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Report of the Working Group on the Universal Periodic Review*

Italy

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

Response of the Government of Italy to recommendations in the report of 11 February 2010 of the Working Group on the Universal Periodic Review (A/HRC/WG.6/7/L.3)

Italy welcomes the recommendations made during its Universal Periodic Review on February 11th, 2010. Italy accepts the following recommendations, considering them already implemented or under implementation: No. 3, 5, 6, 7, 9, 10, 11, 12, 13, 15, 23, 24, 25, 26, 28, 29, 30, 32, 33, 34, 35, 37, 41, 42, 43, 53, 55, 57, 60, 67, 68, 76, 77, 78, 79, 80, 82, 83, 84, 85, 86, 87, 88, 92. On the remaining recommendations, Italy wishes to express the following considerations:

Recommendation No. 1

Not accepted.

In 2005 Italy withdrew three reservations made upon signature of the ICCPR. The remaining Italian declarations to the International Covenant have to be considered of interpretative nature rather than reservations. Please refer also to the answer to recommendation No. 2.

Recommendation No. 2

Not accepted.

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.

Recommendation No. 4

Accepted.

Italy is committed to ratifying the Optional Protocol to the Convention against Torture once a relevant independent national preventive mechanism will be put in place.

Recommendation No. 8

Not accepted.

In Italy, torture is punishable under various offences and aggravating circumstances, which trigger a wider application of such crime. Even though this is not typified as one specific offence under the Italian criminal code, both the constitutional and legal framework already punish acts of physical and moral violence against persons subject to restrictions of their personal liberty. Both provide sanctions for all criminal conducts covered by the definition of torture, as set forth in Article 1 of the relevant Convention.

Recommendation No. 14

Not accepted.

A Bill on the establishment of a National Human Rights Institution will be submitted to the Parliament as soon as the required budgetary resources are made available. However, in accordance with the principle of the separation of powers, the Government is not in a position to commit the Parliament to act within a specific deadline.

Recommendation No. 16

Accepted.

The review of the organization of the National Office against Racial Discrimination (UNAR) has been launched in January 2010, in order to improve its efficiency and effectiveness.

With regard to the strengthening of the measures of protection for victims of discrimination, the UNAR is testing new forms of direct support, including the enhancement of the legal advisory services and the establishment of a solidarity fund for litigation costs, to be borne by victims and/or relevant associations.

Recommendation No. 17**Not accepted.**

Over the years, with the aim of promoting and protecting human rights and fundamental freedoms Italy has been developing several *ad hoc* strategies in specific relevant areas. Thus the elaboration of a comprehensive strategic document at the national level has not been considered necessary for the fulfilment of its obligations and commitments in the field of human rights.

Recommendations No. 18,19,20**Accepted.**

There are already several wide-ranging legislative and practical measures to combat racism, racial discrimination and related forms of intolerance and xenophobia. Within this framework, an inter-ministerial Working Group will be soon established, in order to elaborate a Plan of Action to prevent racism.

Recommendation No. 21**Partly accepted.**

Within the framework of the pertinent mechanisms and instruments, Italy strongly reiterates its continued commitment to actively contribute to the eradication of any forms of racism, in particular against vulnerable groups. However, it should be recalled that together with other countries, Italy decided not to participate in the 2009 Durban Review Conference and therefore is not in a position to adopt or endorse its Outcome Document.

Recommendation No. 22**Accepted.**

Fighting racism, racial discrimination, xenophobia and related intolerance has been and remains a priority for Italy. However it should be noted that collected statistical data on this issue do not confirm increasing racist phenomena at the national level.

Recommendation No. 27**Accepted.**

In 2003 Italy adopted a comprehensive labour legislation, inspired by the principle of non discrimination in labour market and focused on: access to employment, occupation, membership to trade unions, social protection, guidance, education and vocational training, and healthcare.

Within this framework, regular migrant workers, being under employment contract, enjoy equal rights. Accordingly, in the event of unemployment, all those who lose their job have equal access to relevant services and benefits.

In order to eradicate informal market, in particular in the agriculture and building sectors – being areas with the highest percentage of migrants –, Italy has recently adopted an *ad hoc* inspection plan.

Recommendation No. 31

Accepted.

Italy confirms that the utmost importance is attached to human rights education. Within Public Administration, permanent and *ad hoc* courses are tailored for civil servants. Relevant training and refresher courses for law enforcement officials and the judiciary include international human rights law and humanitarian law. Along these lines, it is also worthy of mention the inclusion of relevant subjects in the school and academic curricula. Italy actively promotes human rights education in the UN system and is a member of the “Platform for Human Rights Education and Training”, established in 2007 within the Human Rights Council.

Recommendation No. 36

Accepted.

Italy is committed to promoting LGBT rights, combating discrimination on the ground of sexual orientation and guaranteeing the implementation of relevant legislation already in force, to ensure gender equality, including the prevention and removal of discriminatory conducts for reasons directly or indirectly based on sex, racial or ethnic origin, religion or belief, age or sexual orientation.

Recommendation No. 38

Not accepted.

Since 1928 corporal punishment has been unlawful in the Italian school system. Along these lines this practice does not apply either as a penalty or as a disciplinary measure into the juvenile penal institutions.

Similarly, corporal punishment is unlawful in the private sphere. In 1996 the Supreme Court ruled that the legislation in force already prohibits any forms of violence in child-rearing and confirmed that this is no longer a legitimate method of discipline nor defensible under the right to correction (“*jus corrigendi*”). Therefore Italy deems that there is no need to adopt a specific supplementary law.

Recommendation No. 39

Accepted.

By Act No. 149/2001, it was scheduled for December 31, 2006 the closing down of the shelter institutes for children and adolescents, which have been replaced by alternative measures, including new methodologies for the listening, care and protection of children and their socio-family context.

Recommendation No. 40

Accepted.

Children’s right to citizenship is duly considered within the normative framework introduced by Act No. 91/1992.

Recommendation No. 44

Accepted.

Aware of the fragile situation of unaccompanied foreign minors, Italy is fully committed to ensuring that these children are protected, regardless of their status.

Special measures have been adopted to avoid that unaccompanied minors become victims of exploitation.

Recommendation No. 45

Accepted.

To solve the problem of prison overcrowding, a governmental Plan of Action has been recently adopted to delineate a new framework concerning the prison system in Italy, which will cover several issues, such as prison building, staff members of the Penitentiary Police, and deflationary measures of prison population.

Recommendation No. 46

Accepted.

The Italian legislation already envisages relevant measures, including for those foreign prisoners who are not subjected to an expulsion order.

Recommendations No. 47, 48

Accepted.

It should be noted that, particularly in the judicial field, any legislative reforms shall comply with the relevant constitutional principles. Please refer also to the answer to recommendation No. 49.

Recommendation No. 49

Not accepted.

As far as the judiciary system is concerned, it should be stressed that the principle of the independence of the judiciary is already enshrined in the Constitution. Any constitutional reform can be adopted only by a special parliamentary procedure, which envisages reinforced parliamentary voting majorities and ultimately a popular referendum (the so-called constitutional aggravating procedure). Therefore Italy cannot support the recommendation to further strengthen the independence of the judiciary.

Recommendations No. 50, 51, 52, 54

Accepted.

Italy abides by its commitment towards the implementation of the constitutional principle of the right to freedom of opinion and expression, including in the press and media sectors, by ensuring pluralism, the widest variety of information and views, including by national, regional and local newspapers, magazines, radio and TV channels, web-based information, and more generally the independence of the media.

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

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

Italy launched in 2008 the switch from analogical to digital broadcasting with the aim of further increasing the number of TV channels and enabling the access of new voices

to information. Anti-trust provisions are aimed at helping the entry of new broadcasters into the market also through a new open regime of general authorization for broadcasting.

Within this framework, relevant legislation details the rules for the resolution of the conflict between public duties and public interests, *inter alia* by identifying the incompatibilities with public offices, namely the prime minister, ministers, under-secretaries of state and commissioners of government. To this end, among others the above-mentioned anti-trust Authority monitors the relevant situation.

As for the libel cases, relevant penalties – to be confirmed by a definitive verdict – are enforced only when the legal requirements of the right to chronicle and the right to criticism, respectively, have been overcome.

Recommendations No. 56, 58

Not accepted.

Constitutional principles and specific legislative measures provide for the protection of national linguistic minorities at all levels: at school, in the public administration, in the media sector, even in the municipal topography.

Such legislation envisages the basic legal requirements of stability and duration of the settlement, for national linguistic minorities, in a given area of the Country.

Since Roma and Sinti Communities do not meet said criteria, they cannot be included in the national list of historic linguistic minorities.

At present, the above list includes twelve linguistic minorities and remains open to new members.

Recommendation No. 59

Accepted.

An *ad hoc* working group of Italian and Serbian representatives has been established to elaborate a MoU detailing return measures, in compliance with bilateral agreements.

Recommendations No. 61, 62

Accepted.

Forced eviction operations carried out by the Police forces often had the ultimate goal to provide a more appropriate accommodation for Roma families. An unauthorized settlement for its very nature cannot ensure appropriate living conditions.

Within the national legal framework, restoring good living conditions is in the interest of the society as a whole, including Roma, Sinti and Travellers communities, being among the most exposed to the risk of abuse and exploitation.

Recommendation No. 63

Accepted.

By law Italy already provides identity cards for all citizens.

Recommendations No. 64, 65, 66

Accepted.

On equal footing with other linguistic minorities, the rights of the Slovenian minority and the valuable role of this minority in strengthening the bilateral relations between Italy and Slovenia have been recently reaffirmed by the Joint Declaration, issued at the end of the second Slovenian-Italian Coordination Committee of Ministers, held in Ljubljana, on November 9th 2009.

Within this framework, Italy has confirmed in 2010 its considerable financial commitments for cultural, educational and economic activities, particularly for the media sector and reiterated its support to the work of an *ad hoc* Committee – which is currently examining *inter alia* the issue of the municipal topography -, in accordance with Act No. 38/01.

Recommendation No. 69, 70, 71

Accepted.

National legislation, case law and practices show the compliance with the principle of *non refoulement* and with relevant international legal instruments. In particular, when a migrant rescued at sea expresses the intention to apply for asylum or other forms of international protection on board an Italian vessel, s/he is not returned to the country of origin or transit but taken to Italy.

Recommendations No. 72, 73, 81

Not accepted.

The management of large migration flows remains a very serious challenge for any State. In this context, it is crucial to put in place the necessary tools to fight against human trafficking and promote regular migration.

The 2009 legislation has the two-fold aim: of ensuring that migrants – those who are not entitled to any forms of protection - are effectively returned to their Country of origin; and of preventing their involvement in organized crime networks. These measures are meant to curb criminal behaviours of individuals and no provision at all is envisaged against any community, group or class nor is linked to any form of discrimination and xenophobia.

Along these lines, the aggravating circumstance under reference is solely meant to prevent the involvement of illegal migrants in organized crime.

Recommendation No. 74

Accepted.

As for the access to health-care services and education, the new legislation has not introduced any limitations. The law does not oblige either physicians or school principals to denounce undocumented migrants.

Recommendation No. 75

Partly accepted.

The opportunity to fully participate in the social, economic and cultural life represents the key pillar for a successful integration. Italy remains fully committed to promoting effective measures for the social integration of regular migrants. As for the ratification of the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, please refer to the answer to recommendation No. 2.

Recommendation No. 89

Accepted.

Relevant actions have been already taken at the national and local levels, in compliance with existing legislation. Within a renewed planning framework, additional environmental permits will be released to effectively reduce waste emissions, as appropriate.

Recommendations No. 90, 91

Accepted.

Backed by the Parliament and civil society at large, Italy has reconfirmed its commitment towards the achievement of the Monterrey 0,7% objective. Despite the international juncture and severe constraints posed to Italy by its high public debt, a portion of the new State Budget resources is usually allocated for ODA.
