

ITALY



*Ministero degli Affari Esteri  
e della Cooperazione Internazionale*

*Interministerial Committee for Human Rights*

**Introductory Statement**

**Address by Ministry Plenipotentiary Fabrizio Petri,  
President of the Interministerial Committee for Human Rights,  
Ministry of Foreign Affairs and International Cooperation  
on Nineteenth-Twentieth Combined Periodic Report of Italy  
relating to the International Convention on the Elimination of Racial  
Discrimination (CERD)**

*Geneva, December 1<sup>st</sup>, 2016*

*Madame Chairperson,*

*Distinguished members of the Committee, Ladies and Gentlemen,*

**PRELIMINARY REMARKS**

- In the last year in our Country a renewed attention has been comprehensively devoted to the protection and promotion of human rights, always in line with the traditional role and action ensured within the most relevant legal institutional universal and regional systems: in particular, as it concerns the United Nations, Italy has been committed in strongly upholding an open and frank dialogue for the protection and promotion of all human rights, taking part to relevant UN events and conferences and actively contributing to the elaboration of significant legal instruments and guidelines covering several issues by the Human Rights Machinery represented by the Human Rights Council, the UN Treaty Bodies and UN Special Procedures, whose role and functions within the UN system are fundamental to prevent and to tackle with the renewed alarming challenges following the reiterated compression of human rights at the global level.

- Along this approach Italy has prepared and carried out the discussion concerning the country-situation of human rights in the context of the Universal Periodic Review mechanism, held on October 27<sup>th</sup> 2014 here in Geneva, and accepted the Human Rights Council recommendations of institutional or thematic nature. At the completion of the 2<sup>nd</sup> UPR cycle, on March 18<sup>th</sup> 2015, out of 186 recommendations decided to accept 176 recommendations and to note 10 recommendations. On this issue, let me only remind that all the recommendations concerning the principle of non-discrimination have been accepted and we're fully committed to work for their full implementation at the national and local level.

- For the presentation and discussion of the Nineteenth-Twentieth Combined Report of Italy concerning the implementation of the UN Convention on the Elimination of Racial Discrimination, let me here remember that Italy has ensured the support to the UN Special Procedures, replying to their request for information concerning the human rights situation in Italy as far as the issue of racial discrimination, being committed at the same time in a constructive dialogue with all the other competent regional monitoring mechanism of the Council of Europe, the European Union and the Organization for the Security and Cooperation in Europe. In the same collaborative spirit we've decided to submit to this distinguished Committee a written reply to the List of issues, as relevant document introducing and so far facilitating the discussion of the Nineteenth-Twentieth Combined Report of Italy.

- The relevance of the issue was assumed by Italy as State Party of the UN Convention on the Elimination of Racial Discrimination by its ratification with Act No. 654 of October 13, 1975. Since this date, Italy presented its periodic reports to the CERD Committee and confirmed its commitment for the diffusion of the results of the discussion, to be here renewed in terms of translation and publication of the following CERD Concluding Observations. We are convinced that only by this perspective the examination and discussion of the Nineteenth-Twentieth

Consolidated Periodic Report and the related several material aspects contained therein will let us to work together in order to further improve all the guarantees to counter all forms of discrimination, racism, xenophobia and related intolerance.

- The Italian Delegation that will discuss the contents of Report as far as each relevant aspect on the matter is composed of public officials and experts from the main Ministries that work in this field and we have also the Director of the National Anti-discrimination Office (UNAR). Before starting the discussion, please let me further introduce you only some short considerations on specific and significant features.

#### **SUBSTANTIAL MATTERS - PRELIMINARY CONSIDERATIONS**

- First of all, let me recall that the Italian legal system aims at ensuring an effective framework of guarantees, to fully and extensively guarantee the fundamental rights of the individuals, providing them with a wide range of protection means which have, as their core, the principle of non-discrimination set out at **Art. 3 of the Italian Basic Law**: “All citizens possess an equal social status and are equal before the law, without distinction as to sex, race, language, religion, political opinions, and personal or social conditions”.

- Furthermore, according to the guiding principles included in Art. 29 of Community Law No. 39/2002, the Italian Government promptly transposed the contents of the Directive 2000/43 through the adoption of the **Legislative Decree No. 215 of July 9, 2003**. By means of this Decree the national regulations was provided with important regulatory and administrative provisions ensuring the implementation of effective instruments of protection against all forms of discrimination on grounds of race or ethnic origin according to a comprehensive approach based on the principle of equal treatment in the public and private sectors,

with respect to access to employment, occupation, guidance and vocational training, membership of workers' or employers' organisations, social protection and social benefits, primary healthcare, education, judicial protection of victims by civil actions against discrimination, including presumptive proof in favour of the victim and awarding compensation for damage.

- The Italian Government acknowledges that prejudice and racist attitudes persist today in some sectors of the Italian society to various extents and that a sustained effort is required to eradicate them. Obviously, in order to prevent and eliminate prejudices, as well as to combat discriminatory attitudes and behaviors, legal instruments are not enough: it is equally important to work on the ground for a successful interaction among cultures, principles and values of different origin. Along these premises, let me make some references about our improved commitment in counteracting the discrimination in all its forms.

#### **SUBSTANTIAL MATTERS – RELEVANT ISSUES**

- First of all, as far as the possibility to draft **new legislative measures** or to **amend the domestic legislation already in force**, I take this opportunity to inform you that, in line with the domestic legislation in force, we've repealed the public insult in the Italian legislative framework, offences such as defamation and menace – to be considered as conducts intentionally based on discriminatory grounds or ethnic, national, racial or religious hate – could amount to an aggravating circumstance so far avoiding an half increased basic sanction, the nullification of applicable mitigating circumstances, and ensuring in all cases *ex officio* prosecution. Another significant legal commitment in compliance with international human rights law in the field of countering discrimination is represented by the amendment by Act No. 115 of June 16, 2016, of Art. 3 of the Act No. 654/1975, in order to contrast and to repress the crime of genocide, crimes against humanity and war crimes as enshrined in Arts. 6, 7

and 8 of the ICC Statute, so far including the repression of the denial of the Holocaust and the categories of international crimes. Finally I would like to remind you about the legislative process aimed at approving the bill envisaging the institute of the civil union partnerships for same sex couples, converted into law on May 11, 2016. Same-sex civil union partnerships will result in a social formation in line with Art. 2 of the Italian Basic Law. The civil unions are entered into before a public official in the presence of two witnesses and are recorded in the state civil registry. The partners can decide to take on each other's surname or a combination of the two, in whichever order, for the duration of the civil union. Within the civil union the partners have a duty to live together under the same roof, and to give each other material and moral support (i.e. assistance in hospital or in prison, organ donation). All property and assets in a civil union are held in common, unless the partners decide otherwise, included the inheritance rules, i.e. the surviving partner gets 50% of the couple's asset and the remainder goes to children (also rules concerning leasing and alimony are granted). The Law does not provide for child adoption.

- More in general, for what concerns the present **Italian legal framework**, it includes specific provisions to combat racist and xenophobic speech, including those actions directed to spread ideas founded on racial or ethnic, national or religious hatred and the incitement to commit acts of violence or of provoking violence on racial grounds. The legislation in force punishes also the constitution of organizations, associations, movements or groups which have, among their aims, the incitement to discrimination or to violence motivated by racial, ethnic or religious reasons. It also provides for a special aggravating circumstance for all the crimes committed on the ground of discrimination or racial hatred. These provisions have been mentioned in several recent sentences pronounced by the Italian Courts with reference to conducts, even when oral, with purposes of discrimination or ethnic, national, racial or religious hatred, and are going to be reinforced by their application

also with reference to reasons of sexual orientation, gender identity or of peculiar physical or psychological conditions of the victim.

- As far as the strategic actions undertaken by our Country to prevent and counter act discrimination in all its forms, I would like to recall here that adoption of the **National Action Plan against Racism, Xenophobia and Related Intolerance** by Ministerial Decree on August 7, 2015. The NAP has been compiled by a Working Group under the leadership of the Anti-discrimination National Office and composed of institutional representatives from seven competent Ministries (Ministry of the Interior, Ministry of Labour and Social Policies, Ministry of Education, Ministry of Health, Ministry for Regional Affairs, Ministry of Transport, Ministry of Agriculture), from local entities and from 85 associations on behalf of the Italian civil society at large. The same Working Group is in charge for monitoring the implementation of the contents on the NAP. The NAP aims at implementing a comprehensive strategy to support national and local policies to ensure the full respect of the equality principle and to counter discrimination, racism, xenophobia and related intolerance, accordingly with international and European rules in force and with the Italian Basic Law and related legislation in the field of countering all forms of discrimination. Based on a progressive data collection exercise to monitor discriminatory phenomena, the NAP is articulated in key-areas of action relating to the incidence of cases limiting the access to basic services (education, health, labour) in public and private sectors, in order to encourage appropriate central and local policies to contrast discrimination in all its forms. In particular, among the main actions to be progressively carried out during the NAP implementation, I could mention the following ones: collect data to monitor discrimination in the labour sector; promote vocational training in favor of potential victims of discrimination and encourage the creation of start-up companies under their leadership; promote diversity management policies to counter act discrimination in public and private companies; promote the elimination of barriers to access to work for potential victims

of discrimination so far encouraging the link between demand and supply for work; promote the dissemination about conciliatory mechanisms and improve the access to justice for victims of discrimination; improve the role and action of the *Comitato Unico di Garanzia* for equal opportunities, whose mandate is focused on the valorization of the well-being against any form of discrimination; facilitate the access and use of ad hoc funds for the implementation of the NAP.

- To stress this significant programming commitment and practical tools to improve its implementation, let me further point out that since 2014 the Department for Equal Opportunities at the Presidency of the Council of Ministers has established a **Solidarity Fund**, administered by the National Bar Council, which at the request of discriminated individuals or associations that are entitled to take legal action for them, may provide an advance funding for procedural costs. Until now there have been 35 legal actions financed by the Fund (strategic litigation settlements): even if in the first year the most of the instances were proposed by associations which were dedicated to the support and legal accompaniment of victims of discrimination, in the course of 2015, there was a gradual increase of applications advanced by private entities.

- After the adoption of the **National Strategy for the Inclusion of Roma, Sinti and Caminanti Communities in Italy 2012-2020**, several measures have been promoted to implement at the best the Strategy, UNAR being member of the European Network of Equality Bodies (EQUINET) and National Contact Point for the implementation of the National Strategy. Just me remind here that on April 8, 2016, UNAR publicly communicated the launch of the National Roma Platform for dialogue purposes between Institutions and Roma, Sinti and Caminanti communities, whose main goal is to stimulate co-operation between institutions and organisations representing Roma and the associations operating in the sector, with specific regard to Roma youth. Within this context, UNAR convened an inter-institutional Working



Group, consisting of central Administrations, the National Association of Italian Municipalities (ANCI), the National Office of Statistics (ISTAT) and representatives from the Municipalities of Milan, Rome, and Naples to get a clear picture of relevant actions, especially those measures aimed at overcoming “settlements”, carried out in line with the National Strategy, by each and every stakeholder.

- As for what concerns the institutional framework, specific attention in the Report has been devoted to the **National Anti-discrimination Office** and let me recall here that as it concerns UNAR independence, mandate and actions in performing the duties assigned by Legislative Decree No. 215/2003, as established by a Directive of the ad interim Minister for Equal Opportunities, the Office has recently broadened its mandate by considering – beside race and ethnic origin – all grounds of discrimination, such as religion, personal opinions, sexual orientation and gender identity, age, disability, in order to guarantee the effectiveness of the principle of equal treatment. Among the most interesting activities of UNAR I would like to mention here, due to increasing complaints relating to cases of hate speech, especially online, that the Office has recently set up a Media and Social Network Observatory on hate speech. This Observatory, to be financed with ordinary funds from UNAR, officially started in January 2016 with a two-fold aim: to find hate speech online and report it for removal; to analyze, to learn and understand. The Observatory is supplied with a software which works on the basis of a set of search keywords, selected by the Office and based on data from scientific literature and from the practical experience of the Office’s work against discriminations. Thousands of contents are analyzed day-by-day: a substantial part of the contents is catalogued and included in thematic reports (hate speech and politics, hate speech and Roma people, migrants, etc.) and another part, which numerically represents a lesser proportion but is equally considered of a strongly discriminatory nature, is reported to social networks for removal or to law enforcement for investigation and prosecution. In 2015 only UNAR reported IT companies some 1700 on-line contents.

- At the same time also specific attention has been devoted in the Report to the role and activities of the **Observatory for the Security against Discriminatory Acts (OSCAD)** at the Italian Ministry of the Interior which carries out its monitoring activity including several kinds of criminal offences such as discriminatory conducts on the grounds of sexual orientation and gender identity. In the belief that a deeper knowledge of the complex, multi-faceted world of discrimination is an indispensable prerequisite to raise awareness among law enforcement staff of the need to improve their effort to preventing and combating all kinds of discrimination and, in particular, hate crimes, OSCAD plans and implement relevant police training, involving compulsory scholars ranks since 2013 and improving and increasing quantitatively and qualitatively all the in-service training as well as e-learning training on topics such as discriminatory offences, relationships with victims, ethnic-racial profiling, prevention and fighting of LGBTI discriminations and hate crimes. Just to mention some good practices in the training field, the Observatory is partner of the European project P.R.I.S.M. (Preventing Redressing and Inhibiting Hate Speech in new media) to increase Police awareness on preventing and combating discrimination and in particular hate crimes and hate speeches, it works jointly with OSCE's ODIHR (Office for Democratic Institutions and Human Rights) following the signature of a Memorandum of Understanding for the implementation of the TAHCLE (Training Against Hate Crimes for Law Enforcement) programme, and it is member of FRA's "*Working Party On Improving Reporting And Recording Of Hate Crime*" that was established by FRA in November 2014, in response of the Council "Conclusions on Combating Hate Crime in the European Union", inviting Member States to take appropriate measures to encourage the reporting of Hate Crimes by victims and witnesses.

- Countering racial discrimination, xenophobia and related intolerance means also to cope with discriminatory attitudes in respect of **migrants and foreign**

**nationals** in our Country.

- Italy, through the Navy, Coast Guards and Revenue Guards Corps (*Guardia di Finanza*), is at the forefront of search and rescue activities at sea (SAR), along with the other Forces involved in the Frontex Triton Plus operation. According to recent data made available by UNHCR, in July 2016 93% of people who disembarked in Europe have been registered in the Italian Regions of Sicily, Calabria, Apulia, Sardinia, and Campania. From 1 January to 31 July 2016 256,319 migrants reached Europe via sea. In particular, between April – July 2016, 75,000 migrants reached the Italian shores; monthly peaks of over 20,000 people have been registered in June-July 2016. In the course of the third week of July 2016, following SAR operations, 5,243 people, mainly from Nigeria, Eritrea, and the Sudan, in distress and need of specific help disembarked at Sicily. As of August 1, 2016, about 140,000 migrants were accommodated in the Italian reception Centres. It's clear that these numbers are daily overcome with new ones, Italy making enormous effort to assist all the migrants in search and rescue activities at sea.

- By **Legislative Decree No. 142/2015** Italy has implemented Directive 2013/33/EU on standards for the reception of applicants for international protection and Directive 2013/32/EU on common procedures for granting and withdrawing international protection status, thus completing the transposition of the main provisions of the common European System of Asylum.

- The above mentioned Legislative Decree contains new rules concerning the Italian reception System for international protection applicants, that is based on cooperation between the various levels of Government concerned, providing for national and regional coordination working modalities under the guidance of a National Coordination Committee set up at the Ministry of the Interior. This body is tasked with drafting the National Plan for the reception and identification of the

reception capacity/availability at the regional level and the relating distribution - to be later determined in consultation with the above (?) Conference (*Conferenza Unificata*). It works jointly with local governance units, located at the main local Prefectures, with the task of implementing the National Plan.

- The Legislative Decree also makes reference to all further steps to be implemented within the reception system because of the increased reception demand, so far taking into account the concrete needs required by the strong migratory pressure. In particular after rescue and first aid, screening, pre-identification and information on the possibility to apply for international protection, migrants are transferred to governmental centres (the so-called regional Hubs/Centres) that are open facilities aimed to host asylum-seekers from 7 to 30 days in order to allow them to formalize the application for international protection. Afterwards, asylum-seekers are transferred to SPRAR (Protection System for Refugees and Asylum-Seekers) facilities belonging to the second level of reception. As of October 17, 2016, Italy hosts 165.095 persons in its reception centres, 127.721 in temporary reception Centres, 13.585 in government-run reception Centres, and 22.971 in the SPRAR network. The SPRAR has increased its reception capacity, from 3000 places to the current 22.971, including almost 2000 places for minors. We cannot forget that by a recent Ministerial Decree, dated August 10, 2016, the access procedure to SPRAR project funding has been reformed to stabilize the on-going projects through a financing confirmation procedure and to facilitate the funding access procedure for the new municipalities and/or local authorities that will be allowed to submit their funding applications any time of the year.

- Let me also stress that since 2014 Italy has started a new immigration policy on UAMs: a Special Unit has been established at the Ministry of the Interior and at present the system thus envisages first-assistance reception in governmental highly-specialized centres, and a second-assistance within the enhanced SPRAR system,

while at the Italian Parliament a bill specifically devoted to govern the UAMs rights protection and promotion is under discussion.

- It is important also to remember the transposition of Directive 2011/36/EU, by which the first **National Action Plan against Trafficking and Serious Exploitation of Human Beings** was adopted by Council of Ministers in February 2016. The Plan aims at identifying multiannual intervention strategies for the prevention and fight against these phenomena, as well as measures aimed at increasing public awareness, social prevention, emergence and social integration of victims.
- Finally, Italy is releasing its first **National Action Plan on Business and Human Rights**, in accordance with the 2011 UN Guidelines. The BHR NAP – to be released on the 15<sup>th</sup> of December, the day in which a Celebration of the Human Rights Day will take place in the MFA – provides specific focus on the enhancement of **Due Diligence** in favor of the most vulnerable groups, from women to LGBTI to persons with disabilities. It is our intention to work closely with the entrepreneurs, syndicates, academia and civil society – in a true multi-stakeholder spirit – to involve more and more the private sectors in the fields of human rights, in a vision of “expanding circles” in which – as the 2030 Sustainable Developments Goals clearly state – no one is left behind.
- In concluding these preliminary remarks as Head of the Italian Delegation, I would like to express my gratitude to this Committee, here represented by its President and, in particular to our Rapporteur who has **analyzed** with great attention the contents of the Nineteenth-Twentieth Combined Report of Italy concerning the implementation of the UN Convention on the Elimination of Racial Discrimination, being convinced that its discussion could contribute in a very open and frank debate to the identification of the future challenges and best actions to countering discrimination in all its forms in our Country.

