

IHF FOCUS: Right to vote; freedom of the media; judicial system and fair trial; prison conditions; ill-treatment in the army; protection of ethnic minorities; xenophobia, intolerance and racial discrimination; protection of asylum seekers and immigrants; rights of the handicapped.

The main human rights concerns in Italy were related to the treatment of asylum seekers and immigrants, some of whom – including Roma – fell victim to xenophobic attitudes and attacks. Prolonged judicial proceedings violated the right to a trial within a reasonable time and led to serious overcrowding and poor conditions in several prisons. The UN Committee on the Elimination of Racial Discrimination (CERD) expressed its concern about the treatment of Roma and listed a number of measures that could be taken to improve the situation of minorities in Italy.

The Italian citizens' right to vote was extended and compulsory military service was abolished.

Right to Vote

On September 29, parliament approved a law that gives around three million Italians residing abroad the right to vote in parliamentary elections.

Freedom of the Media

Membership in a professional association remained a prerequisite for a number of professions in Italy, including some in the field of technology and journalism.

Despite article 21 of the Italian constitution, which guaranteed wide freedom of the press, all newspapers and periodicals had to be registered with the courts– as in

the Fascist era. The registration provided that the person formally responsible for the media outlet was a member of an official association of journalists. Some of the existing compulsory professional orders have been on the verge of abolition, but rejected at the last moment. On 10 July, Franco Bassanini, Under-Secretary of State to the Presidency of the Council of Ministers, stated that the professional orders would simply be “reformed” in order to reduce the number of obstacles faced by many professions.

Judicial System and Fair Trial

On 10 November, the House of Deputies passed a constitutional bill that amended article 111 of the constitution which deals with the issue of fair trial. According to the new formulation, the defense and the prosecution should have equal rights, and statements by witnesses to the investigators are to be confirmed at trial. Before, courts had been able to take such unconfirmed evidence into consideration. This was of particular concern in Mafia cases, where witnesses were often pressured – in exchange for milder sentences – to give incriminating statements against other individuals. The Italian Helsinki Committee welcomed the legal amendment, for which Italian lawyers had been fighting for a long time, even staging a strike in the summer.

On 2 June, a reform in the administration of justice in the local magistrate's courts (*preture*) came into force. However, the new powers of the single judges, who often take over cases from tribunals, had not been properly enforced as of this writing.

Slow civil and criminal proceedings remained a persistent problem. The European Court of Human Rights issued several

¹ Unless otherwise noted, based on the *Annual Report 1999 of the Italian Helsinki Committee*. Contributors: Kristine Crane, Stefano Leszczynski, and Antonio Stango.

Italy

sentences against Italy in this regard. Several surveys revealed a serious degree of uncertainty felt by the population because one could never know how long a trial would last. Prolonged proceedings in some cases also led to the release of individuals charged with serious crimes because their terms of preventive detention had expired. In some cases, this practice led people to take justice into their own hands.

■ On 27 July, in Torre Annunziata (near Naples), unidentified individuals killed two men who had been charged with the sexual abuse of children and released after preventive detention, without trial.

Other incidents also raised doubts about the adequate functioning of the Italian judicial system.

■ On 10 February, the Supreme Court of Cassation annulled a sentence for rape, arguing that the female victim had cooperated with the man, who had forced her to have sexual intercourse with him, because she had worn jeans. "In order to take off jeans," the court argued, "active collaboration by the victim is necessary." The extraordinary reasoning of the court aroused strong protests. Many female members of parliament demonstrated both inside and outside the parliament house, all wearing jeans.

■ On 1 March, the Office of the Prosecutor in Brescia again refused to re-open the trials of Adriano Sofri, Ovidio Bompressi and Giorgio Pietrostefani. The three men had been sentenced to 22 years imprisonment for the 1972 murder of a police commissioner. The sentence was based purely on questionable evidence given many years after the murder. On 27 May, however, the Supreme Court of Cassation stated for the second time that a new trial could begin. On 24 August, the Court of Appeal in Venice ordered the release of the defendants pending a new trial scheduled for early 2000.

■ On 26 April, Nuccio Cusumano, financial under-secretary of state, was charged of cooperating with Mafia in Catania. Being not member of the parliament, like Senator Pino Firrarello who faced the same charges and enjoyed parliamentary immunity, Cusumano was arrested. Only on 25 June did the Supreme Court of Cassation annul his arrest.

■ On 7 April, after seven years of accusations, investigations, and trial, the public prosecutor of Palermo demanded that the court sentence Senator Giulio Andreotti, a former prime minister, to 15 years imprisonment for association with the Mafia. On 23 October, the tribunal acquitted Andreotti. Thirty-eight criminals – so-called "repented" members of the Mafia – had made accusations against him without any concrete proof. The use of unsubstantial evidence has often been severely criticized by human rights activists, members of parliament and lawyers.

■ On 1 June, Giovanni Scattoni and Salvatore Ferraro, two assistant professors from Rome University "La Sapienza", were sentenced to seven years imprisonment for manslaughter. They had allegedly killed a person in 1997 by shooting a bullet at a group of students from a window of the university – intended as a joke. However, the defense put into question the fairness of the judicial proceedings by displaying a videotape showing the public attorneys exerting serious psychological pressure on a witness to support their own accusations against the defendants. Many observers argued that the judges themselves had probably not been convinced of the guilt of the defendants because the public prosecutor had required 18 years imprisonment.

■ On 13 August, Milan Public Prosecutor Gherardo Colombo attempted to oppose the constitutional reform that would introduce equal rights for the defense at trial. He declared that "wide investigations against corruption [like the so-called

Clean Hands Operation] are not possible because the Italian judicial system practically no longer operates." According to many lawyers, politicians and human rights defenders, the prosecutors of the operation "Clean Hands" had made a substantial use of preventive detention in order to encourage people charged with a crime to co-operation.

■ On 24 September, the Court of Assizes in Perugia acquitted Senator Andreotti from having instigated the murder of a journalist in 1979. The trial had lasted for years in the complete absence of evidence.

Prison Conditions

Overcrowding and harsh living conditions remained a serious concern in several Italian prisons. The Italian Helsinki Committee increasingly supported the application of alternative sentences, as well as legislation on the rehabilitation of prisoners – allowing them to do external work, giving them more leave and suspending penalties for good conduct. By law, no person found guilty for the first time, and sentenced to imprisonment of less than three years, would serve his/her term in prison.

Since 23 September, new prison regulations have given detainees the opportunity to spend up to 24 hours together with their relatives in special rooms inside the prison facilities.

III-Treatment in the Army

According to the public prosecutor at the Military Court of Appeal, more than 850 cases of abuse by senior soldiers of recruits were reported in 1999. The real number is assumed to be much higher. The President of the Defense Committee of the Italian House of Deputies, MP Valdo Spini, engaged himself in the preparation of a bill to provide recruits with the right to file a complaint of abuse: until now, only the

commander of a unit could file a complaint and define it as a specific offense.

■ On 16 August, Emanuele Scieri, a recruit in the paratroops brigade "Folgore," was found dead in Pisa, in his barracks under a training tower. The circumstances of his death were unclear. Four days later, the commander of the barracks was removed from office. The commander of the brigade, General Enrico Celentano, was accused of having underestimated the dangers of the 'traditional' abuse in his corps.

On 3 September, the government issued a bill for the abolition of compulsory military service. The bill will cover male citizens born after 1 January 1986. On 29 September, legislation was passed to introduce voluntary military service for women, providing the same career opportunities for women and men in all branches of the armed forces.

Rights of the Handicapped

On 6 February, the Tribunal for Minors in Trento ruled that a blind teacher was not allowed to adopt a child. Many activists and NGOs considered the sentence to be discriminatory against handicapped persons. However, at the end of 1999, a higher court overturned the ruling.

Equality in Public Employment

Effective of 7 May, the Council of Ministers abolished all age and physical requirements for the admittance to posts in the public sector. In theory, there would no longer be any discrimination on the basis of height, weight, age, birth or residence.

Protection of Ethnic Minorities

See below: Intolerance, Xenophobia and Racial Discrimination

Italy

Intolerance, Xenophobia and Racial Discrimination

Politicians made anti-immigration and racially motivated statements, and non-Italians were the target of violent incidents.

■ During a demonstration against criminality in Milan on 17 January, MP Umberto Bossi, leader of the Northern League, backing a small citizens' groups that generically blame immigrants for a supposed rise in crime, launched the slogan: "We don't want a multiracial society."

On 19 June, a camp of Roma in Naples was set on fire by the inhabitants of a popular district in the town. It was an act of revenge after two girls were run over and seriously injured by a car driven by a Rom living in the camp.

Roma²

In March 1999, the European Roma Rights Center (ERRC) submitted documents to the UN Committee on the Elimination of Racial Discrimination (CERD) in Geneva containing information that Roma in Italy were victims of police violence and pervasive racial discrimination in virtually all spheres of public life. In its submission, the ERRC demonstrated that the Italian government had failed to comply with its obligations under the UN Convention to prohibit, punish and remedy racial discrimination against Roma. In particular, the submission highlighted the following areas of concern: with regard to article 2 of the Convention (requiring states to bring racial discrimination to an end by all appropriate means, including legislation), legal prohibitions against racial dis-

crimination in Italy remained uncertain in scope and provided ineffective remedies. Officials at all levels of government seemed to lack an awareness of – let alone determination to act upon – their obligation to ensure the effective enforcement of anti-discrimination laws and regulations.

With regard to article 3 (banning racial segregation), by developing a housing policy premised on the racist and incorrect characterization of Roma as "nomads," the Italian government fostered the segregation of Roma into inhuman and degrading "camps," to which no other segment of the population were confined.

With regard to article 4 (obligating states to forbid permit public authorities or institutions from promoting or inciting racial discrimination), government authorities in Italy have failed to acknowledge and condemn widespread anti-Roma policies, practices and attitudes.

With regard to article 5 (guaranteeing equality before the law), Roma were commonly subjected to unremedied, racially-motivated police violence, and were discriminated against with respect to a broad range of rights to which non-Roma in Italy were entitled, most egregiously and systematically, the rights to equal treatment before law enforcement authorities and the courts, freedom of residence within the country, housing, education, and access to public accommodation and services.

In March 1999, the UN Committee on the Elimination of Racial Discrimination (CERD) issued its concluding observations concerning Italy. The CERD condemned the racial segregation of Roma in housing.

² Based on information from the European Roma Rights Center: "ERRC submission to CERD documenting discrimination of and violence against Roma in Italy,"; "United Nations Express Concern About the Treatment of Roma In Italy," 22 March 1999. See also CERD, "Concluding Observations/Comments Concluding Observations of the Committee on the Elimination of Racial Discrimination" (CERD/C/304/Add.68).

In particular, the CERD expressed concern “at the situation of many Roma who, ineligible for public housing, live in camps outside major Italian cities,” and stated that “in addition to a frequent lack of basic facilities, the housing of Roma in such camps leads not only to the physical segregation of the Roma community from Italian society, but also to political, economic and cultural isolation.”

The CERD further lamented “the continuation of incidents of racial intolerance, including attacks against foreigners [...] and against Roma, [...] which are sometimes not recognized by the authorities as having a racial motivation or are not prosecuted;” “reports of acts of violence and ill-treatment by police and prison guards against foreigners and members of minorities in detention;” and “the apparent lack of appropriate training for law enforcement officials and other public officials regarding the provisions of the Convention.” The Committee also expressed concern that in the draft law on minorities presently pending in the Italian Senate, “Roma [are] not considered as a minority and thus would not benefit from the protection offered by [the] law.”

In view of these serious deficiencies, the CERD recommended that the Italian government undertake a number of measures, including “strengthen its efforts to prevent and prosecute incidents of racial intolerance and discrimination against some foreigners and Roma people, as well as the ill-treatment of foreigners and Roma in detention;” “give more attention to the situation of Roma in Italy, with a view to avoiding any discrimination against them;” “include in its next report statistical data on the ethnic composition of the country;” “include information on the implementation of article 6 of the Convention [concerning legal remedies for racial discrimination], including the number of cases dealt with by the relevant authorities and courts of justice;” “intensify [...] education

and training of law enforcement officials” on racial tolerance and human rights; and establish a national human rights commission to address concerns related to minority issues and discrimination.

Protection of Asylum Seekers and Immigrants

During the 1990’s, 50,000 foreigners obtained Italian citizenship, three times fewer than the European average. However, with Italy’s new immigration law of 1998, many people continued to obtain the legal residence permit, which was granted to those who had resided in Italy for five years or more, provided that the person could proof his/her of identity and residence; had no criminal record; and earned an income that was no less than the yearly contribution of stately social subsidies. According to the December report of the Ministry of Interior, 1,251,994 foreigners possessing a residence permit resided in Italy; 3,873 people had been granted political asylum; 1,471 awaited refugee status; and 3,427 awaited repatriation. Additionally, 10,414 had obtained a residence permit for humanitarian reasons. Almost 9,000 of them could stay and work in Italy. Some 1,600 had a temporary permit because of extraordinary circumstances, including many Kosovo refugees. On 24 March, following NATO air strikes on Yugoslavia, approximately 30,000 Kosovo refugees crossed the border to Italy, 11,600 of whom were repatriated thereafter.

Illegal crossings by boat from Albania to Italy continued to be a problem, bringing more than 56,000 individuals, including Kosovo Albanians and Kurds from Iraq and Turkey. Due to Italy’s agreements with Tunisia and Morocco, 13,105 illegal immigrants were repatriated in 1999.

■ In December, three people died when an illegally operated ship from Albania was overcome by waves.

Italy

In early 2000, Italy and Albania signed an agreement according to which Italy would provide Albania with two police helicopters to patrol its coast. At the Tampere Conference of the European Union in October, Italian Foreign Minister Lamberto Dini proposed a forthcoming conference in Italy on the security of the Adriatic and Ionian Seas. Italian and other European leaders also discussed common political objectives for immigration and asylum, including intensifying the fight against clandestine immigration and helping develop the countries of origin, as well as guaranteeing equal rights to legal immigrants.

Two negative stereotypes regarding refugees and immigrants persisted in 1999. Primarily in the South, immigrants were accused of taking jobs from Italians, although, despite high local unemployment rates, foreigners were doing work that Italians would not do and thus contributed to economic growth. In Northern Italy, immigrants were often associated with criminality. However, the Catholic organization Caritas cited similar criminality rates among foreigners and Italians.

Despite the above-mentioned stereotypes, immigration was increasingly viewed as a solution to problems involving the decreasing Italian population. The UN reported that Italy would need 300,000 new immigrants each year to maintain its 1995 population level. Because immigrants typically had more children than Italians, they would comprise the future active labor work force that would effectively support Italy's pension and welfare systems. The 1999 Caritas dossier on immigration reported that as of 1998, minors constituted 14.5 percent of aliens with residence permits, and made up one third of the pupils in Italy's schools, half of them in the North. Over half of foreigners came from the former Yugoslavia, Morocco, Albania, and China.

A provision of the 1998 immigration law, which deals with gross domestic product, recognizes the need for seasonal work in the fields of agriculture, editorial work, tourism, and service sectors. It allows the legal residence and work of 63,000 foreigners in 2000. Of this number, 15,000 foreigners can enter through the law's sponsorship program, which is supported by private associations and companies who assist immigrants. 12,000 foreigners will come from those countries with which Italy has signed agreements of co-operation to control illegal immigration: 6,000 from Albania, and 3,000 from both Morocco and Tunisia.

On 16 January, the Abdullah Öcalan, leader of the Turkish Workers Party (PKK), flew away from Italy. He was neither formally expelled, nor granted political asylum. Paradoxically, on 4 October, when Öcalan was already in a Turkish prison facing a death sentence, a tribunal in Rome stated that he had the right to be recognized as a political refugee in Italy.

Refugees from Kosovo

On 4 August, the European Roma Rights Center (ERRC, IHF cooperating organization), sent a letter to the Prime Minister of Italy, Massimo D'Alema, calling his attention to the issue of Romani refugees from Kosovo in Italy. The ERRC expressed its dismay to learn from the international press that Italian authorities intended to stop regarding persons fleeing Yugoslavia as refugees, but would instead treat them as illegal immigrants. On 20 July, the Associated Press reported that the Italian Interior Ministry intended to regard the issue as one of human trafficking rather than the flight of persons persecuted on ethnic grounds. Ministry Spokesperson Daniela Pugliese reportedly stated that the Ministry did not accept that the lives of Roma were at risk in Kosovo. At the same time, the ECCR and other human rights NGOs had

reported the massive abuse of Roma and other non-Albanian minorities by Kosovo Albanians in Kosovo. The ERRC noted that the return of thousands of Roma who had fled Kosovo for Italy would be both morally repugnant, and would constitute inhuman and degrading treatment in violation of article 3 of the ECHR, as well as article 7 of the ICCPR.³

Pre-Deportation Centers

According to the new immigration law, police could detain illegal immigrants for 30 days in order to prepare their cases for deportation. In the first nine months of 1999, 3,489 detainees were deported. Prior to this law, they had simply been given a piece of paper instructing them to leave Italy within two weeks. The Under Secretary of the Ministry of Interior, Alberto Maritati, claimed that in the eleven centers for foreigners awaiting deportation – mostly in southern Italy – foreigners were handled more humanely than in the harsh deportation procedures existing in other countries. However, according to Italy's penal code, illegal entry into the country was not a criminal offence. Some argued, therefore, that it was illegal to detain immigrants.

In contrast to the words of Under Secretary Maritati, a December event shed light on the virtually prison-like conditions of the centers. Many riots took place, fires were started and individuals committed suicide, prompting government inspection and widespread protest.

■ On 30 December, eight of the 85 detainees at Serriano Vulpitta, a center in Trapani (Sicily), set mattresses and bed linen on fire to distract police in order to escape. Three persons died and four suffered severe burns.

■ Another incident occurred on Christmas Eve at the Ponte Galeria detention center in Rome. A male Tunisian detainee – apparently wrongfully confined because he had been married to an Italian woman for twelve years – died because he lacked medical treatment.

■ Since the opening of the Via Corelli center in Milan in January 1999, many activists and left-wing politicians had called for its closure, which eventually happened one year later. ■

³ *European Roma Rights Center, "ERRC Kosovo: Letter to Prime Ministry of Italy", 4 August 1999.*