



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

Distr.: General  
21 June 2011

Original: English

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**Committee on the Elimination of Racial Discrimination**

**Reports submitted by States parties under  
article 9 of the Convention**

**Sixteenth to eighteenth periodic reports of States parties due  
in 2009**

**Italy\***, \*\*, \*\*\*

[23 March 2011]

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\* This document contains the sixteenth and seventeenth periodic reports of Italy due in 2009. For fourteenth and fifteenth periodic reports and the summary records of the meetings at which the Committee considered this report, see documents CERD/C/ITA/CO/15 and CERD/C/SR.1851-1852, 1867 and 1868.

\*\* In accordance with the information transmitted to the States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

\*\*\* Annexes available with the Secretariat upon request.

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## I. Introduction

1. In order to draw up the Sixteenth – Eighteenth Consolidated Periodic Report of Italy to CERD, an ad hoc Working Group was established early in 2010 at the Inter-ministerial Committee for Human Rights (acronym hereinafter CIDU) within the Italian Ministry of Foreign Affairs. This was composed of representatives from all the Ministries concerned.

2. This Working Group has been preparing a Report, aimed at providing a clear picture of the situation of human rights of racial discrimination in Italy, from 2006 through 2010, in line with relevant CERD Guidelines (CERD/C/2007/1). As to the latter, pending the submission of the Common Core Document, the Italian Authorities have considered both the former and the latter Guidelines.<sup>1</sup> Within this framework, it is worth mentioning that CIDU held consultations with relevant Non-Governmental Organizations (NGOs), as included in the process that involved Italy as country under examination within the Human Rights Council mechanism of the Universal Periodic Review, debating on discriminatory issues.

3. As to the political situation, over the last four years, there were different consecutive Governments. In 2005, Italy was run by a right-centre wing Government, led by PM S. Berlusconi. In 2006, following new Parliament elections, a left-centre party, run by Mr. R. Prodi won. However this Government lost the support of the Parliament, in January 2008, and Pres. Prodi resigned (Art. 94 of the Italian Constitution).

4. Afterwards the Head of State started consultations to find a possible consensus to form a new Government. Since the consensus was not reached, he declared the early dissolution of the Parliament; and the XV Legislature was concluded. On April, 13–14th 2008, the right-centre coalition, led by Hon. Mr. S. Berlusconi, won the Parliamentary elections. The new Council of Ministers started its term of office in the second week of May 2008.

5. Given this recent development in the political framework, it is worth considering that new guidelines have been developed and the relating programmes are being implemented.

6. At the institutional level, an increasing autonomy has been recognized to Local Authorities, further to constitutional amendments to the Title V of the Italian Constitution, in 2001. On October, 7th 2001, the entire Title V of the Constitution, devoted to Regions, Provinces and Municipalities, was extensively amended, further to a popular referendum, by which 64.2% of votes were in favour of this reform, even though only 34% of those entitled to, did vote.

7. The Republic consists of central and local Authorities, including municipalities, provinces, metropolitan cities, and regions, being autonomous entities with their own statutes, powers, and functions (please see Arts. 5, 114 and ff of the Italian Constitution). Within this framework, in accordance with their special statute — as adopted by constitutional law — particular forms and conditions of autonomy are granted to the following regions: Friuli-Venezia Giulia, Sardinia, Sicily, Trentino Alto Adige, and Aosta Valley (for detailed information, please see UPR Italy National Report).

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<sup>1</sup> This Report will contain a response to the concerns expressed by the Committee in its previous concluding observations and decisions, as well as information on implementation of its recommendations therein, in the first part of each section devoted to CERD articles.

8. The Italian principle combines a decentralized State structure with a vertical division of powers, which supplements the classical division between legislative, executive and judicial powers. By dividing these competences between central and local Authorities, independent areas of competence, and thus of responsibility, have been created.

9. The central Authorities as well as the regions profoundly determine policies and measures, especially at the local level. Through the so-called State-Regions Conference and more generally through the Italian Government and Parliament, the Regions contribute to the administration and legislation of Italy, and in matters concerned to the European Union, alike.

10. In light of the principle of the people sovereignty, the legislative power belongs to the State and Regions, in accordance with the Constitution and within the limits set by European Union law and international obligations (Article 117).

11. While the State has exclusive legislative power in some key-areas, such as foreign policy and international relations, the right of asylum, State's organs and electoral law, the Basic Law provides for a concurrent legislative power on issues, such as international and European Union relations of the Regions, foreign trade, protection and safety of labour.

12. In order to fully express people's will, local Authorities have exclusive legislative power with respect to any matters not expressly reserved to State's law. Along this line, for example in matters of concurrent legislation, the Regions cannot exercise legislative power with regard to fundamental principles, which are reserved to the State's law.

13. On a more specific note, the Basic Law contains a comprehensive lists of competences with regard to those areas where the Parliament is allowed to adopt acts. These include almost all important areas of life. However, some of the areas whereby legislation originates in the Regions are culture and local self-administration.

14. In observance of the Italian Constitution, Regions must comply with the principles of the republican, democratic and social State under the rule of law in the meaning of the Basic Law. Within this framework, Regions are "local autonomies" with their own constitutions, parliaments and governments, and are even entitled to conclude international agreements with foreign States (Article 117).

15. More specifically, regional organs are: the regional council, which exercises the legislative power granted to the Region and all other functions conferred on it by the Constitution and by law (it may propose Bills to the Parliament) and whose number of members depends on the number of residents in that Region; the regional cabinet, which is the executive authority of the Region and its president. The latter represents the Region, conducts and is responsible for the general policy of the regional cabinet (thus s/he promulgates regional laws and regulations and conducts the administrative functions delegated to the Region by the State, in accordance with the instructions of central government) (Article 121).

16. In the last few decades, there has been a shift of emphasis in legislation with an increasing recognition of the role of Regions. Italy thus lives on the tension between an unitarian tendency, on one hand, and a regional-federal tendency, on the other.

## **II. Implementation of part I of the Convention**

17. On the premises of the section of the Report concerning the national implementation of Part I of the United Nations Convention on the Elimination of Racial Discrimination, as it concerns the elaboration and adoption of programming measures in this field it must be reported that a National Action Plan against Racism (NAP) was adopted in 2006 in order to

meet the requirements set by the 2001 Durban World Conference against Racism. It illustrated all the actions and measures taken, within the legislative and institutional framework, in order to eradicate racist, xenophobic and discriminatory practices at the national and local levels, by also detailing relevant experiences and good practices. Italy, together with other countries, decided not to participate in the Durban Review Conference that took place in Geneva in April 2009 due to the fact that the Conference, as well as the Outcome Document, despite the efforts of many stakeholders, did not meet the ambitious criteria required by such a crucial endeavour. This circumstance will not prevent the Italian Government from continuing to fight racism wherever and whenever it occurs: to this scope a Working Group has been created in 2010 with the primary support of the Presidency of the Council of Ministers – National Office against Racial Discrimination (hereinafter in the acronym UNAR) — and the Ministry of Foreign Affairs — CIDU, involving all the relevant central and local administration and interested stakeholders, with the task to prepare a new National Plan of Action against all forms of racial discrimination (for detailed information, please see UPR Italy National Report).

## **Article 1**

### **Definition of racial discrimination**

18. The protection and promotion of rights — be it civil and political, economic, social and cultural — constitutes one of the fundamental pillars of both domestic and foreign Italian policies. 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 Article 3 of the Italian Constitution: “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.”

19. The main scope of the Basic Law above provision emerges by its second paragraph that, in addition to establishing the autonomous principle of the so-called “substantial” equality and equal opportunities for all citizens in social, economic and political life, expresses a rule of interpretation to be reflected in the implementation of the principle of the so-called “formal” equality. In fact paragraph 2 describes the guarantee of non discrimination vis-à-vis the results produced or to be produced in the concrete life relations, thanks to the primary constitutional imperative of removing the “de facto” limits to equality and to pursue the ultimate goal of the “full” self-determination of the individual along with the “effective” participation in community life.

20. Moreover, it is well known how all along its history the European Union provided itself with a steady legal base, as an instrument to act against all forms of discrimination. In this perspective, the implementation of the principle of equal treatment by the European Commission resulted in the promulgation of two Directives for the protection of rights against all forms of discrimination: the Directive 2000/43/EC, which prohibits all forms of discrimination based on race or ethnic origin, in any area or sector, both private and public; the Directive 2000/78/EC, that regulates the prohibition of discrimination on grounds of religion or belief, disability, age or sexual orientation, as regards employment and occupation.

21. For the purposes here pursued it is important to note that the Directive 2000/43 aims to lay down a general regulatory framework according to which the Member States, in accordance with their national regulations, may take effective action in the fight against all forms of discrimination based on race or ethnic origin, in order to ensure the development of democratic and tolerant societies. The Directive prohibits all forms of direct or indirect discrimination in all political, economic and social areas, such as the access to employment

and working conditions, social security and healthcare, education, access to and supply of goods and services. However this prohibition does not cover differences of treatment based on nationality and is without prejudice to national provisions governing the entry and residence of third-country nationals and their access to employment and to occupation. The Directive then provides that all Member States shall ensure that adequate means of legal protection are available to person who consider themselves wronged by a discriminatory behaviour through the provision of judicial or administrative procedures, in which the right to a just compensation and the benefit of what is defined as the “shifting” of the burden of proof are guaranteed. Moreover, the legal capacity to initiate legal proceedings in view of obtaining protection measures is recognized to the victim of discrimination, as well as to associations or other legal entities which may be considered as acting on behalf of the victim, without prejudice to national rules of procedure concerning representation and defence before the courts. The Directive provides that each Member State shall designate a body or bodies acting as guarantee institution against all form of discrimination on the grounds of race or ethnic origin. In the case in point, such bodies are charged with providing assistance to the victims, carrying out surveys, publishing reports and formulating recommendations related to discrimination.

22. According to the guiding principles included in Article 29 of Community Law No. 39/2002, the Italian Government promptly transposed the contents of the Directive through the adoption of the Legislative Decree No. 215 of July, 9th 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. In accordance with such regulations UNAR was established at the Ministry of Equal Opportunities.

## **Article 2**

### **Legal framework and general policies to eliminate racial discrimination**

*The Committee recommends that the State party undertake, in consultation with a broad base of civil society representatives and with the support of the Office of the United Nations High Commissioner for Human Rights, the necessary steps to establish an independent national human rights institution in accordance with the Paris Principles.*

23. Italy continues to be engaged in the domestic process aimed at establishing a National Independent Commission for the Promotion and Protection of Human Rights and Fundamental Freedoms in accordance with the Paris Principles. An inter-ministerial working group is currently drafting a governmental bill to this end. This Bill will be submitted to the Parliament as soon as the required budgetary resources are made available (for detailed information, please see UPR Italy Addendum).

24. As far as specific and detailed information on the governmental action promoted and implemented both at the national and local level to contrast and bring to an end actions or practices of racial discrimination and foster mutual understanding against this kind of acts and behaviours, the structural reform of the UNAR, according to the Legislative Decree No. 215/2003 and within the current EU regulatory framework, has been strategically put in practice aiming at a constant sharing, cooperation and mutual enhancement with the system of local autonomies (Regions, Provinces and Municipalities as well as the relevant representative associations), the NGOs active both on a local and national level, the

reference communities, the social forces (trade union and employers' organizations) and civil society in general.<sup>2</sup>

25. This choice implied firstly the creation of a supplementary and integrated governance model for the prevention, countering and elimination of racial discrimination which may involve in a system of mutual exchange the local autonomies, with a view to developing the centres and observatories provided for in Article 44 of the Legislative Decree No. 286/1998 (Consolidated Act on Immigration), the social partners (trade unions and employers' organizations), the NGOs active in the sector and the associations representative of foreign communities.

26. Furthermore the design and implementation of a new organizational model for the Office resulted in the transformation of the Call Center into a Contact Center, through a European public tender for the service, in the establishment of the Technical Committee for the formulation of recommendations and opinions and for inspection activity, as well as in the promotion, progressive systematization and computerization of the regional anti-discrimination centres and observatories nationwide in compliance with above mentioned Article 44. This governance model is being systematized through the inclusion in the UNAR Contact Center of other national institutions such as, at present, the Equal Opportunity Advisor National Office and the network of regional and provincial Equal Opportunity Advisors in particular, as well as the newly established Observatory for the protection against discriminatory acts of the Department for Public Safety of the Ministry of the Interior. Also the setting up, within the Contact Center, of a fund to advance the legal costs to the victims of discrimination, of a working group for this specific purpose as well as a department for monitoring ongoing criminal prosecutions for incidents of racism and xenophobia must be under relevance (just to date, 34 prosecutions were monitored from January 1 to October, 31st 2010).

27. At the same time a laborious repositioning among institutions, local authorities, NGOs and social partners (especially trade union organizations) was performed aimed at catching up with past critical issues and at showing the effectiveness of UNAR's functions and its independence and impartiality. In fact, in addition to promoting service accessibility, the online access Center, launched on March, 15th 2010, on occasion of the opening of the VI Action Week against racism, now acts as a multimedia platform for the functionality of the virtual community.

28. The platform also has a dedicated interactive section for associations listed in the Register pursuant to Legislative Decree No. 215/2003, which allows the associations to enter the information periodically requested in order to retain their registration in the Register. The Office thus has an up-to-date, comparative picture of the activities carried out in the Regions. So far an innovative regional consultancy, training and technical support service has been launched for the associations and entities pursuant to Articles 5 and 6 of Legislative Decree No. 215/2003 and for the regional networks for the prevention and combating of racial discrimination promoted by local and regional administrations acting in agreement with the Office.

29. Also a more effective intervention with regard to the Regional antidiscrimination Observatories was promoted, urging to ensure their implementation and co-ordination as

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<sup>2</sup> Along these lines the recent establishment, following the implementation of the UPR recommendations, of a inter-ministerial technical committee open to the representatives of the central and local autonomies, has to be under consideration, with the specific task of surveying, analysing and systematizing the activities carried out by the local and central government in the prevention and countering of xenophobia and racism, in order to streamline the use of the relevant financial resources (please refer also to UPR Italy Addendum).

provided for in Article 44, paragraph 12 of Legislative Decree No. 286/1998 (Consolidated Act on Immigration). Between the years 2009–2010 UNAR started a comprehensive program of interventions including guidelines, training courses and strategic proposals aimed at the promotion and coordination of the Centres providing monitoring, information and legal aid to foreigners that are victims of discrimination on racial, ethnic, national and religious grounds. The final objective is to achieve, through partnerships with public and private entities, the governance of a network of territorial antennas to be promoted regionally and locally in order to disseminate the culture of non-discrimination. If, over the last ten years, the first experiences of legislative planning have already been made and Centres at provincial and regional level have been established as well, the current UNAR activity is fostering their systematic development also through the networking of services, which is coordinated through standardized surveying, analysis and intervention procedures, and will channel information and reports to UNAR in order to share and process the cases, as well as to implement a systemic action for the prevention and combating of discrimination on ethnic or racial grounds.

30. The project aims to strengthen the existing territorial entities and promote new ones in order to achieve the establishment of a Network of Territorial Anti-discrimination Antennas covering at least 50% of the regional territory within 2012, which may in future years detect the incidents of ethnic or racial discrimination at local level and report them to UNAR, receiving in return legal and scientific support, the analysis and interpretation of information as well as statistical data processing. In this way Local Authorities, associations and entities as well as the observatories and the immigration offices, will be able to share the same intervention method for preventing and countering racial discrimination, also through an interactive computerized platform which will register the reports submitted to the Centres in a standardized way, monitor in real time the cases of discrimination both at local and national level, thus interfacing the various structures between each other and directly with UNAR.

31. The above mentioned project has been already implemented as follows:

(a) The first agreement was signed on July 2009 with the Regional Antidiscrimination Center of Region Emilia Romagna and as from December 2009 as much as 109 local anti-discrimination nodes were networked to the computer system of the UNAR Contact Center;

(b) The same objective of establishing a single national system to survey the incidents of racial discrimination led to a MoU with the Municipality of Rome, which was signed on October, 21st 2009 with the Mayor of Rome, aimed at establishing an urban Observatory for the prevention and countering of discrimination;

(c) On December, 6th 2009 UNAR has also signed a MoU concerning initiatives against discrimination with the Liguria Region, through which on November, 2nd 2010 27 local anti-discrimination nodes were networked to the UNAR Contact Center computer system. Moreover on December, 17th 2009 a MoU was signed with the Piedmont Region and a further operating agreement was entered into force (in 2010 a call for proposals was issued to finance the local immigration offices which will be networked to the UNAR computer system);

(d) On February, 4th 2010 a similar agreement was signed with the Province of Pistoia, where an Anti-discrimination Center has been working for many years. As a result of this agreement, as from November 2010, the Center was networked to the UNAR Contact Center computer system;

(e) Similar agreements have been negotiated with the Sicily Region (14 March 2010), the Province of Messina (17 March 2010) and the Puglia Region (30 July 2010). In

all of these cases the identification of the existing local networks (public services and NGOs), which will lead to the activation of the immigration offices, has already started.

32. Within the perspective of a systematic and coordinated action integrating national and EU resources, the implementation of the network of Regional Centres and Observatories converges with other activities which contribute to the making of an overall well-structured project:

(a) Project “Network of Regional Antennas for the prevention and combating of racial discrimination” presented by UNAR to the Ministry of the Interior within the scope of the programme 2009 of the European Fund for the integration of Third-Country nationals. The project aims to strengthen the existing local entities and promote the anti-discrimination regional networks in the regions of Piedmont, Liguria, Tuscany and Lazio (with particular regard to the metropolitan area of the Municipality of Rome);

(b) Nop Esf Convergence Objective 2007–2013, Axis D, Objective 4.2. The Department for Equal Opportunities, as Intermediate Body carrying out the duties on behalf of the Management Authority for the actions included within the axis D “Equal Opportunities and Non-discrimination” implementing the NOP “Governance and System Actions” of the European Social Fund, promoted a series of actions, entrusted to the National Institute for Training and Labour (ISFOL), which may provide a direct support for the promotion and institution of Anti-discrimination Regional Centres in the Convergence Objective Regions. In particular, the following actions may be implemented to support UNAR strategy:

*Action 1.* Identification and dissemination of targeted intervention strategies aimed at overcoming the stereotypes relating to differences resulting from race, ethnic origin, religion, personal belief, disability, age or sexual orientation;

*Action 2.* Promotion of inter-institutional networks supporting the targets living in disadvantaged conditions;

*Action 4.* Building of databases on all forms of discrimination;

This last action, in synergy with the others, will have the strategic aim of developing local databases on discrimination allowing the proposal of standardized patterns for data collection on one hand, and on the other hand the establishment of a national reporting system in accordance with the existing regional and provincial observatories. Thus a concrete steering and coordinating committee will be created at UNAR, interconnecting regional observatories, territorial antennas, associations, centres and NGOs on a regional level in order to enable an effective exchange of information between the regions and UNAR.

Moreover, two more strategic actions directly managed by the Department shall support the implementation of the MoUs activated with the Convergence Objective Regions and shall have a strategic importance in such respect:

*Action 5, Obj. 4.2* “Awareness raising actions and dissemination of the benefits deriving from strengthening discriminated groups through actions aimed at associations, non governmental organizations, institutional, economic and social partnerships”;

*Action 6, Obj. 4.2* “Promotion of the governance of policies and instruments of social inclusion and fight against discrimination of Roma, Sinti and Camminanti communities”;

(c) The Progress project “Territorial networks against discrimination” financed by the General Directorate Employment and Social Affairs of the European Commission, represents the continuation and the extension of the work started in 2009 with the Progress

project “Diversity as Value” financed by the Commission and developed by UNAR and its National Working Group against all forms of discrimination. The project aims to promote in the Regions involved the establishment of centres of observation, information and legal assistance to all victims of discrimination; to strengthen mainstreaming in terms of discrimination analysis and to collaborate with associations on the basis of a multiground approach in order to ensure the inclusion of non-discrimination principle in all local policies and administrative regulations; to strengthen non-governmental networks involved in the fight against discrimination and to establish a permanent civil dialogue, based on the work carried out by the National Working Group, that may effectively involve the groups exposed to discrimination and the organizations supporting and protecting them, in the formulation of regulations, actions and policies. In particular, the project will support UNAR promotion strategy for the networks of anti-discrimination centres (please see Annex V) through:

(i) Lobbying, information and awareness raising actions aimed at the establishment of anti-discrimination observatories in the Regions and Municipalities where these services are not yet available, through MoUs between local Authorities and UNAR (Regions of Emilia Romagna, Lazio, Campania);

(ii) Information, awareness raising and training actions aimed at implementing the MoU already signed between the local Authorities and UNAR, which need an appropriate action of capacity building of the authorities and associations involved, as well as training courses on legal, statistical and socio-cultural matters, for the establishment and implementation of instruments of protection against all forms of discrimination (Regions of Liguria, Piedmont, Sicily and Municipality of Rome);

(iii) Pilot actions including investigations on the causes, processes and consequences of discrimination in the housing sector and drafting of proposals to overcome the issue (Region of Emilia-Romagna) that will provide guidelines to be proposed to other Regions involved;

(d) The Project “NE.A.R. TO UNAR”, aimed at creating and developing an informal youth network of under 25 years old boys and girls for the prevention and countering of racial discrimination. The objective of the project, starting from the project “Non Violence Campus” promoted by UNAR within the scope of the first Week against Violence (established through a MoU between the Department for Equal Opportunities and the Ministry of Education, University and Research) is to have a network of “sensors” on the territory which will be able to:

(i) Promote awareness in the young people involved on the basic rules of civil society through innovative courses, the use of blogs and social networks, the sharing of information, knowledge and experience aimed at eliminating prejudices (student grants, art competitions, mobility programmes in Italy and abroad, chances to travel and come into contact with situations and environments other than their own, meetings, events, etc.);

(ii) Support the culture of non-violence and non-discrimination among the youth through informal education and peer education;

(iii) Foster the direct knowledge of the anti-discrimination legislation among young people and encourage them to report incidents of racism;

(iv) Devise an instrument to disseminate the projects and the activities promoted by UNAR and the Department for Equal Opportunities. This Project was widely disseminated on the media through the participation of a group representing the network at the Festival of the Italian Song, on February, 17th 2010;

- (v) Study for the definition of territorial indexes and a set of indicators to start a uniform measurement of the phenomena of racial discrimination nationwide as well as a statistical survey on racial discrimination on the grounds of sexual orientation and gender identity.

Projects of positive actions financed by UNAR for a total amount of € 900,000 in response to the Call for proposals of 2009.

### **Article 3**

#### **Specific measures to prevent and avoid the segregation of groups and individuals**

33. Please refer to Section II.3 (for detailed information, please see also UPR Italy National Report and UPR Italy Addendum as it concerns Roma, Sinti and Travellers communities).

### **Article 4**

#### **Special measures to eradicate all incitement to or acts of racial discrimination**

*The Committee recommends that the State party increase its efforts to prevent racially motivated offences and hate speech, and ensure that relevant criminal law provisions are effectively implemented. The Committee recalls that the exercise of the right to freedom of expression carries special duties and responsibilities, in particular the obligation not to disseminate racist ideas. It also recommends that the State party take resolute action to counter any tendency, especially from politicians, to target, stigmatize, stereotype or profile people on the basis of race, colour, descent and national or ethnic origin or to use racist propaganda for political purposes.*

34. The Italian legal system envisages specific laws against racist and xenophobic manifestations, which include the manifestation of thoughts aiming at spreading ideas based on racial or ethnic superiority or hatred and at the incitement to commit deeds of discrimination or violence for racial, ethnic or religious reasons.

35. The current criminal regulations on racial and ethnic discrimination are stated under Law No. 654 dated October, 13th 1975, ratifying and applying the International Convention on the elimination of all forms of racial discrimination of 1966, as amended by Law No. 205 dated June, 25th 1993 (known as Mancino's Law) and by Law No. 85 dated February, 24th 2006.

36. In addition to the offences mentioned above, the aforementioned law punishes the constitution of organizations, associations, movements or groups having among their aims the incitement to discrimination or violence for racial, ethnic or religious reasons. It also envisages a special aggravating circumstance in all offences committed for purposes of discrimination or racial hatred.

37. The use of racist or xenophobic arguments in political debating, if considered to have criminal intent, is also subject to examination by competent judicial bodies to verify its criminal nature that might be found in written documents, speech or programmes of political representatives.

38. As far as this issue, two important sentences were passed in 2009 by the judicial authorities relating to episodes of intolerance ascribable to two well-known Italian politicians. The Court of Justice of Venice, with sentence passed on October, 26th 2009

after summary procedure, found the deputy mayor of Treviso, Giancarlo Gentilini, guilty of incitement to racial hatred and sentenced him to a € 4,000 fine and prohibited his participation at public meetings for a period of three years as a consequence of the contemptuous words and tones he used against immigrants during a meeting of the Northern League party held in Venice in 2008. Gentilini's lawyer announced their intention to appeal.

39. In July 2009 the Court of Cassation definitively confirmed the sentence with a two month imprisonment, with probation, against Flavio Tosi, Mayor of Verona, for promoting racist ideas. The facts date back to 2001 when Tosi, as regional councillor, organised a collection of signatures for the removal of a gipsy camp in the town of Verona; the Northern League party member was then sued by seven Sinti citizens and by the organization Opera Nomadi Nazionale (National Action for Nomads). At first, in December 2004 the Court of Justice of Verona sentenced Tosi to six month imprisonment for promoting racist ideas and inciting to commit acts of discrimination; however, on January, 30th 2007, the Court of Appeal of Venice reduced the sentence to two month imprisonment after the charge of incitement to racial hatred was declared non-existent. The verdict was then partially revoked by the Court of Cassation and deferred to a new examination of the case by the Court of Appeal which, passing sentence on October, 20th 2008 confirmed the offence of propaganda of racist ideas; this decision was then reconfirmed by the Court of Cassation in July 2009.

40. With a specific focus on forms of discrimination related to sport and its active role in the promotion of multiethnicity and interculturality, several initiatives have been promoted at the central level, especially by UNAR, to awaken public opinion about racism. Campaigns within the world of sports have been carried out with a dual purpose: using information and knowledge as a preventive measure and using sport as a model, as symbol of a multiethnic society where everybody has the same dignity and rights.

41. It is for these reasons that UNAR, ever since 2005, has always included sporting events or similar in "Action Week against racism", not only involving football, but also other less popular disciplines such as rugby, marathon, cricket and table-tennis. As for sport, the main feature of the events organised by UNAR during the Action Week is the participation in the Rome Marathon. This Marathon is an important and internationally famous event and constitutes an excellent launch pad for the antiracism message. The choice of linking the campaign to a sport such as marathon has another symbolic meaning too: a marathon is a sport which, par excellence, is open to everybody who wants to participate regardless of gender, age, ethnic origin, sexual orientation and physical disabilities. Over the years, UNAR has given a theme to the event by distributing leaflets and yellow T-shirts against racism worn by many participants. Also, in the main squares included along the marathon route other events and performances on multiethnicity and equal opportunities for all have been organised in cooperation with several secondary schools. On the finishing line and along the route of the marathon, there are banners and inflatables with the logo of the awareness campaign by UNAR.

42. Apart from the other initiatives organised in the football world, in cooperation with Lega Calcio (Italian football league), such as showing antiracial banners before the matches of the A Series or the speaker reading the UNAR awareness message in the main Italian stadium, other interesting initiatives have taken place such as the one in 2007 promoted in cooperation with the Ministry for Youth policies and sport. At the centre of that event was cricket, a sport played in Asian countries especially. In ten Italian cities, cricket matches were organised involving teams of cricket enthusiasts or people wanting to learn more about a new sport and culture. Simultaneously with the matches, other initiatives took place, aiming to introduce and value customs and traditions, food, clothes and culture of Asian communities in Italy.

43. Finally, it is also worth mentioning that, given the recent and dramatic fresh upsurge in racist incidents and behaviours in the football world, UNAR has suggested to Lega Calcio the signing of an agreement aiming at increasing awareness initiatives throughout Italy by using the proceeds resulting from the sanctions applied to football clubs for unsporting behaviour, which, so far, have been used to fund other praiseworthy social activities.

### **III. Information grouped under particular rights**

#### **A. The right to equal treatment before tribunals and other organs administering justice**

*The Committee, recalling its general recommendation 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system, reminds the State party that the small number of complaints, prosecutions and convictions relating to acts of racial discrimination should not be viewed as being necessarily positive. The State party should inquire whether this situation is the result of inadequate information provided to victims concerning their rights or the insufficient level of awareness by the authorities of offences involving racism. The State party should take, in particular on the basis of such a review, all necessary measures to ensure that victims of racial discrimination have access to effective remedies.*

44. On this issue, please refer to comments on Article 6 in this Report.

#### **B. The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution**

45. On this issue please see UPR Italy National Report.

46. The enhancement of human rights education is at the core of courses at all levels of the law enforcement agencies. Italy deems that such approach demonstrates to be an outstanding tool, to prevent any abuse or episode of excessive use of force. At the same time the accountability by appropriate disciplinary procedures which always follow by law the criminal proceeding is guaranteed. Despite some delays, the effectiveness of such mechanisms has been recently confirmed by the recent condemnation verdicts against the police officers, involved in the G-8 events of Genoa and Naples (2001).

47. At the same time several courses on human rights continue to be addressed to the Italian Police forces. In particular, the Ministry of the Interior has included human rights law in the training curricula for police staff at all ranks. The courses deal with a wide range of topics including vulnerable groups and minorities, namely the social segments of the most exposed to discrimination and to exploitation by criminal groups.

48. Since 2001 human rights law has also been included into the continuous training programs for Police personnel. This training focuses on those aspects that relate to the identification of the “mission” of the Police service in a democratic society, from the fight against all forms of discrimination to specific guidelines concerning the protection of the right to life, the prohibition of torture and the use of force.

49. With specific regard to the Penitentiary Police, the subject of human rights is always included in the curricula of the basic training courses for the newly recruited staff of penitentiary police of any rank.

50. Several publications and appropriate teaching material are produced and disseminated on this topic, including also the translation into Italian and the distribution of materials issued by the United Nations and the Council of Europe. In particular, it has to be mentioned the translation in 2008 of the Istanbul Protocol, Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

### **C. Political rights**

51. On this issue please see UPR Italy National Report.

52. According to the constitutional framework, in Italy two different systems of political representation for foreigners have been introduced at the local level: the Consultative Body of Foreigners and the Associated Counsellor (Consigliere Aggiunto). The first is a collegial body composed of a certain number of foreigners directly elected by foreign residents. The Consultative Body can only give non-binding advice on policies. Its President can be invited to participate in the Council Assembly. Foreign residents also directly elect Associated Counsellors. The number of Associated Counsellors differs in relation to the size of the municipality and the proportion of foreign residents. Unlike the Consultative Body, Counsellors have the right to participate in every Council's Assembly. However, they have a consultative role and therefore do not have the right to vote.

### **D. Other civil rights**

- 1. The right to freedom of movement and residence within the border of the State**
- 2. The right to leave any country, including one's own, and to return to one's country**

53. Please refer to Section IV.B.

- 3. The right to nationality**

54. As far as the procedural mechanism for the acquisition of the Italian nationality, though the migrations from abroad and the children born in Italy from foreign parents determine an increase in the foreign population, it is necessary to consider that people who become Italian following the "acquisition of the nationality" are ever more numerous: in 2006, new Italian citizens amounted to 35,266, about 23% more than in 2005 (for updated details, please see Annex I).

55. Among the new Italian citizens, women are on the increase, as marriage represents the main channel for acquiring the Italian nationality.

56. The authorisations to obtain the Italian nationality due to naturalisation are still not very common despite that more than one foreigner out of four has been legally present in Italy for more than a decade and thus, could prove to have the main requisite to be naturalised as Italian citizen, that is continuous residence in Italy for more than 10 years.

57. It is important to bear in mind that, over time, all those who currently are foreigners but who are born in Italy can also be naturalised and become Italian citizens, upon reaching their eighteenth birthday, but only if they have been resident on a continuous basis in Italy. Given that the migratory phenomenon is relatively recent, we can hypothesise that almost all the second generation is still under-age. They are foreigners but not immigrants: hence, they are defined as "second generation" of immigrants.

#### 4. The right to freedom of thought, conscience and religion

58. Intercultural and interreligious dialogue as well as other various initiatives to improve a mutual and comprehensive understanding between different religions are strongly encouraged at all levels.

59. Along these lines, according to an institutional perspective, the Observatory on religious policies at the Ministry of the Interior is in charge of studying and evaluating the religious phenomenon in all its components. Concerning the dialogue with Muslims communities, it is worth of mention the institution, always within the Ministry of the Interior, of the Council for the Italian Islam.

60. At the same time specialized training courses and workshops promoted by the Ministry of Education, University and Research, could be mentioned to face the challenge within complex multicultural social environments where a relevant presence of foreign students is recorded. The aim of these training paths is that one to outline the framework and the principles at the core of the European inclusion of foreign migrants and their families, specifically devoted to intercultural integration of students in Italian primary and secondary schools, through a practical implementation of teaching instruments and the related exchange of good practices concerning intercultural learning programmes.

61. The private and public exercise of worship is fully guaranteed by Article 19 of the Italian Constitution. It involves two aspects: the opening of the places of worship (churches, oratories, synagogues, mosques, etc.), and the simultaneous exercise of the right of assembly, guaranteed by Article 17 of the Constitution.

62. According to the Italian jurisdiction, buildings dedicated to worship, regardless of ownership, are subject to the ordinary law, except for the provisions arising from bilateral agreements (*Intesa*). All buildings, although belonging to individuals, dedicated to public worship of catholic church or other religious Denominations, whose relations with the State are subject to the Italian law on the basis of an *Intesa*, cannot be diverted from that destination, not even by effect of alienation, until that destination did not cease.

63. Religious Denominations without *Intesa* (and amongst them there is the Muslim Community) basically enjoy the same treatment as the others, according to the decision of the Constitutional Court No. 59/1958, which declared unconstitutional the subordination of the opening of a place of worship to the authorization granted by decree of the Head of State (Royal Decree No. 289 of 1930). The construction of new buildings of worship is subject to the issuance of a building permit, which has to be consistent with the urban plan.

64. The agreement with the Holy See (*Concordato*) provides that the civil authority takes into account the religious needs of the population as far as the construction of new parish churches is concerned. Specific guarantees are required by the *Intesa* with the Union of the Adventist Church and the Union of Jewish Communities, in order to construct buildings for their respective worships. The Italian legislation provides that the State can supply financial resources resulting from costs of urbanization, in order to facilitate the construction of buildings and equipment for the worship. According to the decision of the Constitutional Court No. 195/1993, religious Denominations which did not conclude an *Intesa* with the State cannot be excluded from such benefits because of it, as it would constitute a violation of the principle of equal freedom of all religions.

65. It is understood that, for the admission to these benefits, in case of lack of an *Intesa* with the State, the nature of the religious Denomination should result from previous public recognitions, based on its statute, which should express the nature and the structure of the organization, or, at least, on the shared consideration, on its extent and its social impact and, moreover, on its acceptance of all conditions and constraints relevant to the destination of the financial support.

66. Recently a debate arose in Italy on the “veils” worn by Islamic women, considered in its dimension of religious value and as a symbol of women’s condition in some migrants communities. Moreover, the discussion about “veils” has been carried on jointly with the problem of security of the State and prevention of terrorism. In order to avoid different decisions of local authorities and to grant to all citizens equal treatment over the whole national territory, several bills were introduced, currently under discussion at the Parliament, intended to modify, in different ways, the public security law of No. 152 of May, 22 1975, which forbids the wearing of any scarf or other clothes that, covering the face, makes difficult to be identified by public authorities. On October 6th, the Under-Secretary of the Ministry of the Interior, during a hearing at the Parliamentary Commission on this topic, according to the advice of the Islamic Committee stated one year ago by the Minister of Interior, underlined that the main concern of the State is to preserve the security of citizens also considering the international risk of terrorism. Burqa and niqab are two kind of dresses with no relation to any religion, so they are forbidden in public spaces. Any objection exists if they are dressed during religious celebration and in places of worship.

67. On this topic, the most recent jurisprudence evolution states the difficulty of application of the above-mentioned norms of public security law: in a recent judgement (No. 3076 of June, 19th 2008) the Council of State affirmed that the wearing of the veil is supported by religious or cultural motivations that doesn’t constitute sufficient and justified reasons to configure the criminal offence contained at the Article 5 of the above mentioned law. The highest administrative Court stated that it is not its aim to give a judgement on the nature of the veil or on its role as a religious symbol or on the willingness or not of wearing the veil. The judgement, rejecting a Mayor’s ordinance prohibit the wearing of the veil in his city, stated that the public security requirements are guaranteed by the prohibition of use of any clothes covering the face during public manifestations and by the obligation, for those who wear a veil, to remove it upon request by public security authorities for security reasons, allowing personal identification of the person concerned.

## **5. The right to freedom of opinion and expression**

68. On this issue, please see UPR Italy National Report and UPR Italy Addendum.

69. As for the constitutional principles of the rights to freedom of expression and of the press (Article 21), there is a specific commitment to ensure pluralism, the widest variety of information and views and the independence of the media. There is no restrictions on access to internet or to create blogs, which have become, over the years, an important source of information.

70. As for the “Radio-TV broadcasting system”, the 2004 relevant legislation envisages that any action has to be guided by the principles of pluralism, impartiality, freedom of opinion and expression. By such provisions, the legislator has also set ceilings to guarantee pluralism in the media sectors. To this end, it has been established an *ad hoc* Parliamentary Commission that supervises national public broadcasting services.

71. An independent Authority monitors the communication sector and ensures the respect of legal and regulatory provisions regarding non discriminatory access to the media sector. This Authority, together with the anti-trust Authority, may *inter alia* inflict sanctions when the above principles are violated (both Authorities are accountable only to the Parliament).

72. Moreover Italy launched in 2008 the switch from analogical to digital broadcasting with the aim of increasing the number of TV channels and enabling the access of new voices to information. Anti-trust provisions are aimed at helping the entry of new broadcasters into the market also through a new open regime of general authorization for

broadcasting. Within this framework, it is worth recalling that relevant legislation also details the rules for the resolution of the conflict between public duties and public interests, *inter alia* by identifying the incompatibilities with public offices, namely the Prime Minister, Ministers, Under-Secretaries of State and Commissioners of government. To this end, the above-mentioned anti-trust Authority — among others — monitors the situation.

## **E. Economic, social and cultural rights**

### **1. The right to work**

### **2. The right to form and join trade unions**

*The Committee, recalling its general recommendation 30 on non-citizens, urges the State party to take measures to eliminate discrimination against non-citizens in working conditions and work requirements, including employment rules and practices with discriminatory purposes or effects. Furthermore, it recommends that the State party take effective measures to prevent and redress the serious problems commonly faced by non-citizen workers, including debt bondage, passport retention, illegal confinement and physical assault.*

73. In response to this recommendation please see UPR Italy Addendum.

74. Furthermore, as it concerns the discrimination of foreigners at work, both administrative and civil proceedings can be complained to legitimate the access to work or to ensure the protection of foreign workers from discrimination.

75. Along these lines the case law has confirmed the discriminatory nature of the exclusion of foreign workers from job positions such as nursery, academic lecture, transport services, for whom the citizenship is a fundamental prerequisite that asks for a full respect of the principle of equal treatment of Italian, EU and non EU citizens.<sup>3</sup> Administrative case law has endorsed this position detailing that it reinforces the above mentioned principle only after the relationship between employer and employee has been regulated.<sup>4</sup>

76. In the legislative framework, also Directive 2000/43 implementing the principle of equal treatment between persons irrespective of race and ethnic origin, as transposed in Italy by the Legislative Decree No. 215 of 9 July 2003, in Article 3 recognizes employment and training as the scopes of the community provisions under which positive actions of information and training can be effectively implemented.

77. To this scope UNAR has promoted the enforcement of positive actions, measures and programmes aimed at eradicating all forms of discrimination. In 2009 significant innovations were observed also with respect to the relations with the social partners for the formulation of a joint information and training strategy aimed at the prevention and the elimination of racial discrimination in the world of work. As from last November 2010, UNAR has had numerous meetings with the trade unions and the employers' organizations for the revival of the MoU signed on October, 18th 2005, in the light of the new

<sup>3</sup> See, respectively, Ordinance No. 3749 of the Court of Genoa, of June 6, 2008, and Sentence No. 2454 of the Civil Court of Milan – Employment Branch, of May 27, 2008; Ordinance No. 113/09 of the Court of Genoa – Employment Branch, of January 21, 2010, and Ordinance No. 9083/09 of the Court of Milan – Employment Branch, of January 11, 2010; Sentence of the Court of Milan of July 21, 2009.

<sup>4</sup> See the Opinion of the Council of State No. 2592/2004; Sentence of the Administrative Court of Tuscany No. 4698 of October 14, 2005; Sentence No. 5847 of the Administrative Court of Campania of May 24, 2007.

organizational structure of the Office and of the changing needs of the world of work, determined by the particular economic situation. The MoU, originally signed by the trade unions and *Confartigianato*, *Confapi* and *Confindustria*, has been opened for signature by common consent to further employers' organizations (*Lega Cooperativa*, *Confcooperative*, *Coldiretti*, *Confagricoltura*, *Confesercenti*, *Confcommercio*) with whom the signing of a new document has been scheduled. About 20 initiatives such as positive actions and awareness raising events to be realised at the workplace are scheduled in cooperation with social partners on the occasion of the VII Action Week against racism (from March, 14th to March 21st 2011).

78. The European Commission included the theme of CSR – Corporate Social Responsibility among the activities to be developed within its authority and has invited the Member States to promote awareness and foster the development of CSR within their own territories.

79. In 2008, through the publication of an article on the *Confindustria* newspaper, "Quale Impresa", UNAR has launched the 1st National Award in order to carry out an exploration on the good practices implemented on the workplaces on the subject of inter-ethnic coexistence and social inclusion. The aim of the survey was to spread knowledge about the management policies of those enterprises which stood out in the multi-ethnic integration activities and in the enhancement of cultural diversities. The self-assessment test, designed to screen candidates for the 1st National Award, was meant to provide the entrepreneurs sensitive to integration issues, with a simple and effective tool for the assessment of the levels of integration and enhancement of cultural diversities achieved within their enterprise. This test, moreover, was useful to UNAR both to gain knowledge about and make public the positive experiences, and both to assess if the measures adopted, promoted and implemented have been effective in fostering the participation to the Award. 25 enterprises, divided into three categories, small, medium and large enterprises, participated to this event. The evaluation committee, which assembled on February, 5th 2009, was made up of the signatories of the MoU with whom UNAR has collaborated since 2005 to disseminate knowledge among the trade unions and the employers' federations (*Confindustria* and *Confartigianato*), knowledge about the regulatory and administrative instruments for the protection of equal treatment and to combat discrimination on the grounds of race and ethnic origin in the world of work. Following this survey, on October, 27th 2009 at the head office of the Banca Popolare di Milano, the three prizes for the good practices in corporate governance were awarded, with a public ceremony held in Milan titled "Diversity Management: a value for the business".

80. Within the scope of the European Year of Intercultural Dialogue (2008), a group of companies (*Autogrill*, *Banca Popolare di Milano*, *Costa Crociere*, *IBM*, *L'Oreal* and *Pirelli*) put forward a contribution for multicultural business management by presenting their own best practices for the diffusion of a corporate culture characterized by social inclusion. The contributions examined the ways inter-cultural dialogue can be essential in preserving the competitiveness of the companies operating in a globalized context. Therefore it was discussed how to manage customers of different cultures, how to offer products suited for a multi-cultural public, how to manage the personnel and suppliers, in view of their belonging to different cultures. UNAR, in partnership with Sodalitas and the promoting companies, worked on the formulation of a toolkit "Multiculturalism for the company", which is a further tool of Corporate Social Responsibility to be distributed in Italian companies. The partnership had the following objectives:

(a) To collect and share the experiences of the companies participating in the project for the management of cultural diversity. The enterprises involved are medium and large companies, besides social enterprises;

- (b) To promote, through the diffusion of the best practices, a culture of social inclusion, showing how the attention paid to the multicultural dimension can increase competitive strength of the companies;
- (c) To promote the building of a website dedicated to the multiculturalism for the company;
- (d) To create a catalogue collecting the best practices of the enterprises, which gives a few useful guidelines to all the enterprises willing to deal with this matter;
- (e) To carry out, if necessary, a study to examine the aspects which have not been exhaustively analysed yet.

81. UNAR has decided to implement, in the world of work, a specific strategy capable of going beyond the legal assistance to the victims of discrimination and so having an impact on the structural causes of discrimination. In fact, one of the major problems of job placement for the foreign nationals is the great difficulty in accessing the labour market at the personnel selection stage. Therefore it has been decided to create an opportunity to let the enterprises meet with two categories of disadvantaged subjects, disabled persons and foreign nationals, thus fostering a facilitated encounter between companies and persons which are often discriminated against in the world of work. “We are looking for talents to offer equal opportunities in the world of work” was the motto with which the first edition of “Diversity at work” was presented in 2008, drawing the attention of hundreds of people coming from every corner of Italy and of the world, who had the opportunity to apply and have a job interview, so show off their talents and their characteristics. The media success, the increasing interest of the world of employers and its utmost effectiveness as a recruitment tool brought the promoters (UNAR, Sodalitas, Synesis and Adecco Foundation for equal opportunities) to double the commitment and effort lavished on the project. The Career Forum “Diversity at work”, during the second edition organized on April, 2nd 2009 on the premises of L’Oreal, and in the third edition set up for the first time in Rome on the premises of Microsoft in November 2009, offered to talented disabled persons and foreign nationals the opportunity to meet the personnel selection managers of the most important companies in the nation in order to submit their CV and have a job interview. Furthermore, before the event the promoters organized meetings for the personnel selection managers of the companies. UNAR was involved in the meetings to introduce the themes of integration of persons of foreign origin in the workplace, also expanding on the regulatory aspects.

### 3. The right to housing

82. In recent years the number of non-EU immigrants permanently residing in Italy has increased exponentially, thus determining a series of problems concerning access to housing. Among these, the main concerns are about rental of property, loan applications and requests for access to council housing. Cases of alleged discrimination in these spheres are among the most varied, although the legislation has long been working to ensure equitable access to basic goods and services offered to the public. In most cases, they consist of indirect forms of discrimination, such as psychological harassment in multiethnic condominiums, difficulties in accessing loans and in particular the problems encountered in renting apartments.

83. In this case the discrimination comes into play mainly in two circumstances: when an individual (usually the landlord), contacted through an advertisement, realizes that the counterparty is not Italian and takes his offer back on the excuse that the house has already been rented, or when a rental ad says “no foreigners” or explicitly indicates the category “non-EU national”. This means that not only the owner but also the real estate agency and the newspaper are responsible for the content posted. The first case certainly reveals a discriminatory attitude which, however, is more difficult to detect. Regarding the second

circumstance under consideration, on the contrary, the newspaper is required to remove the advertisement and not to publish similar ones, otherwise it may be subject to an intervention by the court. In particular, under Article 43 of Legislative Decree No. 268/98 (and the same approach is included in the view of Directive 2000/43), the fact of including among the selection criteria the term “non-EU” is in itself a symptom of racial discrimination. The Consolidated Act on Immigration states that in any case, “it is considered as performing an act of discrimination, any person who unlawfully imposes more disadvantageous conditions, or refuses to provide access to employment, housing, education, training, social and welfare services to a foreigner lawfully residing in Italy, on the sole ground of his status as a foreigner or his belonging to a specific race, ethnicity, religion or nationality”.

84. As far as access to housing, the Plan for the inclusion and security facing identity and dialogue adopted by the Ministry of Labour and Social Policies and the Ministry of Education, University and Research in June 2010 provides for some solutions in supporting migrants living and working in Italy to facilitate their access in terms of accommodation.

85. In 2011 € 4.000.000 will be devoted to implement projects both from the Ministry, Local Authorities, the Agency for the management of goods, associations, banking foundations, ethical banks. These measures are requested to employers of legally third country nationals, supplying them with a temporary accommodation, within a more articulated framework that includes the following aims in terms of programmes and related projects to be implemented at the local level by competent authorities with third-sector organisations: creating reception facilities for accommodating migrants who are temporarily unable to provide for their own accommodation; joint public-private sector projects for purchasing and/or restoring and managing houses under leasing arrangements, and for facilitating the taking out of leases; information, assistance and orientation projects aimed at finding rented accommodation and for combating all forms of discrimination, with respect to renting houses; the monitoring and solution of conflicts arising from ethnic or racial discrimination, in respect of neighbourhood communities; support to experimental projects for purchasing dwelling through refurbishment, self-refurbishment or independent building projects, with respect to residential units alone.

86. As far as housing discrimination another topic comes into consideration that is access to council housing. With regard to this subject, local and regional practices are varied, confirming the differences in the treatment of foreigners existing at local level.

87. Actually, the uniformity of treatment should have been provided primarily by the national legislation as Article 40, paragraph 6 of Legislative Decree No. 286/1998 (Consolidated Act on Immigration) specifically provides that “Foreigners who hold the residence card and foreigners residing legally holding a residence permit valid for at least two years and carrying out regular jobs either as employed or self-employed workers, have the right to access, on an equal footing with Italian citizens, council housing units and brokering services of social agencies that are made available by each region or by local authorities in order to facilitate access to housing rentals and subsidized loans for building, restoring, buying or renting a primary residence” (paragraph replaced by Article 27, paragraph 1 of Law No. 189 of July, 30th 2002). Despite this provision, regulations containing provisions in contrast with the above, have often been issued by regional and local Authorities, most of them imposing additional restrictions on foreigners and some being even more permissive.

88. Trying to address the issue by rationalizing and classifying, as far as possible, the types of action adopted by regional or even local Authorities it is possible to identify some trends that are recurrent over time:

**(a) Administrations that have set reciprocity as a preliminary condition to access public benefits**

89. In some Municipalities such access is subject to the condition that in the State of origin of the foreign citizen concerned the same right of access is granted to Italian citizens. The Municipality of Chiari (BS) with resolution No. 239 of November, 18th 2004 adopted by the Municipal Committee provides an example thereof. This resolution, however, was suspended by the Regional Court of Lombardy, Brescia Division through order No. 264 of February, 25th 2005 which founded its decision on Articles 2 and 5 of Legislative Decree No. 286/1998 (Consolidated Act on Immigration), considering that such provisions clearly show that the Italian legislator intends to recognize to foreign nationals legally residing in Italy the same civil and economic rights enjoyed by Italian citizens, regardless of the occurrence of the condition of reciprocity, and that local Authorities do not seem to have any power to depart from such legislation.

**(b) Administrations that required a long working period within the country or the region as an alternative to the condition of legal residence**

90. Along these lines, various local regulations fit in, such as the call for applications for the allocation of council housing in the City of Turin (published on October, 29th 2001) which required that foreigners be legally resident and that they had carried out a regular job, either as employed or self-employed workers, for at least three years prior to submitting the application and the Lombardy Regional Law No. 1/2000 which provides, among the eligibility criteria for council housing accommodation, the legal residence or having carried out a job in the Lombardy Region for at least 5 years prior to the submission of the application. Both provisions have been challenged. The call for applications issued by the City of Turin was subject to legal administrative proceedings which ended with the decision of the Piedmont Regional Court, Division I, No. 323 of February, 13th 2002, rejecting the claim on grounds that, having regard to Article 3 of the Constitution, “this requisite prescribed for foreigners does not constitute a breach of the principle of equal treatment, as it can be justified by the concern of the regional legislator to avoid that council housing be allocated to people who do not yet have a sufficient stable connection with the territory (and may abandon it and move elsewhere), thus making these accommodations unavailable to other entitled persons and therefore frustrating the social welfare function of council housing”.

91. The law of the Lombardy Region was the subject of a review of constitutionality which ended with the Order of the Court No. 32/2008, which considered the claim clearly groundless in relation to the alleged breach of Article 117, third paragraph of the Constitution, also in conjunction with Article 47 of the Constitution, and Article 117, second paragraph, letter m) of the Constitution, as the matter in question falls within the residual powers of the Regions, and does not concern in any case the problem of determining the basic level of services relating to civil and social rights that must be guaranteed throughout the country. The Constitutional Court reiterated in this regard that “such a specific matter as” council housing “is not among those listed in the second and third paragraphs of Article 117 of the Constitution”, so that there is a third regulatory level under the fourth paragraph of Article 117 of the Constitution, which concerns, in fact, the real estate management of council housing and, therefore, involves the identification of criteria for the allocation of housing to the poorer classes (most recent, order No. 94 of 2007). The matter was also considered as unfounded in light of Article 3 of the Constitution as to the claim that it “introduces a factor of unreasonable and unjustified discrimination in making access to council housing subject to length of residence or employment in Lombardy, because, in this respect, this Court has already ruled that the requirement of continuous residence for the purpose of allocation, is not unreasonable (Case No. 432 of 2005) when it is in accordance with the purposes that the legislator intends to pursue (Case

No. 493 of 1990), especially where the same achieve a balance between the constitutional values at stake”.

(c) **Administrative authorities that provide for the allocation of additional points in relation to the possession of Italian citizenship, depending on length of residence**

92. These are cases concerning calls for applications and resolutions that provide for the allocation of additional points in relation to the possession of Italian citizenship or according to the length of residence. This is typically exemplified by the resolutions of some Municipalities which have provided for an increase in score, from one to four points in favour of Italian citizens resident in the municipality or whose primary job has been carried out in the municipality for at least 8, 10, 15 or 20 years, or have provided for an increase of four points in favour of households composed exclusively of persons of at least 65 years or age, provided that they have been residing in the municipality for at least 10 years.

93. This is also the case of Article 38, paragraph 1 of Friuli Venezia Giulia Regional Law No. 16 of December, 5th 2008 which amended the scoring system for the allocation of council housing units in the territory of the Autonomous Region of Friuli Venezia Giulia, setting forth a gradual increase in the score according to the years of registered residence in the Region. The same Article 38, paragraph 2 of the same regional law also introduced as an additional requirement to qualify for the allocation of council housing units, the registered residence or the carrying out of a working activity in Italy for at least ten years, even if not consecutive, five of which in the region.

94. With regard to this matter, judgement No. 3614 issued by the Court of Milan on March, 21st 2004 is also worth noting, in that it accepted the civil claim brought against the discrimination under Article 44 of Legislative Decree No. 286/1998 (Consolidated Act on Immigration). On that occasion, the Court declared the council housing allocation system set forth by the Municipality of Milan discriminatory, in that it provided for the allocation of five points solely by reason of the applicant’s Italian citizenship, therefore resulting in more disadvantageous conditions of access to council housing being imposed on foreigners legally residing in Italy and this only on the basis of their status as foreign nationals. In particular, the court held that the application of such a system inevitably determined a privileged condition for Italian citizens and a consequent resulting unfavourable one for foreign nationals, noting that there was no public interest underlying the attribution of scores as aforesaid nor any law that would allow the administration to do so.

(d) **Administrative authorities that imposed as requirement a long period of residence in the state or alternatively in the region and municipality**

95. This is the case of the resolution on “supplementary parameters of eligibility for the 2009 Fund for rental assistance (Fondo sportello affitto)” taken by several Municipalities, through which the requirements for accessing the Fund by non-EU and EU nationals were changed, setting residence for at least ten years in the country and at least five years in the municipality as a requisite for the foreigner, and residence for at least four years and regular employment or self employment, for the latter.

96. These situations should be examined in that they may represent cases of indirect discrimination on grounds of long-term residence requirements both with regard to EU and non-EU citizens. With regard to EU citizens, the provisions requiring long periods of residence in order to access council housing or special benefits related to housing rights seem, at a first sight, in contrast with Article 12 of the European Treaty which provides that “within the scope of this Treaty, and without prejudice to the specific provisions contained therein, any discrimination based on nationality is forbidden”.

97. Through Directive 2004/38/EC Article 24 extends the principle of equal treatment between the Italian and EU citizens to matters of social welfare as the criterion of length of residence greatly favours the natives and consequently adversely affects freedom of movement. In fact, the same Directive 2004/38, on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, in section 20 states that “In accordance with the prohibition of discrimination on grounds of nationality, all Union citizens and their family members residing in a Member State on the basis of this Directive should enjoy, in that Member State, equal treatment with nationals, in areas covered by the Treaty, subject to such specific provisions as are expressly provided for in the Treaty and secondary law.” Such Directive was transposed in Italy by Legislative Decree No. 30 of February, 6th 2007 “Implementation of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.” In light of the above mentioned provisions, the requirement that EU citizens have not less than four years of residence prior to accessing benefits such as the fund for subsidized rent payments seems to represent a case of indirect discrimination, since there seem to be no reasons justifying this requirement.

98. Also as for non-EU citizens, the requirement for length of residence for such a long time, ten years in Italy and five in the municipality, is considered as a form of indirect or covert discrimination against foreign nationals residing in the municipality, as it is likely to operate mainly against them.

#### **4. The right to public health, medical care, social security and social services**

99. The issue under consideration has to be considered in the perspective of the legal framework as disciplined by Legislative Decree No. 286/1998 (Consolidated Act on Immigration), that focuses on the access to health and social services as a “vehicle for social integration of immigrants”. In particular Article 41 of the above mentioned Legislative Decree expressly confirms the principle that “foreigners who hold a residence card or residence permit valid for not less than one year, as well as the children registered in their residence card or their residence permit, shall be treated on an equal footing with Italian citizens as it concerns the enjoyment of benefits and services, including economic, social assistance, as well as those provided [.....] for the deaf, the blind civilians, the disabled and the poor”. According to this provision, the following issues can well demonstrate positive actions to this scope.

##### **(a) Entitlement to the “baby bonus”**

100. A recent issue to be carefully examines is the one on the so-called “Baby bonus” that some local Authorities, by recognizing the Italian citizenship as a condition for access to the benefit, have in fact subtracted from non-EU nationals; in this regard, they argued that the act establishing the “baby bonus”, represents a discretionary act which is not in conflict with national legislation or EU Directives, since there is no identifiable rule — either national or EU — conferring to foreigners the right to collect the benefit.

101. The trial court in this regard noted that the rules on equal treatment, not only seek to protect the subjective rights that were formed and that consolidated as heritage of each individual, but also the subjective status that is functional and instrumental to the exercise of such rights, to their acquisition or the removal of obstacles preventing their achievement. In fact, the concept of discrimination set out in Article 2 of Legislative Decree No. 215/2003 cannot be interpreted otherwise.

102. It must therefore be inferred that the anti-discriminatory action is functional to the removal of the offence, not so much in relation to subjective rights belonging to the person (a situation for which the legal system, according to the ordinary means of protection already provides remedy), as in those situations where it is impossible to purchase or enjoy

subjective rights, benefits or services as a result of behaviours or initiatives undertaken by individuals or by the public administration in the exercise of its powers, therefore, within the self-determination of the subject and, apparently, in the implementation of the powers to them granted.

103. A typical instance was that of the resolution of a municipality which, in the exercise of the administrative powers granted to public authorities, has unreasonably reserved the access to the benefit of the “baby bonus” to persons holding the Italian citizenship. The arguments put forward in defence of the measure adopted by the local administration have been that there were insufficient funds; however, the decision-making body considered such argument unfounded as there is no reason why a “planned” capital provision can not be supplemented on the basis of actual needs and, in particular, the second reason in support of the clearly discriminatory resolution, is that no incompatible initiatives could be adopted with respect to the guidelines of the administration, specifically those providing for the allocation of the baby bonus to residents of Italian citizenship, for babies born in 2008, in order to encourage procreation by Italian parents. This argument as well was considered groundless by the court as the purpose of facilitating births among Italian citizens cannot objectively be considered lawful, for the simple reason that any attempt to induce anyone to procreate on the basis of a mere economic benefit cannot be considered reasonable, and, moreover it is unreasonable to believe that “the extension of the benefit to all foreigners in possession of the requirements would be in contrast with the primary aim set by this administration of supporting births in families of Italian citizenship”.

**(b) Disability benefits to foreigners**

104. Moving from the national case law, also the topic concerning the access to social and security services for foreigners with disabilities must come into consideration. During a dispute over compulsory assistance, promoted by a non-EU citizen, the Court of Prato raised the question of the constitutionality of the attendance allowance to totally disabled civilians to the extent that it provides that a residence permit and the relative income are necessary in order for foreigners disabled civilians to benefit from the disability pension and the attendance allowance.

105. The non-EU citizen who had been granted the status of total and permanent disability in need of continuing assistance, following a serious car accident, had applied for the grant of disability pension and an attendance allowance. Following the rejection of his application, due to the fact that he did not have a residence permit, he promptly lodged a claim pursuant to Article 442 of the Code of Civil Procedure and the Municipality of Prato, in the cross-examination with the National Social Security Institute (INPS) and the Ministry of Economy and Finance, was condemned to the payment of those benefits, subject to disapplication of Article 80, paragraph 19 of Law No. 388 of 2000 (as it is in contrast with the EC Regulations No. 1408 of 1971, No. 574 of 1972, No. 859 of 2003 and No. 647 of 2005, and Articles 6 and 8 of ILO Convention No. 97 of 1949, Article 10 of the ILO Convention No. 143 of 1975, Article 14 of the ECHR and Article 1 of the First Additional Protocol to such last Convention), or after admission of the constitutionality objection of the law itself.

106. The “irreducible core right” to health protection intended as a right of the person must therefore be recognized also to foreigners, whatever their status in relation to the rules governing the entry and residence in the State, although the legislator may provide for different ways in which such right may be exercised. Therefore, even a foreigner who is unlawfully present in the State “has the right to enjoy of all the assistance and services that are urgent and cannot be postponed, according to the criteria indicated in Article 35, paragraph 3 (of Legislative Decree No. 286/1998 – Consolidated Act on Immigration), as it constitutes a fundamental human right which must be guaranteed, as required, in general,

by Article 2 of the same Legislative Decree No. 286 of 1998” (as set forth in judgement No. 252 of 2001).

**(c) Access to financial services**

107. Several cases of indirect discrimination in access to services were registered, in particular regarding financing procedures.

108. In 2009 the Italian Banking Association (ABI) conducted a survey on home loans taken out by migrants, noting that 10% of the total is held by foreign citizens. Therefore, out of 3 and a half million of contracts for the purchase of a house, 350,000 are stipulated by migrants. This suggests that the majority of migrants who buy a house or take out a mortgage loan have access to financial services from banks, which provide for opening specialized agencies, making use of cultural mediators and distributing brochures translated into several languages. Some banks even went further as to open branches exclusively dedicated to migrant clients: it is the case of Unicredit Bank that, through the opening of “Agenzia Tu” (You branch), is offering specific services to migrants, including the possibility of choosing from among more than one type of tailor made mortgage loan.

109. As it concerns insurance services, a technical group was created by UNAR, Institute for surveillance on private insurance (ISVAP) and National Institute of Insurance (ANIA) with the task to elaborate a code of conduct for insurance policies on the grounds of racial risk, providing for higher insurances payments according to the citizenship of the customer. The collection of data from insurance companies and the related elaboration of useful indicators to prevent different rates for foreigner customers is under way.

**5. The right to education and training**

110. On this issue please see also UPR Italy National Report.

111. The Italian school system is in a rapid evolution. Some innovations concern the middle schools, mainly about the evaluation system. As regards the secondary schools, compulsory education is now set at the age of 16. It can be fulfilled both in the “Licei” and in technical and professional schools.

112. In the perspective of this reform, particular attention is focused on recently immigrated students. A section of the “Open Schools” Program for 2009 relates to projects regarding the Italian language as L2. Almost 1000 projects presented by schools have been nationally financed and some of them have also received further financings by local authorities.

113. As far as the limit of 30% of foreign students per classroom, this does not include foreign children born in Italy. In case of over-quota, specific agreements will be negotiated between the Ministry of Education, University and Research and local Authorities to manage feasible relocations only in exceptional cases, in order to assure a fair and rational distribution.

114. The Italian school system is also engaged in the integration of Roma and Sinti children through special programs. Some agreements have been signed with the “Opera Nomadi” Association. In 2008–2009, 12,838 Roma pupils enrolled in schools belonging to the national education system. Overall, they account for 0.14 % of the total number of students who enrolled in schools in the same school year. The Regions with the highest number of Roma pupils enrolled in schools are also the areas where those groups tend to settle down and where the most ancient family groups have been living for more than a century.

## **IV. Information by relevant groups of victims or potential victims of racial discrimination**

### **A. Refugees and displaced persons**

*The State party is encouraged to improve the conditions of stay and assistance centres and reception and identification centres to ensure that adequate health care and better living conditions are provided. It also recalls the obligation of the State party to take measures to ensure that conditions in centres for refugees and asylum-seekers conform to international standards. Furthermore, the Committee recommends that the State party take measures to ensure that non-citizens are not returned or removed to a country or territory where they may be subject to serious human rights violations, including torture and cruel, inhuman or degrading treatment or punishment.*

115. On this issue please see also UPR Italy National Report and UPR Italy Addendum.

116. In line with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, a complex system providing protection to refugees has been built and implemented in our Country. At the same time it must be here recalled that Italy is also party to the Dublin II Instruction, whose adherents generally transfer asylum applications to the first member country, in which the applicant was present.

117. As for asylum-seekers, specific reception Centres (CARA) were created for an overall 2.083-place capacity which are intended for undocumented people, those who violate border controls and foreigners detained because illegally staying in Italy (the identification cannot exceed 20 days) or applying for asylum. In the latter case, as a general rule, the decision on the asylum application will take 35 days. After this deadline, if a decision has not been taken yet, a renewable temporary residence permit is granted; and asylum-seekers can leave the Center during the day.

118. As far as individuals who may not qualify as refugees under the 1951 Convention temporary protection is guaranteed which has to be renewed periodically and does not ensure future permanent residence.

119. In order to swiftly process all the asylum applications (which in 2009 were 16.120), in addition to the ten Territorial Commissions, five more sections have been established. To ensure a transparent procedure, in all the above mentioned Commissions, there is a representative of the UNHCR. If a decision is not taken on the individual case within six months — period during which the applicant can be accommodated by the State — s/he will get a residence permit, allowing him/her to work.

120. To this end, in almost all Regions, the SPRAR system, which is a strong network including local institutions and private sector, tasked with a better integration of asylum-seekers and refugees, can make 6.000 places available, per year. In 2008, this System guaranteed accommodation to 8412 refugees. As for relevant statistics, only in 2008, with a 48,2%, Italy recorded 20% more than the European average, as for the granting of the refugee status, additional and humanitarian protection measures respectively. In 2009, 40% of the applications submitted to the Commissions were accepted.

### **B. Non-citizens**

121. On this issue please see also UPR Italy National Report and UPR Italy Addendum.

122. The immigration is an opportunity for improving and enriching Italy that is facing, with the massive flow of migrants irregularly entering the Country, the risks of a wild and

uncontrolled situation. The legislation on immigration has no relation with any kind of xenophobic attitude but, on the contrary, have the objective to address more effectively the phenomenon of illegal immigration (and its connection with organized crime) and its negative consequences, including on the thousands of regular migrants living in Italy.

123. Non-EU nationals can enter Italy for the purpose of tourism, study, family reunification and work. Only those who come for a term not exceeding a three-month term, for the purpose of visits, business, tourism and study, do not have to require any stay permit. However in case of protection permit for the trafficked people, it can be released on the spot. Individuals from certain countries are not required to get a visa for tourism reason.

124. At each Prefecture, it has been established an immigration desk processing applications for the recruitment of foreigner worker, family reunification and the change of a residence permit. In autumn 2009, it was introduced a computer-based procedure, to facilitate the emergence and regularisation of those, EU and Non-EU nationals, being even without stay permit, involved in the informal labour sector. In few months, approximately 300.000 applications were submitted.

125. In terms of reception, the initial phase includes health-care services, cultural mediation, legal counselling, identification, examination of the relevant applications and, eventually, repatriation, only for those who are not entitled to stay in Italy.

126. To this end, the Reception Centres (CDA) can ensure 3.400 places. The Centres for the first-aid and reception (CPSA) with a 1.200-place capacity are placed in the sea towns most affected by the landing via sea, for instance in Lampedusa Island. In order not to displace in the territory those to be expelled, there are thirteen Identification and Expulsion Centres (CIE) across the country with 1806 places.

127. At the same time, it is clear that the Government aims at addressing, more effectively, the illegal immigration (and its possible connection with organized crime) and its negative effects on the society as a whole, including the hundreds of thousands of legal migrants who arrive to Italy. To this end, it has been introduced the payment of a minimum tax and a test of the Italian Language as for the release or the renewal of the stay permit.

128. It is relevant to underline that the measures laid down in the so called “security package” are meant to curb criminal behaviours of individuals and no provision at all is envisaged against any community, group or class nor is linked to any form of discrimination and xenophobia. As for the offence of illegal entry and stay in Italy, the relevant provision does not apply to the migrant, for instance to those migrants who are intercepted in territorial waters and are returned to the country of origin/transit. As for the aggravating circumstances, it applies to illegal migrants found guilty of a main crime. Such provision responds to the increasing trend, observed by the Italian judicial system, on the involvement of illegal migrants in organized crime that uses them as a workforce. As for the extension of the stay in the Identification and Expulsion Center up to 18 months, such a provision, in line with the EU Directive on return, has been adopted with the aim of detecting the identity of the migrant without documents. More importantly, it is the judge — and not the administrative authority — to be tasked with controlling whether it is necessary and legitimate to extend the holding from time to time. Such review will take place every 30/60 days. As it concerns possible limitations to enjoy the right of access to health-care service and school, the Government fully observes the relevant constitutional principles. No limitation to the right to health and to education has been introduced so far. The security package does not oblige physicians or school principals to denounce illegal migrants.

129. Moreover the promotion of positive actions, in line with the analysis of the phenomena relating to the foreigner population in Italy is among the main tasks of the National coordination body for the social integration policies of foreign citizens – ONC.

This body was set up according to Article 42(3) of the Legislative Decree No. 286/1998 (Consolidated Act on Immigration) within the National Council of the Economy and Labour (CNEL) by determination of the its President on December, 10th 1998, subsequently amended by two successive determinations of November, 8th 1999 and of October, 9th 2000. Article 4 of the Directive, by which the ONC has been established, requires a Presidential Committee chaired by the CNEL President, or under his delegation by the Deputy President of the ONC, and includes the Directors of the CNEL Committee for the immigration, experts in the field and it involves representatives of the authorities concerned. The ONC has the following tasks: to follow and support the development of the local processes of reception and integration of foreigners, their representation and participation in public life; to promote exchange between institutions and social organisations at the local level, as well as with significant experiences from other European countries, for a continuous exchange of experiences, in order to identify and evaluate models and practices that have been shown to be effective.

### **C. Minorities, including the Roma**

*The Committee, recalling its general recommendation 27 on discrimination against Roma, recommends that the State party adopt and implement a comprehensive national policy and legislation regarding Roma and Sinti with a view to recognizing them as a national minority and protecting and promoting their languages and culture.*

*The Committee, recalling its general recommendation 27, recommends that the State party develop and implement policies and projects aimed at avoiding segregation of Roma communities in housing, to involve Roma communities and associations as partners together with other persons in housing project construction, rehabilitation and maintenance. The Committee further recommends that the State party act firmly against local measures denying residence to Roma and the unlawful expulsion of Roma, and to refrain from placing Roma in camps outside populated areas that are isolated and without access to health care and other basic facilities.*

*The Committee, recalling its general recommendation 27, requests the State party to ensure that municipalities remove discriminatory ordinances and comply with the State party's obligations under the Convention. The Committee further requests the State party to endeavour, by encouraging a genuine dialogue, consultations or other appropriate means, to improve relations between Roma and non-Roma communities, in particular at the local level, aimed at ending discrimination against the Roma.*

*The Committee recommends that the State party take measures to prevent the use of illegal force by the police against Roma, and that local authorities take more resolute action to prevent and punish racially motivated acts of violence against Roma and other persons of foreign origin. In this regard, the Committee draws the attention of the State party to its general recommendation 27 and urges it to ensure protection of the security and integrity of Roma, without any discrimination, by adopting measures to prevent racially motivated acts of violence against them.*

*The Committee once again draws the attention of the State party to its general recommendation 27 and recommends that the State party strengthen its efforts to support the inclusion in the school system of all children of Roma origin and to address the causes of dropout rates, including any cases of early marriage, in particular of Roma girls, and, for these purposes, to cooperate actively with Roma parents, associations and local communities. It further recommends that it proceed to improve dialogue and communication between teaching personnel and Roma children, Roma communities and parents, including more frequent use of teaching assistants chosen from among the Roma.*

130. On this issue please see UPR Italy National Report and UPR Italy Addendum.

131. As far as developments concerning the inclusion of Roma and Sinti within the scope of the existing legislation, it is to be pointed out that Law No. 482/1999 only recognizes the rights of the historical linguistic minorities mentioned in it. Roma, Sinti and Camminanti communities were not included for reasons of non-compliance with the territoriality requirements provided by that law.

132. By the way, the involvement of these populations has been indeed promoted on several levels, such as institutional mechanisms and procedures, access to financial resources for the implementation of positive actions and projects, awareness-raising tools and campaigns.

133. The periodic meetings with Roma associations, within the Ministry of the Interior, involving representatives of the Association of Italian Municipalities (ANCI) and the Union of the Italian Provinces (UPI), or promoted by UNAR made it possible to have an exhaustive overview on their main critical profiles and to use the mediation activity of the association to know at close quarters their complex situation in order to identify the crucial areas for potential intervention by the State or local Authorities: housing, access to work, education, health and legal status. Furthermore, the work done together with the associations has had the precise aim of informing this community about their rights and protective measures that the Italian legal system offers to the victims of racial discrimination.

134. In particular the periodic contacts with members of the associations engaged in the protection of the rights of Roma and Sinti, often prompted by the examination and treatment of racial discrimination cases received by UNAR, also led to their registration into the Register of the associations and bodies involved in the fight against discrimination, envisaged by Article 6 of Legislative Decree No. 215 of July, 9th 2003. Associations such as Opera Nomadi, Associazione Italiana Zingari Oggi (AIZO), Unione Nazionale ed Internazionale Rom e Sinti in Italia (UNIRSI), OsservAzione, Nevo Drom and Rom Sinti@Politica Abruzzo Opera Nomadi are now some of the associations registered.

135. The fact that the activity of the Office is very much oriented towards this area of interest is firstly explained by examining the number of cases reporting racial discrimination received by UNAR Contact Center. These cases have increased over the last few years of activity and mostly relate to education and housing, areas where it is possible to have a clear perception of both the needs of this people and the lack of global intervention strategies complementing integration policies on the part of the State and local Authorities. In some cases, UNAR has contributed decisively to the elimination of inequalities of treatment; in other cases, when the facts reported suggested a supposition of offence and no other actions were considered possible, UNAR has proceeded to inform the relevant judicial authorities.

136. Within the positive action towards the integration of Roma population in our social context, it seems useful to highlight that a specific action for the creation of an intervention model for the rehabilitation of Roma and foreign street children exploited and/or involved in illegal activities, on the basis of the national and European best practices, has been included in the actions of the Programme for the European Year of Equal Opportunities 2007. On specific request of the Department for Equal Opportunities, the project, called "The Road to Rights", carried out by the association Save the Children Italy which was assigned the procedure, particularly focuses on the under-age Rom, a category that is heavily discriminated against in our country and suffers the violation of those basic rights recognised by the UN Convention on the Rights of Children and by the Italian legal system, such as the right to education, health, protection against child labour and sexual exploitation, protection from abuses and violence and right to family unity.

137. Another important step towards the needs of the Roma community came under Article 1, paragraph 1267 of Law No. 296 dated December, 27th 2006 (Financial Act 2007), which set up a fund called “Fund for Social Inclusion of Immigrants” at the Ministry for Social Solidarity. The fund was allocated the amount of € 50 million for the year 2007. The Directive dated August, 3rd 2007 issued by the above cited Minister, in agreement with the then Minister for Rights and Equal Opportunities at that time, identified the priority areas on which to focus the interventions of the year 2007 to be funded with the resources of the Fund; among them, there were measures towards access to housing for Rom, Sinti and Camminanti communities.

138. A further area of intervention to facilitate access to education and school orientation for Roma children and to facilitate the relationship between families and school institutions was also envisaged. Apart from the intervention already carried out with the resources of the “Fund for Social Inclusion of Immigrants”, it is relevant to highlight that within the National Strategic Framework for Structural Funds for the period 2007–2013, the Department for Equal Opportunities has prepared Action Plans envisaging organised interventions in favour of Rom communities through the European Social Fund and European Fund for Regional Development, to be agreed upon by the relevant management authorities. In particular, within the framework of European Social Fund PON GAS 2007–2013 Axis D equal opportunities and non discrimination, the following action, to be managed directly by UNAR, has been envisaged: “promotion of the governance of policies and tools for social inclusion and fight against discrimination of Rom, Sinti and Camminanti communities”.

139. The aim of the action is to eliminate any discrimination and favour a larger participation to the processes of economic and social development of Roma, Sinti and Camminanti communities in Convergence Objective Regions (Campania, Basilicata, Calabria, Sicilia, Puglia). The action aims at promoting the enhancement of strategies in favour of the aforesaid communities by supporting the Regions with regard to regulations, administration and management in identifying, planning and monitoring, regional guidance and support to locally overcome the obstacles to social inclusion of these communities. Due to its innovative and experimental nature, the action requires a previous elaboration of fact-finding analyses related to social, demographic and economic characteristics of the communities living in these Regions, mappings of local institutions and services in their favour for education, vocational training, access to work, health and social services, as well as the identification of local interventions for social inclusion to be carried out by councils and the private sector. The economic resources allocated amount to € 3 million over a six-year period.

140. As for activities also referable to the European Fund for Regional Development PON GAT, support action for Regions has also been envisaged. The activities of Regions aim to ensure to population at risk of social exclusion, in particular Roma and Sinti, equal access to social and local services, in conformity with the ESF 2007–2013 Programme, envisaging specific areas of intervention aiming at the increase of social and local cohesion. The interventions are planned to be implemented in the four regions under the Convergence Objective 1 (Calabria, Campania, Puglia and Sicilia) and the economic resources available amount to € 1,410,000.00.

141. As for awareness initiatives, in December 2007 UNAR promoted a campaign against prejudice towards Roma and Sinti communities. Moreover, on the occasion of the IV Action Week against racism, UNAR, in cooperation with the film studios Interferenze, shot a documentary called “The Untouchable”, whose characters are Roma people followed in their daily life and which provides an unprecedented cross-section of the social and work experiences of the characters. The documentary, broadcast on March 22, 2008 on the TV channel La7, was presented to several organisations and to the press at the gipsy camp of

Monachina, just outside Rome. An English Home Video version of the DVD will be distributed in Europe to schools, organizations and associations involved in favour of Roma people.

142. Furthermore, UNAR participates in EUROMA, European Network for the social inclusion of Roma, coordinated by the Spanish European Social Fund management authority, and is member of the working group for the social inclusion in EUROMA.

143. Another important project that UNAR has carried out is the Dosta Campaign, promoted by the Council of Europe and concerning the fight to prejudice and stereotypes against Roma and Sinti through a global strategy based on dialogue and mutual knowledge. This initiative has already been introduced in five eastern European countries: Albania, Bosnia and Herzegovina, Montenegro, Serbia and the former Yugoslav Republic of Macedonia. Carrying out this campaign in our Country also has a symbolic value since Italy is the first and only country within the European Union to use this awareness raising tool which has produced excellent results so far.

144. In order to discuss the contents of this campaign, the Office set up, by means of the relevant decree, a technical panel for a permanent coordination with the associations. This panel has already met several times and has drawn up the essential profiles of the campaign, gathering ideas, projects and initiatives to be organised throughout the country, that were shared with local Authorities and prominent networks of Roma and Sinti associations in Italy: Opera Nomadi, the Federazione Romani, the Federazione Rom e Sinti Insieme, UNIRSI.

145. The first activities of the campaign, funded with a budget of € 200,000, started in April 2010. Some actions foreseen by the campaign and aimed at the general public have a national scope (media campaigns and national awards), while the awareness raising events aimed at specific target groups (journalists, local bodies, schools, youth) were firstly carried out in the cities of Mantova, Bolzano, Roma, Napoli, Cosenza, Palermo e Lecce.

146. The intervention methodology covered several means of communication:

(a) Website: the Italian version of the Council of Europe website [www.dosta.org](http://www.dosta.org) is provided with links to the UNAR portal and the European website itself, in order to share with the target groups a common platform where materials resulting from the project (videos, pictures, radio advertisings, musical showcases), as well as materials, laws, regulations, ordinances, information on the Roma world and on the policies for their social inclusion can be found;

(b) Social networks: the creation in the social networks, and in particular on Myspace, of an on-line page for the promotion of Roma and Sinti culture, art and music, to join forces with the promotion activity of both the up-and-coming and already well-known cultural, artistic and musical realities of the Roma and Sinti world, in order to maximise their visibility on the web and in the communication to the young public;

(c) Audiovisual products: a video kit on the campaign has been arranged for use in public occasions, for training purposes and for the mass media broadcasting, including the television advertisement of the DOSTA Campaign, advertisement materials, a dvd produced by CoE, videos and documentaries produced by the ROMA associations and selected by the Coordinating Round-table for their effectiveness and quality, radio and tv programmes, distributed by local Authorities and Rai Educational, to debate, with students the condition of Roma and Sinti, the DOSTA Festival, a journey of itinerant events with the aim of raising awareness of the problems and the social inclusion policies regarding Roma and Sinti through debates, open-air music events, art and photo exhibitions organized around a group of Campers parked in a central spot of the cities of Mantua, Rome, Naples, Lecce, Cosenza and Palermo.

## D. Women

147. Although women now represent an increasingly significant percentage of the migrant population, they have always been treated as subjects of lower relevance in the migratory process. The changed involvement of women in new migratory flows was due to the realities existing in Countries of origin, with a large impact in demanding for care and household services in the European Countries. The complexity of the female migratory world faces with many problems. They bring a background of knowledge and expertise that our Country, as other Countries of immigration, must learn to become acquainted with, so as to shed ancient and new prejudices and to force to think over a built-in reality which cannot remain closed. It would be helpful to know, for instance, that many immigrated women arriving in Italy have already started an emancipation process from situations of isolation in the home, and therefore they leave in order to obtain self-affirmation and to be able to find a way towards the future.

148. Still according to the information gathered through the activity of the Contact Center, UNAR has deemed as a priority to involve also women of foreign origin, as the most vulnerable target of multiple discriminations. In this sense the Office has presented to the Ministry of the Interior, within the scope of the 2009 EU Programme for the integration of Third-Country nationals the project "Network of Regional Antennas for the prevention and combating of racial discrimination". The general objective of this project is to prevent the risks of discrimination on the grounds of gender and race among women of foreign origin, by creating, through a massive public information campaign, a process of social comparison and dialogue among women of foreign origin and between the latter and Italian women. It has been developed within a National Working Group under UNAR coordination, involving the major organizations representing the federations and the national networks of associations operating in the domain of discrimination on the grounds of gender and of women of foreign origins. The joining of gender discrimination with that based on ethnic and racial origin will be regarded as crucial in every communicative action foreseen by the project, according to an approach which will treat multiple discrimination exhaustively, a phenomenon that still meets difficulties in being understood and fully recognized.

149. The project aims to highlight the risks of multiple discrimination, which many women experience due to their gender and their belonging to a different nationality from the receiving Country, through a massive public information campaign which will disclose the improvement or the worsening of the socio-economic conditions preceding the migration and their actual integration in our Country. For this purpose, the following specific objectives have been pursued:

- (a) To promote a greater knowledge of the critical issues and the risks of marginalization for the women of foreign origin;
- (b) To foster the knowledge and the dialogue between women of foreign origin and Italian women;
- (c) To create communication and information programmes which allow cultural growth and the accession to a system of rights and duties between the women of foreign origin;
- (d) To foster communication and direct contact between women of foreign origin and UNAR, in order to let discrimination based on ethnic origin and race emerge;
- (e) To encourage the reporting of discriminations suffered by the women of foreign origin;

(f) To launch the establishment of networks and associations among women of foreign origin in order to prevent the risks of discrimination and to promote a culture of intercultural coexistence.

## **Article 6**

### **Practice and decisions of courts and other judicial and administrative organs**

150. With respect to the judicial aspect of discriminatory attitudes and practice, even before the Directive 2000/43 came into force, a streamlined procedure for foreign citizens victim of discrimination was envisaged in the Italian legislative framework according to Article 44 of Legislative Decree No. 286/1998 (Consolidated Act on Immigration). This procedure, because of its specificity, was also immediately cited as a primary protection remedy by Article 4 of Legislative Decree No. 215/2003.

151. This is a specific tool for civil judicial protection, designed to ensure immediate and effective protection of fundamental rights, which are affected by the discriminatory behaviour and therefore modelled on the scheme of the pre-trial proceedings and providing, following full cognizance of the actual violation of law, for the removal of discrimination and for the defendant to pay related moral damages.

152. In particular, the civil action against racial discrimination under Article 44, paragraph 2 of Legislative Decree No. 286/1998 (Consolidated Act on Immigration) is carried out through a claim filed by the party, even personally, at the Court Registry of the place of permanent address of the claimant; it consists of a first preliminary stage, whose precautionary nature is clearly shown by the procedural rules set forth in paragraphs 3,4,5, and 6 of the said article and which is based on the so called uniform precautionary procedure, and a subsequent stage of ordinary cognition that starts after the adoption of the precautionary measure of acceptance or rejection and ends with the issuance of a court judgement. The jurisdiction of ordinary courts on claims filed as per the above mentioned Article 44 exists even when the discriminatory behaviour concerns the issue of an administrative act, in which case the ordinary court, if it acknowledges the discrimination, has the power to order the removal of the administrative discriminatory act.

153. In this legal framework, also Article 4, paragraph 3 of Legislative Decree No. 215 of July, 9th 2003, transposing the Directive, provided for an evidence system which did not imply a real reversal of the burden of proof, but only for a shared burden of proof more favourable to the plaintiff, who, in any case, would still be responsible for providing proof of the claim (Article 2697 of the Civil Code) although this could be done by presenting facts or situations suitable to establish serious, exact and consistent elements that the judge would then evaluate on the basis of his "prudent appreciation".

154. To overcome the objections put forward by EU and CoE systems as far as the non compliance judgement issued in the infringement procedure No. 2005/2538, the Italian legislator intervened through the Law Decree No. 59 of April, 8th 2008, converted with amendments, into Law No. 101 of June, 6th 2008, in replacing Article 4, paragraph 3 of Legislative Decree No. 215 of July, 9th 2003 with the following: "If the plaintiff presents elements of fact, also on the basis of statistical data, that can precisely and consistently establish the presumption of the existence of discriminatory acts, agreements or behaviours, the burden to prove the non-existence of discrimination is on the defendant."

155. Despite the fact that the judicial instrument offered to the victims of discrimination is quite easy to use, nonetheless it is not extensively used in practice. The main reasons for this dysfunction have generally been identified in the poor level of knowledge that the

victim of discrimination has about the measures available and in the cost of the proceedings, hardly compatible with the state of poverty which widely affect the victims.

156. To overcome these shortcomings UNAR has been active on all judicial matters for which it is allowed to intervene. First, as the Office is not entitled to autonomously bring a suit against discrimination, it deemed it necessary to strengthen its relationships with the associations and entities entitled to act in the name and on behalf of or in support of the victims of discrimination, by updating the list managed according to Article 5 of Legislative Decree No. 215 of July, 9th 2003. The results of these measures, by the implementation of the Inter-Ministerial Decree of April, 9th 2010, signed by the Minister of Labour and Social Affairs and the Minister of Equal Opportunities, consists in the capacity to bring a suit, that was granted to 458 institutions against the 321 provided for in the previous Inter-Ministerial Decree No. 321.

157. UNAR has also initiated a fruitful collaboration with lawyers and bar associations to facilitate victims' access to civil action: the Office has in fact signed several MoUs with well-established professional associations, on the basis of which the victims of racial discrimination or the associations that intend to bring a suit to defend those interests, are addressed to such professional organizations, which have been carefully selected and are particularly sensitive to the issue of discrimination. These memoranda expressly state that the signatory associations are committed to providing their services on a not-for-profit basis, precisely to encourage the victims also from an economic standpoint.

158. In addition, UNAR, while encouraging and promoting the establishment of an independent special fund, supported also by the voluntary contributions of banking foundations, ethical banks and companies, in favour of victims of discrimination, adopted a proactive attitude, urging the intervention of the legislature in 2010 and proposing, in its Report to Parliament for 2009, effective legislative changes to remedy the malfunctions in the field of legal aid and by providing, in line with the reforms recently introduced in the Italian civil and procedural law now definitely envisaging the prior and compulsory conciliation stage (Law No. 69/2009), the creation of special agencies having the same powers as any other body of this kind, that is for investigation and decision-making.

159. Furthermore an operational response to the above mentioned problems has been achieved through the establishment of a special technical committee, comprising experts, judges and advisors of the Office complying with the requirements set forth in Article 7, paragraph 7 of Legislative Decree No. 215 of July, 9th 2003, with the task to:

(a) Formulate opinions with regard to cases of racial discrimination submitted to the Office, as well as promote informal mediation meetings and proposals of solution to remove discriminatory situations;

(b) Evaluate the possible participation of the Office in administrative or judicial proceedings undertaken in compliance with the procedures set forth in Article 425 of the Code of Civil Procedure;

(c) Drafting recommendations and opinions on issues related to discrimination based on race or ethnic origin, including those in relation to cases of racial discrimination submitted to the Office by the associations and entities referred to in Article 5, paragraph 1, and 6 of Legislative Decree No. 215 of July, 9th 2003;

(d) Carrying out, on the basis of a reasoned and explicit mandate by the Coordinator of the Office and in compliance with the prerogatives and functions of the judicial authority, appropriate investigations to verify the existence of the phenomenon of racial discrimination.

160. An interesting inspection activity is also carried out by the technical committee through its members to verify the occurrence of events of racial discrimination. For

example, such was the case with regard to the decision taken by the Technical Committee at its meeting on last 5 November, about an alleged case of discrimination against the Roma and Sinti community: in the preliminary stage, two representatives of the Committee (a magistrate and a legal expert) have been assigned the task of conducting an investigation in the barracks of Giugliano (Napoli).

161. Along these lines, in July 2010 an Observatory on Security against Discriminatory Acts (OSCAD) was created within the Ministry of the Interior – General Directorate of Criminal Police, whose main task is that of supporting victims of racial discrimination and related intolerance to introduce a complaint to the competent authorities. This procedure will be implemented by receiving a formal communication by the victim to the Observatory also by using the Internet ([oscad@dcpc.interno.it](mailto:oscad@dcpc.interno.it)), to be promptly transmitted to the Police Forces. Furthermore, the Observatory will enhance the realisation of training programmes addressed to the Police personnel and will get in contact with all relevant institutional and non institutional actors that work in this field to prevent and repress actions and attitudes on ground of racial discrimination, such as UNAR.

162. Finally, regarding discrimination in public administration, the Italian Parliament approved the Law No. 183 dated November, 4th 2010, also known as “Collegato Lavoro”, that was published in the Official Gazette No. 262 of November, 9th 2010. In particular, Article 21 requires that the public administration adopts suitable measures to guarantee the observance of the principle of equal opportunities and the absence of all forms of discrimination with regard to all men and women workers. In other words, employers will be prevented from discriminating workers, directly or indirectly, on grounds of gender (male-female), age, sexual orientation, racial or ethnic origins, disability, religion or language with regard to the access to employment, the treatment at work and working conditions, vocational training, career advancements and safety on the workplace.

163. According to this regulation the public administration shall guarantee that the principles of organizational health be actively promoted in the workplaces, and that all forms of violence, whether moral or psychical, be strictly forbidden. Within four months from the entering into force of the law (scheduled on November, 24th 2010), every public administration will have to set up what in the same law is defined as “Comitato Unico di Garanzia per le pari opportunità, la valorizzazione del benessere di chi lavora e contro le discriminazioni” (Central Guarantee Committee for equal opportunities, enhancement of workers’ health and non-discrimination). Such Committee will have consultative, proposing and inspection functions, and will replace the Equal Opportunities Committee and the Joint Committee on mobbing (participatory bodies established by the National Collective Bargaining 2002–2005). Within three months from the entering into force of the law, the Public Administration will have to issue a directive with guidelines on the working procedures of the new Central Committees, which will be financed by the Government.

## **Article 7**

### **Discriminatory subjects**

#### **1. Education and teaching**

164. Through the MoU signed between the Minister of Equal Opportunities and the Minister of Education, University and Research the Week against Violence was introduced on 3rd July last year, and it is held every year from October 12 to 18 in every Italian school. The objective is offering to students, parents and teachers a chance to reflect on the themes of respect, diversity and legality, emphasizing the good practices already implemented in many schools. During the Week a series of awareness-raising, information and training

initiatives aimed at tackling incidents of violence and discrimination on the grounds of race, religion and gender identity will be set forth.

165. Other measures to support the informal education aiming to prevent and combat racial discrimination have been planned and implemented, mainly by UNAR, at all levels, national and local, with the proactive involvement and consultation with NGOs and the social partners (unions and employers), beside the above mentioned Action Week against racism, which in 2010 for the first time recorded more than 30 initiatives organized throughout Italy, together with local authorities and NGOs (funding amounting to € 300,000), the DOSTA Campaign and initiatives covering diversity and gender discrimination issues (a new institutional campaign of UNAR has been scheduled for March 2011 through a specific EIF project for an amount which can be estimated at about €1,000,000).

166. In particular, the National Week against violence and discrimination was promoted both in 2009 and 2010 in October in all Italian schools with a commitment of resources amounting to €250,000 for each event. It should be noted that in 2010 a project that created a network of various major national NGOs, (ENAR, ARCIGAY, AGEDO, TELEFONO ROSA and TELEFONO AZZURRO — women and children help lines — ACLI, FISH, etc.) was funded through a public tender.

167. Also the Establishment of the Media-Library and the starting up of an editorial series comprising essays and thematic researches on racism, as well as the Reports to the Parliament prepared by UNAR. The aim of the UNAR Series, called “Rights, equality, integration” is to provide the reader, starting from different points of view and through the comparison with other international realities, with a clearer understanding of the factors and the dynamics which fuel discrimination, as well as to provide suitable means for the study and analysis which allow the reader to prevent and debase those negative linguistic codes, stereotypical images, discriminatory representations and behaviours aimed to denigrate and deem every vulnerable subject inferior because of its condition of “being different”. The publications focus on studies, researches, PhD theses and conference proceedings relevant to the phenomena of racial discrimination, and also the reports referred to in section f) of paragraph 2 of Article 7 of Legislative Decree No. 215 of July, 9th 2003. Presently the publications available in the Office, which come from both from acquisitions and the performance of the institutional activities, have been classified, placed in a single venue and filed in a computer database, so as to be available both to all the Office establishment and also — upon request — to personnel of other public administrations. The publishing activity began in June 2010 and by the end of the year the presentation of the series should take place at the exhibition “More books, more freedom”, hold in Rome on December, 6th 2010.

168. The organization of cycles of itinerant meetings, recurring annually and organized on a regional or interregional basis involving all the associations registered in the Register of Associations was also promoted by UNAR pursuant to Legislative Decree No. 215/2003. Since May 2010, eight regional meetings were held, involving associations and the entities listed in the Registry which, among other things, offered the opportunity to obtain an updated picture of the different local situations and to verify the good practices as well as the difficulties of intervention. The eight regional meetings (Lazio, Campania, Sicily, Calabria, Lombardy, Piedmont, Tuscany and Emilia Romagna) recorded the active participation of 93 associations, and 25 additional associations which, though not yet listed in the Register, are nonetheless active in their local areas.

## 2. Culture

169. The principles of equal treatment and non-discrimination are pivotal in the European social model and represent one of the cornerstones of the basic rights and fundamental

values of the person at the basis of the policies implemented by the EU. Within the Community programme 2007–2013 of the Structural Funds on the subject of equal opportunities, a new framework of action has been created including the principle of non-discrimination, to promote an inclusive society through the prevention and the elimination of the causes of discrimination, in order to implement equal treatment both in the access to the services and in the labour market of the subjects more in danger of social exclusion and marginality.

170. The related aspects concerning the management and implementation of specific actions within the National Operational Program “Governance and System Actions” (NOP GSA) for the Convergence Objective 1 Regions (Campania, Calabria, Puglia, Sicily), relating to the Priority Axis D “Equal opportunities and non-discrimination” are under the competence of the Department for Equal Opportunities, UNAR and ISFOL (please see Annex IV).

171. For the implementation of these actions is to be allotted a fund of €16,271,700 for the whole duration of the Programme 2007/2013. Within the objective 4.2 the following actions are included:

- (a) Identification and diffusion of targeted intervention strategies aimed at overcoming the stereotypes relating to the differences resulting from race, ethnic origin, religion, personal belief, disability, age or sexual orientation;
- (b) Promotion of inter-institutional networks supporting the targets living in disadvantaged conditions;
- (c) Testing of the transferability of the operational guidelines prearranged for the gender assessment to the assessment of the different forms of discrimination;
- (d) Building of databases on discriminations;
- (e) Awareness raising actions and diffusion of benefits deriving from strengthening activities of discriminated groups through associations, non governmental organizations, institutional, economic and social partnerships;
- (f) Promotion of the governance of policies and instruments of social inclusion and fight against discrimination of Roma, Sinti and Camminanti communities;
- (g) Identification, analysis and transfer of good practices relating to non-discrimination with a benchmarking approach.

172. Moreover, within the Department for Equal Opportunities, UNAR ensures technical-scientific counselling for the implementation of the NOP “Governance and technical assistance” ERDF (European Regional Development Fund) 2007–2013 for the Convergence Objective Regions, which provides for measures to be implemented within the Public Administrations and aimed at strengthening the equal opportunities and non-discrimination policies and at the internalization of the expertises and the knowledge concerning Public Administration personnel.

### 3. Information

*The Committee recommends that the State party encourage the media to play an active role in combating prejudices and negative stereotypes, which lead to racial discrimination, and that it adopt all necessary measures to combat racism in the media. It further requests the State party to adopt promptly the code of conduct of journalists drafted in collaboration with the National Office for the Elimination of Racial Discrimination, the Office of the United Nations High Commissioner for Refugees and the Italian National Press Federation.*

173. The world of media can be considered not only as a means to raise awareness and promote intercultural dialogue, but also as a vehicle for discriminating messages or as a source from which to gather news related to discriminating behaviours.

174. As to the first profile, it is relevant to recall that in December 2006, the United Nations High Commissioner for Refugees (UNHCR) sent a letter to all chief editors of newspapers inviting them to reflect on how the media document and describe the migration phenomenon in Italy. After this letter, the Consiglio Nazionale dell'Ordine dei Giornalisti (CNOG, National Council of the Press Association) and the Federazione Nazionale della Stampa Italiana (FNSI, National Italian Press Federation) set up a panel of experts to create an ethical code on immigration, with the expert help of UNAR, journalists and other academics.

175. This document, called *Carta di Roma* (Paper of Rome) and approved in June 2008, has the aim of providing journalists with guidelines facilitating exhaustive and unbiased information on asylum seekers, refugees, victims of human trafficking and migrants, and inviting them to “use legally appropriate terms”, “avoid spreading inaccurate, perfunctory or biased information” as well as “superficial and unfair behaviours, which could cause unjustified alarm”. The document also envisages that topics of immigration and asylum become object of professional training and refresher courses for journalists, as well as the creation of an independent watchdog which, in agreement with universities, research centres and other bodies, will periodically monitor evolution in information on asylum-seekers, refugees, victims of human trafficking and migrants. A journalism prize is also envisaged.

176. Many interventions against newspapers and currently a number of reports sent to the Association of Journalists have been drawn-up by UNAR asking for the cancellation of any discriminating message.

177. With the implementation of the new organizational model of the UNAR Contact Center and its development as of December, 7th 2009, if any violation against the ethical rules contained in the *Carta di Roma* and/or any failure to comply with its recommendations are ascertained, the Office systematically reports the relevant articles or features appeared in newspapers, on websites, radio or television programmes, to the local branch of the Association of Journalists. The articles or features in question will then be included in the newly created section on the image of foreigners presented by the media, contained in the Report to Parliament that the Office adopts each year as under Article 7, paragraph 2, letter f) of the Legislative Decree No. 215 of July, 9th 2003.

178. Even in this case the new procedures adopted by the Office ensured the effectiveness of the intervention, as it is apparent in the disciplinary proceedings initiated by the Association of Journalists of Lombardy in March 2010 against a chief editor of “Il Giornale” as a result of numerous articles emphatically using the word “Negro” (Nigger) (see article appeared on March, 1st 2010 on Il Giornale “The strike of the niggers” referring to the events occurred in Rosarno).

179. Since 2007, UNAR has added on the website of the Department for Equal Opportunities a banner with an associated page allowing to report — simply by filling in a form — cases of discrimination found by Internet users.

180. The need for a systematic and standardised monitoring strategy on new media is connected with the fact that discrimination forms of the most serious kind are also increasing on the web. This was discussed during a number of meetings between UNAR and the Postal Police in 2005–2006. The result of these meetings was a wider cooperation involving the exchange of information and the reporting to the police of any form of discrimination found on the web discovered by the Office during its daily institutional activity.

181. Unfortunately, acting effectively and promptly on the web is still very difficult: the vast amount of information, implicit/explicit messages and xenophobic discussion groups; the indefiniteness and vagueness of the recipients, potential victims and emulators; the difficulty in identifying the authors of discriminating messages if registered in foreign countries lacking coordination and cooperation agreements with Italian police; the hard to monitor speed of creation and propagation of discussion groups. For this reason, UNAR, in cooperation with all the relevant authorities, must offer more effective actions of control and fight against discrimination on the web.

182. To this purpose a centralised service to monitor the discrimination phenomena in the media and on the web has been created within UNAR Contact Center, with larger financial resources (from € 350,000 to € 650,000 per year). This service, launched in January 2010, envisages daily press coverage on a specific theme, covering both local and press bodies and the identification of systematic, standardised new media monitoring tools. This activity envisages the structured entering of relevant reports of discriminatory phenomena within the Contact Center and the processing thereof in accordance with procedures similar to those envisaged for online reports.

In this specific sector it was possible to monitor adequately and effectively racist and xenophobic events occurring online and on websites, so that the number of reports concerning these phenomena increased from 2,3% in 2008 to 11,2% in 2009 and 19,7% in 2010. These results, determining the removal of websites and blogs marked by xenophobia and incitement to racial hatred, have been achieved thanks to an active collaboration with the Postal Police and in several cases resulted in a report of criminal offence being sent to the competent authorities.

177. Starting with the existing cooperation with the Postal Police, the creation of keyword-based web crawler software for the systematic monitoring of the web similar to those already in use for other web crimes is being considered together with the strengthening of the cooperation between UNAR and other police services involved in the fight against computer crimes. This software would have the big potentiality of identifying content relevant to UNAR through metatags, even within blogs and discussion groups.

183. With reference to the other prevention projects set up by the UNAR in this particular field, the N.E.AR. (Network Against Racial discrimination) project, put forward on the occasion of the VI Action Week against racism, must be mentioned. The project is meant to involve people under 25 in the practice of an active, conscious and responsible citizenship. At the end of a specially designed course the volunteers themselves will turn into the foremost promoters, towards the young of the same age, of all the rules which are the basis of respect and human society. They will do so also through the use of internet and its language, social networks and online sharing tools, diffusing information, knowledge and experiences aimed to shed prejudices.

184. With regard to the contrast strategies against discrimination and racial hatred perpetrated through the web, the UNAR, aware of the alarming increase of this phenomenon, also noticeable by the remarkable rise in the reports for this kind of offences, has considered its duty, in some special cases, to report to the Judiciary the diffusion of xenophobic and racial ideas and messages. This is the case of the blog with messages extolling racial hatred titled "Join and save the white race", referable to the criminal organization Ku Klux Klan; as soon as the Office found out about the blog from the press, it reported the information to the Prosecuting Attorney's Office, so that the Postal Police of Lazio could locate the Italian point of reference of the organization, a supporter of the skinhead movement already filed by the Police.

185. Lastly, among the main activities in the fight against racial discrimination on the internet recent operations were carried out by the UNAR to support the unofficial groups of

citizens who write against racism on the social networks. The UNAR took immediate action after knowing about the deactivation of the administrators accounts of the group “Stop racism on Facebook” by the social network Facebook itself. Considered the severe detriment to the antiracial activities taken by the 36 thousand members deriving from such action, the UNAR asked the Postal Police to intervene towards the managers of the website in order to allow the group to keep on with their monitoring activities which had produced excellent results (about 90 groups inciting to racial hatred had been reported and deactivated).

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