



# **Comitato per la promozione e protezione dei diritti umani**

**Member of the FRA Fundamental Rights Platform**

**Member EU Civil Society Platform Against Trafficking in Human Beings**

**Accredited Observer to WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)**

## **BRIEFING ON ITALY FOR THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

### **PRE-SESSIONAL WORKING GROUP**

**9-13 MARCH 2015**

A.GE. , AGEDO, AGENZIA DELLA PACE, AGESCI, ANFAA , ANOLF, ANTIGONE , ARCHIVIO DISARMO, ARCHIVIO IMMIGRAZIONE, ARCI, ARCIGAY , ARTICOLO 21 , ASGI-ASSOCIAZIONE STUDI GIURIDICI SULL'IMMIGRAZIONE, ASSOCIAZIONE CAMPANARI D'ARRONE , ASSOCIAZIONE ELEONORA PIMENTEL, ASSOCIAZIONE ASTRO NASCENTE, ASSOPACE, ASSOCIAZIONE SENZA CONFINI, ATD-QUARTO MONDO , AUCI, AUSER, BANCA ETICA, BE FREE, CASA DEI DIRITTI SOCIALI, CGIL , CHIAMALAFRICA, CIAI, CIPAX, CIPSI - COORDINAMENTO DI INIZIATIVE POPOLARI DI SOLIDARIETÀ INTERNAZIONALE, CIR-CONSIGLIO ITALIANO RIFUGIATI, CISL DIPARTIMENTO POLITICHE MIGRATORIE, CISMAI, CISP-COMITATO INTERNAZIONALE SVILUPPO DEI POPOLI , CITTADINANZATTIVA, CND – CONSIGLIO NAZIONALE SULLA DISABILITÀ, COMITATO PER I DIRITTI UMANI , COMITATO SINGH MOHINDER , COMITATO UNRWA ITALIA, DONNE IN NERO, EMA, FEDERAZIONE CHIESE EVANGELICHE, FONDAZIONE CENTRO ASTALLI, FONDAZIONE INTERNAZIONALE DON LUIGI DI LIEGRO, FONDAZIONE BASSO-SEZIONE INTERNAZIONALE, FONDAZIONE LABOS, FVGS, GIOVANI PER UN MONDO UNITO, GRUPPO MARTIN BUBER, ICS-CONSORZIO ITALIANO DI SOLIDARIETÀ ; IISMAS-ISTITUTO INTERNAZIONALE SCIENZE MEDICHE ANTROPOLOGICHE E SOCIALI, IMS – INTERNATIONAL MEDICINE SOCIETY, INTERSOS, INTERVITA , IRMA , ISTITUTO COOPERAZIONE ECONOMICA INTERNAZIONALE, 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 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 INTERNAZIONALE 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

**This briefing describes the situation with the establishment of a National Human Rights Institution in Italy. In light of the voluntary pledges of Italy in front of the UN Human Rights Council and the recommendations made repeatedly since years to Italy by all the Treaty Bodies and during both the Universal Periodic Reviews ( in 2014 and 2010), we hope the Committee on Economic, Social and Cultural Rights will:**

- In its List of Issues for Italy, raise the issue of the establishment of a National Human Rights Institution in line with Paris Principles and the international standards, and with the full and transparent participation of the civil society in all the passages of the procedures;**
- In its concluding observations on Italy's fifth report, recommend that the National Human Rights Institution is established as soon as possible, in line with Paris Principles and international standards and with the full and transparent participation of civil society in the entire process.**

## **1. Italy's report to the Committee on Economic, Social and Cultural Rights**

Italy's fifth report to the Committee on Economic, Social and Cultural Rights, contains a brief reference<sup>1</sup> to the establishment of a National Human Rights Institution in accordance with the Paris Principles, but the interministerial working group who drafted a governmental bill never involved at any stage the civil society. Moreover the legislative *iter* never managed to complete the procedure.

## **2. The long path to establish a National Human Rights Institution**

Italy is one of few states ([www.nhri.net](http://www.nhri.net)) without a national independent institution for human rights in line with the Paris Principles, UN Resolution 48/134 of 20 December 1993, and the Council of Europe Resolution (97) of 30 September 1997.

In addition, the lack of such a commission is worsened by the failed effort in fulfilling the commitment deriving from the ratification of the Convention on Persons with disabilities (2006) with law 18/2009, envisioning that Member States, such as Italy "*in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.*".

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<sup>1</sup> 10 October 2013, E/C.12/ITA/5, Fifth State Party Report, par. II. General Information, 5. , p..3

Italy's delay on this matter has no excuses. On 8 May 2007, the Italian government, in presenting its first candidature to the new UN Human Rights Council (elected for the period ranging from 2007 to 2010), formally committed itself in front of the UN General Assembly "... to create an independent national Commission for the promotion and protection of human rights and fundamental liberties...".

Although not having fulfilled this official commitment, in presenting its second candidature for the Human Rights Council in 2011, Italy once again formally promised with a voluntary pledge that it would create, during its second term 2011-2014 (elected on 20 May, with formal effect from 19 June 2011) "an independent national Commission for the promotion and the protection of human rights in conformity with the Paris Principles...".

In May 2013 a new Draft Law TU no. 1004 "Establishment of the national Commission for the promotion and protection of human rights", on parliamentary initiative with no involvement of the civil society, signed by 84 deputies, was presented at the Chamber of Deputies, and assigned to the 1<sup>st</sup> permanent Commission (Constitutional Affairs) on 29 July 2013. The examination of which never started.

In June of the same year, Draft Law no. 865: "Creation of a national Commission for the promotion and the protection of human rights", on parliamentary initiative with no involvement of the civil society, signed by 13 senators, was presented to the Italian Senate.

In June 2014 a Draft Law "Creation of an independent national Commission for the promotion and protection of human right and fundamental freedoms" on the initiative of seven deputies of the 5 Stelle (5 Stars) Party was announced.

Upto the present date no step ahead has been made even if during the last UPR Working Group Session specific 39 recommendations were made, to which Italy has not yet answered.

Concerning the process for the parliamentary discussion, it can be noted that, setting aside the awareness of certain parliamentarians, in the years, from 2003 to 2013 there has been no consultative, transparent, or participatory process for the inclusion of civil society. When the Paris Principles specifically request that a national independent institution for human rights be created through a transparent and participatory process inclusive of all social forces of civil society in its most general definition (art. 1 of the Composition and guarantees for independence and pluralism Section), with its active participation in at least three vital phases of the institution: creation, composition/appointment of the members of the Commission and mechanisms and methods of cooperation between the national human rights institution and the civil society. Participation and active involvement was also highlighted by the recommendations formally expressed by the UN Office of the High Commissioner for Human Rights, Office of National Institutions while the lack of a NHRI was repeatedly evidenced among others also by the UN High Commissioner for Human Rights, the last two Commissioners for Human Rights of the Council of Europe, the Director of FRA.

### **3. Recommendations by human rights treaty bodies and during the UPR**

#### **UPR**

During the Universal Periodic Review of Italy of the UN Human Rights Council in 2014 22 specific recommendations were made, to which the Government is yet to respond<sup>2</sup>.

While during the Universal Periodic Review of 2010 5 specific recommendations were made<sup>3</sup>.

#### **CESCR**

CESCR/ITA/04 of 26 November 2004 and  
14 December 2004, E/C.12/1/Add. 103, para. D(14)

<sup>2</sup> 29 October 2014, A/HRC/WG.6/20/L. 1 Unedited Version, Draft report of the working group, paras. 145 (27) to (48).

<sup>3</sup> 18 March 2010, A/HRC/14/4, Report of the working group, paras 84 (11) to (15); 31 May 2010, A/HRC/14/4/Add.1, Report of the Working Group: Addendum.

**CCPR**

CCPR/C/ITA/CO/05 of 2 November 2005;

**CRC**

CRC/C/15/Add198 of 18 March 2003;

**CEDAW**

CEDAW, 2005 A/60/38 (SUPP);

**CAT**

CAT/C/ITA/CO/4 of 18 May 2007;

**CERD**

CERD/C/ITA/CO/15 of 16 May 2008,  
CERD/C/ITA/CO/16-18 of 9 March 2012.

*For a further deepening of components of CESCR besides the NHRI please refer to the attached Follow Up Monitoring Report of NGOs and Associations of the Comitato per la Promozione e protezione dei Diritti Umani 2011-2014, Rome.*

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