

ECRI

European Commission against Racism and Intolerance
Commission européenne contre le racisme et l'intolérance

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European Commission against Racism and Intolerance

ECRI's country-by-country approach:

REPORT ON ITALY

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INTRODUCTION

The European Commission against Racism and Intolerance (ECRI) was set up in 1994, at the instigation of the first Summit meeting of Heads of State and Government of the member States of Council of Europe, to combat the growing problems of racism, xenophobia, anti-Semitism and intolerance threatening human rights and democratic values in Europe. The members of ECRI were chosen for their recognised expertise in questions relating to racism and intolerance.

The task given to ECRI was to: review member States' legislation, policies and other measures to combat racism, xenophobia, anti-Semitism and intolerance and their effectiveness; propose further action at local, national and European level; formulate general policy recommendations to member States; and to study international legal instruments applicable in the matter with a view to their reinforcement where appropriate.

One aspect of the activities developed by ECRI to fulfil its terms of reference is its country-by-country approach, which involves carrying out an analysis of the situation in each of the member States in order to provide governments with helpful and concrete proposals.

The procedure adopted for the preparation of country-specific reports can be summarised thus:

- a. The preliminary collection of information as well as the preparation of the texts of the preliminary draft reports are carried out in small working groups of ECRI. Preliminary sources of information used are wide-ranging, including, *inter alia*, replies provided by governments to a questionnaire sent out by ECRI, input from the relevant national members of ECRI, information on national legislation collected for ECRI by the Swiss Institute of Comparative Law¹, information from international and national non-governmental organisations, various publications and the media.
- b. ECRI examines and discusses the preliminary draft report on each country in plenary session and adopts a draft report.
- c. The report is sent to the relevant government for a process of confidential dialogue conducted through a government-appointed national liaison officer. The draft country report is re-examined and possibly revised in the light of the comments provided by the latter.
- d. The report is then adopted in its final form by ECRI in plenary session, and transmitted through the Committee of Ministers of the Council of Europe, to the government of the country in question. Two months after this transmission, the report is made public, unless the government of the country concerned expressly requests that it is not made public.

¹ *The report prepared by the Swiss Institute (ref: CRI (97) 38), covering relevant legislation in member States of the Council of Europe is available from ECRI's Secretariat.*

A first series of ECRI's country-specific reports was made public in September 1997 and a second series in March 1998². A third series of country-specific reports was transmitted to the governments of the countries concerned in April 1998, and is thus now being made public³.

The following report contains ECRI's analysis and proposals concerning Italy.

It should be noted that ECRI is carrying out its country-by-country procedure by preparing reports for all forty member States of the Council of Europe. This third series of reports, for which the procedure was completed by April 1998, will be followed by other series of reports during 1998 on the remaining member States of the Council of Europe. The order in which the reports are produced has no significance other than that these are the first reports to be completed. It is intended to complete the first round of country reports by the end of 1998.

The publication of this report represents the start of an on-going and active process of exchange between ECRI and the authorities of each of the member States, in order to identify solutions to the problems of racism and intolerance facing Europe. ECRI will also welcome the input of non-governmental organisations and other parties working in this field to ensure that its work is as constructive and helpful as possible.

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For further information about the work of the European Commission against Racism and Intolerance (ECRI) and about the other activities of the Council of Europe in this field, please contact:

**Secretariat of ECRI
Human Rights Directorate
Council of Europe
F - 67075 STRASBOURG Cedex
Tel: +33 (0) 3 88 41 29 64
Fax: +33 (0) 3 88 41 39 87
E-mail: combat.racism@coe.int**

² *The first two series comprise reports on Belgium, the Czech Republic, Finland, Germany, Greece, Hungary, Iceland, Ireland, Liechtenstein, Lithuania, Luxembourg, Malta, Norway, Poland, San Marino, Slovenia and Switzerland.*

³ *Reports on Bulgaria, France, Italy, the Netherlands, Portugal and Slovakia.*

Introduction

Italy became a unified State late in the 19th century. Today it includes twenty autonomous regions, on the basis of the Constitution approved after the Second World War, with considerable diversity between the regions in the peninsula. Several minority groups exist throughout the country.

Italy has in the past experienced a relatively low number of racist incidents compared to some other European countries, but recent years have seen an increase in this phenomenon. The issue of immigration, particularly clandestine immigration, is a particularly pressing one in Italy, which is in close proximity to a number of countries which have been the source of heavy immigration over recent years. Social and economic problems have contributed over the last few years to an increase in manifestations of violence and intolerance, not only between the North and the South of the country, but also towards non-citizens, particularly non-EU immigrants, whose situation is often made more difficult by their lack of valid residence permits. The question of federalisation or secession raised by the Lega Nord adds to the complexity of the situation. Although Italian legislation contains provisions combating racism and intolerance, the phenomenon of racism is very difficult to control when coupled with the above-mentioned difficulties. Furthermore (in particular before the law 205 of 1993 which covered urgent measures to combat racism, ethnic and religious discrimination), a lack of a prompt and appropriate response on the part of the judicial authorities against perpetrators of acts of racism and intolerance may compound these problems. It is vital that a range of measures be taken to avoid the problems of racism and intolerance from spiralling out of control.

Some of the key areas identified by ECRI as meriting particular attention include:

- the need for more awareness-raising against intolerance, especially among young people;
- the need for a prompt and adequate response on the part of the judicial authorities in cases of violent manifestations of racism and xenophobia, especially by law enforcement officers;
- more reliable and efficient implementation of the legislation against racism and intolerance;
- the possibility of setting up a specialised body to combat racism and intolerance;
- collaboration between the State, voluntary organisations and non-governmental organisations as regards policies concerning assistance to immigrants.

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Note: Any development subsequent to ~~13 June 1997~~ is not covered by the following analysis and is not taken into account in the conclusions and proposals.

I. LEGAL ASPECTS⁵

A. International Legal Instruments

1. Italy has ratified most of the relevant international legal instruments in the field of combating racism and intolerance, with the exception of the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities. It is felt that these two instruments should be ratified as soon as possible.

B. Constitutional provisions

- *General provisions on equality*

2. The Italian Constitution of 1948 contains a general equality clause (Article 3) which states that "all citizens have equal social status and are equal before the law, without distinction as to sex, race, language, religion, political opinions and personal or social condition". There is no relevant case-law on the subject of racism. It should, however, be stressed that the principle of equality in practice applies to non-citizens, since the Constitution guarantees the "inviolable rights" of the individual (Article 2), irrespective of nationality, and since the legal status of non-citizens is regulated by law in conformity with international rules and treaties (Article 10, para. 2). ECRI considers nevertheless that consideration should be given to the possibility of adopting a constitutional amendment expressly ensuring equality and other human rights for all individuals under Italian jurisdiction, not just for Italian citizens. Although some distinctions may be necessary under certain circumstances, such distinctions should only be made when justified in a democratic society and prescribed by law.

3. A further constitutional clause which has played a role in combating racism and intolerance, particularly in recent years when neo-fascist racist groups (self-proclaimed "nazi" skinheads) have emerged in Italy, is the provision prohibiting the reconstitution of the fascist party (XII final provision of the Constitution).

- *Provisions concerning minority groups*

4. Concerning the linguistic minorities, the Italian Constitution states that it safeguards them "by means of special provisions" (Article 6). This principle and other specific situations justify that "particular forms and conditions of autonomy, in accordance with special statutes adopted by constitutional law, are attributed to Sicily, Sardinia, Trentino-Alto Adige, Friuli-Venetia Giulia and the Valle d'Aosta" (Article 116). ECRI would draw attention in particular to the latter three particularly sensitive areas in border regions of Italy with large minority groups, where particular consideration might be given to their situation:

⁵ A full overview of the legislation existing in Italy in the field of combating racism and intolerance is provided in the publication *CRI (95) 2 rev. prepared for ECRI by the Swiss Institute of Comparative Law (see bibliography)*

- The province of Bolzano enjoys a specific law-making power, in contrast to the other Italian provinces which are not granted such power. The special statute for Trentino-Alto Adige makes extensive provision for the autonomy of the region, covering financial, administrative and legislative areas. As regards the linguistic aspect, it grants equal rights to citizens, whatever linguistic group they belong to, and guarantees the use of the German language in public life in the province of Bolzano and in situations of regional competence (see Art. 84-85 of the Statute). It is also provided that "in the localities where the Ladin language is spoken, its teaching in the elementary schools shall be guaranteed" (Art. 87 of the Statute).
- In the Valle d'Aosta there are special provisions concerning the French majority, in order to guarantee the use of the French language, which has equal status with Italian in this region (see Art. 30 of the Statute of the Valle d'Aosta).
- In several municipalities of the Friuli-Venetia Giulia, where the Slovenia minority is well-represented, the Slovenian language can be employed in dealings with the administrative and judicial authorities (see Art. 5 of the Statute of Trieste). In certain cases, there seem to exist intolerant attitudes towards the Slovenian minority, even when its members speak good Italian.

5. Consideration might be given to extending and improving the statutes concerning minorities. Such measures might apply to a wide variety of minorities, eg Albanians (Sicily and Southern Italy), Catalanians (city of Alghero, Sardinia), Croatians (Molise), French-Proventials (Valle d'Aosta and Piemonte), Friulain, Greeks (Calabria, Puglia), Ladinians (Trentino-Alto Adige, Friuli-Venezia Giulia), Occitanians (Piemonte, Calabria), Slovenians (Friuli Venetia Giulia), Germans (Trentino-Alto Adige) and Roma/Gypsies.

- ***Citizenship law and status of non-citizens***

6. Law N° 39 of 28 February 1990 laid the foundations for a proper management of the problems connected with immigration. ECRI notes that this law eliminated the previous so-called "Italian geographical clause" added to the Geneva Convention on Asylum of 1951 (until 1989, Italy accepted as a general rule only those asylum-seekers coming from Europe). The law N° 39/1990 sets out emergency measures in respect of political asylum and the entry and stay of non-EU citizens and stateless persons already present in the territory. Furthermore, a full implementation of a Constitutional provision concerning asylum is now proposed by the government although for the moment it has not been made law. In addition, a bill on immigration, which is also being discussed by Parliament, has the purpose of improving existing provisions, in accordance with socio-political considerations.

7. The integration and participation in society of non-citizens who are long-term residents may be improved by granting them certain political rights, such as the right to vote in local elections: this is one of the issues covered by the above-mentioned bill on immigration. Such practice has been adopted in some other European countries for third-country nationals. According local voting rights to non-citizens who are long-term residents would also encourage an engagement on the part of political parties to take the interests of non-citizens fully into account. Unfortunately, the new law on citizenship of 1992 has raised from 5 to 10 years the minimum period of residence to apply to become a citizen.

C. Criminal law provisions

8. Italian criminal law provisions to combat racism and racial discrimination are not contained in the Criminal Code but are dispersed among special legislation; nevertheless, many provisions of the Criminal Code which have a more general scope can be used to counteract manifestations of intolerance or racism. With the aim of handling more effectively the increasing number of violent manifestations of racism and intolerance, the Government in 1993 renewed the criminal law by adopting Law N° 205, covering urgent measures to combat racism, ethnic and religious discrimination. The law introduces the concept of racist motive to any criminal act as a general aggravating circumstance without any extenuation and bans the establishment of organisations, associations and movements oriented towards instigating racial violence or discrimination. Victims of such criminal acts have the right to claim damages in the criminal procedure.

9. Despite this relatively well-developed legal framework, Italy seems to face some problems with implementation of legislation in force, and ECRI feels that it is precisely this aspect of implementation which should be examined.

D. Civil and administrative provisions

10. Racial discrimination is not readily covered under civil and administrative law, apart from certain provisions in the labour law. However, the penalties provided for in case of discrimination in employment do not seem to be comprehensive as they do not cover purely financial discrimination. Furthermore, there appears to be no case-law under the relevant provisions. Consideration might be given to the possibility of enacting a body of specific legislation prohibiting racial discrimination in a range of fields such as employment, provision of services, housing etc.

- *Law concerning detention*

11. The law concerning detention is based on the equal treatment of detainees (Section 1 (2) of the Prison Act), without discrimination as to nationality or race. However, Italian prisons are often overcrowded and lacking in facilities, and there have been reports of ill-treatment by police, prison guards or other prisoners towards immigrants and non-EU citizen detainees, especially North Africans. Some NGOs have reported that the authorities react to such reports slowly and that penalties imposed are minimal and often suspended. Any such violations of human rights should be vigorously condemned and punished. In this respect, the conclusions of the European Committee for the Prevention of Torture, the UN Human Rights Committee and the UN Committee against Torture should be acted upon.

E. Specialised bodies

12. Experience in many other European countries has proved that specialised bodies, such as a specialised Ombudsman or special commission, can prove invaluable in combating racism and intolerance. It is felt that in order to contain the phenomenon of racism in Italy consideration should be given to the possibility of setting up a specialised body or a special branch of a general human rights commission, with wide-ranging powers and responsibility in this area. Inspiration might be drawn from the example of other countries already possessing such specialised bodies.

II. POLICY ASPECTS

F. Education and training

- *School education*

13. The structure of the Italian educational system is being modified with the aim of including more children of immigrants in the educational process. The numbers of immigrant children are increasing dramatically. A general trend towards the inclusion of non-registered children is developing, and it is hoped that all non-registered children will eventually be included. In recent years, new rules have provided for the introduction in Italian schools of intercultural and multiracial education as a strategy to facilitate the integration of non-citizens and minority groups in Italian society. Courses have been set up for teachers and more stress is laid on the study of foreign languages and culture; however, the 1995 programme of the UN for teaching and information on human rights has not yet started in Italian schools. The situation as regards particularly the German and French minorities, because of their special statute at regional level, but also as regards the Slovenians and Ladinis, is positive in that a real bi-lingual education system has been developed. Such good practice might be used as inspiration for improving the language teaching for other minority groups. Furthermore, the possibility of collaboration between the Ministry of Education and the minority communities might be considered as a means of improving the study of native language and culture.

- *Training of law enforcement officials*

14. The introduction of foreign-language teaching for officials working on border control is an initiative which is welcomed. The subject of human rights is taught to the officers and non-commissioned officers of the police, and ECRI strongly supports the project currently under consideration to introduce the teaching of human rights to all police. ECRI also welcomes the special programme introduced during the 1990s to teach human rights to the *carabinieri* and hopes that this project will be continued.

G. Employment

15. Illegal immigrants are often prepared to accept any job, without legal protection and with very low salaries. This situation engenders more and more racial tension, particularly among the most socially and economically disadvantaged strata of society, who fear that an immigrant may "steal" employment from an Italian and who believe that immigrants cause unemployment. It is true that even in the comparatively disadvantaged South of Italy there are jobs which Italians do not wish to do and which are performed by immigrants. However, immigrants - both legal and illegal - face enormous difficulties in finding work. One possible solution might be to provide immigrants with further information concerning the possibility of regularising their situation in accordance with the new working law on regularisation of 1995. In this respect, it is noted that during 1992 and in the wake of Law N° 39/1990, a wide information campaign was carried out, addressed to non-EU citizens, inviting them to renew their residence permits. Furthermore, an information booklet was published explaining Law N° 39 in several languages, in a clear and accessible way.

16. Other measures to improve the employment situation of immigrants might include the provision of more assistance to enable immigrants to acquire the necessary skills in order to find a job. It is particularly necessary to co-ordinate policy efforts between the government, trade unions and businesses in order to ensure a better management of employment policies and a better organisation of the situation of non-EU citizens, who are all too often exploited.

H. Statistics

17. As concerns the incidence of racial discrimination and violence, there exists on the one side the official statistics of the Department for Public Security, based on the cases reported by police stations, and on the other, statistics in the social field, which are richer and more complete. Certain NGOs also compile statistical information, such as the Immigration Yearbook published by Caritas. In general, the most important statistical source about all types of data concerning minority groups and non-citizens is the Central Institute of Statistics. Efforts should be made to collect more comparable and reliable statistics, using a standard national form of categorisation of ethnic origin as the basis of all relevant studies, after full consultation about its acceptability and in full accordance with European laws, regulations and recommendations on data protection and protection of privacy.

I. Media

18. The influence of the media in Italian society is extremely strong: in particular television plays a fundamental role in disseminating information, with practically every Italian region receiving at least one private channel. It is therefore felt that the media, particularly television, is crucial for raising awareness, above all among young people, of the advantages of tolerance and dangers of racism and intolerance. The media should be informed about racist incidents and encouraged to report these in a responsible fashion, and also encouraged to disseminate positive information about different minority groups, in order to raise public interest in other cultures and demonstrate the benefits of cultural diversity.

19. A good practice which could be repeated involves transmissions such as "Non solo nero", a video review containing advice for immigrants living in Italy, which was broadcast during the information campaign in 1992 for the above-mentioned Law N° 39, and "Permesso di soggiorno", a radio transmission giving immigrants practical information regarding their stay in Italy. It is desirable for public and private medias to take into account the need for information for both immigrants and the population at large on immigration issues.

20. In the field of media provision for minority groups, it is noted that a regular State grant is given to a daily newspaper for the Slovenian and German minorities respectively.

J. Other fields

- *Housing*

21. Urban policy, especially as concerns the granting of public housing, differs greatly from one Italian municipality to another. It has been reported that discrimination often occurs as regards housing for non-EU citizens. In many towns, it has been reported that there is no real urban policy and that discrimination exists in the allocation of public housing. Furthermore, disadvantaged populations sometimes view immigrants as a competitor for social benefits. In particular, the Roma/Gypsy community faces severe problems in the field of accommodation. A better management in the allocation of accommodation and other initiatives in collaboration with voluntary organisations might improve the situation. In this area, the role of local authorities is especially important in organising a more appropriate integration of immigrants, in accordance with Law N° 39.

- *Voluntary organisations*

22. Voluntary organisations play an increasingly important role in Italy in preventing and combating intolerance. Organisations such as the ACLI, the ARCI, Caritas, "Forum delle donne native e migranti", the "Forum of the Foreign Community in Italy" the Italian Council for Refugees, the Italian League for Human Rights, "Nero non sole" and the "Opera Nomadi" greatly assist non-EU citizens and Roma/Gypsies, and also raise awareness among the Italian population. Their work contributes towards enabling minority groups, particularly immigrants, to participate fully in Italian society. Measures might be taken to co-ordinate State policies and NGO activities to the maximum extent: the Italian Council for Refugees plays an important role in this respect.

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General data as supplied by national authorities

For reasons of consistency, ECRI, in its CBC reports, has, in this box, reproduced statistical data only from the replies of Governments to ECRI's questionnaire. The questionnaire was sent to the Italian government on 13 July 1994 . The Italian government did not reply to ECRI's questionnaire.

* *Population of Italy: 56 960 600 (as of 31.12.1994). This figure is taken from the Council of Europe publication "Recent demographic developments in Europe" (see bibliography)*

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