

IHF FOCUS: freedom of expression and free media; judicial system and the right to a fair trial; ill-treatment and police misconduct; prisons; freedom of religion and religious tolerance; migrants and asylum seekers; ethnic minorities (Roma).

Excessive length of court proceedings and overcrowding in prisons remained among the most serious human rights problems in Italy.

Waves of illegal immigrants continued to arrive in the country, creating problems in the provision of temporary assistance, the fight against human trafficking, and social integration, and which were followed by mass expulsions. Asylum seekers, although protected by the constitution, were not covered by specific legislation to implement the right to asylum.

Freedom of expression and media freedom, which were generally protected, were still affected by media concentration and by the fact that defamation through the press remained a criminal offence.

The serious problems faced by the Italian judicial system were reflected by the fact that Italy had the fifth highest number of applications to the European Court of Human Rights (ECtHR). Italy was also the state most frequently found to be in breach of the European Convention on Human Rights (ECHR), and had the greatest number of unexecuted ECtHR judgments.

Alvaro Gil-Robles, the Council of Europe's commissioner for human rights, paid an official visit to Italy from 10 to 17 June 2005. On 14 December, he submitted the findings of his visit to the Committee of Ministers and the Parliamentary Assembly,¹ including the written response by the Italian government.

Freedom of Expression and Free Media

According to a report issued in June by the OSCE Representative on Freedom of the Media Miklos Haraszi, Italy's media remained highly concentrated. More than

90% of all television revenues and audiences in Italy were controlled by the privately owned company "Mediaset" and by the public broadcaster RAI. "Fininvest," a holding company owned by Prime Minister Silvio Berlusconi's family, is a major shareholder in "Mediaset," and Berlusconi indirectly controls also many other media companies, including the "Mondadori" publishing group, two daily newspapers, and several weekly publications. The OSCE representative stated that in a democracy, it is incompatible to be both in charge of news media and to hold a public post, pointing out that such a link results in conflicts between political and business interests in the shaping of public opinion.²

Under the 2004 "Gasparri Act,"³ a media group may now control more than 20% of television or print media, provided that its share of the total market is less than 20%. The "Fratini Act"⁴ established an administrative body to ensure that members of the government did not exploit their powers for their own interests, and prohibited them from having direct responsibilities in media companies. In its opinion 309/2004 of 13 June 2005 on the compatibility of the "Gasparri" and "Fratini Acts" with the Council of Europe's standards on freedom of expression and media pluralism, the European Commission for Democracy through Law – the Venice Commission – called on the Italian authorities to support the press in the face of pressure from advertisers, and expressed doubt as to whether the "Gasparri Act" could fully guarantee media pluralism in Italy. As for the "Fratini Act," the commission considered its criteria vague and its sanctions insufficient, and questioned its real impact on the conduct of certain members of the government.⁵

* As reported by the Italian Helsinki Committee. Information on religious freedom was provided by Human Rights Without Frontiers (IHF cooperating organization), and on the Roma minority by the European Roma Rights Center (ERRC, IHF cooperating organization).

On a positive note, in February, President Carlo Azeglio Ciampi pardoned Lino Jannuzzi, the 77-year-old former editor-in-chief of the Naples daily *Il Giornale di Napoli*. Jannuzzi was facing a 29-month prison sentence for criminal libel, stemming from articles published between 1987 and 1993 that criticized judicial authorities investigating organized crime.

◆ In May, enforcing a search mandate signed by magistrates in Brescia, six officers of the finance police (*Guardia di Finanza*) searched the Milan headquarters of Italy's leading daily newspaper *Corriere della Sera*, looking for documents that the paper had used in a report on Iraqi militants' use of semiautomatic pistols produced by the Italian firm Beretta. Paolo Serventi Longhi, secretary general of the National Federation of Italian Press (FNSI) defined the inspection as an act of intimidation.

Judicial System and Right to a Fair Trial

According to the first president of the Supreme Court of Cassation, Nicola Marvulli, magistrates were losing prestige because of the excessive length of trials, changing criteria for their professional qualifications and new legislation that would limit their independence. An increased conflictuality in the Italian society also contributed to a 2-percent increase of civil litigations in the first degree and up to 8% in the courts of second instance. Marvulli defined the "ex Cirielli Law" that reduced the time limits as a "masked amnesty." Magistrates generally welcomed the decision by President Ciampi to send back to the parliament for further revision a law that would have impeded prosecutors to appeal a "not-guilty" sentence.

According to the Supreme Court of Cassation, Italian courts handed down 2,855,372 convictions in 2005 (1% less than in 2004), but more than 50% of them remained unexecuted, as the perpe-

trators were not found. A considerable number of minors were charged with crimes, but about 42% of them were not tried because they were younger than 14.

There was a broad consensus among Italian judicial professionals that the judicial system had serious deficiencies and needed radical reform. The Council of Europe's annual report on the excessive length of judicial proceedings in Italy showed that, in spite of measures taken by the Italian authorities in recent years, the short relaxation observed in 2001 had again reversed. In fact, with a few exceptions, the average length of proceedings and the backlog of cases were both increasing on all levels of the judiciary.⁶

The average length of criminal proceedings in 2004 was about 1,000 days. Parties in civil proceedings were also harmed by delays: in labour disputes the average length of first-instance proceedings was 698 days in 2004 while an average of 686 days was needed to decide on appeals. In bankruptcy cases, parties had to wait as long as 3,359 days, or nearly ten years, to get a first-instance decision, during which time the debtor's rights – such as the right to manage property or have a bank account and also his or her civil and political rights were suspended. This also applied to disputes concerning divorce or the execution of judgments.⁷

Italy had the fifth highest number of applications to the ECtHR, was the state most frequently found to be in breach of the ECHR, and had the greatest number of unexecuted judgments. Three-quarters of these execution problems remained unsolved three years after being referred to the Committee of Ministers of the Council of Europe.⁸

Act No. 89 of 2001 on fair compensation in cases where judicial proceedings are excessively prolonged (the "Pinto Act") allows victims of unreasonable delay to apply for compensation. This has helped to

reduce the number of applications against Italy in the ECtHR. However, compensation cases under the "Pinto Act" were heard by the appeal courts and consequently added to their case burden thus – paradoxically – further slowing the processing of other cases. Moreover, the "Pinto Act" merely compensated victims without tackling the root of the problem.⁹

Italy's legal system was under-funded. The Council of Europe's human rights commissioner recommended giving every judge a legal assistant, adjusting judicial districts, and simplifying procedures, to remedy the existing problems.¹⁰

Another problem was the abuse of the right to appeal to higher instances: the Court of Cassation had 92,545 civil cases and 30,953 criminal cases pending as of 31 December 2004, which showed that the court no longer was a body which decides whether the law has been correctly applied, but *de facto* acted as a third-level court.

The Council of Europe's human rights commissioner also criticized the abuse of time limits (covered by articles 157 to 161 of the criminal code) that allowed accused persons with skilful lawyers to use delaying tactics to drag proceedings out until the time limit expires.

Law No. 251, approved on 5 December 2005 (known as the "Law ex Cirielli,") on the one hand shortens most of the time limits, and on the other hand extends terms, increases penalties and severely reduces benefits for recidivists and those convicted of mafia crimes. While many magistrates complained about the reduction of the time limits, bar associations criticized the law for undermining the principle of the re-educational function of the detention and the increased penalties and reduction of benefits as counter-productive.¹¹

*New Law on Magistrates' Careers*¹²

In June the Senate approved new legislation on the separation of the roles of

judges and prosecutors among magistrates, on their professional promotion upon competition and disciplinary proceedings against judges. President Ciampi had refused to sign a previous version of the draft, returning it to parliament to amend it in order to better comply with the constitution.

The new law provides, among other things, that after the first five years on duty, every magistrate has to choose whether to continue as a judge or as a prosecutor. To change their role, they would have to pass an exam, attend a specific formation course at the School for Magistrates and move to another judiciary district. Magistrates now have to pass a psychological test to assess their suitability for the work they have chosen, and the general prosecutor of the Supreme Court of Cassation shall conduct disciplinary actions against the magistrates who violate specific rules of conduct. The new law also ensures more transparency on the extra-judicial services performed by the magistrates.

*The "Sofri Case"*¹³

The case of Adriano Sofri, a respected opinion maker and former leader of the extreme left "Lotta Continua" movement, who had been serving a prison sentence since 1996 (with short interruptions) following questionable judicial proceedings, continued to give rise to concern.

Adriano Sofri stood two trials and was sentenced to a 22-year prison sentence for complicity in the murder of police commissioner Luigi Calabresi in Milan in 1972. The convictions were based solely on a witness statement given by a "repented" person 16 years after the murder, in the absence of any actual evidence. The sentences were declared void and reconfirmed again more than once. In November 2002 Prime Minister Berlusconi proposed that Adriano Sofri be pardoned but Sofri declined to ask for a pardon on grounds of being not guilty.

The president of the republic may issue a pardon upon the proposal of the minister of justice even without Sofri's appeal; however, the minister refused to initiate proceedings to this end and stated that he would not countersign (as requested under article 89 of the constitution) a related presidential decree. On 28 September 2005, the Constitutional Court declared admissible an application filed by the Italian president on a conflict of power on this issue. The case concerned Ovidio Bompreschi, convicted jointly with Adriano Sofri for the same crime. The Constitutional Court will have to decide – for technical reasons – whether the power of pardon belongs exclusively to the head of state or, jointly, also to the minister of justice.

On 28 November, while being hospitalized for a severe disease, Adriano Sofri was freed for six months, for health reasons, by order of the competent magistrate.

III-Treatment and Police Misconduct

Judicial proceedings concerning alleged brutality and other misconduct by police against demonstrators during the 2001 G-8 summit in Genoa were still pending in 2005, suggesting a lack of genuine interest to clarify the cases.

- ◆ In April 2005 – after almost three years of investigations and six months of preliminary hearings – a trial started against 28 officers of state police regarding the incidents which occurred in the dormitory “Diaz,” where 93 anti-globalization supporters were arrested and beaten by police agents. The defendants included many former heads of different departments of police in Genoa. They faced charges of abuse, lying, inflicting serious injuries, and fabricating false evidence. The outcome of the trial was expected in 2006.

- ◆ Another case, in which five officers were charged with abuse, lying and injuries, was still pending at the end of 2005.

Despite repeated requests by civil society and international organizations, Italy's criminal code still did not include a specific provision to prohibit torture.

Migrants and Asylum Seekers¹⁴

In 2004 the Italian authorities received 9,722 asylum applications, and 8,701 of these were processed by the end of the year. Provisional data by the UNHCR showed that in 2005 the total number of asylum applications in Italy was less than 10,000. The right of asylum is guaranteed in article 10 of the constitution, which states: “Foreigners who are, in their own country, denied the democratic freedoms guaranteed by the Italian Constitution, are entitled to asylum on the territory of the Republic, on conditions specified in law.” However, Italy is one of the few Council of Europe member states to have no specific laws on asylum. The legal regulations on asylum are included in section II of Act No. 189, which itself refers repeatedly to earlier texts, and particularly Decree No. 286 of 1998. The fact that various texts apply confuses the picture, making it hard to gain a general grasp of Italy's legal position in this area.

According to the Italian Institute of Statistics (ISTAT) 2,729,792 foreigners were living legally in Italy on 31 December 2005, making up almost 5% of the population. The number of illegal residents (mainly from Africa, Eastern Europe, the Middle East and China) was set at another 500,000 (according to Caritas) to 800,000 (according to trade union sources).

Act No. 189 of 30 July 2002, also known as the “Bossi-Fini Act,” covers many aspects of asylum and immigration but there is no specific law to deal with asylum issues only. While the situation was generally considered good at the airport borders, the flow of aliens by boat to Italian shores raised considerable administrative and humanitarian problems. The trend has been

mounting in the past few years: 9,325 persons were rescued at sea in the course of 163 operations in 2003; 11,173 persons during 171 operations in 2004; and 11,194 persons in 141 operations by the end of September 2005.

The "Bossi-Fini Act" provides two types of asylum procedures – standard and simplified. The standard procedure applies to aliens who enter the country legally, and must be completed within 35 days. The simplified procedure is applied to aliens who enter illegally and who are automatically remanded in custody. An alien can apply a negative asylum decision but, save exceptional cases, the appeal does not automatically suspend a possible expulsion.

Detaining asylum seekers was acceptable only for short periods and specific reasons. Conditions in holding centers were often poor: inmates were housed in tents, they had no recreation areas, and little outside contact, and adequate access medical care was not always guaranteed.

◆ Conditions in the temporary residence and assistance center in Lampedusa were criticized heavily. In the summer of 2005 there were media allegations of ill-treatment of refugees, when the camp operated far beyond its maximum capacity, holding up to 1,200 inmates. Under such circumstances, the center's conditions fell seriously short of the minimum standards of space and hygiene.

◆ In September, Fabrizio Gatti, a journalist of the leading weekly magazine *L'Espresso* infiltrated into the Lampedusa center pretending to be a rescued Kurdish illegal immigrant. He spent seven days there, witnessing and experiencing hard and often humiliating conditions before being brought to Sicily and given five days to leave Italy: a procedure that actually allows thousands of aliens to remain in the country without legal status. During his stay at the center, no magistrate heard either him or his fellow – true – immigrants. The pro-

secutor of Agrigento, Sicily, failed to open a case against the person in charge of the center, but in October initiated one against Gatti on charges of "presenting a false identity."¹⁵

According to the Minister of Interior Giuseppe Pisanu, of the 3,000 aliens who landed on Lampedusa between September 2004 and March 2005, 1,647 were sent back to Libya and 126 to Egypt – apparently many without access to asylum procedures. In August 2005, the Italian government proposed to involve the UNHCR, the International Organization for Migration and the Italian Red Cross in the rescue activities, as well as in the repatriation procedures towards North Africa, in particular Libya, of illegal immigrants who had landed on Lampedusa.

The Council of Europe's commissioner for human rights criticized Italy's bilateral agreements on immigration control with countries such as Libya and Egypt, with a questionable human rights record, noting that such agreements do not "dispense Italy from scrutinizing the individual situation of every deportee, as required by international humanitarian and human rights law." He stated that "By failing to give aliens practical access to asylum procedures, Italy is indirectly violating the principle of non-return."¹⁶

Conditions in Prisons¹⁷

Prisons in Italy continued to be epidemically overcrowded. Ministry of Justice data showed that as of 30 June 2005, the total number of persons held incarcerated was 59,125 (compared with 56,068 as of the end of 2004 and with about 30,000 in 1980), while the official total maximum capacity of the country's prisons was 42,478. Of all prisoners, 2,858 were women and 56,267 men, 38,088 were serving sentences, while 21,047 were in pre-trial detention or being held pending appeal. About 19,000, i.e., 32%, of all in-

mates were non-Italian, including 946 EU and 18,125 non-EU citizens. Among the foreign detainees, the proportion of women was much higher than in the general prison population: 1,274 women and 17,797 men.¹⁸

As a result of the criminal justice system's shortcomings and slowness, over 35% of prisoners were awaiting final sentences. Overcrowding also resulted in violation of international provisions concerning separation of different categories of detainees – pre-trial detainees from the sentenced, young offenders from the elderly, the ill and psychologically unstable from the rest.

In July, the Minister of Justice Roberto Castelli stated that extraordinary funding for more than 30 million euro was needed to build new prisons because the number of inmates was increasing at a rate of about 4,000 a year. In his opinion, without these funds, the whole Italian penitentiary system may collapse.

Another reason that contributed to overcrowding in prisons was the limited range of available alternative measures. According to the Ministry of Justice, as of 31 December 2004, only 1,642 prisoners were on day release, and some 6,000 were in home detention.

Conditions in older prisons were generally poor. They lacked space for outdoor exercise, and some of them lacked adequate medical care. The creation of new prisons, according to the Italian Interministerial Committee on Human Rights, were based on the criteria included in the new penitentiary regulations, which provided for modern and comfortable cells, equipped with toilets and showers, a small kitchen and wall sockets for TV, radio and computer. The Council of Europe human rights commissioner noted that this program must be accompanied by an increase in prison staff as the present staffing level is inadequate, and low

wages are the main reason why posts remain unfilled.

Inadequate staffing contributed to a high mortality rate in prisons. Between January and May 2005, 43 prisoners died, and 26 of these were suicides. Access to health services was a major problem, and opportunities for employment in prison were limited.

A special system of detention applied, under section 41*bis* of the Prisons Act, to particularly dangerous and prominent inmates, usually with a background in organized crime. This system was essentially intended to cut them off completely from their original milieu and to separate them from their former criminal associates. This provision also allowed the minister of justice, either on his or her own initiative or at the request of the minister of the interior, to suspend some or all of the normal rules on conditions of detention for reasons of security and public order for persons sentenced for involvement in organised crime or certain serious criminal offences.

The 41*bis* system is suspended only when a prisoner co-operates with the authorities, when a court annuls it, or when a prisoner dies. According to the Council of Europe's human rights commissioner, "This system is justified by its preventive, not punitive function. This distinction should be emphasized, and every effort made to respect it."

Over the years, the 41*bis* system has gradually been relaxed, in response to domestic court decisions or the European Committee for the Prevention of Torture (CPT) recommendations to ensure appropriate contacts and activities for prisoners subject to that regime. The ECtHR has also condemned Italy on several occasions.

On 13 October, 582 prisoners (already convicted or awaiting trial) were subjected to the 41*bis* special regime.

The decision to place a prisoner in solitary confinement is a procedure distinct

from section 41*bis*. The two systems are thus cumulative and can result in severe psychological problems.

Freedom of Religion and Religious Tolerance¹⁹

The Italian constitution (articles 3, 7, 8, 19 and 20) provides for freedom of religion and belief, and the government generally respects this right in practice. Roman Catholicism is no longer the state religion but it has maintained a dominant position in the country.

The relations between the state and the Catholic Church are regulated by the Lateran Treaty (*Patti Lateranensi*, 1929) amended in 1984. A draft law meant to replace the Legislation on 'Admitted Religions' (*Culti ammessi*) was still pending in the parliament as of the end of 2005.

There were three categories of religions: state-recognized religions, "*enti di culto*" (registered confessional communities) and non-profit associations. The first category consisted of six denominations with which the state has concluded agreements (*intese*)²⁰: the Catholic Church (about 87% of the population), the Union of the Jewish Communities in Italy (about 30,000), the Union of the Waldensian and Methodist Churches (about 30,000), the Church of Jesus Christ of Latter-day Saints (about 20,000), the Assemblies of God (about 100,000)²¹ and the Lutheran Evangelical Church (about 7,000). These agreements grant a maximum of rights to all religions of this category, and also a number of rights specific to each religion, when necessary.

The state had discretionary power to grant (or not to grant) the status of "*ente di culto*" (registered confessional community) to a group that requested it. In 2002, there were 34 "*enti di culto*" with legal personality, mostly linked to the following communities: Muslims, Orthodox Churches, Jehovah's Witnesses, Hindus, Bud-

dhist, Protestants, and the Baha'i faith. A religious community was recognized as a legal personality with civil effect by a presidential decree after a proposal from the Interior Ministry. Religious groups without the status of "*ente di culto*" were able to operate as non-profit associations.

Confessional communities and other religious associations enjoyed fewer rights than the state-recognized religions. For example, they were not eligible to be part of the "*otto per mille*" system which allowed members of the state-recognized religions to finance the religion of their choice through the income tax system; permitted to teach religion at public schools, unlike the Catholic Church; have chaplains officially accredited in the armed forces, prisons, hospitals or other social or health care facilities; celebrate religious marriages with civil effects; subjected to specific regulations with regard to visas requested by missionaries or religious workers, even though volunteers.

Muslim women were free to wear the veil in public offices and schools. However, there were occasional reports of objections to women wearing a *burqa*. In June, Justice Minister Roberto Castelli told a meeting in Como that the garment was at odds with an Italian law that forbids masks and he criticized a decision by the local prefect to overturn fines imposed in 2004 on an Italian convert to Islam from nearby Drezzo who was wearing a *burqa*.²²

◆ In May 2005, a judge ordered best-selling writer and journalist Oriana Fallaci to stand trial on charges she defamed Islam in a recent book. The decision angered Italy's justice minister but delighted Muslim activists, who accused Fallaci of inciting religious hatred in her 2004 work *La Forza della Ragione* ("The Force of Reason"). In her book, Fallaci wrote that terrorists had killed 6,000 people over the past 20 years in the name of the Koran and said the Islamic faith "sows hatred in

the place of love and slavery in the place of freedom."²³ State prosecutors originally dismissed accusations from an Italian Muslim organization citing freedom of expression, but a judge decided to proceed basing on reportedly Fallaci's own words that the book was "without doubt offensive to Islam and to those who practice that religious faith." No date was set for the opening of the defamation trial.

*Religious Symbols and Equality before Law*²⁴

In November a tribunal in L'Aquila (Central Italy) handed down to Judge Luigi Tosti a seven-month suspended sentence for refusing to hold hearings in the court of Camerino, where he was in service, due to the presence of a crucifix in his courtroom. Tosti was also suspended from public offices for one year and ordered to cover the related judiciary expenses. Judge Tosti said he would appeal the ruling and initiate a procedure to ask the Constitutional Court whether the minister of justice could impose the presence of a religious symbol in the courtrooms. According to Judge Tosti – as well as to several politicians and NGOs – he has been victim of a religious-based discrimination, dating to the acknowledgment of the Catholic religion as state religion back to the fascist era.

In April, the Constitutional Court ruled that whoever offends the Catholic religion should not be sentenced to a penalty more severe than the one applicable for offences to other religions. The court ruled unconstitutional article 403 of the criminal code that provided for a heavier sentence, compared with article 406 related to offences against other cults "admitted" by the state in Italy. A court in Verona had asked the Constitutional Court for a ruling on the matter, after deciding to suspend the judgment on the case of Adel Smith (president of an Union of Muslims of Italy) charged with offending, in a TV program, the Catholic

Church, Cardinal Giacomo Biffi and Pope John Paul II. The Constitutional Court cited "the equal protection of the religious feeling for offences to the Catholic religion and to other religious confessions" which is connected "on the one hand, to the principle of equality towards the law without religion-based distinctions as defined by article 3 of the Constitution, on the other hand to the principle of laicality or non-confessionality of the state [...] as provided by article 8 of the constitution."

Ethnic Minorities

*Roma Minority*²⁵

There were no accurate figures on the current number of Roma in Italy. One official count put the number at 130,000,²⁶ but local non-governmental organizations estimated that there were 60,000-90,000 Italian Romani citizens and 45,000-70,000 Roma born outside Italy or born in Italy to immigrant parents, mainly from Eastern Europe, especially the former Yugoslavia.²⁷

A number of Roma in Italy are third-country nationals, *de facto* refugees not yet recognized by Italian authorities as refugees, and/or are stateless persons. The categories of non-citizens and persons without regularized legal status in Italy, and particularly among Roma, are diverse and include a number of persons whose family may have been in Italy for a number of generations. Systemic discrimination and other arbitrary treatment in the provision of legal residence permits, as well as in the provision of citizenship, has precluded many thousands of Roma in Italy from gaining access to basic legal status in Italy, and has blocked the access of many potentially eligible Roma from acquiring Italian citizenship.

Also in 2005, Italian authorities tended to racially segregate Roma. Underpinning the Italian government's approach to Roma and public housing was the conviction that Roma were "nomads," based on

laws from the 1980s and 1990s adopted with the aim of “protecting nomadic cultures” through the construction of segregated camps.²⁸ This project rendered official the perception that all Roma and Sinti were “nomads” and could only survive in isolated camps.

Many Roma in Italy lived in a state of separation from mainstream Italian society, and for about one third to half of them this separation was physical.²⁹ In some areas, Roma were excluded and ignored, living in filthy and squalid conditions, without basic infrastructure. These Roma lived in abandoned buildings or set up camps along roads, rivers or in open spaces. They could be evicted at any moment, and frequently were. Their settlements were often called “illegal” or “unauthorized.”

Generally, in cases in which Italian authorities have expended energy and resources on Roma, these efforts have usually not been aimed at integrating Roma into Italian society. Instead, authorities have established “temporary housing containers,” in a number of cases surrounded by high walls, isolating them from the view of non-Romani Italians. Italy remained the only country in Europe to boast a systematic, publicly organised and sponsored network of ghettos that *de facto* deprived Roma of full participation in, or even contact or interaction with, Italian life.

Housing conditions in which many Roma in Italy were forced to live amounted to violations of international law. Camps varied in size from a dozen persons to more than one thousand. The smaller camps, home to only fifteen to thirty people, were generally “unauthorized.” Authorized camps tended to comprise at least one hundred persons.

About three-quarters of the camps had running water and electricity. However, in a number of camps services were not sufficient to meet the needs of the inhabitants. Usually, Roma in unauthorized

camps obtained water and electricity as a result of their own efforts.

There was not always a significant difference between the quality of life in an authorized and an unauthorized camp: Roma lived in makeshift barracks, containers and caravans built either on asphalt, concrete slabs or small stones, or dirt, which turned to mud when it rained and produced huge clouds of dust in summer.

Italian officials have engaged in a pattern and practice of forced evictions of Roma. In many instances, individuals have neither been provided with due process, nor with alternate accommodation. In a number of instances, Romani victims of forced evictions have even been expelled from Italy. Roma have raised serious concerns related to the ability of Roma to afford any form of housing, regardless of its cost, outside the substandard camps, as well as the failure of Italian authorities to respond to this emergency with any measures other than forced eviction and/or the further establishment of substandard, racially segregated housing arrangements.

One recurring concern expressed by Roma was related to the restrictive measures introduced to Italy’s immigration law in 2002 with the adoption of the so-called “Bossi-Fini” decree.³⁰ Under this decree, in accordance with article 40 of Italy’s Immigration Law, only holders of a permanent residence permit or permit of stay valid for no less than two years were entitled to social assistance, benefits and access to public housing. The ERRC has not met any Roma who had been successful in securing a permanent residence permit – the validity of their residence permits was usually one to six months.

The majority of immigrant Roma whom the ERRC interviewed in Italy had access to only seasonal employment or other forms of employment of a more short-term nature.

Endnotes

- ¹ Council of Europe, *Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on His Visit to Italy, 10-17 June 2005, For the Attention of the Committee of Ministers and the Parliamentary Assembly*, CommDH(2005)9, 14 December 2005, at www.coe.int/T/E/Commissioner_H.R/Communication_Unit/Documents/By_country/Italy/index.asp#TopOfPage.
- ² OSCE Representative on Freedom of the Media, Miklos Haraszti, *Visit to Italy: The Gasparri Law, Observations and Recommendations*, 7 June 2005, at www.osce.org/documents/pdf_documents/2005/06/14949-1.pdf.
- ³ Act No. 112/04 on the principles governing the broadcasting system, RAI and the authority established by the government to strengthen the laws on broadcasting in Italy, adopted on 3 May 2004.
- ⁴ Act No. 215/04 on settling conflicts of interest, adopted on 13 July 2004.
- ⁵ Council of Europe, Venice Commission, *Rules for the Resolution for Conflicts of Interest, (The "Frattini Law"), Text finally voted by the Chamber of Deputies on 13 July 2004*, Opinion 309/2004, 29 September 2004, at [www.venice.coe.int/docs/2004/CDL\(2004\)093-e.asp](http://www.venice.coe.int/docs/2004/CDL(2004)093-e.asp).
- ⁶ Council of Europe, *Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on His Visit to Italy, 10-17 June 2005, For the Attention of the Committee of Ministers and the Parliamentary Assembly*, CommDH(2005)9, 14 December 2005, at www.coe.int/T/E/Commissioner_H.R/Communication_Unit/Documents/By_country/Italy/index.asp#TopOfPage.
- ⁷ *Ibid.*
- ⁸ *Ibid.*
- ⁹ *Ibid.*
- ¹⁰ *Ibid.*
- ¹¹ See the document issued by the *Unione delle Camere Penali Italiane*, 23 December 2005.
- ¹² Information from the Italian Helsinki Committee to the IHF.
- ¹³ Information from the Italian Helsinki Committee to the IHF.
- ¹⁴ Unless otherwise noted, this section is based on information from the Council of Europe *Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on His Visit to Italy, 10-17 June 2005, For the Attention of the Committee of Ministers and the Parliamentary Assembly*, CommDH(2005)9, 14 December 2005, at www.coe.int/T/E/Commissioner_H.R/Communication_Unit/Documents/By_country/Italy/index.asp#TopOfPage.
- ¹⁵ *L'Espresso*, Fabrizio Gatti, "Io, clandestino a Lampedusa," 7 October 2005, at www.espressonline.it.
- ¹⁶ *Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on His Visit to Italy, 10-17 June 2005, For the Attention of the Committee of Ministers and the Parliamentary Assembly*, CommDH(2005)9, 14 December 2005, at www.coe.int/T/E/Commissioner_H.R/Communication_Unit/Documents/By_country/Italy/index.asp#TopOfPage.
- ¹⁷ Unless otherwise noted, this section is based on information from the Council of Europe *Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on His Visit to Italy, 10-17 June 2005, For the Attention of the Committee of Ministers and the Parliamentary Assembly*, CommDH(2005)9, 14 December 2005, at www.coe.int/T/E/Commissioner_H.R/Communication_Unit/Documents/By_country/Italy/index.asp#TopOfPage.

- ¹⁸ According to official statistics from the Ministry of Justice.
- ¹⁹ Provided by Human Rights Without Frontiers (IHF cooperating organization).
- ²⁰ Moreover, in 2000, the Italian State signed some agreements (*intese*) with the Buddhist Union and Jehovah's Witnesses but they have not been ratified yet by the Parliament. The Government initiated negotiations with the Mormons (2000), the Orthodox Church of the Constantinople Patriarchate (2000), the Armenian Apostolic Church (2001), the Hindus (2001), and the Soka Gakkai (Japanese Buddhists, 2001). Divisions among the country's Muslim organizations have hindered the community's efforts to seek an intesa.
- ²¹ Center for Studies of New Religions (CESNUR), at www.cesnur.org.
- ²² *The Guardian*, 6 June 2005.
- ²³ Reuters (Crispian Malmer), "Fallaci Charged in Italy with Defaming Islam," 25 May 2005.
- ²⁴ Information from the Italian Helsinki Committee to the IHF.
- ²⁵ This section was provided by the European Roma Rights Center (IHF cooperating organization).
- ²⁶ One representative of the Italian delegation to the United Nations Committee on Economic, Social and Cultural Rights, which reviewed Italy's compliance with the Covenant on 3 May 2000, told the Committee that Italy "had 130,000 registered Roma, 80,000 of them Italian citizens, who were free to go wherever they wished." Another representative of the same delegation, however, stated that determining the precise number of Roma in Italy was difficult because "There was, in fact, no precise definition of the term 'Roma' since it covered more than 100 different minorities with various origins and languages." See "Summary Record of the 6th Meeting: Italy (E/C.12/2000/SR.6), 3 May 2000."
- ²⁷ See Ansa Press Agency, quoted in *Corriere della Sera*, 4 April 2000; Piro Brunello, *L'urbanistica del disprezzo*, Rome: Manifestolibri, 1996; Piero Colacicchi, "Down by Law: Police Abuse of Roma in Italy," *Roma Rights*, Winter 1998, pp.25-30 and at http://errc.org/rr_wint1998/noteb1.shtml.
- ²⁸ Regional Law 299/89 of Lombardy, for instance, was entitled "Regional Action for the Protection of Populations with Nomadic or Semi-Nomadic Traditions." A similar 1994 law in the Marche region is "Interventions in Favour of Migrants, Immigrants, Refugees, Stateless Persons, Nomads and Their Families."
- ²⁹ European Commission against Racism and Intolerance (ECRI), *Second Report on Italy*, 23 April 2002, para. 60.
- ³⁰ See "Testo unico sull'immigrazione integrato dalle modifiche apportate dalla 'Bossi Fini,'" at www.cestim.org/15politiche_bossi-fini_dibattito.htm.