisting in denouncing the lack of human rights protection and the gap between human rights implementation and legislation. Among its activities LAW is committed in the field of human rights protection in jail. In this area it promotes the adoption, both at national and international level, of the handbook of basic principles, ‘Charter of rights of prisoners’, output of the conference ‘Rights behind bars’ held in the Italian jail Rebibbia Nuovo Complesso in 2006. LAW has joined the Committee for the Promotion and Protection of Human Rights. At the international level LAW has participated in a series of conferences: 7th United Nations Committee on the Elimination of Racial Discrimination (CERD) held in Geneva at UNHCR in 2007; European Conference on discrimination organized by FRA in Stockholm in 2009; Conference on the protection of unaccompanied migrants children adopted at the conference of Strasbourg in 2007. It has participated in the European project Equaljus on the protection of the LGBT rights. It is a member of FRA, and of the European Civil Society Platform on Human Trafficking. It also led projects in the Middle East (Iraq, Kurdistan, Libya and Yemen) on the status of women and on trafficking of human beings funded by the Italian Foreign Ministry.

Considering all Concluding Observations of the Committee of the Elimination of Racial Discrimination to Italy in 2012;

Given that the Italian Government submitted its report, under article 9 of the Convention XIX to XX Periodic Reports of States Parties, in 2015;

Considering the last Recommendations to Italy contained in the Universal Periodic Review of the UN Human Rights Council in 2010 and 2014;

Considering that the Committee of the Elimination of Racial Discrimination will review Italy in the next 91st Session, and precisely the 1st of December 2016,

LAW would like to submit to the Committee of the Elimination of Racial Discrimination (CERD) the following special report with regard to racial discrimination in Italy with regard to access to justice.

Access to legal aid is an important part of the right to a fair trial under the European and international law. (Article 6 of the ECHR and Article 47 of the EU Charter of Fundamental Rights). The right to legal aid ensures effective access to justice for those who have insufficient financial resources to cover the costs of court cases, such as court fees or costs of legal representation

The right to legal defense is provided by the Constitution of the Italian Republic *"Everyone is allowed to take legal action for the protection of her/his rights and legitimate interests. Defence is an inviolable right at any grade of the proceedings. The means of action and defence before all Courts are guaranteed to the indigent by public institutions. The law determines the conditions and legal means to remedy miscarriages of justice"(att.24)*

Under the Italian law, the **legal aid is granted** in all criminal, civil, administrative, accounting or fiscal proceeding and "voluntary jurisdiction" and whenever the presence of a lawyer or expert witness is required by law. Legal aid is granted for all grades or stages of the trial including all further connected incidental and contingent proceedings. Those considered indigent for the Italian law can apply for legal aid: specifically people with income not exceeded 11.528,41 (adjusted every two years). All income earned within the last year and subject to income tax, like wages, pensions, fees, etc. is calculated. Any income not subject to income tax such as invalidity allowance or war pension is also assessed. In criminal trials, the income limit is increased by 1.032,91 for each cohabiting relative.

Although the right to legal aid is formally provided, there are several issues with the real access to legal aid:

- 1) It is estimated that just only between 10 and 20 per cent of the population is eligible for legal aid. In fact the low financial ceiling, results in a very small percentage of defendants accessing legal aid.
- 2) The poor quality of legal aid: the remuneration is low and long time for being paid (1 /2 years after the end of the trial) this leads to concerns about the quality of legal aid lawyers.
- 3) There is a general lack of quality control on the legal profession in Italy. This is because of the mandatory nature of legal assistance: what matters is that a lawyer is present, not whether the lawyer is skilled to perform his or her duty.
- 4) Failure to provide legal aid representation during the early stages of criminal proceedings, especially when a suspect or accused person is in police custody: legal aid is generally not granted until the first judicial hearing. When a lawyer does attend prior to that time, he or she bears the risk of non-payment if legal aid is later refused.

As far as concerns the civil trial, we must specify that "On-line Civil Trial" process has the coverage of all civil cases throughout the country and allows for an entirely electronic processing of cases. It significantly reduces the time related to accessing the court. It integrates several high-security features, including a two-stage authentication, digital signature, and certified emails. It is surely an important step but at the same time, we must underline that taxes for a introducing a civil trial have increased: it discourages people to apply for a trial and it creates discrimination among people.

There are several issues also regarding the judicial guarantees for migrants. Specifically, we can underline the following aspects that could feed discrimination between immigrants and citizens

- 1) Lack of knowledge: Generally talking, there is a lack of knowledge about their legal rights, the overall legal system and prompt referral to legal aid and social services . This can also depend upon available translation services and access to legal aid. This situation often leads to less favourable outcomes, as migrant lack of knowledge about their rights may be

compounded by lack of accessible information in their own language and low socio-economic status that prevent migrant from seeking private legal assistance.

- 2) Immigrants detained for the purposes of immigration control and international protection procedure. Under the Italian law (Article 13(5-bis) LD 286/1998), free legal aid must be provided in case of appeal against the person's expulsion order, on the basis of which the asylum seeker can be detained. Anyway, in this regard, there is a lack of sufficient and qualified legal assistance. In fact, we must underline that in practice, lawyers appointed by the State cannot have any specific expertise in the field of refugee law and, consequently, they may not offer effective legal assistance due to lack of competence. In addition, assigned attorneys may not have enough time to prepare the case as they are usually appointed by the Court in the same morning of the hearing. Another issue is the shortage of translator available: this is a relevant obstacle for migrants detained in the Centres to obtain information on their rights, and on their right to legal assistance

Another point must be focused. Compensation for victims of crimes is one of the most important aspect of a legal system. But for a long time, Italian legislation provided only for compensation to victims of certain violent intentional crimes, such as terrorism or organised crime, but not for all of them, for example not for THB victims. For this reason, in 2014 the European Commission has decided to refer the Republic of Italy to the Court of Justice of the European Union for not adequately implementing EU rules on compensation for victims of crime, considering under EU law, all Member States must ensure that their national compensation scheme guarantees a fair and appropriate compensation to the victims of violent intentional crimes, committed on their territory.

As far as concern, the THB victims, we must underline that only with the following **legislative decree 2014 N.24**, Italian State fixed the compensation for them: 1.500,00 for each victim.

Rome, 31 October 2016



Submission of Information

To the UNITED NATIONS

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

“RACIAL DISCRIMINATION IN ITALY AGAINST ASYLUM SEEKERS”

Special report by MEDU

Medici per i Diritti Umani (Doctors for Human Rights) is a humanitarian and international solidarity non-profit organisation, free of any political, union, religious and ethnic affiliation. Medici per i Diritti Umani (MEDU) proposes to bring medical aid to vulnerable peoples in crisis situations in Italy and abroad, and to develop democratic and participative spaces within civil society for the promotion of the right to health and other basic human rights. The actions of MEDU are grounded in the militancy of civil society and on the professional and voluntary commitment of doctors and other health operators, as well as of citizens and professionals in other fields.

Considering all Concluding Observations of the Committee of the Elimination of Racial Discrimination to Italy in 2012;

Given that the Italian Government submitted its report, under article 9 of the Convention XIX to XX Periodic Reports of States Parties, in 2015;

Considering the last Recommendations to Italy contained in the Universal Periodic Review of the UN Human Rights Council in 2010 and 2014;

Considering that the Committee of the Elimination of Racial Discrimination will review Italy in the next 91st Session, and precisely the 1st of December 2016,

MEDU would like to submit to the Committee of the Elimination of Racial Discrimination (CERD) the following special report with regard to racial discrimination in Italy against asylum seekers.

Precarious Asylum. The Centers of Special Reception for Asylum Seekers and the Experience in Ragusa (Sicily)

The report is based on direct observation and information collected by *Medici per i Diritti Umani* (Doctors for Human Rights) during 14 months (October 2014 - December 2015). Data were collected from both refugees and internal personnel working inside the Special Reception Centres (CAS) in the Ragusa Province for the project "*ON TO: Stopping the torture of refugees from Sub-Saharan countries along the migratory route to Northern Africa*". During these months, a team of *Medici per i Diritti Umani* (MEDU) provided medical and psychological assistance to migrants victims of torture and inhuman and degrading treatment, collecting their testimonies. The continuing presence in CAS allowed MEDU to check and identify critical issues, therefore to suggest recommendations for a more respectful reception model required to fulfil the complex needs of migrants, particularly the most vulnerable.

Indeed, this is not an ordinary independent report based on a certain number of external visits to different CAS, but rather a collection of observations gathered from day by day operations by an independent humanitarian organization that worked for more than a year to provide services to refugees. The report provides a general evaluation of the CAS system in Ragusa, a region on the front line for the reception of asylum seekers.

What are the CAS?

As foreseen by the National Plan of 10 July 2014 and the Legislative Decree no. 142 of 18 August 2015, both designed for dealing with the extraordinary flow of migrants, the reception in Italy to asylum seekers is presently provided in three steps: 1) first aid (maximum 72 hours); 2) first asylum and qualification (residence time limited to fulfil and check the application for protection); 3) second reception and integration (protection system for asylum seekers and refugees - SPRAR).

This system is currently under revision for its alignment with the new approach "hotspot" promoted by the European Commission in September 2015. The new system involves a co-responsability with European Institutions for identifying migrants, including their reallocation up to a maximum of 39,600 migrants from Italy to other Member States. Critical issues of 4 currently active hotspot centres in Italy (with respect to 6 planned) are not considered in this report. The report is focused instead on **special reception centres (CAS) that until October 2015 welcomed more than 72% of incoming migrants in Italy, while remaining 21% were hosted in SPRAR and 7% in Government reception centres (Reception Centres for Asylum Seekers - CARA).**

CAS were instituted by the Ministry of Interior (circular no. 104 of 8 January 2014) to meet the challenges of an extraordinary inflow of foreign citizens in Italy. **CAS were born by definition as "temporary" facilities to accommodate asylum seekers that could not be hosted in oversaturated state and local government reception centers operating under the SPRAR system.** Although circular no. 2204 of 19 March 2014 of the Ministry of Interior asked Prefectures (i.e. its provincial branches) to sign agreements with CAS for services to be provided up to 30 June 2014, CAS continuously operate in Italy for about two years. In June and September 2014, the Ministry of Interior asked prefectures to select and identify additional CAS.

The enforcement of the Legislative Decree no. 142/2015 implementing European directives 2013/33/EU and 2013/32/EU foresees that if SPRAR capacity is saturated, receptions can be arranged by the Prefect in CAS for the time strictly needed to transfer applicants to first or second level reception facilities. Presently private companies, NGOs, cooperatives and associations provide bed for refugees in different locations (e.g. hotels, B&B, farm houses, hospices, etc.) for an average cost of 30-35 Euros per day.

CAS in Sicily and Ragusa

Until 30 January 2016, Sicily hosted in its centres 12% of total national migrants. Sicily, together with Lombardy (13%) is the region with the highest attendance, followed by Lazio and Piedmont (8%). At the moment Sicily hosts a total number of 12,000 people (March 2016) following only Lombardy (14,000). On November 2, 2015, 105 CAS were active in Sicily, with 5,128 hosted asylum seekers. 16 CAS were located in the Ragusa province, with 441 migrants hosted (source: Parliamentary Commission of Inquiry, 2016).

Facilities entitled to operate as CAS were selected by a bid launched by the Prefecture in August 2014. In December 2015 a new improved bid was launched for the delivery of services for April - December 2016. CAS selection is now primarily based on the quality of services provided, such as care to vulnerable subjects, no. of hours of psychological treatment, linguistic and cultural mediation activities, and only as a secondary parameter on price offered. **At both National and Ragusa Province levels, the majority of asylum seekers is now hosted in CAS, where a migrant is hosted for 4-5 months before a hearing at the Territorial Commission, entitled to grant the status of international protection, waiting for about two months the outcome of his/her application.**

Critical issues of CAS

Presently MEDU provides services to 16 CAS in Ragusa province. MEDU analysed all services provided in these centres, identifying critical issues and making specific proposals and recommendations.

1. Facilities and their location

MEDU has observed that in some CAS the provision of basic services (as heating or availability of common areas) is poor. Some isolated CAS lack of transport services to towns.

It is necessary to ensure for each CAS adequate common areas and spaces specifically dedicated to cultural and religious activities. It is also necessary to provide transport services to asylum seekers, including possible new and flexible arrangements.

2. Number of operators and their training

Significant deficiencies were identified in both the number of active operators in CAS and their specialized skills required to properly assist asylum seekers.

It is necessary to define for each CAS a minimum number of operators specialized in psychological, social welfare, legal services and cultural mediation, all of them facilitating the communication between CAS operators and guests, including their integration process. The aim is to create an organizational framework able to improve the social and psychological wellbeing of guests. It is also needed to ensure adequate training and discussion spaces for professional workers.

3. Rules of Procedure and pocket money

Guests of the CAS are often not adequately informed on services provided; in some cases asylum seekers do not receive the daily pocket money (2,50 euro) they are entitled.

It is extremely important to ensure that asylum seekers receive proper information of their rights and duties inside the centres. CAS should monitor that the pocket money is assigned to them on a regular basis.

4. Healthcare

Healthcare is often not adequately guaranteed to asylum seekers, for several reasons. 1) The excessive length required for the application for their enrolment in the National

Health System (SSN), without clear indication on how to manage healthcare during the waiting period. 2) Sometimes it is impossible to reach the general practitioner because of the isolation of the CAS centre. 3) Difficulties in acquiring medical documentation of the migrant generated at earlier stages of their entrance into the CAS.

It is necessary to simplify and speed up the registration process to the SSN, as well as to guarantee healthcare services to asylum seekers during the waiting time. Medical records of applicants drawn up by the initial reception facility should be transmitted to the CAS on a regular basis to ensure the continuity of care. It is also necessary to grant access to the general practitioner ensuring transport options especially for isolated CAS.

5. Psychological support

MEDU team providing medical services detect that the majority of asylum-seekers accommodated in the CAS was victims of multiple traumatic experiences such as torture and intentional violence in their own country or along the migration route. A significant number of these migrants then develop a post-traumatic psychopathology connected to these events. In 14 months period covered by this report, the MEDU team provided medical and psychological support to 74 guests of the CAS of Ragusa showing extreme traumatic experiences. None of the facilities surveyed has specialized operators in psychological care services.

Operators often do not possess the skills to manage traumatic experiences of the guests, nor the tools for early detection of the most vulnerable people. MEDU's monitoring found that in some CAS there is no protected space for psychological and medical interviews. MEDU has also found a lack of connection with local mental health services.

It is important to ensure an early identification of most risky migrants developing post-traumatic psychological disorders. Timely prevention and care pathways should be enabled to avoid chronicity of mental distress. The presence of a psychologist within the CAS may improve both stability and confidence of patients, to support them on both the request for protection and the social integration process. It is also important to promote training courses for local staffs of mental health services on issues related to migrant's mental disorders.

6. Consulting services and legal guidance

The number of operators employed in the CAS is insufficient and inadequately trained to provide effective assistance and listening to migrants, supporting them in the application for the international protection.

It is necessary to ensure that applicants are adequately informed by a specialized team for dealing with the Territorial Commission. A sufficient number of meetings should be organized with the counsel before the hearing with the Territorial Commission.

7. Cultural Linguistic Mediation

A serious lack of cultural mediators was found in the majority of CAS. Cultural mediators are often unable fulfil their own role since they are allocate to other tasks.

It is necessary to include at least one mediator for each CAS and to ensure its participation to activities performed by the CAS. Mediators employed in CAS should attend training courses to enhance their role in service delivery and in relations with local institutions and services.

8. Teaching Italian language and placement

None of the visited CAS presently provides weekly teaching hours, as foreseen by SPRAR guidelines. MEDU found serious shortage of social inclusion programs.

It is essential to ensure continuity and quality to Italian language teaching programs to facilitate the integration process. Projects of social inclusion, employment, culture and sports should be provided to migrants.

Toward a worthy, orderly and efficient reception

Although CAS are defined as "temporary and extraordinary structures", they represent, for some years now, the backbone of the reception system in Italy, since about three out of four migrants are presently hosted in these centres. This is certainly the most obvious abnormality: an approach designed to be temporary becomes the *core* of the system.

With a medium-small size and a more homogeneous geographical distribution, CAS show better features with respect to other accommodation facilities such as the CARA. However, to manage **the reception of migrants under the logic of emergency by stipulating provisional agreements with a multitude of different managing institutions is both anachronistic and inefficient.** The choice of an emergency-based management implies a risk of lack of controls on contracts, public funding and, above all, lower acceptance standards.

Services provided by CAS are rarely compliant with SPRAR's standards and guidelines, regardless to the circular of the Ministry of Interior of December 17, 2014 explicitly stating that every reception centre should always with no exception refer to them. **Nevertheless CAS presently plays the role of *second order* institution with respect to SPRAR. This is certainly true for CAS in Ragusa province, showing lower critical operational issues than other centres in Sicily and Italy.**

In practice, CAS are both not adequately regulated and very difficult to monitor. Given the proliferation of various managing institution and the lack of a clear system of sanctions in case of misconduct, it is increasingly difficult for the Ministry of Interior and its local branches *Prefettura* to check every single facility on a regular basis. For this reason, it is recommended to arrange as soon as possible independent monitoring agencies, selected to carry out regular inspections in supporting *Prefettura* and the Parliamentary Commission of Inquiry. Regular checks are required to verify both the present service provision, and the compliance with minimum-quality standards.

Finally, *Medici per i Diritti Umani* sustains the urgent need to promote and enforce a *structural* system of reception, based on an improvement and enlargement of the SPRAR system, the only one guaranteeing decent living conditions and quality services, as well as facilitating the social integration of asylum seekers.

Efficient and sustainable management of existing flows of migrants should be coped with integrated measures, providing information, assistance, support and guidance, as well as the design of individual paths of social and work integration.

It also suggests:

- 1) to ensure widespread welcome services for avoiding unduly and excessive concentrations and social segregation;
- 2) to ensure hosting services in CAS for no longer than a month if SPRAR facilities are not available, and timely reporting to SPRAR services;
- 3) **to increase the number of projects that meet the needs of the most vulnerable asylum seekers, such as victims of torture and people with mental health problems like post-traumatic psychopathologies**, representing a significant portion of all migrants hosted in Italy's reception centres.

Rome, 31 October 2016

Rome, 31 October 2016

Submission of Information

To the UNITED NATIONS

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION **“INCITEMENT TO RACIAL DISCRIMINATION AND RACIAL HATRED IN ITALY THROUGH MEDIA ”**

Special report by OSSIGENO PER L'INFORMAZIONE

OSSIGENO per l'informazione is an observatory monitoring threatened journalists and news overshadowed by violence in Italy. The Observatory was launched in 2008 by FNSI, (National Federation of the Italian Press, the single journalists' union) and the Ordine Nazionale dei Giornalisti (the Italian order of the journalists), together with the non-profit organisations in defence of press freedom Libera Informazione, Unione Nazionale Cronisti Italiani and Articolo 21. The name OSSIGENO (Oxygen in English) is symbolic: it conveys the message that information needs freedom and protection to perform its role of watchdog of democracy. OSSIGENO aims to document all the Italian cases of violent or abusive limitations on freedom of expression against journalists, writers, intellectuals, politicians, trade unionists, public officials and other citizens, paying special attention to what goes on, in information field, in the areas where the influence of criminal organisations is strong and deeply rooted. The Observatory performs continuous monitoring of threatened journalists, telling their stories through the online newspaper notiziario.ossigeno.info and in annual reports, published in different languages: the last one (2011/2012) was translated into English, German, Spanish and Chinese. Ossigeno web page shows a table of journalists threatened. In April 2014 in the table are listed over 1800 names. Until some year ago, no one wanted to admit that in Italy there were journalists threatened. The monitoring of oxygen brought the issue in the public arena. OSSIGENO also promotes public initiatives in order to enhance the visibility of the threats, to strengthen solidarity with threatened journalists and to spread awareness among the public about the right to be fully informed, in an impartial way.

Considering all Concluding Observations of the Committee of the Elimination of Racial Discrimination to Italy in 2012;

Given that the Italian Government submitted its report, under article 9 of the Convention XIX to XX Periodic Reports of States Parties, in 2015;

Considering the last Recommendations to Italy contained in the Universal Periodic Review of the UN Human Rights Council in 2010 and 2014;

Considering that the Committee of the Elimination of Racial Discrimination will review Italy in the next 91st Session, and precisely the 1st of December 2016,

OSSIGENO PER L'INFORMAZIONE would like to submit to the Committee of the Elimination of Racial Discrimination (CERD) the following special report with regard to incitement to racial discrimination and racial hatred in Italy through media

With reference to paragraph 120: *As far as the right to freedom of opinion and expression, linked with the freedom of the press, they are all protected by the Italian Basic Law in its article 21, which sets forth: “Anyone has the right to freely express their thoughts in speech, writing, or any other form of communication. The press may not be subjected to any authorisation or censorship [...]”.*)

Italy has maintained its commitment to introduce more effective sanctions against incitement to discrimination and to racial hatred with Law 115/2016 (text is available on <http://www.normattiva.it/uri-res/N2Ls?urn:nir:state:law:2016;115>) on the prevention of genocide, crimes against humanity and war crimes, enacted in June 16, 2016, which introduces an aggravated punishment for those guilty of propaganda or instigation and incitement to discrimination and racial hatred. But the approval of the text of this law, which contains altogether 135 words, took six years of parliamentary scrutiny and four different readings, two of the Chamber of Deputies and two of the Senate.

It is worth noting that the iter has been slowed by the atmosphere of paralyzing conflict between two factions with opposing views of the value and limits of freedom of expression. This clash is political and cultural and for years it has prevented to regulate in a fuller and more organic circulation of information, ideas and opinions in a fair and balanced way, defending those who spread information in the public interest and in accordance with the truth and punishing those who hinder instead the exercise of this right and also the abusers.

In Italy it is difficult to get a proper protection of the right of opinion, expression and press for various reasons. It is hard to fully assert this right firstly because citizens generally do not know it neither claim for it, nor they are aware of the serious violations that occur and the damage that such violations cause to their participation in public life, limiting it. Still a culture contrary to the full unfolding of dialogue and freedom of expression, opinion and the press is prevailing. It is a historical problem that continues to manifest itself in the political and parliamentary orientations and also in the case-law that, in this matter, is often dissonant compared to the more open the ECHR.

The contrast affects in a restraining manner on all issues relating to the protection of fundamental rights and values. In the parliamentary debate which ended positively, with the approval of Law 115/2016 the contrast involved precisely the way to regulate this matter without introducing a new crime of opinion that would be added to those coming from the body of laws passed during the fascist dictatorship, still in force.

Among other things, the contrast on the interpretation of the right of expression prevents since decades the Italian Parliament to correct, in a consistent manner with the European law, the criminal law that punishes libel with prison, with disproportionate and without a proper balance between the right to information and the right to defend the personal reputation, as has been observed by the most authoritative international organizations. It is evident since long time, and has been recognized by the Parliament itself, that some legislative changes are necessary and cannot be postponed because the current rules allow those who wish to prevent the dissemination of information and legitimate opinions of him unwelcomed to abuse of justice, to make it an intimidating instrument of retaliation for its purpose.

The phenomenon occurs since many years, it greatly limits public debate, it has had sensational displays that have attracted criticism and calls on Italy of the highest national authorities and international organizations.

The L'Osservatorio indipendente “Ossigeno per l'Informazione (see www.notiziario.ossigeno.info) has produced a wide public presentation of this phenomenon, documenting over a thousand episodes

of judicial abuses that occurred from 2016 to 2016, in addition to other two thousand incidents of violent and concrete attacks occurred in the same timeframe. This documentation is known to the Italian Parliament and international organizations.

In addition, on October 24, 2016, the same Osservatorio has provided an even more current, more dramatic and complete framework of the distorted use that is made of the judicial machinery through the abuses undisputed of the libel suits. This framework is contained in a report based on official unpublished data obtained from the Ministry of Justice.

See the English dossier "Shut up or I'll Its you!" at <http://notiziario.ossigeno.info/2016/10/impunity-the-gag-to-information-dossier-by-ossigeno-74135/>

These are the essential figures of the Report: in 2015 in Italy the courts have treated 6813 cases for libel, 5902 of which as criminal cases, mostly against journalists, and have defined the 87% with acquittals . The sentences were 477, i.e. 8%. Of these 155 custodial sentences, each of which, on average, has not exceeded one year in prison.

Overall, in 2015, prison sentences for 103 years of imprisonment were handed borne by journalists recognized guilty of libel, with a strong chilling effect on freedom of information. With these data, the report made by Ossigeno has thus revealed that legal proceedings for libel are largely based on unfounded accusations, exaggerated, spurious and that a proper law should prevent them or discourage them. Instead these lawsuits start and spend from 2.5 to more than six years for the first trial, forcing journalists charged to incur into substantial legal costs (at least 54 million euro per year), expenditure which in most cases is charged on their personal budget and almost always remains on them, even for nine out of ten that the court acquits from charges.

The Report of Ossigeno also highlights that in 2015 911 civil cases were initiated with claims for damages from alleged libel. The average claim was € 50,000. The total demand only in 2015 amounted to 45.6 million euro. The President of the Senate Pietro Grasso, defined these "alarming" data and has thanked Ossigeno for having provided , through its active monitoring, "objective evidence on which to reflect, on which to calibrate the actions that will have to be taken."

The authors of the Report entrusted the Parliament with it stressing that it shows a picture of the reality and it reveals a much more dramatic scenery than the one previously known and referred to by the proposed libel law the Parliament is discussing since 2013 and that, in the light of the situation now known, it does not offer adequate solutions.



Submission of Information

To the UNITED NATIONS

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

“RACIAL DISCRIMINATION IN ITALY AGAINST ROMA, SINTI AND TRAVELLERS”

Special report by PRO.D.O.C.S.

PRO.D.O.C.S. - as a member of the Italian Committee for the Promotion and Protection of Human Right, and an entity registered in the Register of associations and entities carrying out activities for immigrants both at the Ministry of Labour and Social Policy and at the UNAR (Department of Equal Opportunities of the Prime Minister's Office) - has developed this study to identify data and information to racial discrimination in Italy against Roma, Sinti and Travellers, to contribute to the Italian Submission of information for the Committee of the Elimination of racial Discrimination (CERD).

Considering all Concluding Observations of the Committee of the Elimination of Racial Discrimination to Italy in 2012;

Given that the Italian Government submitted its report, under article 9 of the Convention XIX to XX Periodic Reports of States Parties, in 2015;

Considering the last Recommendations to Italy contained in the Universal Periodic Review of the UN Human Rights Council in 2010 and 2014;

Considering that the Committee of the Elimination of Racial Discrimination will review Italy in the next 91st Session, and precisely the 1st of December 2016,

PRO.D.O.C.S. would like to submit to the Committee of the Elimination of Racial Discrimination (CERD) the following special report with regard to racial discrimination in Italy against Roma, Sinti and Travellers.

NUMERICAL PRESENCE ²⁸	Minimum estimate: 120.000 ; Maximum estimate: 180.000 Average estimate: 150.000 (0.25% of the population)
EDUCATION ²⁹ (sample group)	Education level: 94.3% lower 5.2% middle 0.5% higher Illiteracy rate: 15.7%
EDUCATION ³⁰ (minors residing in formal and informal “camps”)	0 possibilities to attend university; 1% of possibilities to attend high school 1 out of 5 possibilities of not starting schooling at all Dropout rate: 50% from primary to secondary school; 95% from first to second grade secondary school
EMPLOYMENT ³¹ (sample group; compared to EU-27)	Unemployment rate: 37.3% vs 8.35% Youth unemployment rate ³² : 46.2% vs 20.8% Distribution of employed population by age ³³ : <i>24 and under</i> : 23.3% vs 5.8% Persons occupied as salaried employees ³⁴ : 41.3% vs 83.3%
ECONOMIC EMPOWERMENT ³⁵	Half of the Roma who are at risk of poverty have an income 66 % below the Italian threshold Rates for children living in households which suffer hunger are 40 times higher for the Roma than the non-Roma population
HOUSING	40.000 living in “camps” ³⁶ , mainly in the largest towns 36% of the Roma households surveyed lack fundamental housing amenities compared to 1 %–4 % for the non-Roma surveyed nearby ³⁷

²⁸Cfr Council of Europe, *Estimates and official numbers of Roma in Europe*, updated July 2012

²⁹A nation based statistic about access to school and education results of overall “Roma” population does not exist. Data refers to: *Roma from Romania, Bulgaria, Italy and Spain between Social Inclusion and Migration. Comparative Study*, Soros Foundation Romania, 2012, pp. 17-18. The survey, carried out in 2011, explores various aspects of social exclusion experienced by Roma minorities in Romania, Bulgaria, Italy and Spain.

³⁰Cfr *21 of July Association 2014 Annual Report*, p. 31.

³¹Statistic about Roma participation in the labour market does not exist at the national level. Data refers to: Soros Foundation Romania, *Op. Cit.*, p. 34 and ff. Comparisons refer to EU-27 because the study was published in 2012. Mentioned data only refers to natives of the sample, that is, to Roma who are Italian citizens and not to migrants.

³²The fact that unemployment has a greater effect on youth is not distinctive of the Roma population, as it is line with one of the current labour market dynamics in Europe. The difference is the dimension: unemployment affects the Roma population much more. Another survey shows that the vast majority of young Roma in Italy (69 %) is excluded from employment and education (NEET). Cfr European Union Agency for Fundamental Rights, *Op. Cit.*, p. 20

³³This data shows a feature that characterise Roma employment: it is a population that enters the labour market as soon as it is of legal age to work (in some cases even before having the legally established age). This early entry into the labour market implies a lower level of education, which in turn has consequences on access to qualified jobs.

³⁴This is intended to demonstrate that Roma people work in the labour market’s weakest and most fragile segments. The remaining portion of the sample is mainly composed of “self-employed persons without employees” (17.3%), which is one of the labour market’s most fragile segments that have a smaller allotment of labour rights, and “other situations” (29.7%), a category in which situations of extreme labour irregularity could be found. Another element that defines the fragility of Roma employment is the part-time workday: 47.7% in Italy vs 19.6% in the EU-27.

³⁵ Cfr *Roma survey – Data in focus. Poverty and employment: the situation of Roma in 11 EU Member State*, European Union Agency for Fundamental Rights, 2014, pp. 13 e 33. The survey was conducted in Bulgaria, the Czech Republic, France, Greece, Italy, Hungary, Poland, Portugal, Romania, Slovakia and Spain. In each Member State, about 1,000 Roma households and 500 non-Roma households were sampled randomly in areas that were known to have a proportion of Roma residents above the national average.

³⁶ Cfr Commissione Straordinaria per la tutela e la promozione dei diritti umani del Senato della Repubblica, *Rapporto Conclusivo dell’indagine sulla condizione di Rom, Sinti e Camminanti in Italia*, febbraio 2011, p. 48. As the *21 of July Association* stresses in its report (see note n. 3) is equal to **0.06%** of the Italian population, such a small proportion to identify it as a “national emergency” as the Italian government did in the past years.

³⁷ Cfr European Union Agency for Fundamental Rights, *Op. Cit.*, p. 40

SOCIAL MOBILIZATION AND POLITICAL PARTICIPATION

A traditionally intended political representation of Roma people (that is, a political party) does not exist in Italy. There are some particularly prominent personalities, belonging to the Roma and Sinti communities, who have kind of a public profile and carry out activities to promote and protect their rights, as activists and sometimes (but rarely) as politicians. We can say that they are basically underrepresented in or excluded from policy and decision making that affect their lives, but this is true all over Europe (to a different extent maybe) and not only in Italy. Racial prejudice, poverty, low education levels, sub-standard living conditions, language barriers, and other social and economic marginalization factors prevent them from actively taking part in politics³⁸.

RELATIONSHIP WITH MAJORITIES

As several surveys show, the majority's perception and feelings about Roma people are permeated with prejudice and false beliefs. Furthermore, surveys reveal that this ethnic minority is subject to discriminatory behaviour very often and in so many circumstances.

For example, according to the results of a survey carried out in 2008 by the Institute of Public Opinion Studies, 35% of the sample overestimate the quantitative presence of Roma and Sinti in the country. 84% are definitely sure that they are mainly nomad people. This superficial knowledge matches with a mental representation of "hostility" (47%), of "exclusion" (35%), and a "neutral" or "positive" one only for 12% of the sample. Moreover, 92% believe Roma and Sinti exploit children, and the same percentage think they live by their wits or doing pilferages; 87% believe they are closed to people who don't belong to the nomad community; 83% think that it's their own choice to live in camps isolated from the rest of the town³⁹.

Another survey explores the issue of discrimination suffered by Roma people in Italy through an examination of their own perception about it. It reveals that the majority (51%) of Roma felt discriminated in the last year, and 74% feel more or equally discriminated today compared to 10 years ago. It also shows that, in Italy, Roma people are discriminated predominantly: by police officers, by people from their neighbourhood, at social service offices, at health centres and hospitals, and when looking for a job. So, besides neighbours, it turns out that exactly the professionals, people called to help others - law enforcement officers, social workers, doctors, people working at the labour offices - are bearers of discriminatory practices⁴⁰.

LEGISLATION

Linguistic minorities in Italian territories are protected by the Constitution. Articles involved in their protection are art. 2, which recognizes and guarantees fundamental human rights; art. 3, which affirms the equal dignity of all citizens and their equality before the law, without any distinction; and art. 6, which states explicitly that the Republic shall protect linguistic minorities. The general concept of a minority in Italy, therefore, is related to the linguistic peculiarities.

Law no. 482 of 15 December 1999 on "Provisions for the protection of historical-linguistic minorities" recognizes and protects 12 linguistic minorities, taking into account linguistic and historical criterion, but above all, the criterion of residential /permanence in a location in a given territory. In the interpretation of article 6 the principle of territoriality has prevailed, which effectively excludes the Roma minority as a "widespread minority" without a permanent territorial

³⁸ Cfr European Roma Information Office, Fact Sheet 32, [Political Participation of Roma, Traveller and Sinti communities](#), May 2007, p. 2. About the topic you can also read "[POLITICAL PARTICIPATION AND MEDIA REPRESENTATION OF ROMA AND SINTI IN ITALY. The case studies of Bolzano-Bozen, Mantua, Milan and Rome](#)" published in 2006 by the NGO "[OsservAzione](#)".

³⁹ Cfr Commissione Straordinaria per la tutela e la promozione dei diritti umani del Senato della Repubblica, *Op. Cit.*, p.

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⁴⁰Cfr Soros Foundation Romania, *Op. Cit.*, pp. 25-26 and tables at pp. 28-29

concentration.

In Italy, the central issue is linked to the lack of recognition of the Roma, Sinti and Caminanti as a

minority, through a national law, because they only have rights in law exclusively as individuals. They have no rights as a “minority” because they have not been covered yet in this sense from a legislative point of view. In the Italian case, the recognition of Roma is not realized at the national laws, but it is delegated to regional laws and secondary sources, resulting in a fragmented and often inconsistent regulatory framework. On the one hand, there are ad-hoc regional laws aimed at the “preservation of Roma and Sinti” implemented by local political groups; but on the other hand there is exclusion for Roma people, generated by public pressure and to the benefit of local non-Roma interests.

DESCRIPTION OF CONTEMPORARY SITUATION – PROBLEMS AND NEEDS OF MINORITIES AND MIGRANTS

The lack of reliable data (numerical presence, education, employment, life expectancy, child mortality, housing, income, level of integration, access to social, health and welfare services...) represents one of the main challenges. Without such key information, it's very hard to identify issues of concern, design adequate policies and to properly allocate resources; without indexes which describe those conditions and their change through time and space, an assessment of the impact of political decisions is quite impossible. Furthermore, a better understanding of the Roma and Sinti world is also indispensable in order to break to vicious circle of ignorance and prejudice⁴¹.

According to a report by the Pew Research Center, Italy proves to be the European country with the highest level of anti-ziganism: 85% of the consulted sample expressed an indiscriminately negative opinion about Roma⁴². As demonstrated by the frequency of the so called “hate speeches”⁴³, a not marginal part of the responsibility of such pervasiveness of anti-nomad feelings can be attributed to politicians and on media workers. In the first 6 months of 2015, the *21 of July Association* (through its dedicated national observatory) registered 183 hate speech cases, with an average of almost one hate speech per day⁴⁴.

As a matter of fact, the Italian legislative framework as well appears to be rife with ignorance and prejudice: this phenomenon is what experts call “*legal antiziganism*”.

Indeed, looking at the regional laws (which are the one and only legal reference point at present, as mentioned above) we find out that, through the institution of “temporary camps for the nomads” (only a few regions are an exception) the legislator tends to incorporate in law the widespread but totally incorrect⁴⁵ belief about Roma and Sinti being nomad communities, who do prefer to live in isolated camps, so ratifying their separation from the rest of the population. The perception of these communities as nomadic permeates every aspect of public policies in Italy, especially those concerning the housing sector⁴⁶.

Although, for sure, it isn't the only area that calls for a urgent intervention, the housing issue is definitely a strategic one, since housing de-segregation and a full enjoyment of the right to adequate housing turns out to be a fundamental precondition for several other basic human rights. Indeed, the

⁴¹ Cfr Commissione Straordinaria per la tutela e la promozione dei diritti umani del Senato della Repubblica, *Op. Cit.*, p. 10

⁴² Cfr Pew Research Center, [Anti-Roma, Anti-Muslim Sentiments Common in Several Nations](#), May 2014

⁴³ On the topic, see the [General recommendation No. 35, Combating racist hate speech](#), by the UN Committee on the Elimination of Racial Discrimination, September 2013

⁴⁴ Cfr <http://www.cartadiroma.org/news/antiziganismo-2-0-nei-primi-sei-mesi-del-2015-quasi-un-caso-di-hate-speech-al-giorno/>

⁴⁵ In reality, gypsies are just 3% of the Roma and Sinti population in Italy. Cfr *21 of July Association*, *Op. Cit.*, p.12

⁴⁶ Cfr Istituto di Ricerche Educative e Formative (IREF), [Oltre il separatismo socio-abitativo. Studio volto alla promozione della governance delle politiche e degli strumenti di inclusione sociale e di contrasto alla discriminazione nei confronti delle comunità Rom, Sinti e Camminanti](#), Rapporto FINALE, Roma, Giugno 2010, p. 12

denial of this right does not only represent one of the discriminations suffered by Roma people, but also a huge obstacle to the realization of minimum targets in education, health and employment field, therefore that's a powerful hurdle preventing integration.

Even though the camps' conditions can vary from one to another, most have in common a set of critical aspects that place them well below the international standards for adequate housing⁴⁷. A good part of them falls under the definition of "slums" by UN – Habitat.

The camps policy⁴⁸ is a "made in Italy" one, that is, a typically Italian solution representing an anomaly in the European framework. Such policy not only represents a systematic violation of human rights, but has also proven to be totally uneconomic, since no improvement in living conditions or social inclusion of Roma and Sinti can be observed, in spite of the huge expenditure the policy requires. Over the years, it has been drawing attention and condemnation by many international and European monitoring bodies (especially Eu). Also the practice of demolition of illegal camps and forced evictions without providing alternative accommodation arrangements has been object of harsh criticism⁴⁹.

FROM CS0

From the civil society side, on 15 May 2014, a law proposal of popular initiatives "Rules for the protection and equal opportunities of the Roma and Sinti historical-linguistic minority", promoted by the Federation of Roma and Sinti Insieme was submitted to the Court of Cassation. It also wants to create for the Roma and Sinti minorities the right to recognition as historical-linguistic minorities in respect to Articles 3 and 6 of the Italian Constitution.

FROM INSTITUTIONS

Respecting minorities: the Italian government, on 24 February 2012, approved the plan for the "National Strategy for the inclusion of Roma, Sinti and Caminanti 2012-2020" which includes interventions in education, employment, health and housing. The Plan fulfils the requirements of the European Commission in its Communication n. 173 of April 5, 2011.

The document was produced by the Department for International Cooperation and Integration, and involved the ministries of Interior, Labour and Social Affairs, Justice, Health, Education, University, and Research and local authorities coordinated by UNAR. The plan established, for the first two years, interventions to "increase institutional capacity-building and for social inclusion in civil society of the Roma, Sinti and Caminanti" through the activation of "Local Plans for the social inclusion of communities". Among the other "system actions", the promotion of permanent territorial centers against discrimination; the countering of stereotypes with information campaigns; the development of a model of community participation in national and local decision-making with the involvement of major associations and institutions.

The Italian analysis and those of other European countries can be found in the "Report on the implementation of the EU Framework for National Roma Integration Strategies (2014)". This Report measures progress made in the four key areas of education, employment, healthcare and housing, as well as in the fight against discrimination and the use of funding.

⁴⁷In theory built as temporary housing solutions, the camps, often placed in areas far from the city centre, turn into permanent settlements where people (permanently) live in caravans, containers or metal sheet (or other makeshift materials) shacks, in precarious hygienic and sanitary conditions, often lacking the basic housing infrastructures (running water, sewers, lighting, heating). Furthermore, the segregating nature of these "mono-ethnic" camps alone violates the principle of non discrimination.

⁴⁸The birth of the "nomad camps" dates back to the late Eighties, when, under the pressure of the emergency situation caused by the huge migrant flows from the former Yugoslavia, the Regions decided to implement programmes for the protection of these minorities. *Ibidem*, p. 13

⁴⁹Cfr 21 of July Association, *Op. Cit.*, and Istituto di Ricerche Educative e Formative (IREF), *Op. Cit.*.

Here the Italian section:

	KEY STEPS SINCE 2011	ASSESSMENT
Education	Measures planned to decrease the early school leaving rate in four regions. National project launched in 2013 with the aim to increase participation of Roma children in primary and secondary schools involving 13 large municipalities.	<i>Adequate funding to secure effective and sustainable implementation of the planned measures is necessary.</i>
Employment	Promoting vocational training, job orientation to support inclusion of Roma and other vulnerable groups in the labour market. The national working group on labour has been developing projects which include Roma people as targets on such issues as; prevention of early school leaving; integration of migrants; fight against undeclared work; access to services; self-employment; creation of a national Integration Website focusing on migrants' needs.	<i>Positive steps have been taken in designing and implementing policies and actions for the Roma by local authorities. Promising initiatives need to be scaled up. Further attention is needed to fight discriminatory practices in the labour market.</i>
Health	Additional financial allocations in 2012 and 2013 to a national institute created to promote health among migrant population and to fight diseases due to poverty, Roma persons included. A project "TroVARSI" (Vaccinations Roma and Sinti) which began in 2013, aims at increasing the level of protection of Roma children from diseases that can be prevented by ordinary vaccination.	<i>The national health system provides universal access to healthcare (including Roma people), prevention and uniform criteria for quality services throughout the country. However, measuring the impact of mainstream health policies on Roma and the possibility of further targeted measures should be considered.</i>
Housing	Efforts to overcome the "camps-system" were made in various areas of the country.	<i>Overcoming the camps-system should be carried out within an integrated approach addressing simultaneously challenges in the areas of education, employment and health.</i>
Antidiscrimination	The "Campaign Dosta! 2012-2013" is aimed at raising awareness and combating anti-Roma prejudice.	<i>The effective practical enforcement of anti-discrimination legislation needs to be ensured. A systematic approach to tackle prejudices against the Roma, including working with the media should be developed. Effective measures should also be taken to combat anti-Roma rhetoric and hate speech</i>
Funding	Roma inclusion has been supported by national and EU funds under various types of mainstream measures, including social inclusion measures. In the 2007-2013 financial period, Italy has allocated 8,7 % (€602 million) of its total ESF budget for integrating disadvantaged people.	<i>Sustainable financing including from national funds should be secured for the implementation of the strategy. Further use of existing possibilities to support Roma inclusion under the EU funds should be considered.</i>
Structural priorities that should be considered	<i>The effective implementation of measures to step up Roma integration should be ensured by securing adequate and sustainable funding, efficient coordination between the national and local level and a constructive dialogue with civil society.</i>	

INSTITUTIONS DEALING WITH MINORITIES

The Italian institution whose specific mission includes the promotion and protection of ethnic minorities' rights is the National Office for the promotion of equal treatment and for the removal of race/ethnicity- based discriminations ([UNAR](#)), which is an office of the Department for Equal Opportunities of the Council of Minister.

Additionally, some ministries have specific offices in charge of dealing with issues related to ethnic minorities: the [General Directorate of Immigration and Integration Policies](#) (Ministry of Labour and Social Policies) and the [Department for Civil Liberties and Immigration](#), which includes a [Central Directorate for Civil Rights, Citizenship and Minorities](#) (Ministry of Domestic Affairs).

Italy also had two Ministers for Integration (without portfolio): the first, under the Monti Cabinet (November 2011-April 2013) was Andrea Riccardi, appointed as *Minister for International Cooperation and Integration*; the second, under the Letta Cabinet, was Cécile Kyenge (April 2013-February 2014), appointed as *Minister for Integration*.

NGOs DEALING WITH MINORITIES

In Italy there are many NGOs and CSOs whose mission is the promotion and protection of Roma and Sinti rights, the fight against intolerance and discrimination, the promotion of a proper knowledge about the history and culture of this ethnic minorities and of their social inclusion. They are generally composed of Roma and Non Roma people working together in the pursuit of these goals. The most important ones⁵⁰ are: Associazione 21 luglio (<http://www.21luglio.org/>); Fondazione Romani Italia (<http://www.fondazioneromani.eu/>); Opera Nomadi (<http://www.operanomadinazionale.it/>); Aizo (<http://www.aizo.it/aizo-onlus/>); Federazione Romani (<https://federazioneromani.wordpress.com/>); Osservazione onlus (<http://www.osservazione.org/>); Associazione Sucar Drom (<http://www.sucardrom.eu/>); Federazione Rom e Sinti insieme (<http://comitatoromsinti.blogspot.it/>).

Rome, 31 October 2016

⁵⁰ Cfr http://www.cestim.it/03rom_sinti_camminanti.htm#italia

VOLONTARIATO INTERNAZIONALE
PER LO SVILUPPO



Insieme, per un mondo possibile

Submission of Information

To the UNITED NATIONS

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

“RACIAL DISCRIMINATION IN ITALY WITH PARTICULAR ATTENTION TO HUMAN RIGHTS EDUCATION”

Special report by VIS, VOLONTARIATO INTERNAZIONALE PER LO SVILUPPO

VIS – International Volunteer Service for Development, a non-profit nongovernmental organization established in 1986 with a particular focus on human rights education and development with Special Consultative Status at the ECOSOC, Decision no. 226. 27th July 2009 and recognized in 1991 by the Ministry of Foreign Affairs, as per Italian Law no. 49, 1987. Member of FRA Platform and EU Anti-trafficking Civil Society Platform. With these objectives VIS promotes training activities in Italy and in the European Community, and works throughout the world, carrying out human development, cultural and socio-economical programs.

Considering all Concluding Observations of the Committee of the Elimination of Racial Discrimination to Italy in 2012;

Given that the Italian Government submitted its report, under article 9 of the Convention XIX to XX Periodic Reports of States Parties, in 2015;

Considering the last Recommendations to Italy contained in the Universal Periodic Review of the UN Human Rights Council in 2010 and 2014;

Considering that the Committee of the Elimination of Racial Discrimination will review Italy in the next 91st Session, and precisely the 1st of December 2016,

VIS would like to submit to the Committee of the Elimination of Racial Discrimination (CERD) the following special report with regard to racial discrimination in Italy with particular attention to human rights education.

ICERD, art. 2

HUMAN RIGHTS EDUCATION

In view of what was highlighted in: CERD/C/ITA/16-18, CERD/C/ITA/CO/16-18, CERD/C/ITA/16-18/Add 1, CERD/C/ITA/19-20 and in CRC/C/ITA/CO/3-4, n.19, remain a lack for a widespread human rights culture in Italy also if attention should be drawn to the attempts by Italy to comply with international recommendations⁵¹ both the United Nations and the Council of Europe which call for the introduction of human rights education and global education in school curricula and the elaboration of a system of compulsory regular training on the rights of the child for all professionals who work with children themselves in particular police officers, judges, Carabinieri and prison staff.

Currently, however, human rights education is not inserted in a compulsory way inside the school curricula except for single initiatives of school principals or teachers. The attention to the topic changes radically in the passage from the primary and secondary school to university system : there are 39 universities who form in human rights, with more than one hundred teachings, master of I and II level and PHD courses. What is desirable is to follow an approach of integration, in reason of which human rights education and global education don't remain isolated discipline in the school context (like is actually the teaching of "Citizenship and the Constitution"), but it pervades through vertical relationships and horizontal with the rest of the education curricula.

Today, the initiatives at ministerial level can be summarised in two: the declaration of intent signed on 10 June 2014 between the MAECI (Ministry of Foreign Affairs and International Cooperation) and MIUR (Ministry of Education, University and Scientific Research), aimed to the realization of the "School Week of International Development Cooperation"; and the Memorandum signed between the Italian Ministry of Education and the Ministry of Defence, to facilitate the deepening of the Italian Constitution and the principles of the Universal Declaration of Human Rights, inside the teaching of "Citizenship and the Constitution". On the basis of this Memorandum was drawn up a plan of training and educational activities for the school year 2015/2016.

For the next years the expectation is for a really change in the situation also because of the "iLEGEND, Intercultural Learning Exchange through Global Education, Networking and Dialogue", will foster inclusive and equitable quality education to promote peaceful and inclusive societies, mainly through global development education and intercultural dialogue. This project will aim at the inclusion of global development education in school curricula, enabling teachers and youth workers to educate on knowledge and skills to understand, participate in and interact critically with our global societies, and increase the general public understanding of what is global development education.

Furthermore training activities, including HRE-related courses, have been introduced for all law enforcement agencies. All Italian Forces pay attention to international humanitarian and human rights laws, within the framework of the *ad hoc* training and educational curricula, including in the enhanced framework of activities carried out by OSCAD, the Police-Carabinieri-led Observatory on the monitoring of acts of a discriminatory nature. The Ministry of the Interior underlines that the Police staff is periodically sensitized on HR Law, in order to ensure full compliance with legal/judicial safeguards, especially in the event of those people put under arrest or detention.

⁵¹CESCR/ITA/04 of 26 November 2004, n. 13, 29, 31 and recommendation CM/Rec (2010)7 of the Committee of Ministers to member states of the Charter of the Council of Europe

Likewise, the Prison Administration extensively provides the prisons' staff with training and continuous refresher courses, including on the respect for the dignity and rights of the person, as well as on the management and treatment of the various people restricted (i.e. collaborators of justice, minors, "41 bis" interned) – as recently reinforced by Law Decree No. 92/2014 converted into law last August 2014.

Reference to national legislation and its application

Referring to the **General Comment no. 13** on the right to education of the Committee on Economic, Social and Cultural Rights (CESCR), it is important to emphasize that "*the education in itself is a human right and also an important instrument for the realization of other human rights* " and its full realization is interconnected to some essential elements (such as availability, access, non-discrimination etc.), to different types of responsibility of the Member States (as the obligation to respect, protect and make effective) and consideration of the right to education as a *life-cycle approach* .

Education and training in human rights is essential for helping every human being to protect their rights, allows him to make known the violations that undergoes and, at the same time, helps him to observe him first, the human rights of others. The main objective is the full realization of human rights for all, through the construction of a common culture on the theme.

It's important to remember also that human rights education finds its basis in the **Universal Declaration of Human Rights** and in the main treaties and legal instruments, from which takes several objectives: raising awareness, understanding and acceptance of the rules and the principles of universal; pursuing the effective realization of human rights and the promotion of tolerance; pursuing the non-discrimination and equality; ensuring equal opportunities for all, through access to the education and training to the human rights of quality; to contribute to the prevention of violations and abuses.

We should also emphasize the considerable contribution that could give **the approach based on Human Rights (HRBA)** to human rights education, in that it involves a theoretical framework, regulatory and practical in which priorities are access to education, access to an education that is of quality and the respect of all human rights. There are three interdependent dimensions and interconnected: an education based on human rights requires the full implementation of all three dimensions.

The **UN Declaration on the education and formation in human rights**, of 19 December 2011, states that: the Member States have a primary responsibility to promote and ensure the education and training in human rights, to develop and implement, in a spirit of participation, inclusion and responsibility; States should also develop and promote, at every level, strategies and policies and, where appropriate, action plans and programs; educational institutions, families, media, the institutions of civil society, NGOs and human rights defenders and the private sector have an important role in promoting and providing education and training in human rights (Art. 7, 8, 10).

We would like to draw attention also on the **World Program for human rights education** , now in its third phase (2015/2019), in which it invites to give priority to human rights education in the sectors of reference already identified in the previous stages; i.e. the formal education system - primary education, secondary and upper - as well as training for civil servants, police officers and soldiers. It also stresses the need to widen the program for human rights education also to the media

and civil society organizations that deal with youth policies, people with disabilities, minorities and indigenous peoples and women victims of violence.

Even at European level there are several references to Member States in the field of human rights, such as the adoption of the **European Charter on education for democratic citizenship and human rights** of 11 May 2010, which has become a useful instrument for work and comparison and that must be a point of reference for each national government and the adoption of the **new strategy of the Council of Europe on the rights of the child** (2016/2021).

Rome, 31 October 2016

VIS and the Comitato per la promozione e la protezione dei diritti umani wish CERD will adopt in its Concluding Observations the following recommendations:

- 1. to recommend the Ministry of Education, University and Scientific Research, Department for Education – General Direction for School Staff Education and Training – to include Human Rights Education and Global Education in the new national guidelines of all educational programs in primary and secondary schools.*
- 2. to recommend the Ministry of Education, University and Scientific Research, Department for Education – General Direction for School Staff Education and Training – to implement the provision in the Action Plan for the third phase (2015-2019) of the World Program for human rights education (A/HRC/24/L.12).*
- 3. to recommend to the Ministry of Education, University and Scientific Research, Department for Education – General Direction for School Staff Education and Training – to constitute a inter-ministerial group composed by MAECI and MIUR together with NGOs and other national actors involved in Human Rights Education and Global Education for a revision of the curricula and the elaboration of training for teachers.*
- 4. to recommend the Ministry of Education, University and Scientific Research, Department for Education – General Direction for School Staff Education and Training – to promote the creation of a new partnership between institutions, NGOs and associations, research institutes, policy and army to create a human rights culture in school staff and public administration staff*