



**ECRI REPORT
ON ITALY**
(fourth monitoring cycle)

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FOREWORD

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country-by-country monitoring work, which analyses the situation in each of the member States regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country-by-country monitoring deals with all member States of the Council of Europe on an equal footing. The work is taking place in 5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, and those of the third round at the end of the year 2007. Work on the fourth round reports started in January 2008.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The fourth round country-by-country reports focus on implementation and evaluation. They examine the extent to which ECRI's main recommendations from previous reports have been followed and include an evaluation of policies adopted and measures taken. These reports also contain an analysis of new developments in the country in question.

Priority implementation is requested for a number of specific recommendations chosen from those made in the new report of the fourth round. No later than two years following the publication of this report, ECRI will implement a process of interim follow-up concerning these specific recommendations.

The following report was drawn up by ECRI under its own and full responsibility. It covers the situation up to 22 June 2011 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.

SUMMARY

Since the publication of ECRI's third report on Italy on 16 May 2006, progress has been made in a number of fields covered by that report.

Antidiscrimination legislation has been strengthened and the authorities are working on improving data collection with respect to racist offences. UNAR (the *Ufficio Nazionale Antidiscriminazione Razziali*, National Office against Racial Discrimination) has significantly expanded its activities. A number of discriminatory measures adopted by public authorities have thus been annulled. The resources UNAR devotes to contacts with victims of discrimination have increased and the number of NGOs entitled to represent victims in court has been increased to over 450. UNAR has also concluded several agreements aimed at ensuring close co-ordination between the various levels of public authorities in their work fighting discrimination. For its part, the Chamber of Deputies has set up an Observatory on Xenophobia and Racism.

The National Federation of the Italian Press and the Order of Journalists have adopted a code of conduct (the "Rome Charter") aiming to make the media's handling of issues related to asylum seekers, refugees, victims of trafficking and migrants more objective. UNAR has set up a centre for monitoring the media as well as a special section on its website to identify any items containing discriminatory material and report them to the relevant interlocutors. Several NGOs have moreover recently set up a network to prepare regular reports on racism in the media.

The authorities have adopted legislation aimed at preventing racially motivated violent acts at sporting events, providing for aggravated penalties for such acts and establishing a national observatory on sports events.

Some municipalities are implementing programmes with the aim of promoting the social inclusion of Roma, for example by facilitating access to school for Roma children, supporting the inclusion of Roma in the labour market or distributing information to them on access to health care in Romanian and the Romany language. A number of initiatives are also implemented in the regions to improve the social inclusion of migrants in the field of housing and to better protect their health.

Italian law now makes provision for granting subsidiary international protection and it seems that the Territorial Asylum Commissions are functioning well. The Praesidium project, funded by the Ministry of the Interior, has been designed to build capacity to receive and provide services for migrants arriving in particular in remote areas, so as to improve these persons' access to information about their rights, to legal assistance and interpreters. The new reception system for asylum seekers seems to allow more asylum seekers to live in open-access conditions. The SPRAR (protection system for asylum seekers and refugees) continues to help its beneficiaries in the field of integration.

The Ministry of Education has held training seminars for teaching and auxiliary staff in schools, touching on the inclusion of Roma children in schools and how to promote integration at school; for pupils, respect for human rights and non-discrimination is covered in the new "Citizenship and Civilisation" subject.

Finally, some particularly questionable proposals initially foreseen as part of the "*pacchetto sicurezza*" (a group of legislative and regulatory measures adopted from May 2008) were in the end abandoned. Other discriminatory measures taken in this context as well as a number of discriminatory measures taken by mayors have also been annulled by the courts.

ECRI welcomes these positive developments in Italy. However, despite the progress achieved, some issues continue to give rise to concern.

In parallel to the introduction in 2006 of lesser penalties for criminal offences of incitement to hatred, the definition of these offences was reworded to make it more restrictive, reducing the scope of the law. Few victims of racist offences or racial discrimination lodge complaints and both the criminal law provisions against racism and anti-discrimination provisions are rarely applied. UNAR is still not entitled to bring legal proceedings and it still comes under the Department for Equal Opportunities of the Presidency of the Council of Ministers; this direct institutional link runs counter to the type of independence that is necessary for the effective operation of such a body.

The use of racist and xenophobic discourse in politics appears to be increasing, targeting Blacks, Africans, Muslims, Roma, Romanians, asylum seekers and migrants in general; in some cases the remarks made were followed by acts of violence against these groups. Migrants are regularly equated with insecurity and racist or xenophobic discourse reflects or leads to discriminatory measures and policies; these factors fuel racial discrimination, xenophobia and racism within the population at large and tend to give legitimacy to these phenomena. Sensationalist articles continue to appear in the media and many Internet sites contain messages of racial hatred and even incitement to racist violence.

Some particularly disturbing attacks have been launched against Roma settlements, sometimes endangering the lives of their inhabitants. Migrants of various origins have also been targeted in violent attacks. Racist incidents have also been recorded in football stadiums.

The Italian authorities have introduced a number of measures concerning the conditions of residence for non-citizens, of which some, in particular in the context of the "*pacchetto sicurezza*", have increased the insecurity of migrants in an irregular situation or disproportionately penalise persons or businesses who have contact with them.

Most Roma experience severe marginalisation and discrimination, whether in terms of access to housing or to other social rights such as education, employment and health. The general climate regarding Roma is strongly negative: prejudices existing against them are sometimes reflected in, or reinforced by, the attitudes and policies adopted by politicians. So-called "emergency" measures taken particularly in the context of "security pacts", some of which explicitly target Roma or "nomads", have been used in a discriminatory manner. Censuses of Roma living in settlements and their fingerprinting are particularly worrying; it also appears that the data collected have not always been gathered in accordance with the principles of confidentiality, informed consent and voluntary individual self-identification. Moreover, the majority of allegations of ill treatment committed by the police concern acts committed against Roma.

In the case of legal settlements, the dominant practice is still to relegate Roma to settlements located far from urban centres, which is tantamount to segregation, stigmatises the persons concerned and poses serious problems for the integration of Roma; as regards illegal settlements, the health conditions there are especially deplorable. The demolition of settlements and forced evictions directly targeting Roma have occurred in many towns and seem to have been stepped up since 2008, which also worsens the discrimination against Roma in other areas of life. Furthermore, many Roma are in a situation of *de facto* statelessness.

The introduction by the Italian authorities in May 2009 of the pushback ("*respingimento*") policy of returning to their country of origin any boats intercepted on the open sea between Italy and Libya appears to have deprived individuals of the possibility of claiming asylum and led to the refoulement of persons in need of protection. Other problems persist in the field of asylum, including access to legal

assistance and interpretation and the wide range of exceptions made to the principle of suspensive effect of appeals. It seems that living conditions in CDAs and CARAs are not always adequate and that no provision is made to assist asylum seekers who choose or are obliged to leave these centres. Although appreciated, the SPRAR is clearly not sufficient to cover actual needs regarding the integration of asylum seekers and refugees. Furthermore, there are continuing reports of ill-treatment of persons held in CIEs and the facilities of CIEs are reportedly unsuitable for the longer periods of detention (up to 180 days) now provided for by law.

Following the events in North Africa in early 2011, a number of problems have arisen, including apparently excessively rapid returns of some arrivals and poor reception conditions, which have also created tension amongst the local population.

Italy has on several occasions deported non-citizens from its territory – notably under domestic counter-terrorism legislation – despite interim measures indicated by the European Court of Human Rights.

Anti-Muslim prejudice and antisemitism still exist in Italian society. Muslims continue to be stigmatised in political discourse and the policy proposals of certain parties, and a few dozen antisemitic incidents are reported each year. Internet is playing an increasingly important role in the dissemination of antisemitic ideas.

Prejudice against foreigners and migrant workers also persists, affecting their access to jobs and their position in the workplace. Migrant workers have moreover been particularly affected by the economic downturn. There are also continuing reports of racial discrimination in access to private sector housing; at the same time, some municipalities are introducing tougher eligibility conditions for access to public housing, often in such a way as have a greater impact on non-citizens.

In this report, ECRI requests that the Italian authorities take further action in a number of areas; in this context, it makes a series of recommendations, including the following.

ECRI recommends that the authorities assess the effectiveness of the current criminal law provisions against incitement to hatred and strengthen them if necessary, and that they further strengthen the civil law provisions against racial discrimination. It recommends that they intensify their efforts to inform victims of the provisions in force and to train all those involved in the criminal justice system to apply them rigorously.

ECRI recommends that the Italian authorities take steps to enhance the role of UNAR, in particular by formally extending its powers so that the relevant legislation clearly covers discrimination based not only on ethnic origin and race but also on colour, language, religion, nationality and national origin; by granting it the right to bring legal proceedings; and by ensuring that its full independence is secured both in law and in fact. ECRI wishes to stress in this regard that UNAR must also be provided with all the necessary human and financial resources, in the light of its workload.*

ECRI urges the authorities to adopt firm measures to tackle the use by political parties or their representatives of xenophobic or racist discourse. It also recommends that they encourage the media to play an active role against the development of a xenophobic atmosphere and that they combat the dissemination of racist ideas via the Internet. ECRI calls on the authorities to condemn all acts of racist violence and to strengthen the measures taken to combat such acts.

ECRI makes a series of recommendations to the authorities aimed at remedying the main problems arising in the context of the “*pacchetto sicurezza*”. It also makes a

* The recommendations in this paragraph will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

series of recommendations aiming to put an end to the discrimination experienced by the Roma in various fields of life, in particular access to identity documents and access to social rights.

ECRI urges the Italian authorities to ensure that all Roma who may be evicted from their homes enjoy the full protection of the guarantees of international law in such matters. It underlines that the persons concerned must be notified of any proposed eviction and benefit from appropriate legal protection; nor must they be evicted without the possibility of being rehoused in decent accommodation, even if they may stay in the country only for limited periods of time.*

ECRI makes a series of recommendations aimed at ensuring that asylum seekers have access to procedures in full conformity with international law as well as to adequate living conditions, and at avoiding all deportations that would be in breach of Article 3 ECHR.

ECRI strongly recommends that the Italian authorities take all necessary steps to ensure that the principle of non-refoulement is fully respected. It urges them to bring their pushback ("*respingimento*") policy to an immediate and permanent end. In this connection, it emphasises the need to guarantee access to asylum procedures in full accordance with the 1951 Geneva Convention, the European Convention on Human Rights and the relevant EU directives.*

ECRI recommends that the authorities strengthen their efforts to combat antisemitism and discrimination against Muslims.

ECRI makes a series of recommendations aimed at strengthening the fight against racial discrimination against various groups within its remit, whether in the fields of education, employment, housing or health. It also recommends that they put in place an effective ethnic data collection system, in conformity with international standards on data protection.

ECRI invites the authorities to denounce publicly all manifestations of racism or racial discrimination by members of the police, and recommends that they establish an independent body to investigate all allegations of human rights violations – and in particular all allegations of racist behaviour – on the part of the police.

* The recommendations in this paragraph will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

FINDINGS AND RECOMMENDATIONS

I. Existence and Application of Legal Provisions

International legal instruments

1. In its third report, ECRI recommended that Italy ratify without delay Protocol No. 12 to the European Convention on Human Rights, which contains a general prohibition on discrimination, the European Charter for Regional or Minority Languages, the European Convention on Nationality, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the Convention on Cybercrime and its Additional Protocol, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.
2. Italy has still not ratified most of these instruments. With regard to Protocol No. 12 to the European Convention on Human Rights, the authorities have given no indication as to the prospects for future ratification. ECRI notes that everyone who comes under Italian jurisdiction already has the possibility of denouncing discrimination at international level, since Italy recognises the competence of the Committee on the Elimination of Racial Discrimination to receive and examine communications from individuals who claim that the state has violated rights set out in the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). In ECRI's view, ratifying Protocol No. 12 to the European Convention on Human Rights should thus be regarded as a further step which does not present any difficulty in principle.
3. The authorities have stated with regard to the European Charter for Regional or Minority Languages that while several bills which would have paved the way for ratification have already been submitted to Parliament, they have not been passed into law; apparently the chief remaining difficulty is determining the list of languages to be protected. As regards the European Convention on Nationality, the authorities have indicated that the existing legislation is still based on the *jus sanguinis* principle but that certain specific cases of naturalisation according to the *jus soli* principle are now provided for in order to prevent statelessness. According to the authorities, the question of extending the possibilities for acquiring citizenship is being extensively debated in Italy, making it impossible to predict with any certainty when ratification of the Convention might take place. The authorities have moreover stated that although Italian legislation already guarantees most of the rights contained in the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, Italy is not in a position to ratify this instrument because it does not in their view draw any distinctions between regular and irregular migrant workers and many of its provisions fall with the European Union's areas of competence. ECRI wishes to emphasise that, by helping persons who come under Italian jurisdiction to participate on an equal footing in Italian society, these instruments may make a significant contribution to the fight against racism,¹ racial discrimination² and related forms of intolerance. As regards the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families,

¹ As in the text of ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, "racism" shall mean the belief that a ground such as "race", colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or group of persons.

² According to ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, racial discrimination is any differential treatment based on a ground such as "race", colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

ECRI moreover notes that it includes provisions with respect to the promotion of healthy, fair, decent and legal international migration conditions and can promote the protection of persons belonging to groups coming within ECRI's mandate, contribute to strengthening the development of a rights-based approach to migration³ and ultimately result in reducing irregular migration.

4. ECRI notes with interest that on 5 June 2008 Italy ratified the Convention on Cybercrime, thus removing an obstacle to the ratification of its Additional Protocol, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.
5. ECRI strongly recommends that Italy ratify Protocol No. 12 to the European Convention on Human Rights as soon as possible.
6. ECRI reiterates its recommendation that Italy ratify the European Charter for Regional or Minority Languages, the European Convention on Nationality and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
7. ECRI encourages Italy to ratify as soon as possible the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.
8. In its third report, ECRI called on Italy to extend the application of the Convention on the Participation of Foreigners in Public Life at Local Level to Chapter C of this Convention, which concerns the attribution of eligibility and voting rights to foreign residents. While a number of proposals for legislation along these lines had been introduced in the period leading up to the publication of ECRI's third report, none were subsequently enacted.
9. The authorities have indicated that this matter is currently being discussed in Italy. The Constitutional Court has recognised the legitimacy of a number of regional laws granting electoral rights to foreign citizens, and foreign deputy councillors have in fact been elected in various municipalities. Under the Constitution, however, only Italian citizens have the right to vote and the right to stand for election, except in European or administrative elections; any bill aimed at further extending these rights must take account of the need to amend the Constitution therefore. ECRI wishes to underline in this context that the possibility of exercising the right to vote in and stand for local elections would be a factor for integration into Italian society of foreign citizens residing in the country on a long-term basis.
10. ECRI strongly encourages Italy to extend as soon as possible the application of the Convention on the Participation of Foreigners in Public Life at Local Level to Chapter C of this Convention, which concerns the attribution of eligibility and voting rights to foreign residents.

Constitutional provisions and other basic provisions

- Provisions governing access to citizenship

11. In its third report, ECRI recommended that the Italian authorities grant easier access to Italian citizenship both for children born or raised in Italy and for long-term residents, including by introducing the necessary changes to legislation. Although MPs from two separate political parties have since drafted and

³ See in particular Global Commission on International Migration, *Migration in an interconnected world: New directions for action* (Report of the Global Commission on International Migration), Switzerland, 2005, pp. 56-58.

submitted to a parliamentary committee a new, joint piece of draft legislation designed to make it easier for children born in Italy or who came to Italy at a very young age to acquire citizenship, it is unlikely that this legislation will be passed in the absence of sufficient parliamentary support. As indicated above, however, the failure to change the legislation on naturalisation is also an obstacle to Italy's ratification of the European Convention on Nationality.

12. Civil society has pointed out that it remains difficult for foreigners to satisfy the conditions for acquiring Italian citizenship, not least because they have to prove that they have been continuously resident in Italy, since birth in the case of children born in Italy⁴ or for ten years in the case of adults.⁵ Such difficulties are said to particularly affect Roma from the former Yugoslavia who have been lawfully resident in Italy, in some cases for up to 30 years, but who are unable to prove that they have been continuously resident, or their children, especially in cases where the parents did not apply for residence before the child was born. It also seems that the problems highlighted by ECRI in its third report concerning the excessive length of time taken to examine applications for naturalisation and lack of transparency in the relevant decisions have not been resolved, although efforts have been made to allow applicants for naturalisation to follow the progress of their application on line. ECRI underlines that, like the possibility of exercising electoral rights, acquisition of citizenship of the country of residence is a major factor in the integration of foreign citizens living there on a permanent basis.
13. ECRI recommends that the Italian authorities relax the legislation on naturalisation in order to make it easier for persons who are lawfully and habitually resident in the country to acquire Italian citizenship, in accordance with the provisions of the European Convention on Nationality.
14. ECRI reiterates its recommendation that the Italian authorities ensure that the provisions on naturalisation are applied in all cases in a non-discriminatory manner, while enhancing transparency and ensuring that naturalisation decisions are taken within a reasonable time and that excessive delays not imputable to the applicant do not adversely affect the position of the latter.

Criminal law provisions

- Content of the relevant criminal law provisions

15. In its second report, ECRI noted all the criminal law provisions to combat racist statements and acts in force at the time (2001).⁶ As observed by ECRI in its third report, Law No. 85/2006 reduced the penalties provided for in Section 3(1)a of Law No. 205/1993 (the "Mancino Law") for offences relating to the dissemination of ideas based on racial or ethnic superiority or hatred and to racial discrimination. The maximum penalty was thus reduced from three years' to eighteen months' imprisonment or a fine of up to €6 000. In its third report, ECRI therefore recommended that the Italian authorities ensure that adequate criminal law provisions were in place to counter racism and racial discrimination. In so doing, ECRI underlined the need to provide for effective, proportionate and dissuasive sanctions against such offences.
16. It should be noted that in parallel to the introduction by Law No. 85/2006 of lesser penalties, the text of section 3(1)a and b of Law No. 205/1993 was reworded to

⁴ Section 4(2) of Law No. 91 of 5 February 1992 establishing new citizenship rules.

⁵ Section 9(1)(f) of Law No. 91 of 5 February 1992 establishing new citizenship rules.

⁶ See ECRI's second report on Italy, CRI(2002)4, § 11.

make it more restrictive.⁷ Since ECRI's third report, the Court of Cassation has had to rule on the new wording introduced in 2006. According to the Court, one of the consequences of replacing the term 'disseminates' by the term 'promotes' in the description of prohibited racist acts has been to limit the prohibition on disseminating racist ideas (only) to those cases where these ideas are spread with the aim of influencing or conditioning the behaviour or attitudes of a wide audience in order to convert them to these ideas.⁸ ECRI notes with regret this legislative step backwards, which – as the Court of Cassation has confirmed – reduces the scope of the law. It recalls that according to its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, the law should penalise, amongst other things, the public dissemination or public distribution, with a racist aim, of written, pictorial or other material containing manifestations of incitement to violence, hatred or discrimination, insults or defamation, or threats against a person or a grouping of persons on the grounds of their race, colour, language, religion, nationality, or national or ethnic origin.⁹

⁷ Section 3(1) of Law No. 654/1975, as amended by Law No. 205/1993 (which refers to the International Convention on the Elimination of All Forms of Racial Discrimination) used to read as follows:

1. Salvo che il fatto costituisca più grave reato, anche ai fini dell'attuazione della disposizione dell'articolo 4 della convenzione, è punito:

a) con la reclusione sino a tre anni chi diffonde in qualsiasi modo idee fondate sulla superiorità o sull'odio razziale o etnico, ovvero incita a commettere o commette atti di discriminazione per motivi razziali, etnici, nazionali o religiosi;

b) con la reclusione da sei mesi a quattro anni chi, in qualsiasi modo, incita a commettere o commette violenza o atti di provocazione alla violenza per motivi razziali, etnici, nazionali o religiosi;

1. Save where the act constitutes a more serious offence, and for the purpose of implementing Article 4 of the Convention, the penalty shall be:

a) a prison sentence of up to three years for any person who in any manner disseminates ideas based on racial or ethnic superiority or hatred or commits or incites the commission of acts of discrimination on racial, ethnic, national or religious grounds;

b) a prison sentence of six months to four years for any person who in any manner commits or incites the commission of violence or acts of incitement to violence on racial, ethnic, national or religious grounds.

Following amendments introduced by Law No. 85/2006, section 3(1) now reads as follows

1. Salvo che il fatto costituisca più grave reato, anche ai fini dell'attuazione della disposizione dell'articolo 4 della convenzione, è punito:

a) con la reclusione fino ad un anno e sei mesi o con la multa fino a 6.000 euro chi propaganda idee fondate sulla superiorità o sull'odio razziale o etnico, ovvero istiga a commettere o commette atti di discriminazione per motivi razziali, etnici, nazionali o religiosi;

b) con la reclusione da sei mesi a quattro anni chi, in qualsiasi modo, istiga a commettere o commette violenza o atti di provocazione alla violenza per motivi razziali, etnici, nazionali o religiosi;

1. Save where the act constitutes a more serious offence, and for the purpose of implementing Article 4 of the Convention, the penalty shall be:

a) a prison sentence of up to one year and six months or a fine of up to 6,000 euros for any person who in any manner promotes ideas based on racial or ethnic superiority or hatred or commits or instigates the commission of acts of discrimination on racial, ethnic, national or religious grounds;

b) a prison sentence of six months to four years for any person who in any manner commits or instigates the commission of violence or acts of incitement to violence on racial, ethnic, national or religious grounds.

See also the explanatory memorandum for amendments moved by the government in 2007: Ministry of Justice, Bills: Regulations on prevention of racial discrimination – Report ('DDL - Norme in materia di repressione della discriminazione razziale – Relazione').

⁸ Court of Cassation, 13 December 2007, Bragantini and others, Judgment No. 13234/08. It should be noted that in this case the acts concerned were nevertheless punished. See below, Application of the relevant criminal law provisions.

⁹ See paragraph 18 (f) of the key elements of national legislation appended to this recommendation.

17. A bill approved by the government in January 2007, which would have reinstated the texts and penalties in force prior to the 2006 amendments and widened their scope to include offences based on sexual orientation or gender identity, failed to secure the approval of Parliament. Another bill designed to criminalise Holocaust denial was likewise rejected in 2007. The authorities have pointed out, however, that the legislation currently in force in Italy goes beyond the minimum criteria adopted by the EU Council in its 2008 framework decision on combating certain forms and expressions of racism and xenophobia by means of criminal law: in particular, Italian law carries heavier penalties and punishes certain types of behaviour even if there is no threat to public order.¹⁰
18. ECRI notes that although Italian legislation covers a large number of offences that could be classed as racism or racial discrimination, in 2007 the government argued that there was a need for firm action to deal with an exponential increase in discrimination based on grounds covered by ECRI's mandate. Without detailed statistics concerning the relevant cases,¹¹ it is difficult to assess the practical impact of the 2006 amendments. ECRI nevertheless remains concerned about the narrowing of the definition of acts that constitute a criminal offence and the reductions in penalties introduced via the 2006 amendments. It underlines the importance of ensuring that it is not too difficult to meet any conditions requiring acts to be committed in "public" that might be attached to the prohibition of dissemination of racist ideas or racist acts: in ECRI's view, words pronounced during meetings of neo-Nazi organisations or words exchanged in a discussion forum on the Internet, for example, should be punishable by law.¹²
19. ECRI recommends that the Italian authorities look closely at how the courts interpret paragraphs 3(1)a and b of Law No. 205/1993, as amended by Law No. 85/2006, in order to assess the effectiveness of the current provisions for combating the dissemination of racist ideas as well as incitement to commit and commission of discriminatory acts motivated by hatred. It recommends that they amend these provisions if necessary in order to ensure effective protection against such acts.

- *Application of the relevant criminal law provisions*

20. In its third report, ECRI encouraged the authorities to improve the implementation of existing criminal law provisions against racism and racial discrimination, with particular emphasis on the provisions against racially motivated violence and incitement to racial discrimination and violence. To this end, ECRI recommended that the Italian authorities provide all those involved in the criminal justice system with thorough specific knowledge of these provisions. ECRI also recommended that the Italian authorities provide greater political leadership in the fight against all manifestations of racism and racial discrimination.
21. ECRI considers that it is impossible to assess the overall effectiveness of the criminal law provisions designed to combat racist incidents.¹³ In this respect, ECRI has received information from a number of sources suggesting that, on the one hand, not many victims report racist offences and, on the other, the police and courts seldom take account of facts that may constitute aggravating

¹⁰ Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law.

¹¹ See below, Application of the relevant criminal law provisions.

¹² Explanatory memorandum to ECRI General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, § 38.

¹³ ECRI wishes to reiterate here that under paragraph 14 of its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, a racist incident is 'any incident which is perceived to be racist by the victim or any other person'.

circumstances in such cases.¹⁴ Convictions for promoting ('*chi propaganda*') ideas based on racial superiority or hatred¹⁵ or for inciting racial discrimination¹⁶ are also rare.

22. Furthermore, according to reports from various sources, the relevant authorities do not yet carry out systematic data collection with regard to racist incidents or offences. In the absence of such data, it is also impossible to evaluate the number of racist incidents in Italy. In this context, ECRI notes with interest that the authorities are currently working on data collection in this area. According to information provided by the authorities, this work has revealed a number of shortcomings, however: for instance, cases where the racist motivation was in fact recognised as an aggravating circumstance are not always recorded in the existing statistics.
23. ECRI encourages the authorities to continue their efforts to improve the collection of data on the application of the criminal law provisions for combating racism and xenophobia. In this respect, ECRI underlines the importance of taking into account the possible racist dimension of an act from the time the complaint is filed and of systematically monitoring, throughout the procedure, this aspect of the case and its follow-up.
24. ECRI further recommends that the Italian authorities take steps to encourage victims and witnesses of racist incidents to report such acts, in accordance with its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing.
25. The authorities have indicated that human rights education is part not only of the in-service training given to police officers of all ranks, but also of specialised training. The topics addressed in such training include the situation of vulnerable groups who are liable to suffer discrimination.¹⁷ The authorities have also indicated that the Judicial Service Commission regularly organises refresher courses on new legislation and recent court decisions that concern, for example, discrimination, the legal status of foreigners, multiculturalism, the penal system or protection of fundamental rights. Local bar associations also provide training for lawyers.
26. While ECRI considers these initiatives to be encouraging, it remains concerned that the number of convictions is small, despite reports of numerous cases where individuals – including prominent political figures – have made statements of an intolerant or even xenophobic or racist nature, or have committed acts of that nature.¹⁸ It would seem that there is still a need for additional training measures

¹⁴ See, however, Court of Cassation, Div. 5, Judgment 22570 of 28/1/2010, registered 11/6/2010, Attorney-General v. Scocozza, rv 247495, a case in which the Court held that the use of the term 'bloody nigger' did fall into the category of aggravating circumstances, since it obviously entailed a negative value judgment regarding the victim's 'race'; see also, Court of Cassation, Div. 5, Judgment 11590 of 28/1/2010, registered 25/3/2010, Attorney-General v. Singh, rv 246892, a case of insults addressed to an Italian, in which the Court held that the relevant provisions did not apply because these insults were unrelated to a situation of inferiority that might constitute discrimination.

¹⁵ See, however, Court of Cassation, 10 July 2009, Bragantini and Others, rv. 245168, in which a number of persons, including the Mayor of Verona, were convicted of having disseminated and promoted ('propaganda') racist ideas after having publicly promoted the gathering of signatures for a petition for permanent removal of Roma from Verona.

¹⁶ See, however, the case concerning the Deputy Mayor of Treviso, convicted of incitement to racial hatred by the Venice Court of First Instance on 26 October 2009.

¹⁷ Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, Following his visit to Italy on 13-15 January 2009, 16 April 2009, CommDH(2009)16: Italy's comments on the report of T. Hammarberg, pp. 4 ff.

¹⁸ See below, Racism in public discourse.

for everyone working in the criminal justice sphere in order to improve the application of the criminal law provisions to combat racist offences.

27. ECRI recommends that the Italian authorities step up their efforts to educate all those involved in the criminal justice system – police, prosecutors and judges –, in both initial and in-service training, about the criminal law provisions prohibiting racist acts, so as to ensure effective application of these provisions. It also recommends that lawyers be given the opportunity to receive training in these provisions.

Civil and administrative law provisions

- Content of anti-racial discrimination provisions

28. As observed in ECRI's third report, civil and administrative law provisions against discrimination were introduced in Italy in 1988,¹⁹ subsequently, in 2003, two legislative decrees were adopted in order to transpose the two European Council Directives 2000/43/EC²⁰ and 2000/78/EC.²¹ In its third report, ECRI welcomed the fact that a number of elements included in its General Policy Recommendation No.7 were reflected in the legal framework against discrimination, whilst noting that other aspects of this General Policy Recommendation had not been included, or were reflected less clearly in this legal framework. It underlined the importance of prohibiting by law discrimination based not only on grounds such as "race", colour, religion and ethnic origin but also on language and nationality, and the need to provide in anti-discrimination legislation for sharing the burden of proof; it also reiterated the need to place public authorities under a duty to promote equality and prevent discrimination in carrying out their functions.
29. A series of amendments to these legislative decrees was adopted in 2008,²² in connection with infringement proceedings instituted by the European Commission against Italy. Reversal of the burden of proof is now specifically provided for in civil and administrative law if the complainant establishes factual elements that can precisely and consistently show the presumption of the existence of discriminatory acts, agreements or behaviours. Legal protection against victimisation of the complainant has also been introduced in order to prevent any acts of retaliation against him or her and, as regards the prohibition of discrimination in the field of employment, the right to take legal action on behalf of the victim or to support his or her case has now been granted not only to trade unions but also to other organisations and associations representing the interests concerned.
30. ECRI notes with interest these amendments, which reinforce the anti-discrimination provisions in areas other than criminal law. It regrets, however, that the Italian authorities did not take this opportunity to include nationality and language among the characteristics protected by anti-discrimination legislation or

¹⁹ Sections 43 and 44 of Legislative Decree No. 286/1998.

²⁰ Directive 2000/43/EC of the Council of the European Union implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, transposed by Legislative Decree No. 215 of 9 July 2003 – Transposition of EU Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Official Gazette No. 186 of 12 August 2003.

²¹ Directive 2000/78/EC of the Council of the European Union establishing a general framework for equal treatment in employment and occupation, transposed by Legislative Decree No. 216 of 9 July 2003 – Transposition of EU Directive 2000/78/EC implementing the principle of equal treatment in employment and occupation, Official Gazette No. 187 of 13 August 2003.

²² See Sections 8-sexies and 8-septies of Law No. 101 of 6 June 2008 (Official Gazette No. 132 of 7 June 2008) which convert into law the legislative decree of 8 April 2008.

to introduce a requirement for all public authorities to promote equality and prevent discrimination in carrying out their functions.

31. ECRI recommends that the Italian authorities further strengthen the legislation against racial discrimination, having regard to the elements contained in ECRI's General Policy Recommendation No. 7, in particular as regards the need to protect individuals from discrimination based not only on grounds such as "race", colour, religion and ethnic origin but also language and nationality, and the need to place public authorities under a duty to promote equality and prevent discrimination in carrying out their functions.

32. In its third report, ECRI recommended that the Italian authorities ensure that all organisations active in the field of combating racism and racial discrimination – and not only those registered with the Department for Equal Opportunities of the Presidency of the Council of Ministers – are able to bring cases on behalf of alleged victims of these phenomena. Since then, no changes have been made to the legislation; UNAR has, however, made efforts to increase the number of non-governmental organisations authorised to bring cases before the courts. These initiatives and their impact are examined below.²³

33. ECRI recommends that the Italian authorities make it easier for victims of racial discrimination to obtain access to effective civil and administrative law remedies, by ensuring that all organisations active in the field of combating racism and racial discrimination are able to bring cases on behalf of alleged victims of these phenomena.

- *Application of anti-racial discrimination provisions*

34. In its third report, ECRI recommended that the authorities take steps to improve the implementation of the existing civil and administrative law provisions against racial discrimination. It highlighted the need for increased efforts to raise awareness among the general public, groups vulnerable to racial discrimination and the legal community of the civil and administrative legal framework in force against discrimination. Most of these activities aimed at raising awareness among the general public and groups vulnerable to racial discrimination are conducted by UNAR and are examined below.²⁴

35. ECRI welcomes the efforts made to alert professionals involved in the fight against racism and racial discrimination to existing provisions in the fields of civil and administrative law and to the need to prevent such acts. It notes, however, that despite these efforts, the number of racial discrimination cases brought before the civil and administrative courts remains low. ECRI underlines that the absence of formal complaints does not mean that racial discrimination does not exist²⁵ and that it may be due to factors such as victims' lack of awareness of their rights, a lack of sensitivity on the part of the competent authorities in such matters, lack of visibility of available remedies or difficulties in accessing these remedies. It notes that some instances of discrimination based on grounds such

²³ See below, Anti-discrimination bodies and other institutions.

²⁴ See below, Anti-discrimination bodies and other institutions – UNAR (Ufficio Nazionale Antidiscriminazioni Razziali).

²⁵ One may for instance note the approval by the Children's Court of an international adoption order in favour of a couple that had specified that they were not prepared to accept children with dark skin or who looked different from Europeans. The case was sent to the Court of Cassation through a referral in the interests of the law. In its judgment (no. 13332 of 1 June 2010), the Court ruled that a certificate of suitability for adoption delivered by the Children's Court cannot be based on references to the ethnicity of the child to be adopted, nor contain indications as to such an ethnicity. If a couple seeking to become adoptive parents expresses such discriminatory attitudes, the latter must be evaluated by the judge in the context of his or her assessment on the merits of the couple's suitability for adopting a child internationally.

as colour, national or ethnic origin, nationality or religion have in fact been reported. According to civil society, however, the general public's awareness of the civil and administrative legislation against discrimination remains too low.

36. ECRI recommends that the Italian authorities step up their efforts to inform victims of racial discrimination as to the possibility of bringing cases before the civil and administrative courts.
37. ECRI recommends that the Italian authorities step up their efforts to provide initial and in-service training for relevant members of the justice system in the civil and administrative provisions prohibiting racial discrimination, so as to ensure the effective application of these provisions. It further recommends that lawyers be given the opportunity to receive training in these provisions.

Anti-discrimination bodies and other institutions

- *UNAR (Ufficio Nazionale Antidiscriminazioni Razziali)*
38. In its third report, ECRI welcomed the establishment of the National Office against Racial Discrimination (*Ufficio Nazionale Antidiscriminazioni Razziali* or UNAR). This body is responsible for a number of important aspects of the fight against discrimination based on race or ethnic origin. ECRI invited the authorities to keep the status, powers and duties of UNAR under review, in order to ensure that this Office provided victims of racial discrimination with the most effective protection possible. In particular, ECRI drew the attention of the Italian authorities to the need for such a body to be independent and to the range of powers that should be conferred on a specialised body of this kind.
 39. In recent years, UNAR has significantly expanded its activities, becoming more active and more visible. Thanks to UNAR's work and joint initiatives with the relevant prefectures, a number of discriminatory municipal orders have been annulled. As regards its work with victims of discrimination, the funding and staffing of UNAR's contact centre (formerly a call centre) have doubled. UNAR has also held several hearings at regional level in an effort to increase the number of NGOs entitled to bring court cases. As a result, over 450 NGOs have now been granted this right. When it comes to raising awareness about discrimination and promoting equal opportunities, UNAR's efforts have been directed mainly at reinforcing the annual week of action against racism, organising the Italian version of the *Dosta!* campaign to combat discrimination against the Roma, introducing an annual week against violence and implementing the *Diversità come valore* project (diversity as an asset), which is co-financed by the European Union and in which several NGOs active in the fight against racism are directly involved.²⁶ In addition, the organisation of joint initiatives designed to raise awareness about discrimination, particularly in sectors such as youth, sport and schools,²⁷ is included by UNAR in its agreements with regional players involved the fight against racism.²⁸ Finally, in the framework of projects financed under the European Social Fund, UNAR is participating in actions that aim to establish a standardised system to monitor the number and types of complaints of discrimination and to set up a database covering all forms of discrimination at local level.
 40. ECRI welcomes this positive development. It also notes with interest that according to information provided by UNAR, the latter is beginning to include in

²⁶ UNAR, Relazione al Parlamento sull'effettiva applicazione del principio di parità di trattamento e sull'efficacia dei meccanismi di tutela, Anno 2009, p. 18.

²⁷ UNAR, Relazione al Parlamento sull'effettiva applicazione del principio di parità di trattamento e sull'efficacia dei meccanismi di tutela, Anno 2009, p. 24.

²⁸ See below.

its work grounds for discrimination other than race and ethnic origin, which are the only two formally recognised by law; in 2010, for example, 10% of the cases dealt with by UNAR related to other grounds for discrimination. While this wider role is acknowledged in fact by the Department for Equal Opportunities, ECRI believes it would be better if it were placed on a clear statutory footing, not least in order to make it more effective and more visible to victims of discrimination and the associations and lawyers who work with them. Furthermore, and although the extension of the list of NGOs entitled to represent victims of discrimination before the courts is encouraging, ECRI notes with regret that UNAR itself is still not entitled to bring legal proceedings; this function is part of the range of powers and responsibilities that, in ECRI's view, ought to be assigned to independent specialised bodies to combat racism and racial discrimination at national level.²⁹ ECRI also emphasises, given that the applicable legislation in the field of combating racism and racial discrimination seems still to be relatively little known,³⁰ the importance of further strengthening awareness-raising activities in this field.

41. In terms of structure, it should be noted that UNAR still comes under the Department for Equal Opportunities of the Presidency of the Council of Ministers. For many involved in the fight against racial discrimination, this direct institutional link is a source of concern as it runs counter to the kind of independence that is necessary for the effective operation of such a body. ECRI notes that representatives of UNAR have highlighted the autonomy and impartiality that should typify the organisation, and that, in practice, UNAR has been able to criticise discriminatory measures adopted at national level and to have them annulled. As underlined, however, in ECRI's General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, the principle of the independence of such bodies must be observed:³¹ this is the best way of ensuring both the effectiveness of such bodies and public confidence in them. ECRI likewise wishes to emphasise in this context the need to provide specialised bodies with sufficient funds to enable them to carry out their functions and responsibilities effectively.
42. ECRI recommends that the Italian authorities take steps to enhance the role of UNAR, in particular by formally extending its powers so that the relevant legislation clearly covers discrimination based not only on ethnic origin and race but also on colour, language, religion, nationality and national origin; by granting it the right to bring legal proceedings; and by ensuring that its full independence is secured both in law and in fact. ECRI wishes to stress in this regard that UNAR must also be provided with all the necessary human and financial resources, in the light of its workload.
43. ECRI also encourages the Italian authorities to increase the human and financial resources placed at the disposal of UNAR for carrying out its activities to raise awareness against discrimination and to promote equal opportunities.
44. In its third report, ECRI urged the Italian authorities to ensure that the regional centres for monitoring racial discrimination provided for by law were set up in all regions without further delay. It further recommended that the Italian authorities ensure thorough co-ordination between the work of these centres and that of UNAR.

²⁹ ECRI's General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, Appendix, Principle 3; ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, Appendix, § 24.

³⁰ See above, Civil and administrative law provisions.

³¹ ECRI's General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, Appendix, Principle 5.

45. Since then, UNAR has concluded several agreements³² aimed at setting up regional centres, or developing contacts with existing centres, and ensuring close co-ordination between the various levels of responsibility. UNAR intends to continue developing these agreements in the coming years. It has also concluded an agreement with the Observatory for Protection against Acts of Discrimination (set up by the state police in 2009), to highlight any instances of discrimination and to encourage people to file complaints and also to encourage co-ordination and co-operation with all the relevant players. Thanks mainly to these initiatives, the number of discrimination cases dealt with by UNAR doubled between 2009 and 2010, from 380 to approximately 750 according to estimates at the end of October 2010.

46. ECRI encourages all the relevant authorities to continue extending the network of regional centres for monitoring racial discrimination and emphasises that they must be provided with all the necessary human and financial resources to enable them to function effectively.

- *Chamber of Deputies Observatory on Xenophobia and Racism*

47. In 2009, at the instigation of the Speaker of the Chamber of Deputies, an Observatory on Xenophobia and Racism was set up in response to the desire of various members of parliament to bring a parliamentary perspective to the fight against racism and xenophobia and to create a link between the various institutions already operating in this field. It is planning to set up a website in 2011, to hold hearings with various stakeholders involved in the health system and to hold an annual conference (the theme of the 2010 conference was “Myself and others”). The Observatory is made up of members of parliament from different political parties, in keeping with the principle of parity.

48. ECRI welcomes the Chamber of Deputies’ desire to play a part in the fight against racism and xenophobia in Italy and also its intention to work in a way that is receptive to civil society. It notes, however, that as yet, there is very little public awareness of the Observatory and its role. It hopes that these points will be swiftly remedied so that the Observatory can indeed play a clear and practical role in combating racism.

II. Racism in Public Discourse

Use of racist and xenophobic discourse in politics

49. In its third report, ECRI expressed concern about politicians’ use of racist and xenophobic discourse, targeting non-EU migrants, Roma, Muslims and other groups within ECRI’s remit. It reiterated that political parties should take a stand against any forms of racism, discrimination and xenophobia. It further recommended that the authorities take steps to counter the use of racist and xenophobic discourse in politics, both by applying the existing criminal legislation and by adopting additional measures.

50. It has to be said that the situation has not improved since; if anything, indeed, the use of racist and xenophobic discourse in politics appears to be increasing. Politicians at local level but also high-profile members of the national government have targeted Blacks, Africans, Muslims, Roma, Romanians, asylum seekers and migrants in general, by making hostile, if not downright aggressive, remarks about them. Some politicians, including members of the national government, have gone so far as to suggest that foreigners should be segregated in public transport or schools, to refer to members of certain minority groups as “animals”

³² Such agreements have been signed with the regions of Emilia Romagna, Liguria, Piedmont, Puglia and Sicily, the provinces of Mantua, Messina and Pistoia and the municipality of Rome.

and the arrival in Italy of asylum seekers as an “invasion”, to label all members of one particular group as specialists in crime, to launch a census of all foreigners living in the area, and to call for all Roma to be deported or incarcerated and all their encampments dismantled. In some cases, such remarks were followed by acts of violence against the minority groups in question.³³ As observed above, however, there have been very few criminal prosecutions following such statements and while the latter have in some cases been condemned by other politicians, that does not seem to have stopped them proliferating.

51. ECRI is deeply concerned about this situation, in which migrants are routinely equated with insecurity, members of minority groups are increasingly the subject of virulent rhetoric and politicians are willing to exploit a certain atmosphere of hostility (which they themselves, moreover, helped to create) towards persons belonging to minority groups. As indicated elsewhere in this report, moreover, racist or xenophobic discourse reflects or leads to discriminatory policies and measures; all of these factors fuel intolerance, racial discrimination, xenophobia and racism within the population at large and tend to give legitimacy to these phenomena.
52. While encouraged by the fact that Parliament has set up an observatory on xenophobia and racism,³⁴ and that civil society has not hesitated to condemn the current situation publicly, ECRI is firmly of the view that the latter calls for a much more vigorous response on the part of the authorities themselves. ECRI stresses that stigmatising and fomenting hostility towards persons belonging to minority groups is effectively to deny the dignity and equality of all human beings – a fundamental principle recognised by all member states of the Council of Europe and parties to the International Convention on the Elimination of All Forms of Racial Discrimination – and is not to be tolerated under any circumstances. ECRI therefore calls on the Italian authorities to do everything possible to prevent political discourse of a racist or xenophobic nature. It once again emphasises that political parties must resist the temptation to approach issues relating to members of minority groups in a negative fashion and must take a firm stand against any forms of racism, discrimination and xenophobia. In this context, ECRI draws the attention of the Italian authorities to the principles set out in the Charter of European Political Parties for a Non-Racist Society and in its own Declaration on the use of racist, antisemitic and xenophobic elements in political discourse, which can serve as references for a responsible attitude on the part of political parties in the field of political discourse.
53. ECRI urges the Italian authorities to adopt firm measures to tackle the use by political parties or their representatives of xenophobic discourse or discourse that incites racial hatred and, in particular, legal provisions enabling public funding to be withdrawn from parties which promote racism or xenophobia. In this respect, it once again draws the attention of the authorities to the relevant provisions contained in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.

Media

54. In its third report, ECRI encouraged the Italian authorities to impress on the media, without encroaching on their editorial independence, the need to ensure that reporting does not contribute to creating an atmosphere of hostility and rejection towards members of minority groups. ECRI recommended that the Italian authorities engage in a debate with the media and members of other relevant civil society groups on how this could best be achieved.

³³ See below, Racist violence.

³⁴ See above, Chamber of Deputies Observatory on Xenophobia and Racism.

55. ECRI notes with regret that sensationalist articles continue to appear in the media, including in the main print media and prime-time television broadcasts. In the media, the Roma and migrants are notably associated with criminal activities and hence with a threat to public security; negative images (some of them conveyed first by politicians) of asylum seekers and Muslims have also been repeatedly disseminated. Such publications and broadcasts serve to poison an already negative climate of opinion regarding minority groups. Some observers, moreover, have made a connection between the publication of such articles and xenophobic incidents that occurred afterwards.
56. Following an incident in which certain sections of the media wrongly accused a Tunisian citizen of having killed members of his own family, the UNHCR sponsored the adoption by the National Federation of the Italian Press and the Order of Journalists of a code of conduct (the “Rome Charter”) aimed at improving the media’s handling of issues relating to asylum seekers, refugees, victims of trafficking and migrants, by making it more objective.³⁵ ECRI welcomes this initiative and hopes that it will soon have a positive impact. It regrets however the limited scope of the Charter, which covers only certain specific minority groups. It notes that there is also a code of conduct for journalists which was signed by the two main associations of Italian journalists in 1993 and which requires journalists to refrain from any discrimination based on race or religion;³⁶ it appears, however, that journalists who fail to follow this rule rarely incur penalties. In this context, ECRI is interested to note that UNAR has set up a centre for monitoring the media which aims to identify any articles containing discriminatory material and to report them systematically to the relevant parties. Several NGOs, furthermore, recently set up a network to prepare six-monthly reports on racism in the media.
57. ECRI reiterates its recommendation that the Italian authorities impress on the media, without encroaching on their editorial independence, the need to ensure that reporting does not contribute to creating an atmosphere of hostility and rejection towards members of minority groups and that the authorities play a proactive role in preventing such an atmosphere from developing.
58. It further recommends that the Italian authorities encourage the media to apply systematically the provisions of the Code of Conduct for journalists regarding racial and religious discrimination and to reword these provisions if necessary so that they clearly cover all forms of discrimination based on colour, religion, language, national and ethnic origin and nationality; to provide special training for media professionals on the role of reporting in a multicultural society; and to improve the representation in media professions of persons of migrant origin or belonging to ethnic minorities.

Internet

59. In its third report, ECRI recommended that the Italian authorities strengthen their efforts to counter the dissemination of racist, xenophobic and antisemitic propaganda on the Internet. ECRI is concerned to note that numerous sites containing messages of racial hatred and even incitement to racist violence – especially against the Roma and Romanians – are hosted by social networks. Blogs advocating racial hatred have also been reported. Civil society, moreover, has drawn attention to the frequency of racist or xenophobic comments

³⁵ Carta di Roma, 1 January 2007, Protocollo deontologico concernente richiedenti asilo, rifugiati, vittime della tratta e migranti.

³⁶ Carta dei doveri del giornalista, sottoscritta dal Consiglio Nazionale dell’Ordine dei Giornalisti e dalla Federazione Nazionale della Stampa Italiana l’8 luglio 1993. Any breach of this Code is deemed to render the journalist concerned liable to disciplinary proceedings, as provided for in Part III of Law No. 69 of 3 February 1963.

appearing in, for example, readers' discussion forums, following articles published on the websites of newspapers and broadcast media and concerning the Roma, migrants or other groups within ECRI's remit.

60. The Italian authorities have indicated that they recognise the urgent need to combat all expressions of racism and intolerance on the Internet. A special section has been created on UNAR's website to allow Internet users to report directly any racist or discriminatory material that they may find. Where appropriate, UNAR then notifies the Postal and Communications Police, involved in combating cybercrime, or the ordinary police, so that they can institute criminal proceedings. The police also monitor websites created in Italy whose content might be punishable and, if necessary, notify the judicial authorities.
61. ECRI strongly encourages the Italian authorities to continue their efforts to combat the dissemination of racist and xenophobic ideas via the Internet. It draws their attention to its General Policy Recommendation No. 6 on combating the dissemination of racist, xenophobic and antisemitic material via the Internet, which suggests a series of measures that the authorities can take to this end.

III. Racist Violence

62. In its third report, ECRI encouraged the Italian authorities to pursue and intensify their efforts to monitor racist, xenophobic and antisemitic incidents in Italy. The authorities indicated that there were 142 hate crimes in 2009, including 64 motivated by racism, 31 by xenophobia and 47 by antisemitism; in 2008, the figures by type of offence were 62, 27 and 23 respectively, compared with 52, 42 and 54 in 2007. These figures are not systematically made public; interested parties can obtain them on request. They concern not only physical violence or damage to property, but also insults (which are not examined by ECRI in the present chapter). A non-governmental organisation that collects independent data reported 7 homicides and 58 other cases of violence targeting migrants or refugees in 2009; another reported 51 cases of violence against migrants or Roma for the same year.³⁷
63. ECRI notes that the official figures on racist offences do not concern all cases where the victims consider that they have suffered a hate crime but only those where the police deemed that an offence was motivated by racism, xenophobia or antisemitism; the unofficial data gathered by civil society organisations are primarily based on cases reported in the press. Given the reluctance of many victims to file a complaint,³⁸ the real number of incidents is likely to be considerably higher. ECRI underlines that, to ensure that any racist motivation of offences is fully taken into account, it is important to adopt a broad definition of a racist incident: this should not be confined to the assessment made by law enforcement officials but, in ECRI's opinion, should cover any incident which is perceived to be racist by the victim or any other person. It is also important that all racist incidents should be systematically recorded and monitored, at all stages of criminal procedure, from filing of a complaint to the follow-up action taken by police and prosecutors and including any final court decision.³⁹
64. ECRI recommends that the Italian authorities intensify their efforts to monitor racist, xenophobic and antisemitic incidents in Italy. It recommends that they

³⁷ See OSCE ODIHR, Hate Crimes in the OSCE Region – Incidents and Responses: Annual Reports for 2009, 2008 and 2007, Warsaw: ODIHR, 2010, 2009 and 2008 respectively.

³⁸ See above, Application of the relevant criminal law provisions.

³⁹ In this connection see ECRI's General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, section III: "As concerns the role of the police in combating racist offences and monitoring racist incidents".

ensure that the racist, xenophobic or antisemitic dimension of all offences is effectively and systematically taken into account by the criminal justice system, at all stages in the procedure. It further recommends that they adopt a broader definition of racist incidents to include any incident which is perceived to be racist by the victim or any other person.

65. Some particularly disturbing attacks have been launched in recent years against Roma campsites, sometimes endangering the lives of their inhabitants. Many cases of arson were reported in 2008 and 2009 in Roma settlements in the vicinity of a number of cities, in particular Milan, Naples, Pisa, Rome and Venice; dwellings were destroyed and in some cases inhabitants were forced to leave sites as a result of these attacks. In one particularly serious incident in the Ponticelli district of Naples, in May 2008, Roma campsites were attacked by hundreds of local people, some of whom were armed with metal bars, wooden sticks or Molotov cocktails. The attacks lasted several days, and the inhabitants of the campsites had to move out under the protection of law enforcement officials.⁴⁰
66. Other violent attacks have targeted migrants of various origins, including Asians, Africans or Romanians. In early 2010 in Rosarno, all the migrant workers (mainly originating from Sub-Saharan Africa) were forced to leave town following a protest they staged against their working conditions and violent clashes with the local population. In 2009, in the wake of a series of attacks on Romanian citizens living in Italy – against a background of media stirring concerning alleged crimes perpetrated by Romanians – representatives of the Romanian community stated that things had reached a point where they were afraid to speak their language in the street. Although some politicians have firmly condemned certain incidents of racist violence in recent years and civil society has warned against any form of witch hunt, other senior political officials, including at ministerial level, have on the contrary insinuated that such incidents are provoked by crimes perpetrated by migrants without lawful immigration status.
67. ECRI is highly concerned that many acts of violence in recent years seem to be of a collective nature, committed by one group against another, apparently on account of the victims' skin colour or ethnic or national origin, and sometimes, it would seem, as reprisals for offending behaviour for which the victims were in no way responsible. ECRI has already expressed in other parts of this report its great concern about the stigmatisation of Roma and those who are not Italian citizens in public discourse and immigration policies and has made recommendations aimed at remedying the problems noted. It draws the authorities' attention to the links that may exist between racist discourse and violence of a racist nature and considers that there is an urgent need not only to improve the authorities' response to incidents of racist violence, but also to prevent such violence by dealing with racism in public discourse, particularly in the media and in political rhetoric. It also recalls its recommendations on the need for energetic implementation of the legislation banning all forms of racist violence or incitement to hatred.⁴¹
68. ECRI calls on the Italian authorities to condemn unambiguously all acts of racist violence. It strongly recommends that they reinforce their efforts to prevent racist violence and, in this connection, conduct campaigns to raise awareness of the seriousness of racist offences and the fact that the perpetrators will be prosecuted and punished.

⁴⁰ With regard to the incidents in Ponticelli in 2008, see in particular European Union Agency for Fundamental Rights, incident report: Violent attacks against Roma in the Ponticelli district of Naples, Italy, FRA: Vienna, 2008.

⁴¹ See above, Racism in public discourse and Criminal law provisions.

IV. Racism in Sport

69. In its third report, noting that numerous and disturbing manifestations of racism and antisemitism had occurred in football stadiums, ECRI recommended that the Italian authorities pursue and strengthen their efforts to counter manifestations of racism and antisemitism during sports events, particularly football matches. It stressed that the approach taken by the Italian authorities to these manifestations should clearly reflect the priority given to respect for human dignity.
70. In recent years a number of racist incidents have been recorded in football stadiums in Italy – in particular verbal attacks on black players. These incidents led the authorities to take steps to combat racism in sport. ECRI notes with interest that the Italian authorities have adopted legislation aimed at preventing racially motivated acts of violence at sports events, providing for aggravated penalties in the event of such behaviour and establishing a national observatory on sports events.⁴² Apart from the possible application of criminal law penalties where appropriate, administrative measures can be taken such as suspending a match on account of a racist incident. Preventive measures are also provided for, which range from ordering stadium bans against known violent fans to playing games behind closed doors when there is a risk of serious public order incidents. Awareness-raising campaigns have also been run, in particular through the broadcasting of TV spots against racism. Three football teams also actively implement anti-racism campaigns.
71. ECRI encourages the Italian authorities to pursue and intensify their efforts to combat racism in sport. It draws the authorities' attention to its General Policy Recommendation No. 12 on combating racism and racial discrimination in the field of sport, which recommends a number of measures that governments can take to this end.

V. “*Pacchetto sicurezza*” and other measures targeting foreigners

72. Since ECRI's third report, the Italian authorities have introduced numerous measures concerning conditions of residence for non-citizens in Italy. Mention may here be made of the following: the *pacchetto sicurezza* adopted in May 2008;⁴³ three legislative decrees amending the incorporation into national law of the EU directives on family reunification,⁴⁴ procedures for granting and withdrawing refugee status⁴⁵ and the right of EU citizens to move and reside freely within the territory of the European Union;⁴⁶ and Law No. 94/2009 on public security. ECRI recognises that states have a legitimate interest in controlling their borders and preventing illegal immigration; however, some of the measures introduced raise concern because they are disproportionate, likely to result in violations of the rights of the persons concerned, or stigmatising.
73. ECRI notes that some of the measures introduced have led to an unacceptable increase in the insecurity of foreigners without legal status. It refers in particular to the requirement that all foreigners present a residence permit whenever they wish to register a change in civil status, and in particular a birth.⁴⁷ This measure

⁴² See in particular Legislative Decree No. 162/2005 and Law No. 41/2007 of 4 April 2007.

⁴³ Legislative Decree No. 92 of 23 May 2008 ('Emergency public-security measures'), subsequently converted into Law No. 125 of 24 July 2008.

⁴⁴ Directive 2003/86/EC.

⁴⁵ Directive 2005/85/EC.

⁴⁶ Directive 2004/38/EC.

⁴⁷ Law No. 94/2009 on public security.

may result in the children concerned being deprived of official papers and may leave them without legal status or, in some cases, stateless.

74. Other measures disproportionately penalise individuals and businesses who have contact with migrants without legal status. Thus the act of letting accommodation to such migrants is punishable by a prison sentence of between six months and three years together with seizure of the accommodation in question.⁴⁸ Furthermore, service providers are required to report to the authorities within twelve hours any non-citizen unable to present a valid residence permit when wishing to transfer money abroad; providers who fail to meet this requirement may have their licences withdrawn.⁴⁹ Such measures put excessive pressure on individuals and businesses who find themselves forced, in practice, to take the place of border controls if they are not to be severely penalised.
75. Excessively harsh penalties have also been introduced for failure to show a residence permit and/or identity papers at the request of a police officer or other official: such a failure is now punishable by a prison term of up to one year and a fine of 2 000 euros.⁵⁰
76. As regards family reunification, under the new provisions, applicants already residing legally in Italy may have to take DNA tests at their own expense.⁵¹ This (expensive) requirement can also apply in situations for which the applicants bear no responsibility whatsoever: for example, if there is no recognised authority in the country of origin or if the documents submitted by the applicant's country of origin do not enable a clear determination to be made as to whether the prerequisites for family reunification exist. ECRI here notes that family reunification facilitates the integration of individuals already living in Italy, whereas separation is likely to contribute to an adverse experience of Italy and increase the isolation of a migrant lacking the emotional and psychological support that the presence of family members can provide.
77. ECRI notes with satisfaction that some particularly questionable proposals – such as removing the prohibition on doctors' reporting to the authorities any individuals without legal status who have come to them for health care – have finally been dropped. Other measures that were introduced have subsequently been rescinded, such as defining the mere fact of being without legal status as an aggravating circumstance for the purposes of the Criminal Code, a measure that was set aside by the Constitutional Court in 2010.⁵² Many discriminatory measures introduced by mayors exercising their extended powers to pass 'emergency' measures designed to counter threats to public security⁵³ have also been set aside by the courts.
78. ECRI wishes to stress here its serious concern regarding the ever increasing tendency over the past few years to target foreigners with so-called 'security' measures. This situation is exacerbated by the xenophobic political rhetoric already described elsewhere in this report, which makes no clear distinction between legal residence of non-citizens in Italy and the prevention of illegal immigration.

⁴⁸ Legislative Decree No. 92 of 23 May 2008, subsequently converted into Law No. 125 of 24 July 2008.

⁴⁹ Law No. 94/2009 on public security.

⁵⁰ *Idem*.

⁵¹ Legislative Decree No. 160 of 3 October 2008.

⁵² Judgment 249/2010 of the Constitutional Court, 5 July 2010.

⁵³ Legislative Decree No. 92 of 23 May 2008, subsequently converted into Law No. 125 of 24 July 2008.

79. ECRI strongly recommends that the Italian authorities abolish the requirement that all foreigners wishing to register the birth of a child present a residence permit.
80. ECRI recommends that the Italian authorities repeal the provision whereby the act of letting accommodation to migrants without legal status is punishable by a prison sentence of between six months and three years together with seizure of the accommodation.
81. ECRI recommends that the Italian authorities make clear that applicants for family reunification already residing legally in Italy cannot be required to take DNA tests at their own expense in cases where they bear no responsibility for doubt as to their identity.

VI. Vulnerable/Target Groups

Roma

82. The authorities estimate that some 150 000 Roma and Sinti currently live in Italy. About half of them (mostly Sinti) are Italian citizens and belong to groups that have lived in Italy for centuries. Some 35 000 Roma migrated to Italy from the Balkans, mainly the countries of the former Yugoslavia, especially during the 1990s. More recent arrivals, most of whom live in the vicinity of the major cities, are estimated to number about 50 000 and mainly come from Romania.⁵⁴
83. Most Roma⁵⁵ in Italy experience severe marginalisation and discrimination in terms of access both to housing and to other social rights. The general climate regarding Roma is strongly negative: many stereotypes and prejudices exist concerning them,⁵⁶ which are sometimes reflected in, and even reinforced by, the attitudes and policies adopted by politicians.⁵⁷ In its third report, ECRI noted with regret that no or very little progress had been achieved in virtually all the fields already highlighted in its second report. It can but be noted that the situation has scarcely improved since; on the contrary, it has worsened in some respects.
84. In this connection, ECRI wishes to voice forthwith its concern about the many so-called "emergency" measures taken since its third report, particularly in the context of so-called "security pacts", some of which explicitly target Roma or "nomads", and the declarations of a "state of emergency in relation to nomad settlements" made in a number of regions. The role of special Commissioner conferred by the legislation on the Prefects of the regions concerned admittedly enables them to take positive steps in favour of those living in "nomad" campsites. However, other powers granted to the special Commissioners are worrying or have been utilised in a discriminatory manner. In this context ECRI draws particular attention to the censuses of Roma living in such settlements and their fingerprinting.⁵⁸ Although the authorities have stated that these measures were not based on an ethnic criterion and that, in July 2008, they had adopted

⁵⁴ Figures supplied to the Committee on the Elimination of Racial Discrimination: see CERD/C/SR.1852, 28 February 2008, § 3. According to information provided by the authorities to ECRI, the Roma population in Italy grew rapidly to about 350 000 following EU enlargement in 2007 but subsequently fell back to about 150 000.

⁵⁵ In the rest of this report, the term "Roma" is used to refer to both Roma and Sinti.

⁵⁶ According to an opinion poll conducted in 2008 and cited by the European Network Against Racism (ENAR), 70% of Italians would like to expel the Roma from Italy, despite the fact that a little more than half of them are Italian nationals and 20% are EU citizens.

⁵⁷ See above - Racism in public discourse, and below, *passim*.

⁵⁸ Censuses were carried out in Milan, Rome and Naples between June and October 2008 and again in Rome in February 2009; in March 2009 censuses also took place in the provinces of Verona, Venice, Treviso, Padua and Vicenza.

guidelines providing that the operations entrusted to the Commissioners "*shall not concern specific groups, individuals or ethnic groups, but all people living in illegal and legal campsites, regardless of their nationality and religion. The Commissioners shall avoid any action that might be, directly or indirectly, considered discriminatory*",⁵⁹ civil society organisations have noted that all the censuses were performed in campsites that were virtually solely inhabited by Roma.⁶⁰ Moreover, there were reports of cases in which persons concerned by these censuses were misinformed as to their purpose, children were fingerprinted or searches of dwellings were conducted without the police officers having shown the residents a court order. During the same period, campsites were demolished and forced evictions took place, strengthening the impression that Roma were being deliberately targeted by the authorities; simultaneously, violent racist attacks were made against other campsites.⁶¹ ECRI has already had occasion to express its grave concern about this situation;⁶² it again warns against any form of stigmatisation of part of the population on grounds of ethnic origin.

85. ECRI urges the Italian authorities to ensure that all measures they take with regard to Roma strictly uphold the right and the principle of non-discrimination as enshrined in the Council of Europe's standards.

86. As ECRI noted in its second report, Law No. 482/1999 containing provisions to protect the historical and linguistic minorities permits the regions and autonomous provinces to pass legislation aimed at protecting and promoting the development of the language and culture of the Albanian, Catalan, German, Greek, Slovenian and Croat populations, as well as those speaking French, Franco-Provençal, Friulian, Ladin, Occitan and Sardinian.⁶³ Roma are still excluded from the scope of this law and – unlike all recognised minorities in Italy – are covered by no other national law affording them overall protection. For lack of such national legislation the legal protection enjoyed by Roma is less effective than that from which persons belonging to recognised minorities benefit. Indeed, as already noted by the Advisory Committee on the Framework Convention for the Protection of National Minorities, the various legislative provisions adopted at regional level are disparate and lack consistency.⁶⁴ This situation exposes the Roma to particularly serious forms of abuse.

87. ECRI recommends that the Italian authorities adopt legislative provisions at national level aimed at affording the Roma and Sinti global protection along the same lines as the measures concerning the historical and linguistic minorities. It

⁵⁹ Guidelines of 17 July 2008 for implementing the Orders of the President of the Council of Ministers Nos. 3676, 3677 and 3678 of 30 May 2008 concerning campsites of nomad communities in the regions of Lazio, Lombardy and Campania.

⁶⁰ European Roma Rights Centre, Open Society Institute and osservAzione, Memorandum to the European Commission: Violations of EC Law and the Fundamental Rights of Roma and Sinti by the Italian Government in the Implementation of the Census in "Nomad Camps", 4 May 2009.

⁶¹ Concerning the forced evictions and the dismantling of settlements, see below; with regard to the attacks on campsites, see Racist violence above.

⁶² Concerning the "emergency", see the Decree of the President of the Council of Ministers of 21 May 2008, Official Journal No. 122 of 26 May 2008 - Declaration of a state of emergency in relation to settlements of nomad communities in Campania, Lazio and Lombardy; the Orders of the President of the Council of Ministers Nos. 3676, 3677 and 3678 of 30 May 2008 introducing exceptional civil protection measures to tackle the state of emergency in relation to the nomad community settlements located respectively in the regions of Lazio, Lombardy and Campania; the regions of Piedmont and Veneto have also been covered since 1 June 2009. See also the Statement of the European Commission against Racism and Intolerance on recent events affecting Roma and immigrants in Italy, adopted on 20 June 2008 at ECRI's 46th plenary meeting.

⁶³ See ECRI's second report on Italy, § 6.

⁶⁴ Opinion on Italy adopted on 14 September 2001, ACFC/INF/OP/I(2002)007, § 16. See also Third Opinion on Italy adopted on 15 October 2010, ACFC/OP/III(2010)008.

calls on them to follow in particular the recommendations of the Advisory Committee on the Framework Convention for the Protection of National Minorities in this respect.

88. In its third report, ECRI recommended that the Italian authorities take immediate steps to address the lack of passports and residence permits among members of the Roma and Sinti communities. Many Roma, particularly those originating from the western Balkans, have no clear legal status although they have been living in Italy for a very long time – sometimes more than 30 years. Many of them, who are not in possession of any identity document, are at permanent risk of being deported under the immigration legislation; however, those who are actually detained with a view to their deportation cannot be expelled from the country since they have no identity documents. It is equally impossible for these persons to integrate into Italian society as their lack of official documents prevents them from finding legal work or housing, from accessing public services and *a fortiori* from obtaining Italian citizenship. They are thus in a particularly invidious situation, being *de facto* stateless. Yet, because Italy does not recognise these persons as stateless, it seems that they also do not enjoy in practice the rights set out under the Convention relating to the Rights of Stateless Persons, to which Italy is nonetheless a party.
89. Until recently, children born in Italy of parents with no identity documents obtained an Italian birth certificate. However, even where they hold such a certificate, Roma living on campsites are often unable to show that they fulfil all the conditions for subsequent granting of Italian citizenship (particularly the residence requirement) and have no choice other than to seek recognition as stateless persons first, without any guarantees as to the outcome of this procedure or of any subsequent naturalisation application.⁶⁵ Furthermore, ECRI notes with concern that the situation of children born in Italy of parents without identity papers has become even more precarious since the entry into force of Law No. 94/2009 as any foreigner wishing to register the birth of a child is now obliged to present a residence permit.
90. ECRI urges the Italian authorities to take without delay all the measures necessary to allow Roma who are in a situation of *de facto* statelessness to obtain identity documents enabling them to accede at least to the same rights as stateless persons.
91. In its third report, ECRI noted that about one third of the Roma and Sinti, whether citizens or non-citizens, lived in camps for "nomads" segregated from the rest of society and often even without access to the most basic facilities. It strongly recommended that the Italian authorities address the housing situation of the Roma population in close co-operation with the communities concerned and reminded them that it was important not to base their policies concerning Roma and Sinti on the assumption that the members of these groups lead a nomadic lifestyle.
92. There are some authorised settlements, put in place by local authorities. These are generally located in peripheral urban areas, far distant from city centres, or in industrial zones.⁶⁶ Although they avoid the worst health-related problems, since they offer access to running water and electricity, these sites are often densely packed with containers, arranged in straight lines, each of which is intended to house up to four or five people. In the case of a container that is home to four

⁶⁵ See, in particular, OSCE, Assessment of the Human Rights situation of Roma and Sinti in Italy, 2008, pp.17 -19; concerning conditions for obtaining Italian citizenship, see also above, Citizenship legislation.

⁶⁶ See, among other sources, OSCE, Assessment of the Human Rights situation of Roma and Sinti in Italy, 2008, pp. 19-20.

people the average floor area per person is less than half that recommended by the Building Code standard; at the same time, the families concerned often have more members than the number of persons the container is officially intended to house. Although the general living conditions in the settlements are not insalubrious, this overcrowding poses clear health problems. Moreover, authorised settlements are often surrounded by a fence or even a wall that is higher than the average adult, and access is restricted solely to residents holding an identity badge; non-residents can enter the settlements only after showing an identity document to the guards on duty. ECRI notes with concern that these conditions – although they often constitute an improvement in sanitary terms compared with the situation prevailing in the illegal settlements – are tantamount to segregation, stigmatise people living on these sites, pose serious problems of integration of the Roma in Italian society and are also less favourable than the situation of persons who are not considered as “nomads” and who live in public housing.

93. In illegal settlements, which are mainly inhabited by Roma who are not Italian citizens, dwellings above all consist of makeshift shacks built by the Roma themselves on undeveloped sites, where the paths quickly turn to mud in rainy weather. These settlements generally have no running water, electricity or sanitation and are sometimes located alongside public landfills, including toxic waste dumps. Sanitary conditions are deplorable, and the state of health of all the inhabitants, in particular the children, is accordingly poor. Some sources report particularly high incidences of respiratory disease, skin infections and gastro-intestinal problems among Roma children. In addition, the lack of an electricity and gas supply obliges the inhabitants to improvise temporary means of heating in winter using wood-burning stoves, which aggravate their respiratory problems, or mere candles. This increases the risk of fire, and in recent years a number of deaths by fire have regrettably occurred.⁶⁷
94. Many illegal settlements have been demolished in recent years and their inhabitants evicted, sometimes without prior notice and in a brutal manner; during these operations the Roma population's housing and personal belongings are destroyed. In many Italian towns forced evictions directly targeting Roma⁶⁸ have taken place without prior notice or consultation, with no procedural guarantees and without the persons concerned being offered decent replacement accommodation. Even where the intention is to rehouse the occupants of illegal settlements on legal campsites or other sites, the number of places made available is often lower than the number of persons affected by the eviction measures. In all these cases, Roma are left without suitable housing and with no other choice than to move from one site to another, where the living conditions may well be worse than on the site they come from.
95. ECRI remains concerned about the ongoing assumption that Roma live nomadic lifestyles, an approach which continues to pervade policies concerning them, particularly in the field of housing. The dominant practice is still to relegate the Roma to campsites located far from urban centres, and this is often the solution proposed when rehousing former inhabitants of illegal settlements. ECRI again expresses its great concern regarding the segregation with which Italy's Roma have to contend – whether they live in legal or illegal settlements, but all the more so in the latter case – and their deplorable housing conditions. It notes further that the forced evictions directly targeting Roma seem to have been stepped up

⁶⁷ See, among other sources, OSCE, Assessment of the Human Rights situation of Roma and Sinti in Italy, 2008, pp. 19-20; CommDH (2009) 16.

⁶⁸ See, in particular, European Committee of Social Rights, Centre on Housing Rights and Evictions (COHRE) v. Italy, Collective Complaint No. 58/2009, Report to the Committee of Ministers, §§ 41-45 and 73-74.

since 2008, which also worsens the discrimination against them in other areas of life, as can be seen from other sections of this report. ECRI underlines that by virtue of international law,⁶⁹ a number of protection measures should be in place in cases of forced eviction. It draws the authorities' attention to the importance of ensuring that there are genuine opportunities for consultation of those affected, that adequate and reasonable notice is given, and that those in need of them have access to legal remedies and legal aid. ECRI also emphasises that evictions should not result in persons being left homeless or victims of other violations of their fundamental rights; the State must therefore ensure that alternative housing is offered, even in cases where the evicted persons may only remain in the country for limited periods.⁷⁰

96. The situation of Roma with respect to housing – which has shown no improvement in recent years, but has on the contrary worsened⁷¹ – has moreover frequently been denounced not only by ECRI,⁷² but also by other international bodies, including the Committee on the Elimination of Racial Discrimination, the Council of Europe Commissioner for Human Rights, the Advisory Committee on the Framework Convention for the Protection of National Minorities and the OSCE High Commissioner on National Minorities.⁷³ The European Committee of Social Rights for its part recently found a number of violations of the European Social Charter (revised) in these matters, some of them aggravated.⁷⁴ ECRI deplores the Italian authorities' failure to act to remedy this situation.
97. ECRI recommends that the Italian authorities firmly combat the segregation suffered by Roma in the field of housing, notably by ensuring that the housing solutions proposed to them do not cut them off from the rest of society but on the contrary, promote their integration. ECRI again stresses to the Italian authorities the importance of not basing their policies towards Roma and Sintis on the preconceived notion that they live a nomadic lifestyle.
98. ECRI strongly recommends that the Italian authorities ensure that the right to adequate housing is fully respected in the case of the Roma coming under Italy's jurisdiction and draws attention to the urgent need to remedy the health problems reported in this connection.
99. ECRI urges the Italian authorities to ensure that all Roma who may be evicted from their homes enjoy the full protection of the guarantees of international law in such matters. It underlines that the persons concerned must be notified of any proposed eviction and benefit from appropriate legal protection; nor must they be

⁶⁹ See in particular the International Covenant on Economic, Social and Cultural Rights, Article 11, as interpreted by the Committee on Economic, Social and Cultural Rights.

⁷⁰ In this respect ECRI refers in particular to General Comment 7 : The right to adequate housing : forced evictions, Committee on Economic, Social and Cultural Rights; see notably paragraphs 15 and 16 of this General Comment; for the definition of forced evictions, see paragraph 3.

⁷¹ European Committee of Social Rights, Centre on Housing Rights and Evictions (COHRE) v. Italy, Collective Complaint No. 58/2009, Report to the Committee of Ministers, § 58.

⁷² See in particular ECRI's second and third reports.

⁷³ See for example United Nations Committee on the Elimination of Racial Discrimination (CERD), Examination of reports submitted by States parties under Article 9 of the International Convention for the Elimination of all forms of Racial Discrimination, Concluding Observations of CERD on Italy, 16 May 2008, CERD/C/ITA/CO/15; Memorandum of Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Italy. Issues reviewed: Roma and Sinti; Immigration, 29 July 2008, CommDH(2008)18; Advisory Committee on the Framework Convention for the Protection of National Minorities, Second Opinion on Italy adopted on 24 February 2005, ACFC/INF/OP/I(2002)007; OSCE, Assessment of the Human Rights situation of Roma and Sinti in Italy, Report of a fact finding mission to Milan, Naples and Rome on 20-26 July 2008, Warsaw, The Hague, March 2009.

⁷⁴ European Committee of Social Rights, Centre on Housing Rights and Evictions (COHRE) v. Italy, Collective Complaint No. 58/2009, Report to the Committee of Ministers.

evicted without the possibility of being rehoused in decent accommodation, even if they may stay in the country only for limited periods of time.

100. In its third report, ECRI recommended that the Italian authorities ensure that all Roma children are enrolled in school and intensify their efforts to promote regular school attendance by these children. It also called on the Italian authorities to take steps to facilitate participation of Roma students in further and higher education.
101. Under the Italian Constitution and legislation, all children, regardless of their immigration status, have the right to education, which is compulsory up to the age of 16. ECRI notes with interest that many municipalities are implementing programmes aimed at facilitating access to school for Roma children, including the provision of school buses, and that the authorities have set up a system of local agreements to reduce underperformance at school. According to the information in its possession, the approach adopted by teachers and schools towards Roma children coming into contact with the school system seems to be welcoming.
102. ECRI welcomes these positive elements but notes that there are still many problems: Roma children living in illegal settlements are not systematically known to the education authorities and are therefore not enrolled in school; children concerned by forced evictions often find themselves unable to continue attending their school because no alternative housing is offered to them; the drop-out rate among children attending school remains high, particularly in post-primary education; the level of illiteracy among the Roma, particularly Roma women, is still high; as a result of all these factors, few Roma undertake a course of further or higher education, and measures do not appear to be in place to facilitate their access to this level of education. ECRI remains concerned about this situation, which leads to Roma being trapped in a situation of severe marginalisation and extreme poverty.
103. ECRI strongly recommends that the Italian authorities ensure that all Roma children are enrolled in school and invites them to take all the necessary measures, in co-operation with the communities concerned, to promote regular school attendance by these children. ECRI encourages the authorities to pursue the measures already in place to this end and invites them to strengthen their efforts to counter school drop-outs and interruptions in the schooling of Roma children.
104. ECRI again invites the Italian authorities to take steps to facilitate participation of Roma students in further and higher education.
105. In its third report, ECRI recommended that the Italian authorities take urgent action to improve the situation of Roma and Sinti in the fields of employment and health and to combat general prejudice in society.
106. The authorities have referred to a variety of efforts to foster the social inclusion of Roma. A number of initiatives were funded by central government between 2007 and 2008 in an amount of € 5 million, including through agreements reached with local and regional authorities, to support the inclusion of Roma in the labour market, integrating Roma pupils into the school system (see above) and providing housing for the Roma population; the Ministry of Health also ran a scheme aimed at distributing information on access to health care to the Roma and Sinti in Romanian and the Romany language. A national technical "task force" for the social inclusion of Roma and Sinti, notably in the employment field, has also been set up and seeks to facilitate dialogue and the exchange of information between the various parties involved in implementing initiatives in favour of the Roma financed by the EU Structural Funds; in parallel, the Ministry

of Labour and Social Policy is participating in research aimed at gathering specific data on the implementation of projects in favour of the Roma financed by the EU Structural Funds. The Council of Europe's awareness raising campaign on Roma - "Dosta!" - has also been launched in Italy.

107. ECRI welcomes these efforts. It notes, however, that, in view of the disadvantages suffered by the Roma and Sinti, it is essential that they be pursued and strengthened. In health matters, as described above, the conditions in which Roma live on the campsites expose them to considerable health risks. In the field of employment, on account of their low level of education and training, Roma and Sinti cannot easily access the labour market, especially if they do not hold identity documents. Prejudices against Roma and Sinti also exacerbate the difficulties they encounter in the employment field. ECRI points out that to deal simultaneously with all the disadvantages suffered by Roma and Sinti in different areas of daily life, and to address discrimination against them on a lasting basis, it is vital to adopt a comprehensive approach to these issues under a clear policy established at national level. ECRI notes with interest that one of the four pillars of the Third National Plan of Action and Intervention for the protection of rights and development of subjects in developmental age, adopted by presidential decree on 21 January 2011, is dedicated to promotion of interculturality. In this context, a variety of actions are provided for, notably to promote inclusion at school, protect the health of Roma children and adolescents and promote diversity training for teaching and non-teaching staff in schools. ECRI hopes that this Plan will have a positive impact for Roma children and adolescents and invites the authorities to evaluate carefully the impact that it has in practice.

108. ECRI strongly encourages the Italian authorities to pursue and intensify their efforts to combat discrimination against Roma in different fields of life such as employment and health. ECRI strongly recommends that the Italian authorities incorporate these efforts in a comprehensive national policy to address the situation of marginalisation, disadvantage and discrimination of the Roma. It also invites them to establish an effective mechanism to co-ordinate these efforts at national level with the participation of all the national, regional, provincial and local authorities concerned and of representatives of the Roma communities and of civil society.

Migrants, refugees and asylum seekers

- Migrants with legal status

109. The number of non-citizens living in Italy has continued to grow since ECRI's third report. According to official statistics there were over 4.2 million non-citizens living in Italy as at 31 December 2009 (approximately 7% of the total population), of whom over 572 000 were born in Italy; the great majority live in the north and centre of the country.⁷⁵ Moreover, a regularisation process was launched in 2009 to offset some unexpected consequences of Law No. 94/2009 when it came into effect,⁷⁶ since it would have placed many migrant workers – especially in the field of domestic and care services – in an unlawful situation and would therefore have jeopardised the continuity of these services. According to the figures supplied by the authorities, over 290 000 applications for regularisation were made, of which approximately 90% were accepted.

⁷⁵ Statistics published by the Italian National Institute of Statistics: see <http://demo.istat.it/str2009/index.html>.

⁷⁶ Legislative Decree No. 78/2009; for Law No. 94/2009 see above, "Pacchetto Sicurezza" and other measures targeting foreigners.

110. In its third report, ECRI made a series of recommendations to the Italian authorities aimed at preventing all direct and indirect discrimination against migrants with legal status, particularly on account of problems relating to issue of residence permits. It also made a number of recommendations aimed at improving integration of migrants with legal status, including providing for their participation in local elections.
111. ECRI notes that on 10 June 2010, the Italian Council of Ministers adopted the national 'Identity and Encounter' plan for integration and security. The plan provides for the introduction of a national strategy to promote social and economic integration, for example through education and training, employment, housing, access to services, and the children of second-generation immigrants. It aims to repeat the positive results achieved locally through the Fund for the Social Inclusion of Immigrants, set up in 2007. ECRI notes with interest in this context that the authorities are planning to introduce measures to strengthen the rights of migrant workers with legal status by giving them similar rights to those of Italian citizens if the business employing them closes down or suspends its operations. It observes, however, that these rights are apparently conditional on the non-citizen's observance of an integration agreement, whereby he or she must attend Italian language and civilisation classes and gain an adequate knowledge of Italian and public institutions; this agreement would seem to operate on the penalty-point system, with failure to observe it possibly resulting in non-renewal or withdrawal of the residence permit.
112. ECRI notes that knowledge of the host country's language and civilisation can facilitate non-citizens' participation in society and thus be an important factor in integration. Generally speaking, it supports measures to promote integration in Italian society. It stresses, however, that integration is a two-way process implying mutual recognition between the majority population and minority groups and measures taken in this field should first and foremost be in the form of incentives. ECRI notes in this context that Italian law provides for penalties for individuals required to attend integration classes if they fail to attend regularly; it emphasises that any penalty applied must be proportionate to the objective pursued. It also draws the attention of the Italian authorities to the fact that, at the very least, exceptions should be provided in certain circumstances in order to avoid violations of other personal rights (especially the right to respect for private and family life as enshrined in Article 8 of the European Convention on Human Rights) in the event of a refusal to extend a residence permit. It stresses that these rights also apply to migrants who have not learnt the language or culture of their host country.
113. ECRI also notes with concern how the authorities are linking integration with security. While the measures taken to promote integration may send a positive message to society as a whole, ECRI stresses that this message is likely to be overshadowed by the direct link being made between integration and security issues. This link may stigmatise migrants by giving rise to the false impression that insecurity is a problem specifically and solely associated with migrants.
114. ECRI encourages the Italian authorities to continue their efforts to promote integration of migrants with legal status and reduce the disparity between citizens and non-citizens on the labour market. However, it recommends that they ensure that these measures do not have the corollary of stigmatising non-citizens and laying them open to other violations of their rights.

- *Refugees and asylum seekers*

115. In its third report, ECRI recommended that the Italian authorities adopt a comprehensive law on asylum. ECRI notes that new legislation has since been

introduced in this field, in particular to incorporate EU directives into Italian law;⁷⁷ it welcomes the fact that Italian law now makes provision for granting subsidiary international protection. Nevertheless, asylum provisions are still spread across various different parts of Italy's domestic legal system, rendering some aspects of the relevant rules unclear⁷⁸ and making it harder to apply them.

116. ECRI reiterates its request to the Italian authorities to codify asylum law.

117. When considering the situation of refugees and asylum seekers in Italy, ECRI must draw a distinction between two periods. On the one hand, between 2006 and 2010 the number of asylum claims in Italy fluctuated widely, rising from 10 348 in 2006 to 30 324 in 2008 only to fall to 17 603 in 2009.⁷⁹ The number of sea arrivals was 19 900 in 2007 and 36 000 in 2008. About 75% of individuals arriving by sea claimed asylum, and approximately 50% of them were granted refugee status or some other form of international protection.⁸⁰ On the other hand, the number of sea arrivals rose again dramatically following the events in some North African countries in early 2011.⁸¹ Thus between mid-January and late March 2011, about 19 000 Tunisians and 1 500 persons from Libya arrived on the island of Lampedusa. These two situations will be examined separately.

- Situation up to late 2010

118. In its third report, ECRI strongly recommended that the Italian authorities take urgent steps to ensure in all cases that respect for the principle of non-refoulement and the right of individuals to apply for asylum was guaranteed, including when migrants were intercepted at sea or apprehended on entering Italy illegally.

119. ECRI is deeply concerned about developments on these points up to late 2010, especially regarding barriers to claiming asylum. It here points in particular to the adoption by the Italian authorities in May 2009 of a policy of returning to their country of origin any boats intercepted on the open sea between Italy and Libya ("*respingimento*" or pushback policy) and the signing of an official agreement with the Libyan authorities establishing, amongst other things, joint patrols in the waters between the two countries.⁸² ECRI notes that, according to the Italian authorities, between May and August 2009 757 people were rescued outside Italy's territorial waters and taken back to Libya, in accordance with international law. However, according to a number of sources, boats have been returned to Libya – a state which is not a party to the 1951 Geneva Convention relating to the Status of Refugees – without the persons on board having been able to indicate whether or not they wanted to claim asylum, without their country of origin having been identified, and without their having been offered the

⁷⁷ See, for example, Legislative Decree No. 251/2007 of 19 November 2007 incorporating Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, Legislative Decree No. 25/2008 of 28 January 2008 incorporating Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status, and Legislative Decree No. 159/2008 of 3 October 2008 amending Legislative Decree No. 25/2008.

⁷⁸ See below for the suspensive effect of an appeal.

⁷⁹ See the annexes to the relevant UNHCR Statistical Yearbooks: 'Asylum applications and refugee status determination by country/territory of asylum', Table 9 for 2007-2009, Table 6 for 2006.

⁸⁰ See UNHCR, Briefing Notes, 'Mediterranean sea arrivals: UNHCR calls for access to protection', 9 January 2009.

⁸¹ This occurred after the ECRI contact visit in November 2010.

⁸² The text of this agreement has never been published. For the agreement signed between Italy and Tunisia in January 2009 designed, amongst other things, to expedite the identification and return of Tunisians living in Italy; see below, Deportations under counter-terrorism provisions.

assistance of a lawyer or interpreter.⁸³ Yet interviews conducted by the UNHCR with some of the people who were returned to Libya in 2009 suggest that a number of them were seeking and would have been able to claim international protection.⁸⁴ This situation is extremely worrying, as it seems to show that not only is Italy's pushback policy denying individuals the possibility of claiming asylum but also individuals who are in need of protection have been subject to refoulement. It also seems that the persons returned to Libya are likely to suffer ill-treatment there.⁸⁵

120. ECRI strongly recommends that the Italian authorities take all necessary steps to ensure that the principle of non-refoulement is fully respected. It urges them to bring their pushback ("*respingimento*") policy to an immediate and permanent end. In this connection, it emphasises the need to guarantee access to asylum procedures in full accordance with the 1951 Geneva Convention, the European Convention on Human Rights and the relevant EU directives.

121. In its third report, ECRI recommended that the Italian authorities provide the Asylum Territorial Commissions with all the human and financial resources needed to ensure good-quality decisions on asylum applications within a reasonable time. ECRI notes with satisfaction that there seems to have been no criticism of the workings of these commissions. In 2009, they considered 23 944 asylum claims, granting asylum in 2 230 cases and another form of protection in 7 343 cases.⁸⁶

122. ECRI also notes with interest the setting-up of the Praesidium project, funded by the Ministry of the Interior and designed to build capacity to receive and provide services for persons arriving in particular in remote areas in order to offer these persons speedy access to information about their rights and to legal assistance and interpreters. However, some problems have been raised concerning access to legal aid and interpreting in these cases. A number of sources have, moreover, told ECRI that in 2010 people were returned from Sicily to Egypt without their origin having been determined, without having had access to assistance through the Praesidium project and without having been able to make asylum applications to the proper authorities.

123. ECRI recommends that the Italian authorities strengthen existing provisions guaranteeing access to the asylum procedure. It insists in this respect on the need to ensure that no decisions to return persons seeking international protection are taken without those persons having had access to assistance from lawyers and interpreters. It strongly recommends that the Italian authorities ensure that asylum seekers receive legal and interpreting assistance throughout the procedures concerning them.

124. In its third report, ECRI also noted that appeals against rejections of asylum claims did not have a suspensive effect on deportations and recommended that the Italian authorities not deport asylum seekers before having ruled on their appeals. ECRI notes with interest that since then the relevant rules have been amended and suspensive effect is now the general rule. However, provision has

⁸³ Report to the Italian Government on the visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 to 31 July 2009, CPT/Inf(2010)14, Strasbourg, 28 April 2010, § 40.

⁸⁴ UNHCR, Briefing Notes, 'UNHCR interviews asylum seekers pushed back to Libya', 14 July 2009.

⁸⁵ Report to the Italian Government on the visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 to 31 July 2009, CPT/Inf(2010)14, Strasbourg, 28 April 2010, §§ 41-47.

⁸⁶ See UNHCR Statistical Yearbook 2009, Annex, Table 10.

been made for a large number of exceptions,⁸⁷ with the risk that the suspensive effect will be deprived of most of its substance. It is admittedly possible for an asylum seeker coming under one of these statutory exceptions to request a court to grant a stay of execution regarding the deportation order. However, the relevant provisions are complex and lack clear implementing rules, making it difficult to exercise an effective right of appeal. Moreover, while court proceedings offer important procedural safeguards, according to civil society the courts do not always rule on cases within the statutory time-limits. Consequently, there is a genuine danger that asylum seekers will be deported to a country where they will face the real risk of suffering treatment in breach of Article 3 of the European Convention on Human Rights.

125. ECRI again recommends that the Italian authorities not deport asylum seekers before having ruled on their appeals. To this end, it recommends that they review the exceptions provided for in Italian law to the suspensive effect of an appeal against rejection of an asylum application. It further recommends that they introduce implementing rules for the relevant provisions as soon as possible.

126. In its third report, ECRI recommended that the Italian authorities ensure that asylum seekers only be detained when it was absolutely necessary, for short periods of time, and following an examination of the circumstances of the individual case. It also recommended that they ensure that detained asylum seekers had access to adequate living conditions.

127. There are currently three types of reception or detention centres for asylum seekers and migrants without legal status in Italy. First, reception centres (*Centri di Accoglienza*, CDAs) house new arrivals, for the purposes of ensuring identification and providing accommodation, medical assistance and information about asylum procedures for non-citizens who have entered Italian territory or territorial waters without having gone through border controls. Asylum-seeker reception centres (*Centri di accoglienza richiedenti asilo*, CARAs) house asylum seekers who have received a certificate of their status after having made their applications; they can leave these centres during the day and are initially housed there for a period of between 20 and 35 days (the time period allowed for the relevant commission to examine their applications). This period may be extended up to a maximum of six months if the asylum seeker brings an appeal against the rejection of his or her application. Lastly, identification and expulsion centres (*Centri di identificazione ed espulsione*, CIEs) house non-EU citizens subject to deportation orders in order to avoid their absconding within the country during the period needed to establish their identity, prepare their travel documents and organise their return; with the entry into force of Law No. 94/2009, the maximum period for detention in CIEs has risen from 60 days to 180 days. It should be noted that a person who has applied for asylum after having been found to be without legal status and who has been transferred to a CIE must remain in that centre while his or her application is being examined.⁸⁸

128. ECRI welcomes the new system of receiving asylum seekers inasmuch as it is more flexible and seems to allow more asylum seekers to live in open-access conditions. It notes with interest that over the past few years the authorities have

⁸⁷ See Article 35 of Legislative Decree No. 25/2008 of 28 January 2008 as amended by Legislative Decree No. 159/2008 of 3 October 2008. Thus, as already noted by the Council of Europe Commissioner for Human Rights (CommDH(2009)16, §65c), an exception to the general rule of suspensive effect is made in the following cases: a) The asylum seeker was accommodated in an open reception centre after being arrested for avoiding or trying to avoid border controls or immediately after, or after being arrested for unlawfully residing in Italy; b) The asylum seeker is held in an Identification and Expulsion Centre; c) The asylum application is inadmissible; d) The asylum seeker left the reception or detention centre without justification; e) The asylum application is manifestly unfounded.

⁸⁸ For living conditions in CIEs, see below, Immigrants without legal status.

undertaken work to increase the capacity and improve the facilities of some reception centres, such as the one on Lampedusa. However, it seems that living conditions in CDAs and CARAs are not always adequate. Thus persons subject to different arrangements (some entitled to leave during the day and others not) are mixed together; furthermore, the centres often lack facilities to meet the occupants' needs for medical, social and legal assistance. Moreover, in October 2010, following a series of protests against conditions where they were being held, some twenty asylum seekers tried to escape from the Cagliari centre in Sardinia.

129. ECRI again recommends that the Italian authorities detain asylum seekers only when absolutely necessary, for short periods of time, and following an examination of the circumstances of the individual case.

130. ECRI recommends that the Italian authorities review reception conditions in CDAs and CARAs to ensure that they meet all the needs of their occupants, both medically and socially and in terms of legal assistance.

131. In its third report, ECRI recommended that the Italian authorities ensure that asylum seekers were not left destitute pending the examination of their claims. It also recommended that the Italian authorities establish a national integration programme for recognised refugees and make available adequate resources to this end.

132. ECRI notes that the new system of receiving asylum seekers in CDAs and CARAs seems to be an improvement, in particular inasmuch as CARAs are open centres where asylum seekers can be accommodated throughout the examination of their applications or for a period of up to 6 months. However, the information at ECRI's disposal suggests that no provision has been made to assist asylum seekers who choose to leave these centres or who have to leave them after 6 months even if their applications have not yet been settled. While ECRI welcomes the fact that asylum seekers are legally allowed to work once six months have elapsed from submission of their asylum applications,⁸⁹ it notes with regret that access to regular employment often remains theoretical because of discrimination in the labour market.⁹⁰

133. ECRI reiterates its recommendation that the Italian authorities ensure that asylum seekers are not left destitute pending examination of their claims.

134. As regards integration, this still takes place solely through the SPRAR (protection system for asylum seekers and refugees). Established by Law No. 189/2002, this system consists in the provision of financial support by the Ministry of the Interior to towns and cities hosting asylum seekers and refugees on the basis of projects submitted by these towns and cities and approved following calls for tender. Three thousand places are funded every year, covering both asylum seekers and beneficiaries of international protection. While all stakeholders concur in stressing the utility of the programme, they also note that it is clearly not sufficient to cover actual needs. Nor does it offer a comprehensive approach, since, to participate in the SPRAR, each province or region must join the system individually, on the basis of its own specific projects, which means that the degree of integration will vary according to the city or region in which the programme beneficiaries are living. ECRI further notes with concern that most asylum seekers lose their right to be housed in reception centres once their applications for international protection have been accepted. The situation of persons not covered by the SPRAR once their status is recognised is thus likely to be even more insecure

⁸⁹ Legislative Decree No. 140/2005 of 19 October 2005.

⁹⁰ See below, Discrimination in Various Fields - Employment.

than during examination of their applications. Certain sources suggest that many refugees and beneficiaries of other forms of international protection therefore have no alternative but to occupy empty premises illegally or move into makeshift camps which are often overcrowded and lack electricity. Others find themselves on the street. This housing shortage fuels racism and xenophobia towards them.

135. ECRI recommends that the Italian authorities strengthen the programme promoting integration of refugees, asylum seekers and other officially recognised beneficiaries of international protection so that all potential beneficiaries of this programme are actually covered. At the same time, it strongly encourages the Italian authorities to strengthen the national aspect of this programme in order to ensure that all its intended beneficiaries can benefit fully from the measures introduced, wherever they may be resident.

- Specific situation arising from events in North Africa in early 2011

136. ECRI notes that, following the events in Tunisia in early 2011, 19 000 Tunisians arrived on Lampedusa between mid-January and late March 2011. According to the UNHCR, most of these Tunisians were seeking better economic opportunities rather than international protection.⁹¹ ECRI observes from the outset that access to asylum procedures must nevertheless be guaranteed for everyone seeking international protection and notes with interest that the Italian authorities initially stated their commitment to providing this access.⁹² It also notes that Italy and Tunisia signed a new agreement on 6 April whereby Tunisia undertook to strengthen its border controls for the purpose of preventing further departures and to accept rapid readmission of persons returned from Italy under simplified procedures. ECRI expresses its deep concern regarding reports that, as part of the implementation of this agreement, people were returned to Tunisia after only one or two days on Lampedusa; it stresses in this context that given the speed of their return, on the one hand, and the shortage of people on Lampedusa to inform new arrivals of their rights, on the other, there is a real risk that people may have been returned to Tunisia without having received adequate information about the asylum procedure or having been able to contest their return – in breach of Article 13 of the European Convention on Human Rights.

137. At the same time, following the events in Libya, a member of the Italian government indicated in early 2011 that the agreement between Italy and Libya was no longer operating in practice. In late March boats also began arriving in Italy from Libya, carrying mainly Eritrean, Somali, Ethiopian and Sudanese passengers who had fled war and persecution in their own countries before fleeing, a second time, from Libya. ECRI notes in this context that, according to some sources, sub-Saharan Africans seem to be particularly at risk in Libya as they are perceived as being foreign mercenaries.⁹³ It also expresses its profound sadness and dismay at the drowning of hundreds of refugees at sea between Libya and Italy and draws attention to the principles of rescue at sea, which apply to everyone.⁹⁴

⁹¹ UNHCR, Briefing Notes, 'Italy, Malta receive first boats from Libya, stretching asylum capacity', 29 March 2011.

⁹² UNHCR, News Stories, 'UNHCR helps Italy cope with high seas influx of thousands of Tunisians', 15 February 2011.

⁹³ See, for example, UNHCR, Press Releases, 'UNHCR High Commissioner for Refugees and UNHCR Goodwill Ambassador shocked by devastating boat tragedy', 6 April 2011.

⁹⁴ On 20 June 2011 the President of the Parliamentary Assembly of the Council of Europe announced that the latter would conduct an inquiry into one such incident that occurred on 8 May 2011.

138. ECRI notes that the events in North Africa concern all European states and will undoubtedly necessitate some sharing of responsibilities.⁹⁵ It nevertheless stresses that this situation does not relieve Italy of the obligation to ensure full respect for the rights of individuals coming under its jurisdiction. It here notes with concern reports that – despite the Italian authorities’ stated commitment to guaranteeing access to asylum procedures for any persons requiring it – dozens of people arriving from Egypt in mid-February were immediately returned to that country without having had the option of stating whether or not they wished to claim asylum.

139. ECRI strongly recommends that the Italian authorities systematically respect the principle of non-refoulement and take all further steps necessary to ensure access to asylum procedures for all persons having arrived in Italy from North Africa since the beginning of 2011 and who are seeking international protection.

140. ECRI draws the attention of the Italian authorities to the importance of taking all necessary steps to ensure that any ship coming under their jurisdiction fully respects the principles laid down by international law with respect to rescue at sea.

141. ECRI is deeply concerned about the living conditions of the people who arrived in Italy from North Africa in the first few months of 2011, some of whom were seeking international protection. Despite steps taken by the Italian authorities to distribute these people across various reception centres throughout Italy, over 6 000 migrants were still on Lampedusa in late March 2011, although the capacity of the reception centre on the island is 850 people. This situation creates serious health problems as well as tensions among the local population. It also makes it difficult for Italy to cope with the arrival of refugees and asylum seekers fleeing violence in Libya.⁹⁶

142. ECRI strongly encourages the Italian authorities to continue and step up their efforts to provide adequate reception arrangements for persons arriving on Italian shores following the events in North Africa, some of whom are seeking international protection.

- *Migrants without legal status*

143. In its third report, ECRI recommended that the Italian authorities ensure that living conditions in all CPTAs (now CIEs⁹⁷) meet adequate standards. It urged the Italian authorities to investigate all allegations of ill-treatment in these centres and to punish those found responsible. It also invited the authorities to increase transparency by facilitating access to these centres.

144. ECRI notes with concern that there are continuing reports of ill-treatment of persons held in CIEs. In some cases people have apparently died without receiving medical assistance. Moreover, despite some mainly structural improvements to buildings, living conditions have reportedly scarcely improved over the past few years, and CIEs – closed detention centres originally designed for maximum detention periods of between 30 and 60 days – and their facilities are reportedly unsuitable for the considerably longer periods of detention (up to

⁹⁵ See also, Resolution 1805 (2011), ‘The large-scale arrival of irregular migrants, asylum seekers and refugees on Europe’s southern shores’, adopted by the Parliamentary Assembly of the Council of Europe on 14 April 2011.

⁹⁶ UNHCR, Briefing Notes, ‘Italy, Malta receive first boats from Libya, stretching asylum capacity’, 29 March 2011.

⁹⁷ Pursuant to Law No. 125 of 24 July 2008.

180 days) that are now provided for by the law.⁹⁸ Some reports suggest that health services and legal, social and psychological support are inadequate, contributing to unrest among detainees, manifested by self-mutilation or disputes between detainees, or even revolt. Moreover, these centres do not always allow for account to be taken of the specific needs of their most vulnerable occupants. It also seems that they often operate without proper external supervision and access remains difficult for human rights organisations, lawyers and journalists.

145. ECRI recommends that the Italian authorities consider alterations to Identification and Expulsion Centres (CIEs) and the living conditions there and take all the necessary steps to ensure that they are suitable for periods of detention lasting up to 180 days.

146. ECRI urges the Italian authorities to ensure that all persons held in CIEs have access to the medical care that they need.

147. ECRI urges the Italian authorities to investigate all allegations of ill-treatment in these centres and punish those responsible. It again invites the authorities to increase transparency by facilitating access to these centres, including for organisations protecting the human rights of migrants and asylum seekers and for lawyers.

- *Deportations under counter-terrorism provisions*

148. ECRI notes with concern that since its third report, Italy has on several occasions deported non-citizens from its territory – including under domestic counter-terrorism legislation – despite interim measures indicated by the European Court of Human Rights under Rule 39 of its Rules of Court.⁹⁹ In a number of these cases the Court found violations of Article 3 of the European Convention on Human Rights (prohibition of torture and inhuman or degrading treatment or punishment) accompanied in some cases by violation of Article 34 (an individual's right to lodge an application with the Court). In other cases it seems that persons deported without having been able to lodge an application with the Court were later subjected to ill-treatment or even torture. Some of these deportations took place after the signing in January 2009 of an agreement between Italy and Tunisia, one of the purposes of which was to expedite the identification and return of Tunisians living in Italy.¹⁰⁰

149. ECRI expresses its serious concern about this situation. It observes that the fight against terrorism cannot justify failure to comply with interim measures indicated by the European Court of Human Rights. It further notes that the Italian authorities' repeated failures over the past few years with regard to Tunisian nationals may fuel racism and xenophobia towards the latter.

150. ECRI urges the Italian authorities to take effective steps to prevent any deportations from Italy that might be in breach of Article 3 of the European Convention on Human Rights. Inasmuch as the failures already noted have occurred in connection with the fight against terrorism, ECRI invites the Italian

⁹⁸ Report to the Italian Government on the visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 to 31 July 2009, CPT/Inf(2010)14, Strasbourg, 28 April 2010, § 34.

⁹⁹ Ben Khemais v. Italy, Application No. 246/07, judgment of 24/2/2009, final on 6/7/2009; Trabelsi v. Italy, Application No. 50163/08, judgment of 13/4/2010, final on 13/7/2010; Toumi v. Italy, Application No. 25716/09, judgment of 5/4/2011, not yet final; Mannai v. Italy, Application No. 9961/10, statement of facts and questions to the parties, 23 June 2010.

¹⁰⁰ See also above, 'Refugees and asylum seekers - Situation up to late 2010'. This 2009 agreement, which ceased to operate with the events of early 2011 in North Africa, should not be confused with the agreement signed in April 2011, which is also referred to above: see 'Refugees and asylum seekers - Specific situation arising from events in North Africa in early 2011.

authorities to refer to its General Policy Recommendation No. 8 on combating racism while fighting terrorism.

Muslim communities

151. Although there are no official statistics,¹⁰¹ the number of Muslims living in Italy is currently estimated at more than one million; the vast majority of them are migrants. In its second report, ECRI recommended that the Italian authorities take steps to counter manifestations of prejudice, discrimination and violence directed against members of Muslim communities and challenge any association made in public debate between these communities and terrorism.
152. ECRI notes with regret that anti-Muslim prejudice still exists in Italian society. Opinion polls continue to show that the Italian population is wary of Islam and one third of the population would not want a mosque to be built near their home. This prejudice is reflected in the strong objections raised to many plans to build mosques and in violent attacks on buildings housing mosques or Islamic cultural centres. Muslims also continue to be stigmatised in political discourse and the policy proposals of certain parties. For example, in addition to anti-Muslim statements and provocative behaviour by certain individual members of the Northern League, this party has made a number of proposals for legislation directly targeting Muslims. A proposal made in 2008 sought to impose disproportionate restrictions on the construction of mosques (for example by banning the building of a mosque within 600 metres of a church and by requiring that a local referendum should systematically be held on such plans), even though the current number of mosques can be seen to be insufficient. Another proposal made in 2010 would have had the effect of criminalising the wearing of the burqa, with penalties of as much as a one-year unsuspended prison sentence for wearing of the garment and a fine of € 30 000 for anyone compelling a woman to wear it. In this connection, ECRI notes with interest that UNAR has sought the revocation of a number of discriminatory measures adopted at municipal level concerning wearing of the headscarf, the burqa or a burqini; case law exists authorising the wearing of the headscarf on religious grounds.
153. ECRI recommends that the Italian authorities intensify their efforts to combat and effectively prevent racism and discrimination against Muslims. It again draws their attention to its General Policy Recommendation No. 5 on combating intolerance and discrimination against Muslims, which proposes a number of legislative measures and policy initiatives that governments can take to this end.
154. In its second report, ECRI encouraged the Italian authorities to pursue dialogue with representatives of Muslim communities in order to ensure that the members of these communities are not disadvantaged as regards access to opportunities available to the members of other religious denominations. ECRI notes that relations between the state and the various religious denominations present in Italy are governed inter alia by bi-partite agreements (*intese*) entered into by central government and the religious communities concerned, with the aim of extending to these religious groups all the privileges recognised to the Catholic Church.¹⁰² According to information supplied by the authorities in November 2010, there is however no demand from Muslim communities for the conclusion of such an agreement at present.

¹⁰¹ See below, Monitoring of racism and racial discrimination.

¹⁰² See the information supplied by the Italian authorities to the Committee on the Elimination of Racial Discrimination, CERD/C/ITA/15, 29 March 2006, §§ 161-170; according to information supplied by the authorities in November 2010 twelve such agreements have been concluded so far, mostly with Christian Churches; six have already been approved by parliament, while six others, approved by the executive, have not yet been approved by parliament.

155. ECRI notes the creation, in September 2005, of a Council for Italian Islam,¹⁰³ a consultative body set up to promote dialogue between the authorities and Muslim communities at national level and to propose tangible measures to foster integration, which is chaired by the Minister of the Interior and has sixteen Muslim members of various origins. ECRI notes that, following the sometimes tense initial debates, this body has been relatively inactive in recent years and its current role is not clear. It nonetheless hopes that a framework for regular, constructive dialogue between the authorities and the Muslim communities will continue to exist in Italy, as this should help facilitate the settlement of a range of practical difficulties that can arise on a day-to-day basis (such as access to a place of worship) and foster integration. In this respect, ECRI again points out that integration must be conceived as a two-way process allowing minority groups to participate fully in society and fostering mutual understanding between the majority population and minority groups.

156. ECRI encourages the Italian authorities to pursue a regular, constructive dialogue with the representatives of the various Muslim communities in Italy and, if necessary, to reinforce the structures established to permit such dialogue.

VII. Antisemitism

157. The Italian authorities record a few dozen antisemitic incidents per year, against Jewish persons or their property.¹⁰⁴ Most of these offences reportedly still involve verbal and written threats, verbal abuse and graffiti. Moreover, antisemitic prejudice still exists and, according to civil society organisations, is expressed more or less openly, in particular at times of increased tensions in the Middle East.

158. Civil society sources report that the Jewish communities maintain a constructive dialogue with the authorities. They accordingly do not encounter particular problems in obtaining permission to open new synagogues; however, guaranteeing such buildings' security on a day-to-day basis is reportedly more difficult. Moreover, antisemitic views remain relatively prevalent in Italy.¹⁰⁵

159. ECRI encourages the Italian authorities to reinforce their efforts to combat antisemitism and invites them to draw inspiration from its General Policy Recommendation No. 9 on the fight against antisemitism, which proposes a number of measures that governments can take in this field.

160. According to representatives of the Jewish communities, the forms taken by antisemitism are constantly evolving and the Internet is playing an increasingly important role in the dissemination of antisemitic ideas. First, the speed with which information and ideas circulate is constantly increasing thanks to social networks; second, antisemitic writings not sold over the counter are now available free of charge on the Internet. Although the Mancino law¹⁰⁶ in theory makes it possible to impose penalties for websites hosted in Italy that publish incitements to hatred, the sites concerned are often hosted abroad and are more difficult to counter. In this connection, ECRI draws the authorities' attention to the recommendations made above regarding reinforcement of the measures to combat racism on the Internet.

¹⁰³ The Consulta per l'Islam italiano, set up by the Minister of the Interior under a decree of 10 September 2005.

¹⁰⁴ For precise figures, see above, Racist violence.

¹⁰⁵ 29% of participants in a study conducted in 2009 had a very or mostly unfavourable opinion of Jews. FRA Working paper on Antisemitism, Summary overview of the situation in the European Union 2001-2009, Update April 2010, p. 23.

¹⁰⁶ See above, Criminal law provisions.

VIII. Discrimination in Various Fields

Education

161. In its third report, ECRI recommended that the Italian authorities increase their efforts to provide non-Italian school pupils with the additional support necessary for them to enjoy genuinely equal opportunities in education, in particular by improving the standard of teaching of Italian as a second language.
162. As has already been noted elsewhere in this report,¹⁰⁷ all children have a right to education in Italy, regardless of their legal status. Moreover, on 11 February 2009 a court in Milan declared invalid, on account of its discriminatory nature, a circular from Milan City Council prohibiting the children of migrants without residence permits from attending nursery school.
163. According to figures supplied to ECRI by the authorities, the number of non-citizen pupils has risen over the past few years; such pupils now constitute about 7% of the Italian school population. Temporary remedial classes are provided to encourage the learning of Italian by pupils who lack sufficient knowledge of it. ECRI notes this measure with interest whilst recalling its General Policy Recommendation No. 10,¹⁰⁸ which states that education policies must avoid placing children from minority groups in separate classes; it is important that such classes be for a limited period of time, justified by objective and reasonable criteria and provided only if in the best interests of the child. ECRI also stresses the need to ensure that primary and secondary teachers are trained in sufficient numbers to meet pupils' needs for language support.
164. ECRI encourages the Italian authorities to continue their efforts to ensure that no pupils suffer any disadvantage in the school system on account of an insufficient command of Italian and recommends that the authorities be guided in this respect by its General Policy Recommendation No. 10.
165. In its third report, ECRI recommended that the Italian authorities take measures to prevent the stigmatisation of children who did not attend Catholic religion classes in the school environment and to provide these children with adequate possibilities for alternative education.
166. Under an agreement signed between the State and the Holy See in 1984, the state is required to provide Catholic religious education in schools, but it remains optional for pupils.¹⁰⁹ Other classes, which do not have to be religious, may be offered to pupils not taking Catholic religious education, but they are not compulsory. Further to a case concerning academic credits awarded to pupils who take Catholic education, the Council of State ruled that credits would be awarded to pupils taking Catholic religious education or an alternative class but not to pupils who decided not to take these optional classes.¹¹⁰ The Council of State held that there was no discrimination against pupils choosing not to attend religious education classes since they had the option of attending other classes that may be provided by the school. Civil society representatives have nevertheless told ECRI that this option often exists only in theory: such classes seldom take place, owing to a lack of resources.
167. ECRI stresses that in a context where most pupils take Catholic religious education and where alternative classes are not always available, the lack of a

¹⁰⁷ See above, Vulnerable/Target Groups - Roma.

¹⁰⁸ See above, Vulnerable/Target Groups - Roma.

¹⁰⁹ See Judgment 203/1989 of the Constitutional Court, dated 11 and 12 April 1989.

¹¹⁰ Council of State, Judgment 2749/2010 Reg.Dec, Sixth Section, judgement of 7/5/2010.

mark for Catholic religious education inevitably has a specific connotation which sets apart pupils who have a mark from those who do not. Moreover, recognition of marks for these classes may have a significant adverse impact on pupils who have been unable to take alternative classes despite their wish to do so, since these pupils could be penalised either because they do not have the possibility of improving their overall mark through the optional classes of their choice or because they feel forced to take religious education against their wishes. This situation seems inconsistent with the requirements of the European Convention on Human Rights regarding freedom of conscience and prohibition of discrimination.¹¹¹

168. ECRI recommends that the Italian authorities ensure that substitute classes for optional Catholic education are provided in response to all requests made in accordance with the applicable rules, so as to ensure that no pupils suffer indirect discrimination, particularly with regard to award of credits.

Employment

169. In its third report, ECRI recommended that the Italian authorities take further measures to reduce the disparity between nationals and non-citizens on the labour market and, in particular, ensure that antidiscrimination legislation applicable in the field of employment was adequate and thoroughly applied.

170. As in its previous reports, ECRI notes that undeclared work still seems to be a common phenomenon in the Italian labour market, especially in the southern regions and in agriculture, construction, domestic and care services and tourism. It continues to concern non-citizens in particular, who are therefore more exposed to the risks of exploitation and discrimination it entails. Prejudice against foreigners and migrant workers also persists, affecting their access to jobs and their position in the workplace; in its worst manifestations, it has led to violent clashes.¹¹² Migrant workers have, moreover, been particularly affected by the economic downturn, suffering a disproportionate number of redundancies. According to the information supplied by the authorities, the number of jobs held by non-citizens has nevertheless increased concurrently with a rise in their unemployment rate: this would seem partly attributable to the regularisation measures introduced in 2009 to ensure continuity of domestic and care services.

171. ECRI recommends that the Italian authorities step up their efforts to reduce the disparity between citizens and non-citizens on the labour market, ensuring in particular that existing anti-discrimination legislation in the field of employment is properly and strictly applied. It recommends that the authorities conduct an awareness-raising campaign focusing on employers' obligations and responsibilities on the one hand and on the positive aspects of diversity in the workplace on the other.

Housing

172. In its third report, ECRI recommended that the Italian authorities pay greater attention to problems of direct and indirect racial discrimination in housing, both in the private and in the public sector. It recommended that they apply antidiscrimination legislation thoroughly and that local best practices be applied on a national scale.

¹¹¹ In this regard, ECRI refers in particular to *Grzelak v. Poland*, Application No. 7710/02, judgment of 15 June 2010, rendered final on 22 November 2010, in which the European Court of Human Rights found a violation of Article 14 taken in conjunction with Article 9 of the European Convention on Human Rights; see in particular §§ 95-96.

¹¹² See above, Racist violence.

173. Under the legislative decree incorporating Directive 2000/43/EC into Italian law,¹¹³ both the public and private housing markets are covered by the prohibition of discrimination. However, ECRI notes with concern continuing reports of discrimination based on colour, religion or ethnic or national origin, particularly for access to private housing.¹¹⁴ At the same time, some municipalities are introducing tougher eligibility conditions for public housing by increasing the number of requirements to be met (for example, a lengthy period of previous residence in the municipality) or by introducing points systems (based on place of birth, nationality and/or period of residence in the municipality). These measures, which usually have a greater impact on non-citizens (which is sometimes actually their manifest aim), result in indirect discrimination. Moreover, proposals to provide social housing for Roma in some cities have sometimes met with strong opposition from the local population; the specific situation of Roma and Sinti regarding access to suitable housing is examined elsewhere in this report.¹¹⁵
174. The authorities have pointed to a number of initiatives in the regions financed by the fund for social inclusion of migrants in the field of housing. ECRI notes with interest that these initiatives have included construction of new buildings for temporary accommodation of migrants with financial or health problems, public or private action to renovate buildings able to provide accommodation, and assistance to improve access to housing and combat discrimination in this field.
175. ECRI again recommends that the Italian authorities ensure that legislation against direct and indirect racial discrimination in the housing field is rigorously applied, both in the private and in the public sector.
176. It strongly encourages the Italian authorities to identify best practices at local level in order to eliminate all discrimination based on colour, religion, ethnic or national origin, language or nationality in the field of housing and to ensure that these best practices are applied on a national scale.

Health

177. ECRI notes that under Article 32 of the Italian Constitution¹¹⁶ the right to protection of health is not limited solely to Italian citizens but is guaranteed to all. In its third report, ECRI recommended that the Italian authorities pursue and strengthen their efforts to ensure better provision of health care and better access to health care for groups coming under ECRI's remit. It notes that, owing to decentralisation, health policies are decided at regional level, while the central authorities propose strategies and aim to identify and promote the most effective regional policies.
178. As regards the groups coming under ECRI's remit, the authorities have pointed out that migrants tend to see their health deteriorate rapidly once they arrive in Italy owing to the stress of migration, problems of access to employment and a steady income, and poor housing conditions. The authorities have also emphasised the importance of removing not only linguistic but also cultural barriers to health care. ECRI notes with interest that over the past few years the authorities have been running a number of projects aimed at protecting the health of the most vulnerable, including migrants. These projects cover prevention and treatment of infectious diseases, reception of migrants by health staff, and development of indicators in order to improve overall reporting of migrants' state

¹¹³ Legislative Decree No. 215 of 9 July 2003. See above, Civil and administrative law provisions.

¹¹⁴ See, for example, FRA, Annual Report 2010, Vienna, 2011, Section 3.2 - Housing.

¹¹⁵ See above, Vulnerable/Target Groups - Roma.

¹¹⁶ According to Article 32 of the Italian Constitution, 'The republic protects individual health as a basic right and in the public interest; it provides free medical care to the poor.'

of health and adapt available resources in this field accordingly. Other specific projects have endeavoured to improve access to health care for Roma and Sinti by producing a leaflet in Romanian and Romany and, in some regions, by setting up mobile health services able to dispense medical care and vaccines directly in Roma settlements.

179. ECRI encourages the authorities to continue and step up their efforts to ensure better provision of health care and better access to health care for groups coming under ECRI's remit, not only with regard to reception of patients and access to care but also by providing care appropriate to their specific situations.

IX. Conduct of Law Enforcement Officials

180. In its third report, ECRI recommended that the Italian authorities establish an independent commission to investigate all allegations of human rights violations by the police, including acts of racism or racial discrimination. ECRI notes that such a body has still not been established. At the same time, allegations of ill-treatment of members of groups coming within ECRI's mandate by law enforcement officials continue to be reported. Although the victims belong to a variety of groups, in particular of foreign origin, the majority of the allegations concern ill-treatment of Roma. Certain sources have reported abuses perpetrated during the conduct of censuses in Roma settlements, such as searches without a warrant. Moreover, as mentioned above,¹¹⁷ in recent years many Roma campsites have been violently attacked; according to observers, in some cases, the police failed to intervene with a view to protecting the victims. There have also been reports of the use of sometimes violent methods by law enforcement officials when carrying out forced evictions.

181. ECRI underlines that the authorities' ability to respond effectively to allegations of ill-treatment by law enforcement officials is a key factor in maintaining the confidence of all sectors of society in the law enforcement system. Where that is not the case and where members of minority groups are the victims of such behaviour, the lack of an independent investigatory body undermines confidence in the police.

182. ECRI invites the Italian authorities to denounce publicly and unambiguously all manifestations of racist behaviour or racial discrimination by members of the police and to ensure that public statements are made at a high level to the effect that such acts will not be tolerated and will be punished following a thorough and prompt investigation.

183. ECRI reiterates its recommendation that the Italian authorities establish a body independent of the police and the prosecution service to investigate allegations of human rights violations by the police, including inter alia all allegations of racial discrimination or racially motivated misconduct.

X. Monitoring Racism and Racial Discrimination

184. According to the authorities, specific data protection measures govern the collection of data broken down by ethnic origin or by religion, and only the individuals concerned can declare that they belong to a given ethnic group. Consequently, as already noted in ECRI's third report, to monitor the situation of groups coming within ECRI's mandate in various fields of life such as education, housing or employment, the Italian authorities collect data essentially broken down by nationality. ECRI has already observed that this approach seems to reflect a situation where most members of groups coming within its mandate are non-citizens. It nonetheless also underlined that the number of such persons who

¹¹⁷ See above, Racist violence.

are Italian citizens is bound to increase. This analysis remains valid. ECRI accordingly again points out the need to consider ways of adapting the systems for monitoring the situation of the groups coming within its mandate to these changing circumstances.

185. In this connection, ECRI refers to its findings, first, that the censuses performed in the so-called "nomad" campsites, particularly in 2008 and 2009, primarily concerned persons of Roma or Sinti origin and, secondly, that the data apparently have not always been gathered in accordance with the principles of confidentiality, informed consent and individuals' voluntary self-identification as members of a particular group.¹¹⁸

186. ECRI reiterates its recommendation that the Italian authorities improve their system for monitoring the situation of minority groups by collecting relevant information in various fields, broken down according to categories such as ethnic or national origin, language, religion and nationality. It stresses the need to ensure that the system put in place is compliant with European standards in matters of data protection and protection of privacy. The Italian authorities should in particular ensure that data collection is always carried out in full accordance with the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group. The system for collecting data on racism and racial discrimination should also take into consideration the gender dimension, particularly from the point of view of possible double or multiple discrimination.

XI. Education and Awareness-Raising

187. ECRI notes that most of the efforts made to raise the awareness of the general public as to the need to combat racism and intolerance are conducted by UNAR; in other parts of this report, ECRI has already encouraged the Italian authorities to increase the means at the disposal of UNAR to carry out these activities.¹¹⁹

188. In its third report, ECRI recommended that, in the context of schooling, the Italian authorities strengthen their efforts to provide teachers with training in delivering intercultural education and that they strengthen the human rights dimension of civic education courses. ECRI notes that a new subject, "Citizenship and the Constitution", was launched in 2009, covering inter alia the respect of human rights and non-discrimination. The Ministry of Education has also held training seminars for teaching and auxiliary staff in schools. These seminars included subjects such as the inclusion of Roma children at school or how to promote integration in schools; the authorities have also stated their intention to launch, as from end 2010, a free course for teachers on integration, with the aim of increasing teachers' skills in promoting integration in their classes, whatever their field of expertise. ECRI notes the particular importance of such efforts in the context of an increasingly diverse society, and draws the authorities' attention to its General Policy Recommendation No. 10: Combating racism and racial discrimination in and through school education, which outlines a series of measures that the authorities can take to this end.

189. ECRI strongly encourages the authorities to pursue and strengthen their efforts aiming to impress on pupils at all levels the need to respect the principles of non-discrimination and of promoting equal opportunities, and to provide teachers with full training in these fields.

¹¹⁸ See above, Vulnerable/Target Groups - Roma.

¹¹⁹ See above, Anti-discrimination bodies and other institutions – UNAR (Ufficio Nazionale Antidiscriminazioni Razziali).

190. ECRI also encourages the authorities to pursue their efforts to bolster the skills of teaching and auxiliary staff in schools in promoting integration and respect for diversity.

INTERIM FOLLOW-UP RECOMMENDATIONS

The three specific recommendations for which ECRI requests priority implementation from the authorities of Italy, are the following:

- ECRI recommends that the Italian authorities take steps to enhance the role of UNAR, in particular by formally extending its powers so that the relevant legislation clearly covers discrimination based not only on ethnic origin and race but also on colour, language, religion, nationality and national origin; by granting it the right to bring legal proceedings; and by ensuring that its full independence is secured both in law and in fact. ECRI wishes to stress in this regard that UNAR must also be provided with all the necessary human and financial resources, in the light of its workload.
- ECRI urges the Italian authorities to ensure that all Roma who may be evicted from their homes enjoy the full protection of the guarantees of international law in such matters. It underlines that the persons concerned must be notified of any proposed eviction and benefit from appropriate legal protection; nor must they be evicted without the possibility of being rehoused in decent accommodation, even if they may stay in the country only for limited periods of time.
- ECRI strongly recommends that the Italian authorities take all necessary steps to ensure that the principle of non-refoulement is fully respected. It urges them to bring their pushback ("*respingimento*") policy to an immediate and permanent end. In this connection, it emphasises the need to guarantee access to asylum procedures in full accordance with the 1951 Geneva Convention, the European Convention on Human Rights and the relevant EU directives.

A process of interim follow-up for these three recommendations will be conducted by ECRI no later than two years following the publication of this report.

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APPENDIX: GOVERNMENT'S VIEWPOINT

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Italy

ECRI, in accordance with its country-by-country procedure, engaged into confidential dialogue with the authorities of Italy on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which, in line with ECRI's standard practice, could only take into account developments up until 22 June 2011, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.



MINISTRY OF FOREIGN AFFAIRS
Inter-ministerial Committee on Human Rights
Comitato Interministeriale dei Diritti Umani

**ITALIAN REMARKS ON THE DRAFT FOURTH REPORT OF THE
EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE ON ITALY**

Preliminary remarks

The 1948 Italian Basic Law includes all basic and fundamental rights as enshrined in international and regional legal instruments and conventions.

The Basic Law establishes the political framework for action and organization of the State. The fundamental elements or structural principles of the Constitution governing the organization of the State are the following: democracy, as laid down in Art. 1; the so-called *personalistic* principle, as laid down in Art. 2, which guarantees the full and effective protection of human rights; the pluralist principle, within the framework of democracy (Arts. 2 and 5); the importance of labour as a central value of the Italian community (Arts. 1 and 4); the principle of social solidarity (Art. 2); the principle of non discrimination and equality before the law, as laid down in Art. 3; the principles of national unity and territorial integrity (Art. 5); and, above all, the principle of the state based on the rule of law. These principles are guaranteed also at the locale level, due to the fact that the territorial organization of the Italian Republic consists of municipalities, provinces, metropolitan cities, Regions (20) and State. Local authorities are autonomous entities with their own statutes, powers and functions (Arts. 5 and 114).

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 Art. 3 of the Italian Basic law: “All citizens possess an equal social status and are equal before the law, without distinction as to sex, race, language, religion, political opinions, and personal or social conditions.” 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.

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.

According to the guiding principles included in Art. 29 of Community Law No. 39/2002, the Italian Government promptly transposed the contents of the Directive 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 according to a comprehensive approach based on the principle of equal treatment in the public and private sectors, with respect to access to employment, occupation, guidance and vocational training, membership of workers' or employers' organisations, social protection, healthcare, social benefits, education, goods and services, judicial protection of victims by civil actions against discrimination, including presumptive proof in favour of the victim and awarding compensation for damage. The Italian legal system also includes specific provisions to combat racist and xenophobic speech, including those actions directed to spread ideas founded on racial or ethnic hatred and the incitement to commit acts of violence on racial, ethnic or religious grounds. The legislation in force punishes the constitution of organizations, associations, movements or groups which have, among their aims, the incitement to discrimination or to violence motivated by racial, ethnic or religious reasons. It also provides for a special aggravating circumstance for all the crimes committed on the ground of discrimination or racial hatred. As to the use of racist or xenophobic language in politics, by law it is laid down that the judicial authorities are entrusted and have to verify the existence of criminal contents in documents, speeches and programs made by political representatives.

The Italian Government acknowledges that prejudice and racist attitudes persist in some sectors of the Italian society to various extents and that a sustained effort is required to eradicate them. Obviously, in order to prevent and eliminate prejudices, as well as to combat discriminatory attitudes and behaviours, legal instruments are not enough: it is equally important to work on the ground for a successful interaction among cultures and beliefs.

In conclusion of these preliminary remarks the Italian Government would like to express the utmost appreciation for the elaboration of the Fourth draft Report on Italy by the European Commission against Racism and Intolerance, and for the formulation of observations, comments and recommendations following the presentation of different thematic materials and documents from all the relevant Administrations involved in this country-by-country monitoring round.

PART I

NATIONAL OBSERVATIONS FOLLOWING THE 4TH ECRI REPORT ON ITALY

Existence and Application of Legal Provisions

International legal instruments

5. ECRI strongly recommends that Italy ratify Protocol No. 12 to the European Convention on Human Rights as soon as possible.

6. ECRI reiterates its recommendation that Italy ratify the European Charter for Regional or Minority Languages, the European Convention on Nationality and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

7. ECRI encourages Italy to ratify as soon as possible the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

10. ECRI strongly encourages Italy to extend as soon as possible the application of the Convention on the Participation of Foreigners in Public Life at Local Level to Chapter C of this Convention, which concerns the attribution of eligibility and voting rights to foreign residents.

The ratification of Protocol No. 12 to the European Convention on Human Rights is still under consideration by the relevant Administrations since it involves the definition and resolution of a wide range of financial and practical problems. As far as the European Charter on Regional or Minority Languages is concerned, Italy acknowledges the importance of such instrument. A debate within the concerned Administrations about possible ratification has been resumed in last months. As for the European Convention on Nationality, Italy acknowledges the importance of such instrument, especially in this juncture, and a recent debate, at the Governmental level, has been resumed on this topic.

As far as the recommendation also included in § 6, the Italian legislation already guarantees most of the rights contained in the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. However Italy is not in a position to ratify this instrument because it does not draw any distinctions between regular and irregular migrant workers and the signature and ratification could only be planned jointly with the other European Union partners as many provisions of the Convention fall within the European Union domain.

As it concerns the recommendation included in § 7, please refer to observations at § 61.

Constitutional provisions and other basic provisions

- *Provisions governing access to citizenship*

13. ECRI recommends that the Italian authorities relax the legislation on naturalisation in order to make it easier for persons who are lawfully and habitually resident in the country to acquire Italian citizenship, in accordance with the provisions of the European Convention on Nationality.

14. ECRI reiterates its recommendation that the Italian authorities ensure that the provisions on naturalisation are applied in all cases in a non-discriminatory manner, while enhancing transparency and ensuring that naturalisation decisions are taken within a reasonable time and that excessive delays not imputable to the applicant do not adversely affect the position of the latter.

The Italian legislative framework concerning the acquisition and the loss of citizenship is governed by Act No. 91 of February 5th, 1992, as subsequently amended and complemented, and by related implementing regulations, as well as by the provisions of Act No. 94 of July 15th, 2009.

The acquisition of the Italian citizenship is mainly based on the principle of “ius sanguinis”, according to which a child born of an Italian mother or father is Italian. The following principles complete the legislative framework in force:

- citizenship can be transmitted by descent “iure sanguinis”
- acquisition “iure soli” (by birth on the territory) can be provided for only in given cases
- dual citizenship is recognised
- explicit statement of will is necessary to acquire or lose citizenship.

The granting of the Italian citizenship to foreign citizens married to Italian citizens and to foreign citizens who reside in Italy is guaranteed in predetermined circumstances.

According to Art. 5 of Act No. 91/1992, citizenship can be granted following marriage, provided that the following conditions are met:

1. The foreign or stateless applicant must be married to an Italian citizen for at least 2 years and he/she must have his/her legal residence in a municipality for at least 2 years from the date of the marriage. Legal residence means that the applicant must be enrolled in the register of the population and at the same time he/she must hold a valid permit to stay.
2. If the spouses reside abroad, the application can be submitted three years after the date of the marriage.
3. The above periods are reduced by half if the spouses have natural or adopted children.
4. Until the adoption of the decree granting citizenship the spouses must not be legally separated and there must not be dissolution or nullity of the marriage or cessation of its civilian effects.

Furthermore, according to Art. 9 of Act No. 91/1992, citizenship can be granted:

- To an alien who has legally resided for at least 10 years on the Italian territory
- To an EU national, provided that he/she has legally resided for at least 4 years on the Italian territory
- To a stateless person or to a refugee who has legally resided for at least 5 years on the Italian territory
- To an alien whose father or mother or one of his/her grandfathers or grandmothers had been citizen by birth or to an alien who was born on the territory of the Republic and who has been legally residing there for at least 3 years, in both cases
- To an alien aged at least 18 adopted by an Italian citizen and who has legally resided on the Italian territory for at least 5 years after the adoption
- To an alien who served the Italian State, even from abroad, for at least 5 years.

According to Art. 16, an alien who is recognised as refugee by Italy enjoys the same status of stateless persons in view of the granting of citizenship.

The Italian citizenship can be lost in the following cases.

By explicit renunciation:

- If the person resides abroad and holds another citizenship
- Upon the age of 18, if the person holds another citizenship and the Italian citizenship was acquired when the person was a minor following the naturalisation of his/her parents
- Upon the age of 18, following withdrawal of the adoption, if the person holds another citizenship.

Automatically:

- In case of withdrawal of the adoption on account of a fact chargeable to the adopted person
- In case the person does not comply with the Government's order to quit either a public post or the military service in a foreign State.

According to Art. 13 of Act No. 91/1992, the Italian citizenship can be reacquired upon application by choosing to reside in Italy within 1 year from the presentation of the application for reacquisition, or taking up a public post with the State; automatically within 1 year from taking up residence in Italy provided that no explicit renunciation was made by the interested person.

Criminal law provisions

- *Content of the relevant criminal law provisions*

19. ECRI recommends that the Italian authorities look closely at how the courts interpret paragraphs 3(1)a and b of Law No. 205/1993, as amended by Law No. 85/2006, in order to assess the effectiveness of the current provisions for combating the dissemination of racist ideas as well as incitement to commit and commission of discriminatory acts motivated by hatred. It recommends that they amend these provisions if necessary in order to ensure effective protection against such acts.

The main legal provisions cited in recommendation included in § 19 have been mentioned in several recent sentences pronounced by the Italian Courts with reference to conducts with purposes of discrimination or ethnic, national, racial or religious hatred (Court of Cassation, case No. 3857, July 9th, 2009; Court of Cassation, case No. 49694, October 29th, 2009; Court of Cassation, case No. 22570, January 28th, 2010), stating that: “the aggravating circumstances of purposes of discrimination or ethnic, racial or religious hatred is ascertained not only in case of intentional and direct action as perceived and seeking for similar feelings, causing prompt or future threats of discriminatory nature, but also when it is objectively and evidently in prejudice of race, without any intentional scope”.

New draft legal instruments are under examination of the Italian Parliament to reinforce the countering discrimination approach:

- Draft proposal No. 4631/C, amending Acts No. 654/75 and No. 295/93, with the aim to extend the implementation of the criminal legislation in force concerning hate crimes and discriminatory conducts for purposes of racial, ethnic, national or religious hatred also to reasons of sexual orientation, gender identity or of peculiar physical or psychological conditions of the victim;
- Draft Bill No. 1821/S, amending Art. 61§1 (No. 11 *quater*) of the Italian Criminal Code with the reference to an aggravating circumstance in committing crimes against life, individual dignity and moral freedom based on sexual orientation or sexual discrimination;

- Draft Bill introduced on November 23rd, 2011, amending the principles governing the acquisition of the Italian citizenship for those born on the Italian territory.

- *Application of the relevant criminal law provisions*

23. ECRI encourages the authorities to continue their efforts to improve the collection of data on the application of the criminal law provisions for combating racism and xenophobia. In this respect, ECRI underlines the importance of taking into account the possible racist dimension of an act from the time the complaint is filed and of systematically monitoring, throughout the procedure, this aspect of the case and its follow-up.

24. ECRI further recommends that the Italian authorities take steps to encourage victims and witnesses of racist incidents to report such acts, in accordance with its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing.

27. ECRI recommends that the Italian authorities step up their efforts to educate all those involved in the criminal justice system - police, prosecutors and judges -, in both initial and in-service training, about the criminal law provisions prohibiting racist acts, so as to ensure effective application of these provisions. It also recommends that lawyers be given the opportunity to receive training in these provisions.

As it concerns recommendation included in § 23, please refer to observations at §§ 64 and 68. Furthermore all judicial authorities have been informed about ECRI recommendations and have been involved in programming awareness-raising and training activities concerning magistrates, lawyers, public officials and police forces in the field of countering discrimination.

At the same time several courses on human rights have been 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. Since 2001 human rights law has 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.

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 .

The Department for Public Security of the Ministry of the Interior has integrated topics relating to racism and intolerance as well as the prevention of sexual violence and gender sensitive issues in training programmes for police forces, proposing general conferences and lectures from experts, in particular with reference to the victims’ perspective. Also at the local level issues such as equal opportunities, victims and a proper operational approach of the police forces, stalking, gender crimes and hate crimes have been proposed for the official advanced personnel. An ad hoc MoU was signed between the Ministry of the Interior and the Ministry for Equal Opportunities on July 3rd, 2009 to prevent and countering sexual and gender violence, whose framework included a training action addressed to police forces in managing this kind of situation.

Moreover the National Office against Racial Discrimination (thereinafter UNAR) will organise a training course for 80 new officials of Police Forces starting on January 2012 in Rome, whose programme includes countering discrimination as one of the main subjects. This training proposal will be offered also to officials of the Department for Penitentiary Administration, involving representatives from local prisons and juvenile prison.

In the framework of training of the Penitentiary Police staff, the topic of human rights is always included in the curricula of the basic training and continuous training courses. It has to be underlined that all penitentiary legislation is based on Art. 27 of the Italian Basic Law as well as on the acknowledgment of various international human rights protection instruments. Training in matter of human rights is an established practice within the training programmes addressed not only to the Penitentiary Police, but also to the remaining staff of Penitentiary Administration and such topic is the subject of conferences and lessons within wider programmes.

Civil and administrative law provisions

- *Content of anti-racial discrimination provisions*

31. ECRI recommends that the Italian authorities further strengthen the legislation against racial discrimination, having regard to the elements contained in ECRI's General Policy Recommendation No. 7, in particular as regards the need to protect individuals from discrimination based not only on grounds such as "race", colour, religion and ethnic origin but also language and nationality, and the need to place public authorities under a duty to promote equality and prevent discrimination in carrying out their functions.

33. ECRI recommends that the Italian authorities make it easier for victims of racial discrimination to obtain access to effective civil and administrative law remedies, by ensuring that all organisations active in the field of combating racism and racial discrimination are able to bring cases on behalf of alleged victims of these phenomena.

As far as the implementation of judicial protection mechanisms against discrimination, it is important to point out the following actions promoted by UNAR, in order to strengthen the mechanisms aimed at protecting the victims of racial discrimination, by issuing the following notice to the public: ***Establishment of a network of mediators to perform the non-profit mediation activities provided for by art. 60 of law 69/09 authorizing the transposition of EU Directive No. 2008/52/EC, in support of the potential victims of discrimination who apply to the UNAR Contact Centre or to the territorial antennas of the observatories and of the centres interconnected with the Contact Centre.***

In implementing Legislative Decree No. 28 of March 4th, 2010 (which applies Art. 60 of Act No. 69/09 authorising the transposition of EU Directive No. 2008/52/EC), the institution of mediation in civil and commercial matters was introduced in our legal system in an organic and comprehensive way. This new institution consists in activities carried out by an impartial third party, aimed at attending to two or more subjects both in pursuit of an amicable settlement for their dispute and to the formulation of a proposal for its resolution. Mediation is a highly effective instrument in resolving conflicts arising from alleged discriminatory conduct, also with regard to matters in which its application is not currently required by law. The implementation of judicial protection measures - and in particular, attempting the anti-discriminatory actions provided for by Act No. 67/2006, by Legislative Decrees No. 215/2003, No. 216/2003, and No. 286/1998 - should only be the last resort to turn to only if it is impossible to reach a consensual settlement of the dispute. Moreover, the length of the legal proceedings and the radicalisation of the conflict that inevitably ensues as a result of such protections and actions, lessen the effectiveness of the legal remedy with regard to the possibility to reach mediation solutions based on dialogue and on the rapprochement of the parties' positions.

In order to foster resorting to mediation, thus avoiding litigation as much as possible, it is necessary to guarantee to the alleged victim of discriminatory behaviour and to the alleged perpetrator of such treatment the possibility to resort to this alternative conflict resolution mechanism free of charge, by means of a mediation body specialised in the field of fundamental rights protection and in the countering of the various forms of discrimination. The cost inevitably inherent to the mediation activity performed by specially appointed bodies, could, in fact, strongly dissuade the parties concerned from lodging a petition with them, above all whenever mediation does not constitute a precondition for the bringing of any proceedings. In this regard, it must also be noted that the law provides that the rules concerning the pauper legal aid only apply to the public mediation bodies and, in any case, the parties which do not

meet the income requirements to obtain such benefit would be obliged to fully bear the financial burden associated with the initiation and the performance of the mediation process.

Moreover, the following actions by UNAR have already been scheduled to be achieved by 2011:

- **Signing on November 14th, 2011, of a Memorandum of Understanding with the Italian National Forensic Council¹²⁰ for the development and the systematisation of lawyers' training and refresher activities in the specific field of protection against discrimination;**

- **systematisation and strengthening of the "nationwide experimentation of forms of direct support for the victims of discrimination, also through the strengthening of legal counselling and the possible establishment of a solidarity fund aimed at granting an advance on the legal costs chargeable to the victims of discrimination and/or to the associations entitled to take action on their behalf according to Arts. 4 and 5 of Legislative Decree No. 215/2003".**

- *Application of anti-racial discrimination provisions*

36. ECRI recommends that the Italian authorities step up their efforts to inform victims of racial discrimination as to the possibility of bringing cases before the civil and administrative courts.

37. ECRI recommends that the Italian authorities step up their efforts to provide initial and in-service training for relevant members of the justice system in the civil and administrative provisions prohibiting racial discrimination, so as to ensure the effective application of these provisions. It further recommends that lawyers be given the opportunity to receive training in these provisions.

In relation to recommendation included in § 37, please refer to observations at § 27.

Anti-discrimination bodies and other institutions

- *UNAR (Ufficio Nazionale Antidiscriminazioni Razziali)*

42. ECRI recommends that the Italian authorities take steps to enhance the role of UNAR, in particular by formally extending its powers so that the relevant legislation clearly covers discrimination based not only on ethnic origin and race but also on colour, language, religion, nationality and national origin; by granting it the right to bring legal proceedings; and by ensuring that its full independence is secured both in law and in fact. ECRI wishes to stress in this regard that UNAR must also be provided with all the necessary human and financial resources, in the light of its workload.

43. ECRI also encourages the Italian authorities to increase the human and financial resources placed at the disposal of UNAR for carrying out its activities to raise awareness against discrimination and to promote equal opportunities.

46. ECRI encourages all the relevant authorities to continue extending the network of regional centres for monitoring racial discrimination and emphasises that they must be provided with all the necessary human and financial resources to enable them to function effectively.

UNAR INDEPENDENCE

In this regard, it should be kept in mind that as evidence of that acknowledged by the ECRI on the Office's "de facto" operation in the capacity of a true independent body (in compliance with the ECRI General Policy Recommendation No. 2 "On specialised bodies to combat racism, xenophobia, anti-Semitism, and intolerance at national level" Principle 7 - Point 3), last February within the scope of the so-called "Development Decree", some members of the parliament in government made a motion to eliminate the Office. However, the parliament voted the motion down, both for the formal opposition expressed by the Government and for

¹²⁰ The National Forensic Council - which is governed under the Italian legal system by Royal Decree Law No.1578 of November 27th, 1933, and by Royal Decree No. 37 of January 22nd, 1934 - is the institutional representative body of the Italian Bar and the expression of the whole forensic class.

the strong objections put forward by many NGOs and trade union organisations, which, in substance, have ascribed this motion precisely to the "de facto" independence demonstrated by UNAR in performing the duties assigned by Legislative Decree No. 215/2003.

Moreover, in May 2011, in response to a parliamentary question (No. 410501, introduced by Hon. Fedriga) in which the Minister of Equal Opportunities was asked to formally take action on UNAR so that a judgement given concerning a decision including discriminatory provisions issued by the Municipality of Trieste might be reconsidered, the same Minister of Equal Opportunities, in whose offices UNAR operates, officially declared the following:

“To this respect, I would like to point out that article 13 of directive 2000/43/EC, which implements the principle of equal treatment between persons irrespective of racial or ethnic origin, has provided for the designation of a body or bodies for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin, charged with, among other functions, providing «assistance independently» to victims of discrimination in following up on their complaints related to discrimination». In transposing this directive, article 7, paragraph 1, of Legislative Decree no. 215 of 2003 set out that the National Office against Racial Discrimination shall «promote equality and the elimination of all forms of discrimination on the grounds of race or ethnic origin in an independent and impartial manner», specifically, by formulating «recommendations and judgements on issues concerning discrimination on the grounds of race or ethnic origin, as well as proposals to amend the legislation in force (article 7, paragraph 2, section f)”.

Therefore, the characteristics of independence and impartiality required by Community legislation and set out by the national regulations prevent the Minister from performing any intervention aimed at requesting a reconsideration of that expressed by the abovementioned Office within its competences.

ESTABLISHMENT OF THE REGIONAL OBSERVATORIES PROVIDED FOR BY ART. 44, PARAGRAPH 12, OF LEGISLATIVE DECREE NO. 286/98

According to Presidential Decree No. 719 of October 24th, 2011, the Office has taken steps to:

- define, on the basis of the contents already agreed with Regional and Local Authorities, the guidelines covering the current formation of the national network of observatories and local centres for the detection and handling of discrimination phenomena;
- adopt a standard agreement between the Office, the Regions, and the Local Authorities;
- finalise and formalise further memoranda of understanding with the Regions and Local Authorities;
- supply resources amounting to a total of € 600,000.00, made available under Chapter 537 “UNAR operating expenses”, relative contributions to the Regions and Local Authorities with which UNAR has already signed, or will sign during the current year, the proper MoU. The resources will be allocated according to the following scheme:
 - Memoranda of Understanding signed with the Regions: € 50,000.00;
 - Memoranda signed with the Provinces and/or Regional Capital Cities: € 20,000.00;
 - Memoranda signed with Provincial Capital Cities: € 10,000.00;

The following agreements are in effect as of last October 30th:

- **Regions:** Emilia Romagna, Liguria, Piedmont, Apulia, Sicily
- **Provinces:** Aretium, Florence, Frosinone, Latina, Mantua, Messina, Pisa, Pistoia, Prato, Rieti, Rome, Siena, Viterbo

- **Municipalities:** Catania, Pavia, Rome, Venice

The Project “**Network of Territorial Antennas for the Prevention and the Countering of Racial Discrimination**”, presented by UNAR and financed by the Ministry of the Interior with € 350.000.00 within the scope of the 2009 programme of the European Fund for the integration of Third-Country nationals, aimed at strengthening the existing territorial entities and promoting the anti-discrimination network in the regions of Piedmont, Liguria, Tuscany, and Lazio was successfully completed last June 30th, 2011.

By Decree of the Ministry of the Interior dated last June 13th, within the scope of the EIF 2010, the continuation of the activities has been approved. The project will be carried out under the new name “**Broadening and Strengthening of the Network of Territorial Antennas for the Prevention and the Countering of Racial Discrimination**” and will receive funding amounting to € 400,000.00; therefore the activities - for the period July 2011-June 2012 - will not only be continued in the abovementioned Regions, but will be also extended to the Regions of Friuli Venezia-Giulia and Lombardy. The relative agreement was signed last July 6th.

Also on 30 June 2011 the Progress Project “**Territorial Networks**” (financed by the European Commission with a fund amounting to approximately € 150,000.00) was duly completed, which enabled, inter alia, to carry out various training activities targeted to public and private social workers, to realise a survey on discrimination in housing access and to carry out awareness raising activities on the premises of employers’ organisations about joining the Charter on equal opportunities and equality at work.

Within the scope of the NOP ESF Convergence Objective 2007-2013, AXIS D, Objective 4.2, UNAR has initiated a series of actions which can directly support the promotion and the launch of Anti-discrimination Territorial Centres in the Regions Convergence Objective. The following actions are worth of special mention, which only recently (that is, as of last June) have been entrusted to UNAR’s direct management (previously they had been outsourced to ISFOL), and a list is given below of the activities currently under way and those scheduled for each action:

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

In this scope of action a Community-wide call for proposals has been scheduled to be issued in December 2011:

- the creation of an **Inter-regional Research Centre against all forms and causes of discrimination** (amounting to approximately € 550,000.00 over a period of two years).

Moreover, experimental actions aimed at spreading knowledge on, and implementing, innovative instruments such as the CUGs, the Charter on equal opportunities and equality at work and the Diversity Management have already been defined and started in last September 2011.

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

Awareness-raising and promotional actions in each of the four Regions of the Convergence Objective have already been defined, in order to obtain the signature of the Regions Calabria and Campania for the Memoranda and to make the MoU with the Regions Apulia and Sicily fully operational.

- Action 4. Building of databases on discriminations

This last action, in synergy with the others, will play the strategic role of developing a database on all forms of discrimination on a local level that enables the devising of standardised models for data collection on one hand, and on the other, the building of a nationwide surveying system, in cooperation with the existing regional and provincial observatories, thus establishing a real steering and coordinating committee at UNAR interconnecting regional observatories, territorial antennas, associations, centres, and the NGOs operating on a regional level in order to enable an effective exchange of information between the territories and UNAR.

In addition to the abovementioned **counselling services for the specific factors of discrimination** linked to disability, religion, age, personal belief, and sexual orientation that will be operational as of next December, and to the research on the monitoring of discrimination phenomena in the media, always in December 2011 a proper Community-wide publication procedure will be issued for the activation and management of a **database on discrimination on grounds of race or ethnic origins, religion, personal belief, disability, age, sexual orientation, and gender identity interconnected with the UNAR Contact centre and the network of territorial centres and observatories against all forms and causes of discrimination** (amounting to approximately € 1,000,000.00 over a period of two years).

Furthermore, the activities planned within the scope of the other three strategic actions directly managed by the Department and UNAR since 2009 are also worth mentioning:

- Action 5. Objective 4.2 “Awareness-raising actions and diffusion of the benefits deriving from strengthening interventions for the discriminated groups catered to the associations, the non-governmental organisations, and the institutional, economic and social partnerships”

In this context in particular, two Community-wide calls for proposals have been scheduled to be issued in December:

- creation, in association with the competent Office for Equality and Equal Opportunities, strategic interventions and Communication, of a **public information campaign on the prevention and countering of discrimination** (amounting to approximately € 1,300,000.00 over a period of six months).

- realisation of **awareness raising actions targeting the schools** (amounting to approximately € 600,000.00 over a period of two years)

- Action 6, Objective 4.2 “Promotion of the governance of policies and instruments of social inclusion and countering of discrimination of Roma, Sinti and Camminanti communities”

In this regard, a Community-wide call for proposals has been scheduled to be issued in December:

- strengthening of **governance capacity on social inclusion of Roma, Sinti and Camminanti communities** (amounting to approximately € 1,600,000.00 over a period of two years).

Experimental actions aimed at the establishment of **networks of mediators for the Roma and Sinti communities and the realisation of seminars and awareness raising activities** on a local level have already been defined and started in last September 2011.

- Action 7, Objective 4.2 “Identification, analysis and transfer of good practices on non-discrimination”

Two experimental studies concerning anti-discrimination good practices towards the immigrant communities and, on an international level, in the specific area of sexual orientation, have already been defined and implemented.

UNAR has already started the publication procedures concerning these activities with an overall allotment of resources amounting to approximately € 6,000,000.00.

CONTACT CENTRE AND NEW ORGANISATIONAL MODEL FOR UNAR

The new organisation of the Office has already produced significant results, as demonstrated by the statistical data which show, for example, **a significant increase in cases handled by the Office: from 373 cases dealt with by UNAR throughout 2009, the number grew to 766 cases in 2010.**

From January to November, 25st 2011 962 cases were handled by the Office (+ 35%), of which: 51 aggressions or threat of violence (47 in 2010). By a geographical ratio, 31% were registered in Central Italy (266 cases), 24.9% in Northern Italy (214) and 9.1% in Southern Italy (78) and 3.7% in the islands (32), while 52 cases are unknown in terms of geographical registration. More in detail, the cases were registered in Latium, Lombardy, Veneto, Emilia-Romagna and Tuscany. Latium (19.3%), Lombardy (19%) and Veneto (11.4%) respectively amount for about 50%.

As far as the nature of the discriminatory act, 61.4% of cases concern a direct discrimination, 17.2% entail violence, 8.6% represent an indirect discrimination, 3.8% is based on sexual discrimination and 2.6% relate to discrimination for disability.

The place where the discriminatory act has been registered is primarily the workplace (20.7%, 859 cases), public life (17.6%), media (17%), public services (12.2%), intervention of Police Forces (3.3%). For example, the Office has adopted its opinions concerning discrimination in the workplace in order to make uniform precondition in the access for foreign workers as temporary agents to collect census data at the local level.

According to a gender ratio, the discriminatory event mainly occurred in respect of women (52.8%, if compared with 43% in 2010).

As it concerns the intervention of UNAR, notices were received through its website. Only 7.3% of cases were introduced at the local level. 66% of cases asked for an opinion, 30% for supporting and countering discrimination. The Office worked ex officio for 37.7% or following victims request for 35.7%.

The figures **practically doubled (57.9% - November 2011)**, demonstrating how the organisational change has led to the emergence of a considerable number of racial discriminatory events that had so far remained undetected. Additional elements to note: **1 out of 3 cases was initiated by UNAR (UNAR had initiated 7% of cases in 2008 and 11.6% in 2009); also, the number of cases initiated following evidence by third parties increased (from 10.7% in 2008 to 17.4% in 2009, and to 19.6 % in 2010).**

This means that in less than two years, despite a doubling in the number of processed cases, the reports by witnesses (individuals and NGOs), also doubled, confirming the authority and credibility gained by UNAR thanks to its new course.

With regard to the first 10 months of 2011, it is hereby made note that UNAR website was widely accessed (+ 50% - 10.195 contacts in 2010, 14.880 contacts from January to October 2011). The Office managed 113 preliminary investigations opened, respectively, in 2010 (37) and 2011 (67), to be completed by further 18 cases opened in previous years, of which 11 cases were positively concluded by the adoption of criminal sanctions.

Lastly, also with regard to the strengthening of the Contact Centre's activities, within the scope of **NOP GSA TASA ESF**, with particular reference to actions 2 and 4 of Objective 4.2. the procedures for the following have been defined:

a) **identify the proper UNAR contacts in each of the Convergence Objective Regions** in order to promote and make the territorial networks to be interconnected with the UNAR Contact Centre operational;

b) **interconnect the UNAR contact centre with 3 specialised counselling services designed to tackle the specific factors of discrimination linked to disability, religion, age, belief, and sexual orientation.** These services have been already provided.

As far as networks, it must be recalled the wider number of associations as complainants against discriminatory events (450), besides the creation of social networks (i.e. promoted by voluntary adolescents - see <http://www.reteneat.it/>) as well as the role of local networks (promoted by private agents) and allocated in Emilia-Romagna, Liguria, in the municipalities of Mantua, Pistoia, Venice and Pavia (forthcoming in Apulia, Messina and Rome), according to the model adopted by ad hoc decree. A task force involving several associations countering discrimination based on sexual orientation will start working at the end of November 2011 to produce opinions on this issue to let the UNAR contacting the competent institutional and/or judicial authorities.

- *OSCAD, Observatory for Protection against Discriminatory Acts*

On September 2nd, 2010, the Observatory for the Security against Discriminatory Acts (OSCAD) was set up at the Ministry of the Interior by the initiative of the Director General of Public Safety and Police Chief, *Prefect Manganelli*. It is presided over by the Vice Director General for Public Security and has several tasks: to receive reports from institutions, association or private citizens concerning acts of discrimination committed against individuals belonging to minorities; to promote and implement targeted interventions on the territory; to monitor the progress of complaints against discriminatory acts; to summon the representatives of involved minorities and the representatives of police forces; to train staff members; to ease and promote communication between citizens who have been discriminated and the security system; to favour connection with public or private institutions dealing with discriminatory acts and attitudes. As far as this last task, a reinforced cooperation was endorsed with UNAR and it is under way both with regard to the inbound and outbound stream of information on criminally relevant discriminatory incidents and the start up of training programmes catered to law enforcement agency instructors.

Racism in Public Discourse

Use of racist and xenophobic discourse in politics

53. ECRI urges the Italian authorities to adopt firm measures to tackle the use by political parties or their representatives of xenophobic discourse or discourse that incites racial hatred and, in particular, legal provisions enabling public funding to be withdrawn from parties which promote racism or xenophobia. In this respect, it once again draws the attention of the authorities to the relevant provisions contained in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.

As far as public opinions or discourse from parliamentary members that could be considered as of discriminatory or xenophobic nature, pecuniary sanctions are provided for in the Rules governing the functioning of the Chamber of Deputies and of the Senate, while political penalties have been introduced in the statutes of the political parties. Nevertheless, when discriminatory or racist conducts or acts have been adopted, the institutions, media and politicians have expressly condemned them and the judiciary sentenced about the use of racist or xenophobic arguments in political debating (please refer to observations at §§ 64-68).

Media

57. ECRI reiterates its recommendation that the Italian authorities impress on the media, without encroaching on their editorial independence, the need to ensure that reporting does not contribute to creating an atmosphere of hostility and rejection towards members of minority groups and that the authorities play a proactive role in preventing such an atmosphere from developing.

58. It further recommends that the Italian authorities encourage the media to apply systematically the provisions of the Code of Conduct for journalists regarding racial and religious discrimination and to reword these provisions if necessary so that they clearly cover all forms of discrimination based on colour, religion, language, national and ethnic origin and nationality; to provide special training for media professionals on the role of reporting in a multicultural society; and to improve the representation in media professions of persons of migrant origin or belonging to ethnic minorities.

As far as the monitoring of media in terms of racist and xenophobic misuse, it has to be reminded that 26% of cases handled by UNAR in 2011 concerns media. The Office monitored discriminatory behaviours on the newspapers and magazines as well as broadcasting programmes, involving also the Communications Regulatory Authority (thereinafter AGCOM), which did not confirm the relevance of acts in respect of human dignity and related prohibition of racial, sexual, religious and nationality hatred programmes as discriminatory. For this reason, according to the Consolidated Text on media services, no sanctions have been adopted. At the present UNAR is going to cooperate with the above mentioned Authority and the relative Regional Committees for Communications (CORECOM) for the monitoring of racial discrimination phenomena in the media.

At the same time the Office, in cooperation with the Italian Press National Federation has already financed training and refresher courses addressed to news reporters and students of Journalism schools to be placed in Calabria, Campania, Apulia and Sicily Regions from January 2012, with the support of Regional Journalism Orders.

Internet

61. ECRI strongly encourages the Italian authorities to continue their efforts to combat the dissemination of racist and xenophobic ideas via the Internet. It draws their attention to its General Policy Recommendation No. 6 on combating the dissemination of racist, xenophobic and antisemitic material via the Internet, which suggests a series of measures that the authorities can take to this end.

On this topic, it is worth of mentioning that Italy signed the Protocol for the criminalization of Internet use in order to spread racist and xenophobic ideas, as entered into force on March 1st, 2006, reinforcing its commitment to countering racism by a preventive and repressive co-operation with all the other States Parties.

A relevant element confirming the effectiveness of the innovations introduced in the ongoing monitoring process of discriminatory phenomena in the media and on the internet, in compliance with the ECRI General Policy Recommendation, concerns the on-line episodes of racism, found on blogs and websites monitored by UNAR. In this specific sector the introduction of the new organisational model made it possible to adequately and effectively monitor racist and xenophobic phenomena occurring on-line and on the internet, so that the number of reports concerning these phenomena increased from 5.4% in 2008 to 12.4% in 2009 and to 19.9 % 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 the report of criminal offence being sent to the competent authorities.

As far as the specific countering anti-Semitism action, it has to be recalled that the Italian Government and the Italian Union of Jewish Communities organized, on the occasion of January

27th 2011, the Shoah Remembrance Day, a round table - which had a wide diffusion on the web sites - on the role of Internet in the dissemination of anti Jewish prejudices and false historical records.

Racist Violence

68. ECRI recommends that the Italian authorities intensify their efforts to monitor racist, xenophobic and antisemitic incidents in Italy. It recommends that they ensure that the racist, xenophobic or antisemitic dimension of all offences is effectively and systematically taken into account by the criminal justice system, at all stages in the procedure. It further recommends that they adopt a broader definition of racist incidents to include any incident which is perceived to be racist by the victim or any other person.

69. ECRI calls on the Italian authorities to condemn unambiguously all acts of racist violence. It strongly recommends that they reinforce their efforts to prevent racist violence and, in this connection, conduct campaigns to raise awareness of the seriousness of racist offences and the fact that the perpetrators will be prosecuted and punished.

The main competent bodies within the Italian judiciary system, such as the Presidents of the Courts of Appeal and the general Procurators, were informed by circular letters transmitted by the Ministry of Justice about the recommendations from the European Commission against Racism and Intolerance to be distributed to the attention of judicial officials and judiciary police forces in order to countering and repressing crimes based on racial discrimination.

As a result of a monitoring activity, singular discriminatory conducts have been registered to be considered in violation of the legislation in force (Legislative Decree No. 122/1993 and Act No. 654/1975). 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. As far as this issue, two relevant 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. 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. 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.

As far as the events that occurred in January 2010 in the Municipality of Rosarno, the *Procura* of Reggio Calabria started investigations to inquire criminal conducts, including discriminatory and xenophobic attitudes and actions, that led to the adoption of preliminary measures in respect of 31 individuals in relation to instigation to illegal immigration and labour exploitation, as well as private and personal injuries against non EU citizens, damaged and forced to leave from their houses. In all the cases also aggravating circumstances of crimes committed for the purpose of discrimination or ethnic and racial hatred were claimed in violation of Art. 3 of Act No. 205/1993.

As it concerns the *Procura* of Rome, from 2006 to 2009 several cases were registered in relation to individuals and presumed responsible individuals for the commission of discriminatory acts and conducts (3 pending, 4 additional and 3 concluded cases in violation of Act No. 205/1993 for year 2006; 35 pending, 34 additional and 23 concluded cases in violation of Act n. 654/75 - year 2006; 16 pending, 4 additional and 3 concluded cases in violation of Legislative Decree No. 122/1993 for year 2006; 1 pending, 3 additional and 2 concluded cases in violation of Act No. 205/1993 for year 2009; 18 pending, 26 additional and 22 concluded cases in violation of Act n. 654/75 - year 2009; 16 pending, 2 additional and 2 concluded cases in violation of Legislative Decree No. 122/1993 for year 2009).

For more detailed information on data for 2009-2010, please refer to the Annex.

Racism in Sport

71. ECRI encourages the Italian authorities to pursue and intensify their efforts to combat racism in sport. It draws the authorities' attention to its General Policy Recommendation No. 12 on combating racism and racial discrimination in the field of sport, which recommends a number of measures that governments can take to this end.

Several activities were promoted by central authorities, in particular by UNAR, in the world of sport not only because of the increasing number of episodes appearing on the news, but also because in all statutes, from that of CONI (Italian National Olympic Committee) to those of the various sport federations, the principle of non-discrimination is one of the fundamental principles.

In 2010, 40 cases were received, which in 80% of cases concerned the world of football. This systematic surveying activity was also possible thanks to the establishment of a proper observatory on incidents of discrimination in sport, which is based on four different sources:

- a) judgements issued by the sport courts;
- b) information gathered through the press and the web (not always taken into consideration by the sport judge);
- c) information gathered through a random check of media, above all sports programmes;
- d) reports submitted to UNAR.

The judgments issued by the sport judges related almost entirely to incidents of racism of pseudo-supporters towards football players (sometimes also referees), mostly insulted for the different colour of their skin. However, it also happened that the abusers were other football players. The information gathered by checking the judgments issued by the sports courts is essential, not only because it provides an objective viewpoint, although partial, on the phenomenon, but because it was the starting point for setting up the co-operation with the FIGC - Italian Football Federation, the various Leagues (Lega Serie A, Lega Serie B, Lega Pro, LND - National Amateur League, etc.) and the Italian Referee Association.

With regard to information gathered from the press, after verifying the story, the Office reported the case to the competent sport authorities and reproached the presidents of the teams responsible for the incidents, spurring them to implement initiatives aiming at enhancing the countering of discrimination. The media monitoring on the other hand was carried out taking into account the existence of a Code of Self-Regulation of information on sports, called the "Media and Sports Code", signed by the most important newspapers and media, which instructs the AGCOM with specific supervision authority. Following the reporting of a few episodes committed by television journalists, AGCOM was required to start a co-operation in order to guarantee full compliance with the mentioned Code, in particular with regard to the provisions set out in paragraph 2 of Art. 2. AGCOM answered positively.

Lastly, with respect to reports directly received by UNAR, these are almost always related to the refusal to enrol a foreign athlete or an athlete of foreign origin. Taking into account that specific legislation exists on this matter, co-operation has been implemented with CONI, FIGC, FIR (Italian Rugby Federation) and FIPAV (Italian Volley Federation). The elimination of discrimination was achieved in several cases, although this is a sector which should be more thoroughly monitored, just because of the independence that every sports federation has with regard to enrolment.

“Pacchetto sicurezza” and other measures targeting foreigners

79. ECRI strongly recommends that the Italian authorities abolish the requirement that all foreigners wishing to register the birth of a child present a residence permit.

80. ECRI recommends that the Italian authorities repeal the provision whereby the act of letting accommodation to migrants without legal status is punishable by a prison sentence of between six months and three years together with seizure of the accommodation.

81. ECRI recommends that the Italian authorities make clear that applicants for family reunification already residing legally in Italy cannot be required to take DNA tests at their own expense in cases where they bear no responsibility for doubt as to their identity.

All the measures laid down in the so-called “security package”, introduced in 2008 in the Italian legislative framework, are meant to curb criminal behaviours of individuals and no provision included therein is envisaged against any community, group or class nor is linked to any form of discrimination and xenophobia. As for the aggravating circumstances, it must be recalled that 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 while forcing them to live in really precarious and unacceptable healthy conditions.

As for the children, the above mentioned legislation in force ensures that “any foreigner, born in Italy, who has resided legally and without any interruptions, acquires the Italian citizenship when turning to the age of 18, provided that this makes a declaration to this end within one year”. The rationale behind this provision is clear: the best interest of the child is saved, in the event of omission or delays in the registration procedure by the parents. It is sufficient that the child concerned can prove his/her stay, for instance by medical or school certificates. Such openness is confirmed by the Supreme Court that has recognized the right of a father, illegal migrant, to receive a stay permit, in order to take care of his children living in Italy. It means that as for the birth declaration (birth register and civil status register), no residence-related document shall be produced since it is sufficient the declaration made.

Moreover, no limitation to the right to health and to education has been introduced so far in the security package: in other terms any provision obliges physicians or school principals to denounce illegal migrants. Only the case in which no official certification is available from foreign authorities or when its legal value must be ascertained could lead to the examination of DNA, according to Art. 29§1 *bis* of Legislative Decree N. 1998 of July 25th, 1998, as an exceptional measure.

Vulnerable/Target Groups

Roma

85. ECRI urges the Italian authorities to ensure that all measures they take with regard to Roma strictly uphold the right and the principle of non-discrimination as enshrined in the Council of Europe's standards.

87. ECRI recommends that the Italian authorities adopt legislative provisions at national level aimed at affording the Roma and Sinti global protection along the same lines as the measures concerning the historical and linguistic minorities. It calls on them to follow in particular the recommendations of the Advisory Committee on the Framework Convention for the Protection of National Minorities in this respect.

90. ECRI urges the Italian authorities to take without delay all the measures necessary to allow Roma who are in a situation of *de facto* statelessness to obtain identity documents enabling them to accede at least to the same rights as stateless persons.

97. ECRI recommends that the Italian authorities firmly combat the segregation suffered by Roma in the field of housing, notably by ensuring that the housing solutions proposed to them do not cut them off from the rest of society but on the contrary, promote their integration. ECRI again stresses to the Italian authorities the importance of not basing their policies towards Roma and Sintis on the preconceived notion that they live a nomadic lifestyle.

98. ECRI strongly recommends that the Italian authorities ensure that the right to adequate housing is fully respected in the case of the Roma coming under Italy's jurisdiction and draws attention to the urgent need to remedy the health problems reported in this connection.

99. ECRI urges the Italian authorities to ensure that all Roma who may be evicted from their homes enjoy the full protection of the guarantees of international law in such matters. It underlines that the persons concerned must be notified of any proposed eviction and benefit from appropriate legal protection; nor must they be evicted without the possibility of being rehoused in decent accommodation, even if they may stay in the country only for limited periods of time.

103. ECRI strongly recommends that the Italian authorities ensure that all Roma children are enrolled in school and invites them to take all the necessary measures, in co-operation with the communities concerned, to promote regular school attendance by these children. ECRI encourages the authorities to pursue the measures already in place to this end and invites them to strengthen their efforts to counter school drop-outs and interruptions in the schooling of Roma children.

104. ECRI again invites the Italian authorities to take steps to facilitate participation of Roma students in further and higher education.

108. ECRI strongly encourages the Italian authorities to pursue and intensify their efforts to combat discrimination against Roma in different fields of life such as employment and health. ECRI strongly recommends that the Italian authorities incorporate these efforts in a comprehensive national policy to address the situation of marginalisation, disadvantage and discrimination of the Roma. It also invites them to establish an effective mechanism to co-ordinate these efforts at national level with the participation of all the national, regional, provincial and local authorities concerned and of representatives of the Roma communities and of civil society.

According to Art. 6 of the Italian Basic Law a specific Act adopted in 1999 identifies twelve linguistic minorities, taking into account the historical process of their settlement, and provides for protection of their languages at school, in the public administrations and in the media. In conformity with the above mentioned Act, the basic criterion for the recognition of a “linguistic minority” is its stability as well as the duration of its settlement in a specific area of the country. According to this legislation, Roma and Sinti Communities cannot be considered as “linguistic minorities”.

Very different legal situations concern Roma Communities living in Italy as they include Italian citizens, EU citizens, Third Countries nationals as well as individuals who lost their original citizenship as a results of geopolitical events. Even if there is not yet a specific legal framework, the Italian Government supported and supports at present Roma and Sinti Communities through several measures in the field of education, housing, inclusion and in the labour market. The multiplicity of these provisions does not apparently indicate that the legal system rejects a recognition of Roma and Sinti Communities as national minorities: it rather contains an implicit, sectoral, diversified recognition, to be considered as a consequence of the complex institutional architecture envisaged by the Italian legal system itself.

It must be here recalled the census of populations living in camps in Lombardy, Latium and Campania Regions, carried out by the Prefects of Milan, Rome and Naples in their role of Governmental Commissioners and ended on October 15th, 2008. This survey was a preliminary and fundamental stage of a process promoted by institutions in order to adopt social and

integration measures aimed at improving the living conditions of the Roma and Sinti Communities in Italy. As far as the procedure is concerned, no data about ethnic origin or religion were collected, in respect of the Guidelines for the Identification of Persons laid down by the Ministry of the Interior as endorsed by the Independent National Authority for the Protection of Personal Data. These Guidelines provided for the following tasks:

The Government must comply with the general principles of the national legal system, as well as with relevant EU Directives, and must ensure that fundamental rights and human dignity of interested persons are fully respected; intentions, measures and related effects - including the eventual profiling based on the community membership or ethnic origin - of the census; the difficulties in setting up separated databases, due to the fact that collected personal data must be used in compliance with relevant national rules and provisions for a quantitative survey concerning camps as a means to guarantee the improvement of living standards and access to social services; the possibility to carry out fingerprinting, as envisaged by law and fully respecting the dignity of the individuals concerned, when their identification is impossible by means of documents (children can be fingerprinted only when absolutely necessary and in order to prevent any form of exploitation and abuse); collected personal data will not be used to set up separate databases but only for administrative purposes (i.e. application to acquire the Italian citizenship, request for residence permits, register offices, etc.). 167 camps were identified by the census, of which 124 and 43 were, respectively, unauthorised and authorised. 12300 persons were identified, of which 5400 were children. The procedure was carried out by the national police forces in close cooperation with the Italian Red Cross and the municipal police forces.

The following ordinances adopted by the ad hoc Commissioners tried to deal with a situation of real distress of the Roma and Sinti Communities in the camps, adopting several measures to have a qualitative and quantitative impact on the improvement of their living conditions. These measures are of legal and administrative nature and aim at guaranteeing civil protection through the employment of human and financial resources facing emergency situations. For these reasons, by Prime Minister Decree of December 17th, 2010, special powers were attributed to the Prefects of 5 metropolitan areas as ad hoc Commissioners (Milan, Rome, Naples, Venice and Turin) and extended until December, 31st, 2011, in order to adopt urgent measures as well as to develop all the necessary forms of collaboration with local authorities and also the Italian Red Cross, aiming at monitoring the settlements of families in view of the adoption of social, welfare and integration measures.

It is necessary to stress that the following ordinances adopted by the ad hoc Commissioners have been considered legitimate according to recent administrative and ordinary case law (judgement No. 6352 of the Regional Administrative Tribunal of Latium; ordinance No. 49050/10 of the Tribunal of Milan - I Section), pointing out that the interventions were carried out without distinctions for the Communities, and regardless their nationalities or ethnic membership. Furthermore, the monitoring of both authorized and illegal camps has been considered a preliminary measure to overcome the emergency and to progressively promote the social inclusion of Roma and Sinti Communities, starting from the elimination of illegal settlements with heavily lacking and degraded structural, hygienic-medical and security conditions, located well below the minimum standards of well-being. The following re-housing programmes in fully equipped camps and all the related practical transfer activities were anticipated by contacts and meetings with the interested Communities, involving representatives of different ethnic groups. In the new settlements, the legality/security issue is accompanied by inclusion programmes through training, labour, education and medical integration as well as through mechanisms of participation in the management of the settlements from its inhabitants.

Besides the census, a more recent initiative is worth of mentioning: the adoption on February 9th, 2011, by the Senate Special Committee for the Protection and Promotion of Human Rights of its Final Report on the Survey of the Condition of Roma, Sinti and Travellers in Italy, with the unanimous vote of all the parliamentary groups. This work is the result of a research, carried out

also through visits and interviews involving Roma Communities, with the aim to provide a shared basis for parliamentary debates on the issue. The Report envisages the proposal for a flexible national plan, also by using EU financial resources to be allocated to support Roma integration policies.

Also, at the central level, since November 2011 UNAR has been chosen as national *focal point* in the EU network covering the issue of Roma inclusion. To perform its function several activities will be promptly implemented in the view of a national strategy on this topic:

- the availability of human and financial resources to create an ad hoc body;
- the creation of a consultative working group and the launch of a public call to involve all the associations in representation of Roma people;
- the promotion of contacts with ISTAT and institutional local coordination bodies (i.e. ANCI and UPI) as well as with Regions to start collecting data on the topic.

Further objectives will be also promoted and accomplished:

- the promotion of a constructive bilateral dialogue with the Ministry of Labour and Social Policies in order, *inter alia*, to evaluate the introduction of a specific section devoted to the topic of Roma within the programmatic documents adopted by this Ministry;
- the promotion of an efficient bilateral dialogue with the Ministry of the Interior, with the intention to transmit to local competent authorities (*Prefetture*) a note concerning the new role of UNAR as national *focal point* on the issue;
- a study on central and local activities concerning Roma people as implemented by EU Structural Funds;
- the creation of regional task forces to support local authorities in the management of EU Structural Funds, in particular in the field of Roma housing and accommodation;
- the promotion of contacts with social partners;
- the elaboration of a draft action plan to be shared with national competent authorities and to be transmitted to EU institutions.

Housing

The accommodation and re-housing challenge needs diversified solutions based on the heterogeneity of the Roma Communities: no intervention can be excluded, from ordinary houses to social housing, from equipped areas for rest to the recovery of dismissed building, from the self-construction and self-recovery with appropriate technologies, to the support and regularization of solutions achieved autonomously. Models and best practices work only when there is a sharing of perspectives and a dialogue with each different reality. Because the housing situations of small Roma Communities have different features if compared to those in large municipalities, such as Rome or Milan, in many instances, local authorities have promoted positive inclusion processes, in terms of social, labour and housing integration of Roma and Sinti Communities.

In the Lombardy Region there has been a first phase of activities especially aimed at the elimination of totally illegal camps and at the identification of alternative solutions. A path titled "From the camp to the village" has been figured out, including access to employment, social inclusion, autonomous housing with sustainable rent, supplemented by accompanying and support measures. The purpose has been to raise the awareness of the Roma population on the relevance on cultural training and school attendance, including the assistance to Roma women with an adequate degree of training. These activities were coordinated by the municipal offices

and were carried out through proper school activities and other measures, to help families to improve their relationships with schools. The following interventions focused on the real inclusion of children in the classes, the job searching through vocational guidance, the organization of paid activities involving primarily women, the access to healthcare for all family members. Actually the Commissioner is keen on the implementation of projects in compliance with Art. 61§18 of Act No. 113/2008, to deal with precarious situations overcoming the concept of the camps.

In the Campania Region a number of meeting with the regional and municipal authorities were organized, followed by inspection visits to authorised settlements to pre-arrange the renovation of buildings and to figure out a comprehensive and uniform plan for all the available housing units. In particular, six projects involving the municipalities of Naples, Afragola, Torre Annunziata and Casoria have been financed through funds provided for by Act No. 133/2008, for a total amount of € 16,000,000.00 for structural intervention and social integration measures addressed to Roma children. Further meeting with the Mayors of the municipalities where Roma settlements are located and with regional representatives for social policies were organized at the Prefecture of Caserta, in order to share possible housing solutions in favour of Roma and Sinti Communities. As far as health interventions, it is worth of mentioning the signing of a MoU by the Commissioner, the Local Offices of the National Health Service, the Italian Red Cross, the Community of Sant'Egidio and the provincial representative of Opera Nomadi, in order to draft and to implement a social-medical plan of interventions for vaccinating against and preventing possible infectious diseases in camps, especially in the municipality of Naples and its surroundings. The vaccination campaign for children has been completed and training meeting on basic medical prevention took place with the assistance of cultural mediators. As it concerns school attendance, initiatives to encourage children transfer from the camps to school have been promoted. The projects envisaged inclusion courses, integration activities involving parents, study grants and vocational training, also through the support of Unicef and in the field of action of the Ministry of the Interior with the cooperation of the Community of Sant'Egidio (Project "The Right to the School - The Right to a Future. School Integration Itineraries for Roma Minors").

In the Latium Region, the progressive reception of Roma and Sinti Communities in the Municipality of Rome was planned also through the renovation of camps. To this end, 3 areas have been equipped and the ad hoc Commissioner managed 3 relevant projects, for a total amount of about € 20,000,000.00. At the same time training and access to employment were promoted by several projects, carried out by a team made up by socio-cultural mediators, social workers, school personnel, municipal operators, together with the Italian Red Cross.

In the Veneto Region 11 municipalities have drawn up 16 projects aimed at upgrading camps and at adapting them to hygienic and medical standards, to safety regulations, as well at the social inclusion of the persons involved. These projects have been selected to be implemented in the Municipalities of Padua, Verona and Vicenza, with the agreement and the support of local authorities and according to the priorities arising from structural and hygienic and well-being conditions of Roma Communities living in the camps.

In terms of alternative solutions to camps, several good practices could also be mentioned.

As far as the overcoming of "macro-camps" is concerned, it is interesting the approach of the Municipality of Modena: the methodology is respectful of the concept of the enlarged family and a defined space has been allocated to each family with specific responsibilities in terms of maintenance and management of the assigned area.

By ministerial funding, the Municipality of Padua promoted the completion of 11 self-constructed flats, now hosting 32 persons that signed an ordinary contract with the local authorities for housing and pay a rent calculated in line with their income.

A similar project was implemented by the Municipality of Settimo Torinese (Turin) - "Self-construction and self-recovery": a group of Rumanian Roma, together with other foreign citizens, took part in building a community where they live now and where they can stay for a period of 3 years while seeking for a stable accommodation. The community is perfectly integrated in the local social environment and is managed by a local association.

The case of the Municipality of Bologna is really interesting: party funded by the Extraordinary Action Plan for Reception, adopted by the Emilia Romagna Region, a service of intercultural integration was built up to support the social inclusion of Rumanian Roma families in emergency by identifying housing opportunities. It involved 44 families, i.e. 198 persons, to be accommodated in flats, paying a rent.

The Autonomous Province of Trento managed the Roma situation by Provincial Act No. 12 of October 29th, 2009 (entitled "Measures to favour the integration of Sinti and Roma groups residing in the Province of Trento"). To overcome camps, "residential areas for communities" have been organised and their size was defined according to the model of enlarged family, whose head is responsible for the management of the area and according to the capacity to bear the costs of public utilities, also including the following participation to training and vocational employment opportunities. The Valley Communities have been charged with the setting up and allocation of areas to individual families by local funding.

Finally, in the Municipality of Lecce, in Apulia, a consultation was promoted concerning the Panareo camp, involving Roma representative, municipal social services and associations to improve the living conditions of Roma Communities and to favour their social inclusion. The approach of the projects has been that one to consider residents as "bearers of rights", thus programmatic guidelines have been drafted to encourage Roma population to modify their perspective in managing the camps. At the same time the educational situation has been carefully monitored, through a constant involvement of children and their parents in school meetings. Also relevant interventions have been carried out including the assignment of prefabricated houses to 10 families, in compliance with 'loan for use' agreements and in line with the Framework Programme Agreement "Security for Development of the Apulia Region" with reference to the PRO.NOMA project, coordinated with the support of the Ministry of the Interior, for the construction and related assignment of 16 housing units.

Employment

Training and access to employment are a priority as well as an alternative to illegality. Therefore the interventions in this field have been aimed at favouring the use of instruments in order to enable practically Roma and Sinti Communities to have access to employment according to their originally very different economic activities. There are a number of traditional works which are still practices almost everywhere: metal working; recovery and sale of various materials; horse trading; jobs related with entertainment and circus; itinerant sales; manufacturing and sale of various objects; agricultural work - often seasonal.

Some local good practice can be mentioned to show the different local approach to this critical topic.

For example, by financial resourced from the Ministry of Labour, Health and Social Policies, the Lombardy Region started a pilot programme - "Valore Lavoro" - of interventions aimed at promoting the access to employment for vulnerable categories. This programme is based on a research carried out by the Regional Observatory for Integration and Multi-ethnicity on Roma and Sinti populations living in Lombardy, and was drawn up relying on a preliminary survey carried out by analysing experiences of access to employment shared by institutions and social private sector representatives (Caritas, Casa della carità, Community of Sant'Egidio, Opera Nomadi, Sucar Drom). It aims at the following: favour the implementation of the equal treatment principle without any distinction as to race and ethnic origin; preventing the social marginalization of the Roma and Sinti Communities; promote and exchange between

employment services and associations working in the field and Roma and Sinti workers; enhance the potential of female workers; increase the access of Roma and Sinti adolescents to vocational training. The programme resulted in the vocational training and access to employment of about 70 Roma and Sinti.

The Programme RETIS - Network of social inclusion, was set up in the Municipality of Rome and addressed to persons living in a marginalized conditions. RETIS is the contact point between the entrepreneurial, social and economic local environment and disadvantaged categories in need of access and retention of employment; it provides for the collection and exchange of information on employment opportunities, on vocational training programmes as well as on the use of instruments aimed at training and access to employment - included self-employment. The beneficiaries are all the citizens in vulnerable conditions, including individuals covered by the municipal orders and falling under the social inclusion municipal programmes. The Programme is articulated in three macro-areas: research, pilot projects and institutional fund raising. A further project of the Municipality of Rome is based on a programmatic agreement between the Ministry of Labour and Social Policies and local authorities and has been funded by the 2007 Migration Policy Fund. Its aim was to experiment new forms of access to employment for a group of 30 Rumanian Roma aged between 18 and 35, and supported through accompanying measures adapted to individual needs. The content of the project was starting a highly specialized 300 hours training in the building sector. Following traineeships were organised aiming at supporting the access to employment.

“Progetto Rom” was carried out by the Municipality of Pescara, in collaboration with the local Caritas, the Province and the Municipality of Montesilvano, aiming at launching administrative actions in support of school attendance and employment integration of Roma families living on the territory. The programme provides for the establishment of an “inter-ethnic laboratory” charged with an updated mapping of Roma population and with the creation of direct contacts building trust and promoting cultural mediation activities at school and at the workplace, with the involvement of no-profit association. The ultimate objective consist of starting at least 15 projects to counter the school drop-out and to promote access to employment.

In the Province of Trento, the Valley Communities have been entitled to promote initiative aimed at favouring adults’ school attendance, training and following access to employment, also by the setting up of cooperative involving Sinti Communities.

Lastly, the project “Equal Rom” was carried out in the Municipality of Turin with the support of the Ministry of Labour and Social Policies, the Piedmont, Lombardy and Apulia Regions, and by the EU funds and has been development through cultural and linguistic activities involving mediators, employment guidance and search for, and the organization of 20 traineeships adapted to individual needs.

Health

Over all the Italian territory Roma and Sinti Communities have access to public health care. New measures for the protection of health and for access to employment have been adopted following the setting up of the Fund for the Inclusion of Immigrants ad well as of the Fund for Social Policies.

Roma children

As far as Roma children “at risk” are concerned, the significant experience of the Centre to Counter Child Begging of the Municipality of Rome must be mentioned. The Centre is equipped to promptly accept and host minors who are reported by citizens through a call-center active 24 hours a day. The project also includes a street unit, also relying on Roma cultural mediators, specifically devoted to minors at risk. About 40% of hosted children is assisted due to their unacceptable living and health conditions.

Also the schooling issue is a strategic challenge to be faced by local institutions. Data indicating an increase of the schooling rate of children and adolescents living in good conditions confirm the direct connection between improved well-being and school integration and participation. The most complete interventions are based on supporting on the one hand families in sharing the relevance of school attendance by their children, and on the other hand the role of schools in welcoming children, adapting their teaching strategies to children needs. On this issue, the experience of the Municipality of Milan is worth mentioning: through projects aiming at favouring the Roma and Sinti children schooling, it promoted a service carried out by female Roma mediators operating in both school classes and in the Communities.

Migrants, refugees and asylum seekers

- Migrants with legal status

114. ECRI encourages the Italian authorities to continue their efforts to promote integration of migrants with legal status and reduce the disparity between citizens and non-citizens on the labour market. However, it recommends that they ensure that these measures do not have the corollary of stigmatising non-citizens and laying them open to other violations of their rights.

The Legislative Decree No. 286 of July 25th, 1998, provides for the protection of fundamental rights, in particular civil rights, for all the national and foreign citizens who live on the Italian territory. As already reported, this 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.

- Refugees and asylum seekers

116. ECRI reiterates its request to the Italian authorities to codify asylum law.

In the view of elaborating a comprehensive legal instruments concerning the request for asylum, it must be recalled that Italy has already introduced in its legislation both EU Directives 2004/83/EC and 2005/85/CE by Legislative Decrees No. 251 of November 19th, 2007 and No. 25 of January 28th, 2008 respectively. These complementary subsidiary protection measures translating EU Directives have been envisaged concerning asylum-seekers and more generally the status of refugees in order to promote the full enhancement of the guarantees for the applicants.

- Situation up to late 2010

120. ECRI strongly recommends that the Italian authorities take all necessary steps to ensure that the principle of non-refoulement is fully respected. It urges them to bring their pushback ("*respingimento*") policy to an immediate and permanent end. In this connection, it emphasises the need to guarantee access to asylum procedures in full accordance with the 1951 Geneva Convention, the European Convention on Human Rights and the relevant EU directives.

123. ECRI recommends that the Italian authorities strengthen existing provisions guaranteeing access to the asylum procedure. It insists in this respect on the need to ensure that no decisions to return persons seeking international protection are taken without those persons having had access to assistance from lawyers and interpreters. It strongly recommends that the Italian authorities ensure that asylum seekers receive legal and interpreting assistance throughout the procedures concerning them.

125. ECRI again recommends that the Italian authorities not deport asylum seekers before having ruled on their appeals. To this end, it recommends that they review the exceptions provided for in Italian law to the suspensive effect of an appeal against rejection of an asylum application. It further recommends that they introduce implementing rules for the relevant provisions as soon as possible.

129. ECRI again recommends that the Italian authorities detain asylum seekers only when absolutely necessary, for short periods of time, and following an examination of the circumstances of the individual case.

130. ECRI recommends that the Italian authorities review reception conditions in CDAs and CARAs to ensure that they meet all the needs of their occupants, both medically and socially and in terms of legal assistance.

133. ECRI reiterates its recommendation that the Italian authorities ensure that asylum seekers are not left destitute pending examination of their claims.

135. ECRI recommends that the Italian authorities strengthen the programme promoting integration of refugees, asylum seekers and other officially recognised beneficiaries of international protection so that all potential beneficiaries of this programme are actually covered. At the same time, it strongly encourages the Italian authorities to strengthen the national aspect of this programme in order to ensure that all its intended beneficiaries can benefit fully from the measures introduced, wherever they may be resident.

In relation to the principle of *non-refoulement*, since the entry into force of the Italian Basic Law in 1948 the legal system has to be and is in line with the general international law (Art. 10).

In matter of expulsion of aliens, Italy complies with international standards as long as no collective expulsion measure can be adopted, the enforcement of the *non-refoulement* is required (according to Arts. 32-33 of the 1951 Geneva Convention) and specific safeguards apply (in compliance with Art. 13 of ICCPR and Art. 1 of Protocol No. 7 to the European Convention on Human Rights) allowing the lodging of complaint to the competent Authorities. Along these lines, according to the Supreme Court of Italy, it is ascertained the breach of the *non-refoulement* principles only if the Country *refoules* those migrants with a temporary protection measure.

Furthermore Italy enforces the 1951 Geneva Convention, the Montego Bay Convention (1982) and the IMO Conventions, as well as the Palermo Protocol (2001) and the Convention thereto, which envisages, *inter alia*, that State Party ships may stop any vessel without nationality, if suspected to illegally transport/smuggle migrants. Under given circumstances, migrants can be returned to the State concerned, in accordance with the international cooperation principles.

On a more specific note, the return of migrants is a procedure envisaged by specific Agreements. It may take place upon request by the State concerned when migrants intercepted in international waters, escaped the control of the Authorities of that State. The most recent cases fell within the scope of “the return of migrants not applying for asylum”.

As it concerns measures to assist asylum-seekers, ten Territorial Commissions, composed of representatives from the Ministry of the Interior, local authorities and the UNHCR are committed in processing their applications for asylum. Moreover, since the month of October 2008, five Sections were added in order to speed up this process and to deliberate on demands within three months (currently, on average, application are processed in less than two months).

Within the framework of reception and integration measures provided by Italy, it is also worth mentioning the System of Protection for Asylum Seekers and Refugees (SPRAR). The SPRAR is based on a joint effort by central and local authorities, also involving civil society organizations. According to the new legislation in force on immigration, it is financed through the National Fund for asylum services and policies, whose resources are devoted to the reception of asylum seekers and their families, as well as the protection of refugees and of those who are entitled to subsidiary international protection. For the years 2009 and 2010 respectively the beneficiaries of SPRAR assistance were 7845 and 6855, and further 50 individuals will be expected to receive protection for the period 2011-2013. In terms of entering and exit from the temporary assistance, in 2009 2921 new beneficiaries were assisted and 2840 individuals have depart from their path to integration. In 2010 2886 new entrances and 2755 exits were recorded. 12955 individuals have been monitored by the SPRAR that have had access to the system or have chosen alternative protection measures.

SPRAR system - year 2010

Projects	138 (107 - ordinary; 31 addressed to vulnerable categories)
	15 local authorities that apply for the implementation of at least 2 projects
Financed assistance	3000 beneficiaries (2499 - ordinary; 501 - vulnerable categories, from 10 to 150 individuals)
Local authorities	123:
	103 Municipalities
	17 Provinces
	3 networks of Municipalities
Geographical assistance	68 Provinces
	19 Regions

For 2011-2013, 151 local projects will be implemented by 128 local authorities, involving 3000 beneficiaries. From January to April 2011, 3624 individuals have been assisted: 76% male and 24% female, coming mainly from Somalia, Afghanistan, Eritrea and Nigeria, with a growing number of request for assistance from Turkish and Pakistani applicants, demanding for international protection (44.5%), temporary protection (24.5%), refugee status (18.5%), humanitarian protection (12.5%).

Besides these operational structures and related interventions to protect asylum-seekers, also the legal status of refugees and foreigners requesting for international protection has been disciplined through the above mentioned Legislative Decrees No. 251 of November 19th, 2007 and No. 25 of January 28th, 2008, both in line with the EU legislation. In particular Art. 10 of Legislative Decree No. 251 provides for a detailed procedure following the request from the applicant to the competent police office, which must inform about his/her rights and duties during the reception process, the length and all the necessary documentation, while giving an ad hoc brochure illustrating the steps of the procedure, his/her rights and duties on the national territory, his/her health rights and related free access to services, means of contacting whenever they need the offices of the UN High Commissioner for Refugees and other international organizations that assist applicants in Italy. The provision also details the modalities of timely communicating the decision to recognise the international protection in the language of the applicant or, otherwise, in English, French, Spanish or Arabic, according to his/her choice, by ensuring also the assistance of an interpreter during the procedure, if necessary.

This assistance is also guaranteed at the judicial stage, following the refusal to accept the application for the international protection by the foreign citizen. In these circumstances, the demand for appeal to be introduced according to Art. 35§6 of Legislative Decree No. 25/2008 entails not only the suspension of the procedure but also of the offence of illegal entry and stay in Italy, to be definitively concluded if the international protection is recognised (Art. 10 *bis*§6 of Legislative Decree No. 286/1998).

All the above mentioned measures have always been characterized by a strict compliance with the law and a careful evaluation of each individual case. The temporary reception of asylum-seekers in centers (CARAs) is provided for in Art. 21 of Legislative Decree No. 25/2008 in the following terms: the status of the asylum-seekers is recognised according to Art. 15f of 1951 Geneva Convention; he/she has been condemned for crimes contained in the Criminal Code

(Art. 380, §§1-2) or crimes related to drugs, sexual freedom, inducement to illegal migration to and from Italy, recruitment for prostitution or exploitation for prostitution, also involving children in illegal activities; he/she has been expelled - in respect of ruled exceptions - if applicant and addressed by an expulsion or repatriation measure when already residing in a reception centre. It is worth recalling that national legislation envisages judicial control over any order of expulsion issued by an administrative authority.

Moreover, following the examination of the individual case when the repatriation has been not carried out because of the lack of cooperation or the administrative delay in collecting all the necessary documentation by the country of origin, the *Questore* can ask the *Giudice di Pace* to extend the period for the reception for not more than 60 days, for a maximum period of 12 months.

- Specific situation arising from events in North Africa in early 2011

139. ECRI strongly recommends that the Italian authorities systematically respect the principle of non-refoulement and take all further steps necessary to ensure access to asylum procedures for all persons having arrived in Italy from North Africa since the beginning of 2011 and who are seeking international protection.

140. ECRI draws the attention of the Italian authorities to the importance of taking all necessary steps to ensure that any ship coming under their jurisdiction fully respects the principles laid down by international law with respect to rescue at sea.

142. ECRI strongly encourages the Italian authorities to continue and step up their efforts to provide adequate reception arrangements for persons arriving on Italian shores following the events in North Africa, some of whom are seeking international protection.

Following the events occurred in Northern Africa since January 2011, the Italian coasts were put under pressure from an exceptional flow of migrants starting from the second half of February. In March 2011 the Lampedusa Island was the final destination of many vessels from the Northern African coasts - mainly from Tunisia, together with other Italian islands (i.e. Linosa) and the eastern coasts of Sicily.

This phenomenon led to the declaration of the humanitarian emergency by Prime Minister Decree of February, 12th, 2011, as extended with the following Decree of October 6th, 2011 and managed by Order No. 3294 issuing the management of the emergency to the *Prefetto* of the Municipality of Palermo as ad hoc Commissioner. Also the Prime Minister Decree of April 5th, 2011 provided for the establishment of “humanitarian measures of temporary protection to be guaranteed to Northern African Countries’ citizens entering the Country from January 1st to April 5th, 2011”.

Also the critical situation that occurred in Libya in April 2011 contributed to a massive flow of human beings leaving from Libyan coasts but having different nationalities (Somalia, Eritrea, Nigeria and Ghana), most of them being women and children. These migrants in very critical health conditions were rescued by the Italian vessels at sea and asked for the international protection when landed on the Italian territory.

Through the adoption of a new Prime Minister Order (No. 3933 of April 13th, 2011), the Head of the National Department of Civil Protection was appointed as Delegate Commissioner for the humanitarian emergency with the task to coordinate the Regions and the representatives of the Provinces and Municipalities in elaborating a National Plan for the first reception and accommodation of non EU citizens from Northern Africa while recognizing them the international protection or humanitarian protection. This Plan has been progressively implemented also balancing the reception of non EU citizens in all the Regions, according to a specific agreement signed on April 6th, 2011, among the Government and local authorities.

At the present 60.000 non EU citizens are assisted on the national territory, mainly in Lampedusa Island. Their ordinary management has been also guaranteed by the Ministry of the Interior through the CPSAs (in Lampedusa, Pozzallo (RG), Cagliari- Elmas, Lecce-Otranto) and

the CARAs (i.e. Ancona, Bari, Brindisi, Caltanissetta, Crotona, Foggia, Gorizia, Rome and Trapani), where the migrants wait for their application for the international protection by the competent Territorial Commission.

- *Migrants without legal status*

145. ECRI recommends that the Italian authorities consider alterations to Identification and Expulsion Centres (CIEs) and the living conditions there and take all the necessary steps to ensure that they are suitable for periods of detention lasting up to 180 days.

146. ECRI urges the Italian authorities to ensure that all persons held in CIEs have access to the medical care that they need.

147. ECRI urges the Italian authorities to investigate all allegations of ill-treatment in these centres and punish those responsible. It again invites the authorities to increase transparency by facilitating access to these centres, including for organisations protecting the human rights of migrants and asylum seekers and for lawyers.

Besides the assistance to asylum-seekers in CARAs, as far as the other Reception Centres (CPSA, Centres for the first-aid and reception; CIE, Identification and Expulsion Centres), the assistance to migrants without legal status is legitimated by the judicial authority within the following 48 hours from the reception and can be reviewed and motivated by the *Questore* in terms of extension of the stay. The assistance of the migrant includes the full access to health-care services, cultural mediation, free legal counselling, identification, examination of the relevant applications and, eventually, repatriation, only for those who are not entitled to stay in Italy (Art. 14§2 of Legislative Decree No. 286/1998).

- *Deportations under counter-terrorism provisions*

150. ECRI urges the Italian authorities to take effective steps to prevent any deportations from Italy that might be in breach of Article 3 of the European Convention on Human Rights. Inasmuch as the failures already noted have occurred in connection with the fight against terrorism, ECRI invites the Italian authorities to refer to its General Policy Recommendation No. 8 on combating racism while fighting terrorism.

Italy condemns terrorism in all its forms and considers the fight against it as a national priority. This fight can and must be carried out in full compliance to human rights, international humanitarian law and refugee law. Counter-terrorism action has to be considered as a strong commitment of the Italian authorities entailing a vigorous effort to protect human rights and to guarantee people security against terrorist attacks.

Specific measures were adopted to combat international terrorism, in order to update the existing anti-terrorism legislation. The legal framework was also integrated by including a specific circumstance under which administrative expulsion measures can be applied in order to prevent acts of domestic or international terrorism (Art. 13§1 of the legislation on immigration now in force).

Italy has not established any special jurisdiction or procedure for terrorism cases. The jurisdiction of military tribunals is in fact limited to the trial of members of the military accused of military offences. Only ordinary courts may judge and convict a person for terrorist offence. Therefore, all ordinary procedures and principles on presumption of innocence, legal assistance, exam of evidence, information etc. are ensured in trials and investigations, when dealing with terrorist cases.

On this issue, there have been various interventions by the Constitutional Court, to emphasize primarily that the Italian legal system aims at ensuring an effective framework of guarantees, so as to fully and extensively protect the fundamental rights of the individual.

Muslim communities

153. ECRI recommends that the Italian authorities intensify their efforts to combat and effectively prevent racism and discrimination against Muslims. It again draws their attention to its General Policy Recommendation No. 5 on combating intolerance and discrimination against Muslims, which proposes a number of legislative measures and policy initiatives that governments can take to this end.

156. ECRI encourages the Italian authorities to pursue a regular, constructive dialogue with the representatives of the various Muslim communities in Italy and, if necessary, to reinforce the structures established to permit such dialogue.

As it concerns the dialogue with Muslim communities living in Italy, it is worth of mentioning the Council for Islam, an advisory body established in 2005 at the Ministry of the Interior and tasked with preparing studies, giving opinions and making proposals to promote the institutional dialogue with Muslim communities and to improve knowledge of the problems of integration in order to identify the most appropriate solutions for a harmonic input of communities themselves in the host society, in compliance with the Constitution and laws of the Republic. The Minister of the Interior, who chairs the Council and organise its meetings during the year or when necessary, may call to contribute to the work of this body - acting as its members - scholars, experts and people of culture and Islamic religion which, by their experience, can offer qualified contributions to the topics under debate within the Council, in adhering to the values and principles of the Italian Republic.

Antisemitism

ECRI encourages the Italian authorities to reinforce their efforts to combat antisemitism and invites them to draw inspiration from its General Policy Recommendation No. 9 on the fight against antisemitism, which proposes a number of measures that governments can take in this field.

In May 2009, the Italian Presidency of the Council of Ministers instituted the Coordination Committee for the celebration of the Shoah - chaired by the Undersecretary of State of the Council of Ministers - whose goal has been to co-ordinate all the official activities aimed at celebrating the “Shoah Remembrance Day” (January 27th) and raising awareness in public opinion, mainly youth, about this theme. The Committee includes representatives of all main public administrations, as well as members of Jewish Communities. During the last years, the Committee co-ordinated all the relevant institutional activities (exhibitions, round tables, ceremonies) concerning the most acute problems, such as Internet role in disseminating anti Jewish prejudices and false historical records.

The Chamber of Deputies Committee on anti-Semitism was instituted with the aim to investigate in depth this phenomenon, the degree of public awareness, media and education system commitment on this theme. Starting from January 27th, 2010, day of his establishment, the Committee presented its final report (November 2011), approved unanimously by representatives of all political parties after 15 meetings, during which the most important international experts on anti-Semitism were heard, as well as the leading representatives of the Jewish community. The report stresses that the anti-Jewish prejudice is still a reality in the country, also fueled by internet, and underlines the best practices, even in the foreign countries, to face it. The deputies agreed upon the proposal to institutionalize this experience with a bill within the Parliament.

Discrimination in Various Fields

Education

164. ECRI encourages the Italian authorities to continue their efforts to ensure that no pupils suffer any disadvantage in the school system on account of an insufficient command of Italian and recommends that the authorities be guided in this respect by its General Policy Recommendation No. 10.

168. ECRI recommends that the Italian authorities ensure that substitute classes for optional Catholic education are provided in response to all requests made in accordance with the applicable rules, so as to ensure that no pupils suffer indirect discrimination, particularly with regard to award of credits.

The fight against racism and racial discrimination, at the educational level, is carried on by the Ministry on Education, from the primary through the secondary school, by means of specific educational programmes, marked by an intercultural approach. All children living in Italy enjoy the right to education, even if their parents have no residence permit. As a consequence, the Italian school system is committed to providing knowledge of different cultures.

At the same time specialized training Courses and Workshops promoted by the Ministry of Education 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.

With specific reference to the optional Catholic education in terms of alternative religious teaching, Art. 8 of the Italian Basic Law must be mentioned as the main legal provision for the self-organization of all non-Catholic religious Denominations according to their own Statutes and for the regulation of their relations with the State through bilateral agreements called *Intese*.

Following the creation of a comprehensive legal framework in this field, with the adoption of Act No. 400/1988, Legislative Decree No. 303/1999, and also the Legislative Decree No. 286/1998 that deals with discriminatory conducts based, *inter alia*, on religious grounds (practices, convictions and customs, Arts. 43 and 44), all the *Intese* included in their contents also an explicit reference to education, aiming at guarantee the right for students to not participate in religious classes, and the possibility for the schools to respond to any request by students and families, introducing the teaching of one specific religion and explaining its implications; the recognition of diplomas issued by theological institutes and the right to freely set up schools of any order or degree, and educational institutes, according to the Italian educational system.

Employment

171. ECRI recommends that the Italian authorities step up their efforts to reduce the disparity between citizens and non-citizens on the labour market, ensuring in particular that existing anti-discrimination legislation in the field of employment is properly and strictly applied. It recommends that the authorities conduct an awareness-raising campaign focusing on employers' obligations and responsibilities on the one hand and on the positive aspects of diversity in the workplace on the other.

The discrimination at work is under attentive monitoring by the officials of the Ministry of Labour and Social Policies, in line with the relevant objectives included in the Inspections Programme for 2011, aimed at emerging illegal social and economic phenomena including discriminatory attitudes and practices.

The results of the inspections activity for the year 2010 revealed 2856 violations of the legislation in force concerning equal opportunities, discrimination and protection of female

workers/mothers. In terms of inequalities between Italian and foreign workers, particular attention has been devoted to some productive sectors where black economy and safety at the workplace are among the main priorities to be faced by central and local authorities. The inspections intend to counter the exploitation of non EU workers, in line with the programmatic above mentioned measures, counting on the territorial inspective action over the local ethnic management of migrant workers in the agriculture and building sectors, that present the greatest risk of exploitation and undeclared economy in violation of the present legislation concerning the labour market.

Housing

175. ECRI again recommends that the Italian authorities ensure that legislation against direct and indirect racial discrimination in the housing field is rigorously applied, both in the private and in the public sector.

176. It strongly encourages the Italian authorities to identify best practices at local level in order to eliminate all discrimination based on colour, religion, ethnic or national origin, language or nationality in the field of housing and to ensure that these best practices are applied on a national scale.

Concerning the equality for social rights, some social benefits like access to public housing social and assignment have been ruled by the legislation in force according to the establishment of the duration of residence of the applicant as main criteria (usually set between five and ten years). The purpose of the time requirement is to limit access to such benefits only to those who have a particular rooting on the territory of which the length of residence is a clear indicator.

This approach was also endorsed by the Constitutional Court that has clarified that "the requirement of continuous residence for the purpose of allocation, it is not unreasonable when it is consistent with the purposes that the legislature intends to pursue, especially where constitutional values are involved". The Court also stated that: "It is also possible to make, not unreasonably, the provision of certain benefits - not related to remedy serious emergencies. It is necessary to prove the non-episodic and not short term residence"(ruling No. 306/2008).

Health

179. ECRI encourages the authorities to continue and step up their efforts to ensure better provision of health care and better access to health care for groups coming under ECRI's remit, not only with regard to reception of patients and access to care but also by providing care appropriate to their specific situations.

With regard to the right to health, it should be recalled that Art. 32 of the Italian Basic Law acknowledges that "The Republic safeguards health as a fundamental right of the individual and as a collective interest, and guarantees free medical care to the indigent". This article is pivotal as it does not limit the enjoyment of the right to health to the Italian citizens but it extends it to every individual under the Italian jurisdiction, including Roma, Sinti and Travellers, migrants with irregular status, asylum seekers, unaccompanied foreign minors, trafficked people and victims of torture among others.

The Italian Government is seriously committed to protect and promote the universal right to the highest standard of physical and mental health and it is fully aware of the negative correlation existing among poverty, impoverishment, social exclusion and health status. In addition, it should be noted that, the health status of immigrants who succeed to arrive in Italy get quickly worse due to various risk factors such as the psychological stress caused by the migration, lack of work and income, underemployment in dangerous and unprotected jobs, bad living conditions, lack of family support, malnutrition as well as under use or misuse of the National Health System services.

Illegal non EU citizens also can benefit of healthcare services within public health structures of the National Health System (NHS), as follow:

- First aid and urgent hospital treatments (when they cannot be delayed and can seriously affect patient's health) or primary treatments and cares (services, diagnosis and therapies related to pathologies which are not risky in the short term, but can originate serious health problems or put the patient's life at risk) needed by disease or for injury.
- Preventive cares and treatments aimed at preserving collective and individual health, as identified in item a)-b)-c)-d)-e) paragraph 3 of Art. 35 of Legislative Decree No. 286/98, and in particular:
 - preserve pregnancy and maternity at the same level than for Italian citizens;
 - preserve children health;
 - mandatory vaccinations in the framework of collective prevention initiatives as authorized by regional authorities;
 - international prophylaxis interventions;
 - prophylaxis, diagnosis, care of infective diseases and care of potential focus of infection.

Health cares are free of charge when delivered to economically disadvantaged individuals and access to health services for illegal non EU citizens does not include reporting to the police unless medical report is mandatory. Moreover, independently from the time extension of their stay in Italy, illegal migrants can access all health services, although they follow different modalities from Italian citizens. Actually, a Temporary Present Migrant (STP) code is provided to them, while preserving their anonymous status.

In terms of institutional architecture, in order to improve the concrete and universal enjoyment of the right to health, the Italian Parliament authorized through Act No. 296/2006¹²¹ the establishment of the '**National Institute for the Promotion of Migrants' Health and the control of poverty related diseases (NIHMP)**'¹²² to implement a 3 year -experimental health management- Project whose assignments include prevention, treatment, training and research regarding the promotion of migrants' healthcare and the control of poverty related diseases experienced both by the Italian and the foreign population", The NIHMP is structured in the National Headquarters in Rome and in three regional centers respectively in the Latium, Apulia and Sicily Regions. The NIHMP is a public institution with juridical status and with autonomous organizational, administrative, patrimonial, accounting and technical functions, under the supervision of the Ministry of Health.

One of the peculiarities of the NIHMP is the fact that patients are welcomed by cooperation of **cultural mediators**, social interpreters who welcome patients in their native languages, offer cultural and interpretative facilitation, particularly important also for diagnosis, therapy purposes and to overcome linguistic and cultural barriers. On average, 150-200 people per day are received only in the center of San Gallicano in Rome. It should be noted that these services are offered, **as foreseen by the Italian Constitution free of charge to the indigent, whether Italians or foreigners**. There are no waiting lists, all the patients who access the service are visited in the course of the day.

The Institute outpatient service is open to **Italian and foreign citizens** in need of healthcare, especially for dermatologic, infectious, gynecological, neuropsychiatric, internal medicine, and surgical pathologies. In addition, there are other services run by a trans-cultural and multidisciplinary taskforce aimed at improving health status of individuals in condition of poverty, impoverishment, social exclusion and gross human rights violations such as, among

¹²¹ The Act authorizes the expenditure of € 5,000,000.00 in 2007 and € 10,000,000.00 respectively in 2008 and 2009.

¹²² The NIHMP relies on the 25 years experience developed by the Department of Preventive Medicine of Migration, Tourism and Tropical Dermatology at the Scientific Institute for Research, Hospitalization and Health Care specialized in Dermatological and Sexually Transmitted Diseases "Santa Maria e San Gallicano" in Rome.

others, 1) the Service for humanitarian protection seekers, refugees and victims of torture, 2) the Clinical Ethno-psychiatry Service; 3) the Psychological Service for Unaccompanied Minors; 4) the Service for homeless.

In particular, the individuals approaching the **Service for humanitarian protection seekers, refugees and victims of torture** are welcomed by a multi-disciplinary and trans-cultural taskforce composed of cultural mediators, psychologists, anthropologists and doctors whose work is aimed at tracing the traumatic memory experienced by the person, through medical examination and psychological evaluation, necessary to compile both a dossier and a medical certificate that is presented to the competent territorial Commission that will analyze the case and decide on the recognition of the status.

Along these lines, within the EU framework for the inclusion of not EU nationals for the years 2007-2013, two programmes of the Ministry of Health were funded in 2009 and 2011 to support integration paths having as main beneficiaries foreigners asking for a stay permit and entering into contact with Immigration Single Desks. These projects aim at giving information concerning the rights and duties of migrants in terms of access to basic healthcare services, also through the publication and dissemination of information materials and brochures in different languages and easy to "reach" the potential user when he/she asks for granting the status of legally residing foreigners. The contents of these publications are about: brief illustration of the functioning of the NHS; list of necessary documents to be submitted for the enrollment in the National Health Service; information covering some specific areas (i.e. maternal and child health, alcohol addiction, smoking or drugs); references about local health offices, according to the local accommodation of the applicant. Such information is also available on the website of the Ministry of Health.

With the contribution of the NIHMP, cultural mediators specialized in social and health services supported for 3 days a week public officials working at the Immigration Single Desks in the Municipalities of Brescia, Catanzaro, Padua, Prato and the Autonomous Province of Trento, giving information to migrants about health issues. A further counselling service was provided for when the personnel was out of the office. The project for 2011 consists of an extended implementation of the previous one in other regions, always through the intervention of the NIHMP in terms of professional training, e-learning, and support of ad hoc personnel at the Immigration Single Desks.

Conduct of Law Enforcement Officials

182. ECRI invites the Italian authorities to denounce publicly and unambiguously all manifestations of racist behaviour or racial discrimination by members of the police and to ensure that public statements are made at a high level to the effect that such acts will not be tolerated and will be punished following a thorough and prompt investigation.

183. ECRI reiterates its recommendation that the Italian authorities establish a body independent of the police and the prosecution service to investigate allegations of human rights violations by the police, including inter alia all allegations of racial discrimination or racially motivated misconduct.

The assessment of responsibilities of public officials in case of an alleged violation of human rights and/or individual freedoms can be requested either by a citizen or during an inquiry conducted by a superior. In the former case, the request is transmitted to the judicial authority through a complaint so that a criminal proceeding can be initiated. Moreover, such control system is strengthened by several internal inquiring mechanisms, to assure that, in ordinary activities, public officials do not commit abuses or exceed in the use of their power. In particular, according to Disciplinary Rules adopted by Presidential Decree No. 737/1981, during the criminal proceeding the public official is temporarily suspended and an act of expulsion from the ranks or, alternatively, a disciplinary measure is executed if the public official is condemned to be under detention for more or less than 3 years. The latter case could lead also to the expulsion from the ranks.

Monitoring Racism and Racial Discrimination

186. ECRI reiterates its recommendation that the Italian authorities improve their system for monitoring the situation of minority groups by collecting relevant information in various fields, broken down according to categories such as ethnic or national origin, language, religion and nationality. It stresses the need to ensure that the system put in place is compliant with European standards in matters of data protection and protection of privacy. The Italian authorities should in particular ensure that data collection is always carried out in full accordance with the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group. The system for collecting data on racism and racial discrimination should also take into consideration the gender dimension, particularly from the point of view of possible double or multiple discrimination.

With regard to the consolidation of the knowledge of the phenomena linked to racial discrimination the establishment of a research centre named CERIDER (Research Centre on Ethnic and Racial Discrimination) has been scheduled, which, in association with the UNAR Contact Centre and the national Network of Observatories and the regional centres pursuant to Art. 44 of Legislative Decree No. 286/98, is to monitor xenophobia and racism phenomena in the various regions through the creation of designated reference indices. With the decision to contract UNAR a **Public Notice** has been consequently issued in July 2011 for the creation of a project for the establishment and the operation of a research centre to monitor the phenomena of xenophobia and discrimination on grounds of race and ethnicity (CE.RI.D.E.R.) (amounting to € 250,000.00).

As far as the involvement, consultation, and sharing of data with social partners and the third sector, it is worth mentioning that on February 2011 UNAR signed a memorandum with the main consumer's associations, and that, within the scope of the Week of Action against Racism, a specific interventions programme, designed in association with employers' organizations and trade unions, was carried out in the workplaces.

With regard to the promotion of positive actions in the workplace through the experimentation and implementation of a model of diversity management based, inter alia, on the design, organisation and management of an integrated programme of awareness-raising, information and training activities catering to the personnel and the partners of the company, as well as all the stakeholders, and on the prevention and countering of all forms of discrimination, with decision to contract UNAR, dated July 26th, 2011 the **Call for proposals to promote the adoption, by state or private-owned enterprises and companies, of projects of positive actions aiming at avoiding or compensating possible situations of disadvantage and/or potential unequal treatment** referred to in Legislative Decrees No. 216 and 216 of July 9th, 2003 (for a total amount of € 200,000.00) has been issued.

Lastly, through the cooperation of the employers' organisations Confcommercio, Confesercenti and CNA, last May UNAR planned an **awareness-raising initiative named "Equality is Priceless"**, consisting in the realisation of 200,000 stickers bearing the slogan and the anti-racism toll-free number with the relative leaflet, that will be sent by the employers' organizations to all their partners in order to be put on store display windows. The presentation and implementation of the campaign has been scheduled for next December.

Education and Awareness-Raising

189. ECRI strongly encourages the authorities to pursue and strengthen their efforts aiming to impress on pupils at all levels the need to respect the principles of non-discrimination and of promoting equal opportunities, and to provide teachers with full training in these fields.

190. ECRI also encourages the authorities to pursue their efforts to bolster the skills of teaching and auxiliary staff in schools in promoting integration and respect for diversity.

Several initiatives have been promoted in last years to involve both pupils and students at school and, on a more general note, the public opinion as far as the relevance of the principle of non-discrimination and the full respect of diversity. Worth mentioning are:

- a) the ***Week of action against racism***, which in 2011 carried out 107 initiatives throughout Italy, with the support of local authorities and NGOs (funding amounted to € 300,000.00);
- b) the ***National Week against violence***, which will be carried out for the third year running in all Italian schools as of next October and throughout the school year with a financial commitment amounting to € 250,000.00. With decision to contract UNAR, dated July 13th, 2011 a new **Call for proposals to finance a programme of awareness-raising, information and training activities catering to students, parents and teachers of schools of all levels, on the prevention of physical and psychological violence, including violence based on racial, religious and gender intolerance, as well as of all forms and grounds of discrimination, within the scope of the 3rd National week against violence**” (funding amounting to € 250.000) has been issued;
- c) the ***“Dosta Campaign”*** against prejudice towards Roma and Sinti communities is currently going on all over Italy (next venues in Bari and Venice, then in Palermo, Naples, Milan, etc.) (amounting to € 200,000.00). The Campaign promoted the broadcasting of the advertisement “How many gypsies do you know?” on public TV channels throughout June and July 2011; the campaign will be promoted and carried out also for the year 2012;
- d) the ***Project “Foreign women. Against all discriminations”*** presented by UNAR and financed by the Ministry of the Interior with € 350,000.00, within the scope of the 2009 programme of the European Fund for the integration of Third-Country nationals was successfully concluded last April 30th;
- e) with decision to contract UNAR, dated July 27th, 2011 the statutory procedures for the **nationwide systematisation of the experimentation, which started in 2010 only in the Convergence Objective Regions, of the network “Near - Youth network against racism”** have been initiated for a period of one year.

With Decree of the Ministry of the Interior last June 13th, within the scope of the EIF 2010, a new public information campaign named **“Campaign for the prevention and countering of discriminations on ethnic or racial grounds”** with funding amounting to € 400,000.00 has been approved. The publication procedures for the relative European-wide Call for proposals have been scheduled to start in September, in association with the competent Office for Equality and Equal Opportunities, strategic interventions and Communication, while the public information campaign will be carried out during March 2012, in concurrence with the VIII Week of action against racism.

Moreover ***the editorial series*** comprising essays and thematic researches on racism, which published and released the Reports to the Parliament prepared by UNAR, is continuing its publications;

Lastly, both the Report to the Parliament and the most important materials produced by UNAR have been published in English and will be distributed internationally.

ANNEX - Enrolled / concluded / pending cases against persons - *Procure* / municipal data - year 2010

Municipality	Art. 1bis - 2, Act No. 205/1993	Art. 3, Act No. 654/1975 (CERD Convention)	Art. 23, Act No. 38/2001 (Linguistic minorities)
ANCONA / pending - first stage	1	1	0
ANCONA / enrolled	2	0	0
ANCONA / concluded	1	0	0
ANCONA / pending	2	1	0
BARI / pending - first stage	0	0	0
BARI / enrolled	0	0	0
BARI / concluded	0	0	0
BARI / pending	0	0	0
BOLOGNA / pending - first stage	3	2	0
BOLOGNA / enrolled	3	1	0
BOLOGNA / concluded	3	2	0
BOLOGNA / pending	3	1	0
BRESCIA / pending - first stage	0	3	0
BRESCIA / enrolled	0	5	0
BRESCIA / concluded	0	1	0

Municipality	Art. 1bis - 2, Act No. 205/1993	Art. 3, Act No. 654/1975 (CERD Convention)	Art. 23, Act No. 38/2001 (Linguistic minorities)
BRESCIA / pending	0	7	0
CAGLIARI / pending - first stage	0	4	0
CAGLIARI / enrolled	0	0	0
CAGLIARI / concluded	0	0	0
CAGLIARI / pending	0	4	0
CALTANISSETTA / pending - first stage	0	0	0
CALTANISSETTA / enrolled	0	0	0
CALTANISSETTA / concluded	0	0	0
CALTANISSETTA / pending	0	0	0
CAMPOBASSO / pending - first stage	0	0	0
CAMPOBASSO / enrolled	0	0	0
CAMPOBASSO / concluded	0	0	0
CAMPOBASSO / pending	0	0	0
CATANIA / pending - first stage	0	0	0
CATANIA / enrolled	0	0	0
CATANIA / concluded	0	0	0

Municipality	Art. 1bis - 2, Act No. 205/1993	Art. 3, Act No. 654/1975 (CERD Convention)	Art. 23, Act No. 38/2001 (Linguistic minorities)
CATANIA / pending	0	0	0
CATANZARO / pending - first stage	0	0	0
CATANZARO / enrolled	0	0	0
CATANZARO / concluded	0	0	0
CATANZARO / pending	0	0	0
FLORENCE / pending - first stage	0	8	0
FLORENCE / enrolled	0	4	0
FLORENCE / concluded	0	2	0
FLORENCE / pending	0	10	0
GENOA / pending - first stage	0	2	0
GENOA / enrolled	0	2	0
GENOA / concluded	0	3	0
GENOA / pending	0	1	0
L'AQUILA / pending - first stage	0	1	0
L'AQUILA / enrolled	0	0	0
L'AQUILA / concluded	0	1	0

Municipality	Art. 1bis - 2, Act No. 205/1993	Art. 3, Act No. 654/1975 (CERD Convention)	Art. 23, Act No. 38/2001 (Linguistic minorities)
L'AQUILA / pending	0	0	0
LECCE / pending - first stage	0	0	0
LECCE / enrolled	1	0	0
LECCE / concluded	1	0	0
LECCE / pending	0	0	0
MESSINA / pending - first stage	0	0	0
MESSINA / enrolled	0	0	0
MESSINA / concluded	0	0	0
MESSINA / pending	0	0	0
MILAN / pending - first stage	0	8	0
MILAN / enrolled	3	5	0
MILAN / concluded	2	5	0
MILAN / pending	1	8	0
NAPLES / pending - first stage	0	0	0
NAPLES / enrolled	0	1	0
NAPLES / concluded	0	0	0

Municipality	Art. 1bis - 2, Act No. 205/1993	Art. 3, Act No. 654/1975 (CERD Convention)	Art. 23, Act No. 38/2001 (Linguistic minorities)
NAPLES / pending	0	1	0
PALERMO / pending - first stage	0	1	0
PALERMO / enrolled	0	1	0
PALERMO / concluded	0	1	0
PALERMO / pending	0	1	0
PERUGIA / pending - first stage	0	2	0
PERUGIA / enrolled	0	0	0
PERUGIA / concluded	0	2	0
PERUGIA / pending	0	0	0
POTENZA / pending - first stage	0	0	0
POTENZA / enrolled	0	0	0
POTENZA / concluded	0	0	0
POTENZA / pending	0	0	0
REGGIO CALABRIA / pending - first stage	0	0	0
REGGIO CALABRIA / enrolled	0	0	0
REGGIO CALABRIA / concluded	0	0	0

Municipality	Art. 1bis - 2, Act No. 205/1993	Art. 3, Act No. 654/1975 (CERD Convention)	Art. 23, Act No. 38/2001 (Linguistic minorities)
REGGIO CALABRIA / pending	0	0	0
ROME / pending - first stage	2	16	0
ROME / enrolled	0	10	0
ROME / concluded	0	10	0
ROME / pending	2	16	0
SALERNO / pending - first stage	0	0	0
SALERNO / enrolled	0	0	0
SALERNO / concluded	0	0	0
SALERNO / pending	0	0	0
TURIN / pending - first stage	0	1	0
TURIN / enrolled	0	0	0
TURIN / concluded	0	0	0
TURIN / pending	0	1	0
TRENTO / pending - first stage	0	6	0
TRENTO / enrolled	4	13	0
TRENTO / concluded	4	12	0

Municipality	Art. 1bis - 2, Act No. 205/1993	Art. 3, Act No. 654/1975 (CERD Convention)	Art. 23, Act No. 38/2001 (Linguistic minorities)
TRENTO / pending	0	7	0
TRIESTE / pending - first stage	1	3	0
TRIESTE / enrolled	2	1	0
TRIESTE / concluded	1	3	0
TRIESTE / pending	2	1	0
VENICE / pending - first stage	5	10	0
VENICE / enrolled	2	10	0
VENICE / concluded	3	10	0
VENICE / pending	4	10	0
Pending - first stage - National data	12	68	0
Enrolled - National data	17	53	0
Concluded - National data	15	52	0
Pending - National data	14	69	0