

# **Italy**

## **Mid-term**

## **Implementation**

## **Assessment**



*Promoting and strengthening  
the Universal Periodic Review*  
<http://www.upr-info.org>



## Introduction

### 1. Purpose of the follow-up programme

*The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.*

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on, and implement their commitments. States should implement the recommendations that they have accepted, and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible, and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by *UPR Info* to collect data and to calculate index is described at the end of this document.

Geneva, 12 December 2012



## Follow-up Outcomes

### 1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/italy>

We invite the reader to consult that webpage since all recommendations, all stakeholders' reports, as well as the unedited comments can be found at the same internet address.

10 stakeholders' reports were submitted for the UPR. 10 NGOs were contacted. The Permanent Mission to the UN was contacted. No domestic NHRI does exist.

6 NGOs responded to our enquiry. The State under Review did not respond to our enquiry.

*IRI:* 75 recommendations are not implemented, 32 recommendations are partially implemented, and 6 recommendations are fully implemented. No answer was received for 40 out of 157 recommendations (full list of unanswered recommendations is available at the end of this document).

### 2. Index

Hereby the issues which the MIA deals with:

rec. n°	Issue	page	IRI
1	Migrants, International instruments,	page 33	partially impl.
2	Minorities	page 13	not impl.
3	Rights of the Child	page 47	fully impl.
4	Rights of the Child, National plan of action,	page 47	fully impl.
5	Freedom of the press	page 7	not impl.
6	Rights of the Child, Asylum-seekers - refugees,	page 48	not impl.
7	NHRI	page 61	not impl.
9	Right to health, Environment,	page 8	not impl.
10	International instruments, CP rights - general,	page 33	not impl.
13	Minorities, Migrants,	page 14	not impl.



rec. n°	Issue	page	IRI
14	NHRI	page 61	not impl.
15	Migrants, International instruments,	page 35	not impl.
16	Migrants, International instruments,	page 35	not impl.
17	Migrants, International instruments,	page 35	not impl.
18	Migrants, International instruments,	page 35	not impl.
19	Migrants, International instruments,	page 35	not impl.
20	Migrants, International instruments,	page 35	not impl.
21	Torture and other CID treatment, International instruments, Enforced disappearances,	page 33	not impl.
22	Migrants, International instruments,	page 35	not impl.
24	Migrants	page 15	fully impl.
25	Minorities	page 15	not impl.
26	Trafficking	page 36	fully impl.
27	Racial discrimination	page 8	-
28	Rights of the Child, NHRI,	page 49	not impl.
29	Detention conditions	page 38	partially impl.
30	Minorities	page 15	partially impl.
31	NHRI	page 61	not impl.
32	NHRI	page 61	not impl.
33	Racial discrimination	page 8	partially impl.
34	Minorities	page 15	not impl.
35	Racial discrimination, Human rights education and training,	page 8	partially impl.
36	Trafficking	page 36	fully impl.
37	Migrants	page 17	not impl.
39	Trafficking, Right to housing, Right to food,	page 36	partially impl.
42	Development	page 11	not impl.
43	Minorities	page 21	not impl.
44	NHRI	page 61	not impl.
47	Minorities, Migrants,	page 21	not impl.
48	Migrants, Asylum-seekers - refugees,	page 17	not impl.
49	Justice, Detention conditions,	page 38	not impl.
50	Freedom of religion and belief	page 8	-
51	Sexual Orientation and Gender Identity	page 42	partially impl.
52	Right to education, Minorities,	page 22	partially impl.
54	Women's rights	page 51	partially impl.
55	Asylum-seekers - refugees	page 22	not impl.
57	Minorities, Migrants,	page 14	not impl.
58	Racial discrimination	page 12	partially impl.
61	Freedom of the press, Freedom of opinion and expression,	page 7	not impl.
62	Migrants	page 17	not impl.
63	Freedom of the press	page 7	not impl.
66	NHRI	page 61	not impl.
67	Rights of the Child, NHRI,	page 49	not impl.



rec. n°	Issue	page	IRI
68	NHRI	page 61	not impl.
69	NHRI	page 61	not impl.
70	NHRI	page 61	not impl.
71	Women's rights, Trafficking, Rights of the Child, Migrants,	page 52	partially impl.
72	NHRI	page 62	not impl.
73	Sexual Orientation and Gender Identity	page 44	not impl.
74	Migrants	page 23	partially impl.
75	Rights of the Child	page 55	not impl.
78	Torture and other CID treatment, Rights of the Child,	page 56	not impl.
79	Torture and other CID treatment, International instruments,	page 40	not impl.
80	Treaty bodies, Torture and other CID treatment,	page 40	not impl.
81	Minorities	page 25	not impl.
82	Rights of the Child, National plan of action, Disabilities,	page 56	partially impl.
83	Women's rights, Trafficking, Rights of the Child,	page 56	fully impl.
84	Development	page 11	not impl.
85	Migrants, Asylum-seekers - refugees,	page 25	not impl.
89	Minorities	page 27	partially impl.
90	Migrants, Asylum-seekers - refugees,	page 17	partially impl.
91	Rights of the Child	page 57	not impl.
92	Minorities	page 28	not impl.
93	Women's rights	page 58	partially impl.
94	Minorities	page 28	partially impl.
99	International instruments, CP rights - general,	page 33	not impl.
100	International instruments, CP rights - general,	page 33	not impl.
101	International instruments, CP rights - general,	page 33	not impl.
102	Torture and other CID treatment, International instruments,	page 34	not impl.
103	Torture and other CID treatment, International instruments,	page 34	not impl.
104	Torture and other CID treatment, International instruments,	page 34	not impl.
105	Torture and other CID treatment, International instruments,	page 34	not impl.
107	Migrants, Human rights violations by state agents,	page 28	not impl.
110	Asylum-seekers - refugees	page 29	not impl.
111	Freedom of the press	page 7	not impl.
112	Minorities	page 29	partially impl.
113	NHRI	page 62	not impl.
114	Right to education, Human rights education and training,	page 9	partially impl.
116	Women's rights, Treaty bodies, Trafficking, Rights of the Child,	page 52	partially impl.
117	Treaty bodies, Rights of the Child, National plan of action, Civil society,	page 56	partially impl.
118	Minorities	page 29	not impl.
119	Asylum-seekers - refugees	page 17	partially impl.
121	Women's rights, Trafficking, Rights of the Child,	page 60	partially impl.
122	Human rights education and training	page 9	partially impl.
123	Freedom of religion and belief	page 8	partially impl.



rec. n°	Issue	page	IRI
124	Sexual Orientation and Gender Identity	page 45	not impl.
125	Migrants	page 17	partially impl.
131	Racial discrimination, Minorities, Migrants, Freedom of religion and belief,	page 30	partially impl.
132	Minorities, International instruments,	page 25	not impl.
133	Freedom of the press	page 7	not impl.
134	Migrants	page 25	not impl.
135	Migrants	page 25	-
138	Treaty bodies, Trafficking,	page 36	partially impl.
140	Freedom of the press	page 7	not impl.
141	Migrants, Asylum-seekers - refugees,	page 30	partially impl.
142	Racial discrimination	page 13	not impl.
143	Other	page 41	not impl.
144	Women's rights, Racial discrimination, Minorities, Migrants,	page 60	not impl.
145	Migrants, Labour,	page 30	not impl.
146	Rights of the Child, Right to education, Minorities,	page 55	not impl.
147	Racial discrimination, Human rights education and training,	page 9	partially impl.
150	NHRI	page 62	not impl.
152	Torture and other CID treatment, International instruments,	page 40	not impl.
153	Minorities, Migrants,	page 31	partially impl.
154	Sexual Orientation and Gender Identity	page 47	partially impl.
156	Racial discrimination, Minorities,	page 31	not impl.
157	Migrants	page 32	not impl.



### **3. Feedbacks on recommendations**

## CP Rights

Recommendation n°5: *Adopt further measures and safeguards to ensure the independent functioning of the media without the influence of the State* (Recommended by Czech Republic)

IRI: *not implemented*

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Recommendation n°61: *Ensure that the freedom of expression is implemented fully, especially in publicly owned media* (Recommended by Finland)

IRI: *not implemented*

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Recommendation n°63: *Ensure the use of objective, transparent and non-discriminatory selection criteria in the allocation of broadcast licences, and to avoid bringing defamation cases against media outlets* (Recommended by Canada)

IRI: *not implemented*

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Recommendation n°111: *Review its legislation to ensure pluralism in the television industry* (Recommended by Nicaragua)

IRI: *not implemented*

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Recommendation n°133: *Take and publicize measures to strengthen media independence, and to address concerns over media concentration* (Recommended by Canada)

IRI: *not implemented*

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Recommendation n°140: *Take further measures to protect press freedom, including the protection of journalists from threats by criminal groups* (Recommended by Norway)

IRI: *not implemented*

#### Comitato per la promozione e protezione dei diritti umani (CPPDU) response:

Between June 2011 and June 2012 there were no legislative changes with regard to media freedom and pluralism. Therefore, the Italian Government, given its written response to Rec. 50-54, continues to oppose the existing legislation ("Gasparri Law" n. 112 2004 and the "Frattini Law" n. 215 2004) to the observations raised by the Recommendations regarding the concentration of the media, the lack of independence of public service broadcasting and the conflict of interest.

As already mentioned, the answer avoids taking any account of the Observations and Recommendations to the contrary of international organizations, starting with the Report of the Special Rapporteur on the Promotion and Protection of the Right to



Freedom of Opinion and Expression of the Commission Human Rights, who visited Italy, which refers to the previous negative evaluations of the Italian legislation (OSCE, Council of Europe) to recommend the revision of the current legislation. The current Special Rapporteur, Frank La Rue, is waiting for a new invitation on behalf of the Italian Government.

## ESC Rights

*Recommendation n°9: Assess the situation and take measures to reduce pollution emissions from the Cerano coal power plant in Puglia and the Taranto metallurgical plant to ensure an adequate standard of living and health in those areas (Recommended by Israel)*

IRI: *not implemented*

Sexual Rights Initiative (SRI) response:

Italian Ministry of Economic Development has invested 4,5 million euro in environmental actions. In this framework no specific action has been devoted to ensure adequate standard of living and health in those areas.

*Recommendation n°27: Continue efforts to ensure that speech and comments made in the media that incite discrimination do not remain unpunished (Recommended by Spain)*

IRI: -

CPPDU response:

[...]

*Recommendation n°33: Continue its efforts to fight against discriminatory and racist behaviour and trends (Recommended by Yemen)*

IRI: *partially implemented*

SRI response:

In 2011 the Italian government headed by Mario Monti was enriched by a specific ministry devoted to integration issues: The Italian Ministry for Integration and Development Cooperation, headed by the Minister Andrea Riccardi.

*Recommendation n°50: Ensure a climate of constructive and transparent interaction between different cultures and religions (Recommended by Yemen)*

IRI: -

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*Recommendation n°123: Strengthen initiatives aimed at intercultural and inter-religious dialogue that promote mutual understanding between different communities, and adopt projects that contribute to integration (Recommended by Lebanon)*

IRI: *partially implemented*

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*Recommendation n°35: Continue its good practices in human rights education, and enhance programmes on human rights education for the general public and public*



*officials aimed at combating racism, discrimination and xenophobia (Recommended by Philippines)*

IRI: *partially implemented*

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*Recommendation n°114: Step up efforts to strengthen public education, awareness-raising programmes and skill training at all levels, particularly aimed at preventing negative attitudes and behaviours, and to promote tolerance and respect for diversity (Recommended by Malaysia)*

IRI: *partially implemented*

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*Recommendation n°122: Strengthen further its measures, including human rights education and training for public officials and at school, to promote tolerance, respect diversity, equality and combat discrimination (Recommended by Viet Nam)*

IRI: *partially implemented*

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*Recommendation n°147: Take necessary measures, including public campaigns and training of teachers and other teaching staff, to raise awareness of the value of intercultural integration and combat all forms of racism and xenophobia (Recommended by Uruguay)*

IRI: *partially implemented*

#### LGBT Coalition (LGBT) response:

Education and awareness raising initiatives have been promoted by the Equal Opportunity Department within the Ministry of Labor, Social Policy and Equal Opportunities.

- In 2010 the Department for Equal Opportunities has launched the social communication campaign 'Refuse Homophobia' (Rifiuta l'omofobia). The campaign includes several communication materials such as video and radio spots.

Further recent initiatives (2011/2012) addressing specific targets are:

- An awareness raising initiative in the field of work aimed at introducing practices of diversity management in the private sector.
- Training initiatives and workshops within a project aimed at promoting a national antidiscrimination network within local and regional administrations and covering also discriminations on the ground of sexual orientation and gender identity.
- An awareness raising initiative launched in collaboration with the Ministry of Instruction, Universities and Research addressing homophobia, homophobic bullying and violence in schools involving more than 100 high schools all over Italy.

Moreover, the UNAR [editor's note: *Ufficio Nazionale Antidiscriminazioni Razziali - National Anti-discrimination Office*] has promoted two researches on Italian and European best practices on the field of anti-discrimination. In this context historical and social dimension of prejudices against LGBT persons have been investigated.

In 2007 the social communication campaign 'Smonta il bullo' (Take down the bully) has been launched by the Ministry of Instruction, Universities and Research and it is still on-going. Several communication materials have been produced together with a website of the campaign and information materials for students, parents and



teachers. The communication campaign is part of the strategy that includes the establishment of regional observatories against bullying and a toll free number to support victims of bullying. The campaign website includes a section on homophobia and homophobic bullying. The campaign does not clearly address transphobia in school.

On International Day Against Homophobia (May 17th, 2012) the Ministry of Instruction, Universities and Research sent an official communication ('circolare') to all public schools asking for support for the mounting of campaigns and events against all forms of discrimination. Although the communication addresses the need to act against homophobia and highlight some tools provided by the Ministry there are not specific indication on action needed and it results as a non-binding recommendation. Moreover, it is missing a similar institutional intervention against transphobia.

Overall, a comprehensive strategy including long-term education and awareness raising programmes, aimed at tackling discriminatory or biased attitudes and behaviour within the general public and correcting prejudices and stereotypes against LGBT persons seems to be still missing.

#### CPPDU response:

On 10 December 2004 the United Nations General Assembly, in its resolution 59/113, decided - as output of the United Nations Decade for Human Rights Education, launched in 1993 in the Vienna World Conference - the World Program for Human Rights Education. The program is divided into several phases and is currently in its second phase (2010-2014), focusing on human rights education for higher education and training programs on human rights for teachers and educators, civil servants, police officers and militaries. Attention has been defined on the basis of a consultation with the Commissioner for Human Rights to which Italy has also participated and contributed. The indications for the second phase are contained in the "Action Plan for the second phase (2010-2014) of the World Program for Human Rights Education" (A/HRC/15/28) in which the specific action directed to the various components of the educational route: appropriate national policies, international cooperation, coordination and evaluation.

One of the strengths of the World Program for Human Rights Education is the emphasis on the importance of education as a lifelong learning, understood as learning that lasts a lifetime. An education that goes beyond the boundaries of teaching to get into a larger educational context in which the non-formal and informal education become complementary elements of the education defined traditional.

The introduction of the reform of the Italian school system through the implementation of the Law of 30 October 2008, n. 169 led to the introduction in our school system of a new subject "Citizenship and the Constitution," to be in force as of the 2009-2010 school year for a total of 33 hours per year.

The promotion of active citizenship - through the diffusion of the constitutional principles and the education towards respecting human rights and duties by



whosoever held – foresees the acquisition of knowledge and skills that start in early childhood, to involve all levels of education.

Only the implementation of the level of connection between academic disciplines can contribute to overcome the fragmentation of teaching and highlight the civic, cultural, economic, political and social value of education: the issue of legality and social cohesion, of national and European citizenship, of human rights, gender equality, pluralism, respect for diversity, intercultural dialogue, ethics, individual and social responsibility, bioethics, and of protection of the artistic and cultural heritage.

Last December 19, 2011 in New York, the UN General Assembly adopted the Declaration on Human Rights Education and Training.

A Declaration that strongly affirms: "Human rights education and training affects all parts of society, at all levels including primary, secondary and university education, taking into account the academic freedom where necessary, and all forms of education, training and learning, in the context of both public and private, formal, informal and non-formal. It includes, among other things, vocational training, particularly training of trainers, teachers and public staff, lifelong education, popular education as well as activities of public information and awareness, Article 3 paragraph 2.

The adoption of the Declaration provides Italian politicians an opportunity to recalibrate national policies and priorities in the light of the new international standards. If, as stated in the Declaration, "Human rights education and training is essential for the promotion of the universal respect for and observance of all human rights and fundamental freedoms for all", then human rights education is not only a right of every human being, but also a necessity for a responsible global citizenship.

**Recommendation n°42:** *Continue to intensify development aid programmes with the objective of reaching 0.7 per cent of GDP as established by the United Nations*  
**(Recommended by Algeria)**

IRI: *not implemented*

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**Recommendation n°84:** *Increase official development assistance to the United Nations target of 0.7 per cent of GDP* **(Recommended by Bangladesh)**

IRI: *not implemented*

#### CPPDU response:

While recognizing efforts that the Government Monti has taken to the enhancement of cooperation policies, and in particular the appointment of a dedicated Minister for Integration and Development Cooperation (without portfolio), without a much stronger and significant commitment on the financial side, any step forward from the point of view of the institutional architecture and all measures to restore credibility to the Italian Cooperation will unfortunately be in vain.

The Document of Economics and Finance 2012 confirms the intention of the Government to enhance development cooperation of our country. The document



affirms, in fact, the need to take measures for a gradual realignment also quantitatively of Italy compared to international targets on ODA.

However, the text is not brave enough in defining the steps for the quantitative alignment, although it suggests a progressive increase on an annual basis of at least 10 percent of the appropriations provided by the Law for cooperation. Based on recent simulations, the European Commission estimated that in 2012, Italy's aid will be equal to 0.12 percent of GDP - compared to the 0.19 per cent in 2011 - with a decrease of approximately 1.2 billion Euro. The Commission in addition estimates that it will ascend to 0.17 per cent in 2013, to stand at 0.16 per cent in 2015. These projections are very far from achieving the milestones of 0.51 percent set at European level and even more from the 0.7 percent internationally agreed upon. It is therefore necessary to continue to support the efforts to enhance development cooperation undertaken by our country and allocate more resources to make more concrete and visible such action at the international level.

**Recommendation n°58:** *Ensure that attacks with xenophobic or racist background are promptly investigated by the police, and that those responsible be brought to justice* (Recommended by Austria)

IRI: *partially implemented*

**CPPDU response:**

With regard to minority rights we can highlight that: the new government who took office in November 2011 produced a document called the National Strategy for the Inclusion of Roma, Sinti and Travellers.

Therefore, the need has been recognized not only to provide the answers to the European Union that have so far missed but at the same time to mark a strategy that will lead in the coming years, a concrete activity of inclusion of the Roma, Sinti and Travellers (RSC), finally overcoming the emergency phase that has characterized the action especially in large urban areas. The Minister for International Cooperation and Integration has been invested with the responsibility of building, in cooperation with other ministries, a control room of the policies for the coming years, involving representatives of regional and local authorities, including the mayors of large urban areas and the representatives of the Roma, Sinti and Travellers living in Italy.

**Recommendation n°95:** *Provide obligatory human rights education and training to police, prison and detention staff and judiciary, and ensure their accountability for any human rights violations* (Recommended by Czech Republic)

IRI: -

**CPPDU response:**

On 10 December 2004 the United Nations General Assembly, in its resolution 59/113, decided - as output of the United Nations Decade for Human Rights Education, launched in 1993 in the Vienna World Conference - the World Program for Human Rights Education. The program is divided into several phases and is currently in its second phase (2010-2014), focusing on human rights education for higher education and training programs on human rights for teachers and educators, civil servants, police officers and militaries. Attention has been defined on the basis of a consultation with the Commissioner for Human Rights to which Italy has also



participated and contributed. The indications for the second phase are contained in the "Action Plan for the second phase (2010-2014) of the World Program for Human Rights Education" (A/HRC/15/28) in which the specific action directed to the various components of the educational route: appropriate national policies, international cooperation, coordination and evaluation.

**Recommendation n°142:** *Take measures to eliminate discrimination against vulnerable groups of the population, taking into account the content of the Durban Declaration and Programme of Action of 2001 and the outcome document of the Durban Review Conference in 2009 (Recommended by Belgium)*

IRI: *not implemented*

#### CPPDU response:

##### Discrimination of vulnerable groups

Although not explicitly mentioned in the Recommendations of the Human Rights Council, the people who live in precarious economic and social conditions (poverty), are now one of the population segments classified as "vulnerable". The accumulation of insecurity leads victim women and men to social exclusion.

Notwithstanding the fact that many international texts make explicit reference to discrimination based on social origin or on fortune, this type of discrimination is not actually treated with due care in our country. Very interesting is the broadening of the concept of discrimination that recently appeared in France - through the work of Halde, who has agreed to undertake a study on poverty as a discriminating factor - also in Britain, where the concept of "Povertyism" developed and affirmed itself - in order to denounce anti-poor behaviors which tend to be multiplied and to accentuate the discriminatory phenomenon.

## Indigenous & Minorities

**Recommendation n°2:** *Adopt a comprehensive anti-discrimination law to ensure that the Roma enjoy equal access to employment, education and health care (Recommended by United States)*

IRI: *not implemented*

#### osservAzione - Centre for Action Research against Roma and Sinti Discrimination (OA) response:

In February 2012, the National Anti-discrimination Office (UNAR) has published the National Strategy for the inclusion of Roma, Sinti and Camminanti in Italy. The Strategy, developed in response to the EC communication n. 173/2011, provides a framework for initiatives to be taken mainly at the local level. The Strategy offers a critical appraisal of previous policies and call for a coherent and holistic approach to public policy for Roma. The implementation of the Strategy is currently at a standstill due to limited resources of UNAR and lack of political commitment by the central government.

SRI response:

A comprehensive antidiscrimination law concerning the Roma does not exist at the national level. Some regional legislation provide the possibility of very weak forms of support to integration of Romani groups, but such measures are marginal in the overall picture, often completely unimplemented, and initiatives in favour of the Roma are most often decisions taken at the municipal level

**Recommendation n°13: Condemn strongly the attacks on migrants, Roma and other ethnic minorities, ensuring that the attacks are investigated fully by the police and that those responsible are brought to justice (Recommended by Norway)**

IRI: *not implemented*

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**Recommendation n°57: Ensure that attacks on migrants, Roma and other ethnic minorities are thoroughly investigated and those responsible are brought to justice (Recommended by Pakistan)**

IRI: *not implemented*

OA response:

In media and political debate, acts of racism against Roma individuals are taken into account only when they are particularly violent (e.g. arson attacks) or on a large scale (e.g. Ponticelli). NGOs tend to pay attention also to less visible acts. The situation is still highly critical.

SRI response:

Italy is not living up to its international obligations with respect to preventing and prosecuting racist and xenophobic violence. In part this reflects a failure to identify racist and xenophobic violence as a serious issue. Public authorities tend to minimize the extent of racist violence in Italy, and the racist or xenophobic dimension of attacks is often minimized or excluded.

CPPDU response:

With regard to minority rights we can highlight that: the new government who took office in November 2011 produced a document called the National Strategy for the Inclusion of Roma, Sinti and Travellers.

Therefore, the need has been recognized not only to provide the answers to the European Union that have so far missed but at the same time to mark a strategy that will lead in the coming years, a concrete activity of inclusion of the Roma, Sinti and Travellers (RSC), finally overcoming the emergency phase that has characterized the action especially in large urban areas. The Minister for International Cooperation and Integration has been invested with the responsibility of building, in cooperation with other ministries, a control room of the policies for the coming years, involving representatives of regional and local authorities, including the mayors of large urban areas and the representatives of the Roma, Sinti and Travellers living in Italy.



Recommendation n°24: *Continue close cooperation with countries of origin and transit in finding an effective solution to the problem of illegal immigration* (Recommended by Viet Nam)

IRI: *fully implemented*

SRI response:

Italian Ministry of Welfare, DG Migrationa on integration affairs has launched a special project concerning the circular migration based on the strict cooperation with countries of origin.

Recommendation n°25: *Continue contribute to the integration of the Roma and the Sinti into local communities, and to give them access to housing, work, education and professional training* (Recommended by Russian Federation)

IRI: *not implemented*

OA response:

Despite the National Strategy that should be providing a common framework, local policies lack in coordination and best practices rarely circulate. In the cities with largest Roma populations, policy intervention continues to be framed in terms of 'emergency' and to marginalise the Roma from the mainstream population – for example with the creation of isolated encampments. The logic of exception continues to prevail and little is done to facilitate access to mainstream services by Roma residents.

SRI response:

A comprehensive antidiscrimination law concerning the Roma does not exist at the national level. Some regional legislation provide the possibility of very weak forms of support to integration of Romani groups, but such measures are marginal in the overall picture, often completely unimplemented, and initiatives in favour of the Roma are most often decisions taken at the municipal level

Recommendation n°30: *Continue efforts to tackle discrimination against Roma people in all sectors of society* (Recommended by Finland)

IRI: *partially implemented*

OA response:

Fight against discrimination is not a priority for local authorities, particularly if the target of racism are Roma. Among the few public initiatives addressing anti-Romani discrimination there is the project COM.IN.ROM., a training package for civil servants and public service providers delivered by experts on anti-discrimination.

Recommendation n°34: *Continue its efforts to strengthen a culture of tolerance to eliminate all forms of discrimination against vulnerable groups* (Recommended by India)

IRI: *partially implemented*

LGBT response:

In 2010 The 'Observatory for security against acts of discrimination' (Osservatorio per la sicurezza contro gli atti discriminatori - OSCAD) was established to help



individuals who belong to minorities to enjoy their right to equality before the law and guarantee protection against any form of discrimination – its functions are described [in recommendation n° 73].

National anti-discrimination measures are developed by the 'National Office Against Racial Discrimination' (UNAR). UNAR was set up in accordance with Legislative Decree no. 215 of 2003 implementing Directive 43/2000/EC in order to work for the promotion of equal treatment and the fight against discrimination based on race or ethnic origin. Nonetheless, since 2010 UNAR acts also against discrimination based on religion, disabilities, age, sexual orientation and gender identity. According to the 2010 UNAR Annual report the enlargement of the scope is related to a Directive of the former Minister of Equal Opportunities - Mara Carfagna - of 21 July 2010 that entrusted UNAR with the implementation of the strategic objective «Countering of all forms of discrimination through the establishment of a national network to monitor the phenomenon and raise awareness in the younger generations». The current Minister – Elsa Fornero – seems to have reaffirmed the extension of UNAR action scope in the Directive of 31 May 2012. These type directives determine the priorities of the Equal Opportunities Department and it is periodically issued by the Minister. In the actual context the enlargement of UNAR competences is not stated by law; this lack makes the UNAR role on combating discrimination against LGBT people impermanent and vulnerable to the political will.

Nevertheless, it is also relevant to add that the Prime Ministry Decree of 13 November 2011 regarding the scope of the action of the actual Minister of Labor and Social Policy on the field of equal opportunities includes the action against discrimination based on sexual orientation, while gender identity is not explicitly included.

#### SRI response:

The National Office against Racial Discrimination does significant work to address discrimination against LGBT people in Italy, despite lacking a specific mandate to do so.

#### CPPDU response:

##### Discrimination of vulnerable groups

Although not explicitly mentioned in the Recommendations of the Human Rights Council, the people who live in precarious economic and social conditions (poverty), are now one of the population segments classified as "vulnerable". The accumulation of insecurity leads victim women and men to social exclusion.

Notwithstanding the fact that many international texts make explicit reference to discrimination based on social origin or on fortune, this type of discrimination is not actually treated with due care in our country. Very interesting is the broadening of the concept of discrimination that recently appeared in France - through the work of Halde, who has agreed to undertake a study on poverty as a discriminating factor - also in Britain, where the concept of "Povertyism" developed and affirmed itself - in order to denounce anti-poor behaviors which tend to be multiplied and to accentuate the discriminatory phenomenon.



Recommendation n°37: *Continue the implementation of laws on migration and amendments, to ensure that the laws are always fully in line with international standards* (Recommended by Kyrgyzstan)

IRI: *not implemented*

+

Recommendation n°48: *Eliminate the provision criminalizing irregular entry and stay on Italian territory as contained in law No. 94 of 2009, as well as those provisions that regard non-documented status as an aggravating circumstance in the commission of criminal offence, and the creation of vigilante groups, as contained in law No. 125 of 2008* (Recommended by Mexico)

IRI: *not implemented*

+

Recommendation n°62: *Ensure the full enjoyment of human rights for those hoping to find a better life in Italy, especially by strengthening structures to guarantee the rights of migrants* (Recommended by Burkina Faso)

IRI: *not implemented*

+

Recommendation n°90: *Make additional efforts in work with refugees and migrants* (Recommended by Kyrgyzstan)

IRI: *partially implemented*

+

Recommendation n°119: *Strengthen efforts to protect asylum-seekers and refugees* (Recommended by Yemen)

IRI: *partially implemented*

+

Recommendation n°125: *Strengthen respect for the human rights of migrants, including those in detention centres* (Recommended by Cuba)

IRI: *partially implemented*

#### CPPDU response:

Two years after receiving the Recommendations of the Human Rights Council during the UPR, the only significant innovation found in the Italian legal system is that the transposition of the European Directive on return of third-country nationals and the resulting changes to the "national law". These changes however present doubts as to compliance with the obligations under EU law.

Italy has transposed very late the Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals. By Decree-Law 23 June 2011 n. 89, subsequently converted into Law 129 of 2 August 2011, the Government has transposed the EU Directive. The transposition of the Directive was made in haste and incomplete and this makes the law difficult to enforce both for the public service and for the justices of the peace who have almost the exclusive jurisdiction in this matter. The judicial review of the restriction of personal freedom continues to be entrusted to the honorary judiciary.

Imprisonment for the "crime of illegal immigration" disappears from the legal system. However, the time of detention in CIE can last up to 18 months.



The law transposing the Directive has also amended several articles of the Codified Law on Immigration (Legislative Decree no. 286/1998). For example, art. 32, co.1-bis was added regarding foreign minors considered unaccompanied (although they are assigned or placed in a community) to whom the legislator, in order to maintain the regularity of the stay at the age of majority, demands additional requirements to those requested at the minor age.

The Government has also taken the opportunity to complete the implementation of Directive 2004/38/EC on the free movement of EU citizens, introducing various amendments to the Legislative Decree no. 30 of 2007 regulating the conditions of stay of EU citizens in Italy.

With regard to recognition of the refugee status there is still no comprehensive legislation, the Territorial Commissions for the recognition of International Protection issue too often denials to requests for recognition, forcing applicants to make judicial review to have their status recognized.

A heavy inadequacy is noticed in the general system of reception, below the minimum European standards.

To tackle the emergency of refugees from North Africa, April 12, 2011 the Presidency of the Council of Ministers - Department of Civil Protection had approved a plan for the reception of migrants in the implementation of the Agreement State Regions Local Governments of April 6, 2011. It also approved the D.P.C.M. of April 5, 2011 pursuant to art. 20 Codified Law on Immigration containing the indication of the temporary humanitarian protection measure to the citizens of the countries of North Africa flowed in the Italian territory from 1 January 2011 to midnight on April 5, 2011. In the same measure it was determined that the request of the permit for temporary protection was to be submitted within 8 days from the publication in the Gazzetta Ufficiale.

On 15 May 2012 a decree of the President of the Council of Ministers has extended by six months the stay permits for citizens of North Africa for humanitarian reasons. Previously, by a Decree of 6 October 2011, the state of emergency was extended throughout the year 2012.

Around 25,000 people of Sub-Saharan Africa, who fled the war in Libya during the year 2011 and without any stay permit (precisely because they entered in Italy after April 5 of last year) are not covered by this form of protection.

With reference to the fruition on behalf of immigrants of social benefits foreseen by the Italian law to family income support and parental function or family members care, directly or indirectly discriminating profiles are evidenced, in contrast with the constitutional principles of equality and plausibility, and the principle of non-discrimination set out in international and European law (ECHR).

#### **Unique innovations in the area:**

- INPS allowance for large families with at least three minor children and in conditions of economic hardship. (The law foresees as clause of Italian citizenship or of an EU



Member State for accessing the benefit, excluding all third-country nationals, with the exception of refugees). With the communication of 16 May 2012 INPS reiterated the exclusion of third-country nationals from the social benefit, including foreign long residents who should as well be protected by the provision of equal treatment laid down in European Directive n. 109/2003, on the grounds that an opinion of the Ministry of Economy and Finance would have justified the need for exclusion with the lack of financial backing;

- Through the decree "Simplify Italy" (Decree-Law n. 5 dd. 09.02.2012, converted into Law no. 35 dd. 04.04.2012) a new social card called "Shopping cart" has been made available to low-income families which will complement those already provided for in 2008. The Card is valid for one year and is managed by the municipalities with more than 250 000 inhabitants for a total of 50 million euro allocated. The new "social card" is reserved to Italian citizens and citizens of other EU Member States and third-country nationals with long stay. However, refugees and holders of subsidiary protection are excluded, despite the provision of equal treatment in respect of social assistance provided by the European Directive n.2004/83, as well as migrants from third countries lacking the status of long-stay.

**With regard to minority rights we can highlight that:**

the new government who took office in November 2011 produced a document called the National Strategy for the Inclusion of Roma, Sinti and Travellers.

Therefore, the need has been recognized not only to provide the answers to the European Union that have so far missed but at the same time to mark a strategy that will lead in the coming years, a concrete activity of inclusion of the Roma, Sinti and Travellers (RSC), finally overcoming the emergency phase that has characterized the action especially in large urban areas. The Minister for International Cooperation and Integration has been invested with the responsibility of building, in cooperation with other ministries, a control room of the policies for the coming years, involving representatives of regional and local authorities, including the mayors of large urban areas and the representatives of the Roma, Sinti and Travellers living in Italy.

With regard to health care, the health care legislation does not apply uniformly in all Italian regions. In general, it should be noted that Article. 35 of Legislative Decree no. 286/98 guarantees undocumented migrants "ambulatory and hospital urgent or essential care, including continual" and "preventive medicine programs to safeguard individual and collective health". Article 43.8 of Decree 394/1999 in addition explains that "the regions identify the most appropriate ways to ensure that essential and continuing care foreseen under Article 35, paragraph 3, of the Consolidated Law, may be provided through structures of the territorial medicine or health centers, public and private accredited, structured in the form clinic or hospital, eventually in cooperation with voluntary organizations with specific experience". This law is not fully implemented in some Italian regions and the care provided to migrants who do not comply with the rules on entry and stay continues to be inadequate. In particular, some regions have delegated to individual healthcare organizations to identify the modality by which ensure in practice the essential and continuing care to undocumented migrants, without issuing guidelines to ensure the consistency of care



between different health organizations and to ensure adequate essential levels. In addition, in some of these, undocumented migrants can receive health care only accessing the Emergency and, if they are active in the area, accessing voluntary non-contracted clinics.

With the communication of 16 May 2012 INPS reiterated the exclusion of third-country nationals from the social benefit, including foreign long stay residents who should as well be protected by the provision of equal treatment laid down in European Directive n. 109/2003, on the grounds that an opinion of the Ministry of Economy and Finance would have justified the need for exclusion with the lack of financial backing.

In some visits carried out in 2011-2012 at the Centres for Identification and Expulsion (CIE) in Rome, Bologna and Turin a clear mismatch of these structures to protect the dignity and fundamental rights of migrants detained was found. An Inadequacy related to the purposes, methods of operation and the structural characteristics of the CIE, which recall those of internment centers altogether unfit to ensure a decent stay for migrants. In the light of the information gathered, the degrading conditions of detention and the tension within the centers seem to have become further exacerbated following the extension of the maximum period of detention to 18 months. The fact that the CIE is something completely separated from the territory hosting them, with limited possibilities for monitoring by independent organizations and representatives of civil society, further increases concerns about inadequate protection of fundamental rights of detained migrants. Moreover, the isolation of the migrants held with regard to the possibility of maintaining contact with the outside world appeared one of the most important elements of discomfort in the CIE of Rome (Italy's largest), where the freedom of conversation with people coming from outside is not guaranteed. In addition to a significant deterioration of housing and sanitation and the almost total absence of space and recreational activities in the Roman CIE significant barriers in access to specialized care and diagnostic investigations were found. It is easy to sense that a system designed to provide healthcare to people held for a relatively short period of time (30 days) turns out to be totally inadequate when these times are abnormally long. Therefore the need to remove the CIE from health extraterritoriality status and restore the ownership and organization of health care centers in the National Health Service through the ASL concerned in order to protect adequately the right to health of the migrants held is reiterated. About 80 percent of the people interned in the CIE of Rome come from the prison or are victims of trafficking. As for ex-detainees, it is clear that their identification during the period of serving the sentence should and could have been done. While the retention of women in the CIE potential victims of trafficking is totally inappropriate, since this structure is not the appropriate place to start the appropriate paths of assistance and social protection of people particularly vulnerable.

The findings of a survey conducted on the CIE of Ponte Galeria may be extended to the CIE system in general as indicated by the most significant analysis made by independent actors and institutions. It is believed that the critical points detected repeatedly over the years about the nature and operation of the CPTA / CIE have such a relevance and pervasiveness to make indispensable and urgent both the



abandonment of the present system of administrative detention, and the simultaneous adoption of more rational management strategies of irregular migration, articulated and respectful of fundamental human rights.

With regard to the promotion and protection of trade union rights in the course of the 101st Conference of the International Labour Organisation (ILO), the International Trade Union Confederation (ITUC-CSL) presented the latest annual report on violations of trade union rights in the world. As per what concerns Italy, the annual report on violations of trade union rights reports punitive policies on pensions, cuts in public spending and social services, the block of chaffer in the public sector and the lack of stabilization of temporary workers. In addition discriminations, in law and in fact, towards migrant workers - including conditions of virtual slavery - and the violation of trade union rights made by the Fiat-Chrysler towards one of the major representative union (in clear reference to the attack to the rights of FIOM-CGIL) must be recalled.

**Recommendation n°43:** *Continue to work to end intolerance and social discrimination against Roma and, in this regard, ensure that police and local authorities are trained to respond appropriately to allegations of crimes involving Roma and avoid inappropriate ethnic profiling* (Recommended by United States)

**IRI: not implemented**

**OA response:**

Following international outcry for the ethnic census of Roma living in camps in 2008, no further national initiative has been taken in this direction. Localised practice of mass identification on ethnic basis is however common and data collected during the 2008 'census' are routinely used by the police forces and immigration authorities when dealing with Roma. The 'census' also unveiled the situation of Italy-born undocumented Roma children left in legal limbo for several years. We are far from even considering local authorities can be trained to respond appropriately.

**SRI response:**

Italy is not living up to its international obligations with respect to preventing and prosecuting racist and xenophobic violence. Public authorities tend to minimize the extent of racist violence in Italy, and the racist or xenophobic dimension of attacks is often minimized or excluded.

**Recommendation n°47:** *Eliminate all forms of discrimination against the Roma community, religious minorities, and migrants, and ensure equal opportunities for the enjoyment of economic, social and cultural rights, including education, health and housing* (Recommended by Bangladesh)

**IRI: not implemented**

**OA response:**

Just as an example: from March 2010 to August 2011 seven children aged 1–13 years died in settlements for causes related to the precarious living conditions. In most of these cases the responsible for the living conditions in the camps were local institutions. Nobody in the institutions has been considered responsible and the majority of the Roma and Sinti keep living exactly in the same conditions.



**Recommendation n°52: Ensure equal rights for members of the Roma and Sinti minorities, to ensure that all Roma and Sinti children are enrolled in school, and to make efforts to encourage regular school attendance by these children (Recommended by Sweden)**

IRI: *partially implemented*

OA response:

Schooling is a persistent problem affecting a large number of Romani children in compulsory education age. Initiatives aimed at addressing truancy tend to focus on camps and are limited to the provision of dedicated school buses for children. Support in schools is also available via intercultural mediators (sometimes not adequately qualified). In Rome, there is a positive trend in enrolment to primary schools, while access to secondary school remains extremely limited, and only in rare circumstances young Roma successfully complete their educational cycle with a diploma. In many cases the positive trend is not the consequence of institutional policies, but the consequence of Romani families' will to overcome marginalization.

SRI response:

The newly established Government - that began its mandate, on November 17, 2011 - decided to tackle this issue, by means of an inter-ministerial approach. Italy has elaborated a Strategy, which will guide, in the coming years, the effective inclusion process of Roma, Sinti and Caminanti communities. The Minister for International Cooperation and Integration has been thus entrusted to establishing a political control room (Cabina di regia/tavolo politico inter-ministeriale) for the relevant policies of the coming years, jointly with the Minister of Labor and Social Affairs, the Minister of Interior, the Minister on Health, the Minister on Education, University and Research, and the Minister of Justice, in which he has also convoked and involved representatives of regional and local Authorities, including mayors of large urban areas, as well as representatives of the Roma, Sinti and Caminanti communities living in Italy

CPPDU response:

[...] With regard to access to education and schooling of Roma and Sinti children problems related to frequency and drop out of school are still unsolved. At least 20,000 Roma under twelve years, in large part from Romania and former Yugoslavia, escape compulsory education in Italy and it is estimated that "the remaining peer Roma and Sinti are in a general educational delay of not less than three years". In addition, housing conditions, the lower educational level, poor access to health services are among the risk factors for the health of people of Roma origin, especially for children. Finally, the lack of stable accommodation can also lead to a lack of recognition of Italian citizenship, because it is impossible to prove legal residence continuously from birth to the age of 18 years. [...]

**Recommendation n°55: Ensure satisfactory asylum procedures for all migrants and asylum-seekers rescued at sea (Recommended by Denmark)**

IRI: *not implemented*

SRI response:

According to UNHRC, the Italian Government ceased to apply its push-back policy to Libya in September 2009. Between May 2009 and September 2009, Italian military



vessels were involved in returning to Libya persons intercepted in international waters who had left that country in an irregular manner, with the intent of reaching Italy. Those who were pushed back included a number of asylum-seekers and refugees who could not access effective protection in Libya. To date, however, this policy has not been officially revoked, a step which, if taken, would ensure both formal and substantive application of the principle of 'non-refoulement'

#### CPPDU response:

With regard to recognition of the refugee status there is still no comprehensive legislation, the Territorial Commissions for the recognition of International Protection issue too often denials to requests for recognition, forcing applicants to make judicial review to have their status recognized.

A heavy inadequacy is noticed in the general system of reception, below the minimum European standards.

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Around 25,000 people of Sub-Saharan Africa, who fled the war in Libya during the year 2011 and without any stay permit (precisely because they entered in Italy after April 5 of last year) are not covered by this form of protection.

**Recommendation n°74: Guarantee access to basic social services, including lodgings, hygiene, health and education, to all migrants and members of their families (Recommended by Mexico)**

IRI: *partially implemented*

#### CPPDU response:

[...] With reference to the fruition on behalf of immigrants of social benefits foreseen by the Italian law to family income support and parental function or family members care, directly or indirectly discriminating profiles are evidenced, in contrast with the constitutional principles of equality and plausibility, and the principle of non-discrimination set out in international and European law (ECHR).



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Therefore, the need has been recognized not only to provide the answers to the European Union that have so far missed but at the same time to mark a strategy that will lead in the coming years, a concrete activity of inclusion of the Roma, Sinti and Travellers (RSC) , finally overcoming the emergency phase that has characterized the action especially in large urban areas. The Minister for International Cooperation and Integration has been invested with the responsibility of building, in cooperation with other ministries, a control room of the policies for the coming years, involving representatives of regional and local authorities, including the mayors of large urban areas and the representatives of the Roma, Sinti and Travellers living in Italy.

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**Recommendation n°81: Increase efforts to reach out to and ensure the rights of members of minorities, particularly the Romani community (Recommended by United States)**

IRI: *not implemented*

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**Recommendation n°132: Take all measures necessary to ensure the rights of the Roma people under article 27 of the International Covenant on Civil and Political Rights, specifically by amending the 1999 Act, which lays down this creation of connection with a specific territory (Recommended by Denmark)**

IRI: *not implemented*

#### OA response:

There seems to be no will in the Italian Government to work towards recognition of the Roma as a national/ethnic minority. Nonetheless, the Foreign Affairs Committee in the Lower Chamber has recently stated, in the context of the ratification of the European Charter on Minority Languages, that it applies also to Romani language. Despite an opening towards a long-term approach to social inclusion through the Strategy, the current government is taking an ambiguous position in relation to the declaration of 'the state of emergency in relation to the Roma', having appealed against a judicial decision by the TAR (Regional Administrative Court) to declare the 'state of emergency' illegitimate.

**Recommendation n°85: Increase the transparency of arrival and return procedures concerning immigrants and refugees (Recommended by Japan)**

IRI: *not implemented*

+

**Recommendation n°134: Take appropriate legislative measures to decriminalize irregular entry and stay in Italy (Recommended by Brazil)**

IRI: *not implemented*

+

**Recommendation n°135: Take appropriate legislative measures to exclude undocumented stay in Italy as an aggravating circumstance for the purposes of sentencing following a criminal conviction (Recommended by Brazil)**

IRI: -



### CPPDU response:

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**Recommendation n°89: *Investigate all alternatives to forced evictions of Roma and Sinti people, including through thorough consultation with those directly affected***  
**(Recommended by Australia)**

**IRI: partially implemented**

**OA response:**

Forced evictions of Roma informal and formal settlements are common practice in the largest Italian cities. They take two main forms. In case of informal settlements, in the best case scenario, only women and children are offered an alternative accommodation. When it is formal settlement to be targeted, residents are offered alternative solutions, most notably in another campsite in a more remote urban area. Residents are consulted but they are offered limited if no alternative options and under the duress of forced eviction. Solutions other than campsites are rarely considered, with few notable exceptions (eg Florence, Bolzano).

**SRI response:**

The Italian authorities, especially in Rome municipality, continue in evicting residents who are not willing to relocate. There is consultation with residents and no willingness to restore adequate housing conditions and infrastructure in the camp. The Municipality of Rome closed the Tor de'Cenci camp and resettled inhabitants to a new camp . It has failed to set out a clear rationale for closing Tor de' Cenci, and to comply with relevant safeguards while making its decision and choosing a resettlement site. More than 350 people of Roma ethnicity, mostly Bosnian and Macedonian nationals, have been living in Tor de' Cenci for up to 16 years. Tor de' Cenci was opened by local authorities in 1995, in an area where residents have access to basic services, including schools for children. In the past two years, however, local authorities started referring to Tor de' Cenci as a "tolerated" camp, threatening to close it. Meanwhile, living conditions have progressively worsened, as the camp has been effectively abandoned by authorities.

**CPPDU response:**

With regard to minority rights we can highlight that: the new government who took office in November 2011 produced a document called the National Strategy for the Inclusion of Roma, Sinti and Travellers.

Therefore, the need has been recognized not only to provide the answers to the European Union that have so far missed but at the same time to mark a strategy that



will lead in the coming years, a concrete activity of inclusion of the Roma, Sinti and Travellers (RSC), finally overcoming the emergency phase that has characterized the action especially in large urban areas. The Minister for International Cooperation and Integration has been invested with the responsibility of building, in cooperation with other ministries, a control room of the policies for the coming years, involving representatives of regional and local authorities, including the mayors of large urban areas and the representatives of the Roma, Sinti and Travellers living in Italy.

*Recommendation n°92: Pay special attention to the preparation, implementation and evaluation of the pilot project for the repatriation of a number of Roma, originally from Serbia, currently living in camps located in central and southern Italy, in order to facilitate the most appropriate remedies for the Roma population in a dignified and efficient manner (Recommended by Serbia)*

IRI: *not implemented*

OA response:

We are not aware of specific initiatives be taken in this direction

*Recommendation n°94: Protect the Roma and the Sinti as national minorities, and to ensure that they are not the object of discrimination, including through the media (Recommended by Cuba)*

IRI: *partially implemented*

OA response:

See [response to recommendation n°] 81.

SRI response:

In its commitment for the social promotion of the Roma and Sinti people, Government National Focal Point for Roma people, intends to support information campaigns focused on the eradication of the prejudices while valorizing the culture, traditions and economic and professional skills of the RSC people, as well as the positive effects stemming from the improvement of their situation once involved in the labour market. To this end, awareness raising initiatives will be addressed to the operators of job centers, social parties, journalists and the segments of the society more sensitive to citizenship-related issues and to the social-work inclusion of the RSC people.

*Recommendation n°107: Repeal all discriminatory laws against irregular migrants and take action to investigate and prosecute discriminatory acts by public and security officials, in particular where racial and religious motives are aggravating factors (Recommended by Pakistan)*

IRI: *not implemented*

SRI response:

Italy is not living up to its international obligations with respect to preventing and prosecuting racist and xenophobic violence. In part this reflects a failure to identify racist and xenophobic violence as a serious issue. Public authorities tend to minimize the extent of racist violence in Italy, and the racist or xenophobic dimension of attacks is often minimized or excluded.



**Recommendation n°110: Review its legislation and practices, ensuring that they comply fully with the principle of non-refoulement, and to ensure the accountability of persons responsible for any violation thereto (Recommended by Czech Republic)**

IRI: *not implemented*

**SRI response:**

According to UNHCR, the Italian Government ceased to apply its push-back policy to Libya in September 2009, a development UNHCR welcomed at the time.

Between May 2009 and September 2009, Italian military vessels were involved in returning to Libya persons intercepted in international waters who had left that country in an irregular manner, with the intent of reaching Italy. Those who were pushed back included a number of asylum-seekers and refugees who could not access effective protection in Libya. To date, however, this policy has not been officially revoked, a step which, if taken, would ensure both formal and substantive application of the principle of 'non-refoulement'.

**CPPDU response:**

[See response to recommendation n° 85]

**Recommendation n°112: Seek to ensure the effective participation of Roma people in the process of assuring their equal and non-discriminatory treatment (Recommended by Finland)**

IRI: *partially implemented*

**OA response:**

Several NGOs and Roma and Sinti individuals have been consulted or variously involved in the drafting of the National Strategy. The participation has not followed any criteria of representation both broadly and more importantly within the Romani communities. Similarly, at the local level, authorities tend to appoint token Roma interlocutors with limited or no recognition within the local Romani community. The cases of Rome and Milan are cases in point.

**Recommendation n°118: Strengthen efforts to integrate Roma and Sinti communities through positive action in the areas of education, employment, housing and social services (Recommended by Australia)**

IRI: *not implemented*

**OA response:**

Despite the National Strategy that should be providing a common framework, local policies lack in coordination and best practices rarely circulate. In the cities with largest Roma populations, policy intervention continues to be framed in terms of 'emergency' and to marginalise the Roma from the mainstream population – for example with the creation of isolated encampments. The logic of exception continues to prevail and little is done to facilitate access to mainstream services by Roma residents.



**Recommendation n°131:** *Take administrative and legal measures against perpetrators of racially motivated acts, targeting the Roma, Sinti, migrants and Muslims (Recommended by Bangladesh)*

IRI: *partially implemented*

**OA response:**

In media and political debate, acts of racism against Roma individuals are taken into account only when they are particularly violent (e.g. arson attacks) or on a large scale (e.g. Ponticelli). NGOs tend to pay attention also to less visible acts. The situation is still highly critical.

**CPPDU response:**

With regard to minority rights we can highlight that: the new government who took office in November 2011 produced a document called the National Strategy for the Inclusion of Roma, Sinti and Travellers.

Therefore, the need has been recognized not only to provide the answers to the European Union that have so far missed but at the same time to mark a strategy that will lead in the coming years, a concrete activity of inclusion of the Roma, Sinti and Travellers (RSC), finally overcoming the emergency phase that has characterized the action especially in large urban areas. The Minister for International Cooperation and Integration has been invested with the responsibility of building, in cooperation with other ministries, a control room of the policies for the coming years, involving representatives of regional and local authorities, including the mayors of large urban areas and the representatives of the Roma, Sinti and Travellers living in Italy.

**Recommendation n°141:** *Take further steps to ensure the full respect of the fundamental rights of migrants, asylum-seekers and refugees (Recommended by Sweden)*

IRI: *partially implemented*

**SRI response:**

On 3 April 2012 Italy signed a new agreement with Libya on migration control despite substantial public evidence that migrants, refugees and asylum-seekers are still subjected to serious abuses in Libya. Amnesty International repeatedly requested the Italian authorities to make the content of the agreement public but these requests were never met. The text of the agreement has now leaked.

**CPPDU response:**

[See response to recommendation n° 37]

**Recommendation n°145:** *Take more effective measures to eliminate discrimination against noncitizens in relation to working conditions and work requirements, to adopt legislation prohibiting discrimination in employment, and to take further measures to reduce unemployment among immigrants (Recommended by Egypt)*

IRI: *not implemented*

**CPPDU response:**

With regard to the promotion and protection of trade union rights in the course of the 101st Conference of the International Labour Organisation (ILO), the International Trade Union Confederation (ITUC-CSI) presented the latest annual report on



violations of trade union rights in the world. As per what concerns Italy, the annual report on violations of trade union rights reports punitive policies on pensions, cuts in public spending and social services, the block of chaffer in the public sector and the lack of stabilization of temporary workers. In addition discriminations, in law and in fact, towards migrant workers - including conditions of virtual slavery - and the violation of trade union rights made by the Fiat-Chrysler towards one of the major representative union (in clear reference to the attack to the rights of FIOM-CGIL) must be recalled.

**Recommendation n°153:** *Take the measures necessary to prevent discrimination against minorities, as well as to contribute to the positive image of migrants in the country (Recommended by Uzbekistan)*

IRI: *partially implemented*

**SRI response:**

The Italian Ministry of Welfare, DG Migration has launched the programme Co.In (Comunicare l'Integrazione), which aim is to contribute to the positive image of migrants in the country . Another relevant effort is represented by the launch of the Governmental website [www.integrazionemigranti.gov.it](http://www.integrazionemigranti.gov.it), The Integration Portal is a project co-funded by the European Fund for the Integration of third-country nationals and coordinated by the Ministry of Labour and Social Policies, which avails itself of the support of its technical agencies Isfol and Italia Lavoro, as well as of the contribution of the Ministry of the Interior, the Ministry of Education, University and Research and the Ministry of International Cooperation and Integration.

In order to guarantee the implementation of services, the General Directorate of Immigration and Integration Policies has involved Regions and local administrations as partners.

The portal provides a mapping of the services offered throughout the country by the public-private network dealing with integration activities. The aim is to promote the access of foreign citizens, as a precondition to facilitate their integration into the Italian society.

The services are classified by target, territory and type of service: Italian Language, Employment, Housing, Essential Services, Minors and second generations and Intercultural mediation.

To date, portal users can access information concerning approximately 8,000 services, offered by either the associations/organizations listed in the national register of the Ministry of Labour and Social Policies or other bodies working for the social integration of foreigners.

**Recommendation n°156:** *Update the national action plan and initiate further concrete measures to stimulate tolerance and prevent discrimination and xenophobia, and especially taking into account the situation of the Roma and the Sinti (Recommended by Netherlands)*

IRI: *not implemented*

**OA response:**

The Strategy recommends initiatives aimed at promoting public awareness on combatting racism and discrimination against the Roma, however, to date no significant campaign has taken place yet.

**SRI response:**

In February 2012, the Italian government submitted a national strategy to the EU Commission, pledging to stop segregation and promote the inclusion of Roma. Six months have passed and the authorities have failed to keep to their word.

**Recommendation n°157:** *With regard to the concerns expressed in the Italian-Libyan agreement to prevent ships with immigrants from sailing to Italy, to ensure that intercepted persons have access to proper assessment of their asylum claims in accordance with international human rights standards* (Recommended by Netherlands)

IRI: *not implemented*

**SRI response:**

According to the information currently available, the Italian Government ceased to apply its push-back policy to Libya in September 2009, a development UNHCR welcomed at the time.

Between May 2009 and September 2009, Italian military vessels were involved in returning to Libya persons intercepted in international waters who had left that country in an irregular manner, with the intent of reaching Italy. Those who were pushed back included a number of asylum-seekers and refugees who could not access effective protection in Libya. To date, however, this policy has not been officially revoked, a step which, if taken, would ensure both formal and substantive application of the principle of 'non-refoulement'.

**CPPDU response:**

[...] With regard to recognition of the refugee status there is still no comprehensive legislation, the Territorial Commissions for the recognition of International Protection issue too often denials to requests for recognition, forcing applicants to make judicial review to have their status recognized.

A heavy inadequacy is noticed in the general system of reception, below the minimum European standards.

To tackle the emergency of refugees from North Africa, April 12, 2011 the Presidency of the Council of Ministers - Department of Civil Protection had approved a plan for the reception of migrants in the implementation of the Agreement State Regions Local Governments of April 6, 2011. It also approved the D.P.C.M. of April 5, 2011 pursuant to art. 20 Codified Law on Immigration containing the indication of the temporary humanitarian protection measure to the citizens of the countries of North Africa flowed in the Italian territory from 1 January 2011 to midnight on April 5, 2011. In the same measure it was determined that the request of the permit for temporary protection was to be submitted within 8 days from the publication in the Gazzetta Ufficiale.



On 15 May 2012 a decree of the President of the Council of Ministers has extended by six months the stay permits for citizens of North Africa for humanitarian reasons. Previously, by a Decree of 6 October 2011, the state of emergency was extended throughout the year 2012.

Around 25,000 people of Sub-Saharan Africa, who fled the war in Libya during the year 2011 and without any stay permit (precisely because they entered in Italy after April 5 of last year) are not covered by this form of protection.

## International Instruments

**Recommendation n°1:** *Adhere immediately to the principles of the International Convention on the Rights of All Migrant Workers and Members of their Families, and consider its ratification in a favourable light* (Recommended by Mexico)

IRI: *partially implemented*

**SRI response:**

[Italy] played an active role in the drafting process conducted by the MESCA group. Many of the provisions of national law that are incompatible with the Convention are already the subject of challenges before the relevant Constitutional Courts

**Recommendation n°10:** *Become a party to remaining human rights instruments and consider withdrawing its reservations, in particular to International Covenant on Civil and Political Rights* (Recommended by Pakistan)

IRI: *not implemented*

+

**Recommendation n°21:** *Consider ratifying the Optional Protocol to the Convention against Torture and the International Convention for the Protection of All Persons from Enforced Disappearance* (Recommended by Chile)

IRI: *not implemented*

+

**Recommendation n°99:** *Ratify the International Covenant on Civil and Political Rights* (Recommended by Bosnia & Herzegovina)

IRI: *not implemented*

+

**Recommendation n°100:** *Ratify the International Covenant on Civil and Political Rights* (Recommended by Kyrgyzstan)

IRI: *not implemented*

+

**Recommendation n°101:** *Ratify the International Covenant on Civil and Political Rights* (Recommended by Nicaragua)

IRI: *not implemented*

+



Recommendation n°102: *Ratify the Optional Protocol to the Convention against Torture* (Recommended by Azerbaijan)

**IRI: not implemented**

+

Recommendation n°103: *Ratify the Optional Protocol to the Convention against Torture* (Recommended by Czech Republic)

**IRI: not implemented**

+

Recommendation n°104: *Ratify the Optional Protocol to the Convention against Torture and take the measures necessary to comply with its provisions* (Recommended by United Kingdom)

**IRI: not implemented**

+

Recommendation n°105: *Ratify the Optional Protocol to the Convention against Torture, in order to permit the Subcommittee for Prevention to conduct visits to places of detention, including reclusion centres for migrants and asylum-seekers, as well as those with the populations originating in national minorities in order to help the Government improve conditions in these centres* (Recommended by Mexico)

**IRI: not implemented**

#### CPPDU response:

On 20 May 2011, Italy was reconfirmed Member State of the UN Human Rights Council for the period 2011-2014. Applying for a second term, the Italian Government expressed the voluntary commitments for human rights it intended to pursue, among these, the absence of the intention to introduce the crime of torture into domestic criminal can be noted. On this serious breach, supported by the rejection of the recommendation number 8 by the Italian Government in 2010, impacts also the absence of any reference to the ratification of the Optional Protocol to the Council of Europe Convention against Torture (OPCAT). On such an occasion decisive internationally as it is undoubtedly the a candidacy to sit among the 47 Member States of the UN Human Rights Council, Italy has hence failed to promise also with regard to the need to set up an independent body to be able to visit and inspect places of detention, including centers for migrants and asylum seekers. The substantial immobility in prevention and condemnation of all forms of torture and inhuman and degrading treatment where the Italian legislator has ended up is accompanied by the aggravating deafness to the calls of the more recent case law. In particular, it is worth recalling the important judgment of the Criminal Court of Asti of January 30, 2012 that sent acquitted five prison policemen accused of violence and abuse suffered by two inmates in the Home District of Asti between 2004 and 2005. Among the reasons for the judge, where the abuses are clearly documented, it is plainly evidenced the existence of a gap in the law concerning the assumption of torture and it is equally tersely denied what claimed in 2010 by the Italian Government, i.e. that all of the cases of crime foreseen in the Italian law are per se self-sufficient to cover the case of torture. The Asti sentence, the most recent on behalf of a jurisprudence to this effect, recalls the definition of torture and inhuman and degrading treatments as written in the UN Convention of 1984 that Italy has signed, ratified and which still awaits to be fully implemented.



**Recommendation n°15: Consider ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Recommended by Azerbaijan)**

IRI: *not implemented*

+

**Recommendation n°16: Consider ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Recommended by Chile)**

IRI: *not implemented*

+

**Recommendation n°17: Consider ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Recommended by Egypt)**

IRI: *not implemented*

+

**Recommendation n°18: Consider ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Recommended by Iran)**

IRI: *not implemented*

+

**Recommendation n°19: Consider ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Recommended by Mexico)**

IRI: *not implemented*

+

**Recommendation n°20: Consider ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Recommended by Philippines)**

IRI: *not implemented*

+

**Recommendation n°22: Consider, possibly within the framework of a desirable re-orientation of European policy, ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, even if initially with reservations (Recommended by Algeria)**

IRI: *not implemented*

#### CPPDU response:

Two years after receiving the Recommendations of the Human Rights Council during the UPR, the only significant innovation found in the Italian legal system is that the transposition of the European Directive on return of third-country nationals and the resulting changes to the “national law”. These changes however present doubts as to compliance with the obligations under EU law.

[...]



# Justice

**Recommendation n°26: Continue efforts in combating trafficking in persons, and in particular consider the possibility of elaborating comprehensive measures to reduce the demand for services of trafficked persons (Recommended by Belarus)**

**IRI: fully implemented**

+

**Recommendation n°36: Continue measures to end trafficking in human beings (Recommended by Yemen)**

**IRI: fully implemented**

+

**Recommendation n°39: Continue to allocate resources necessary for the implementation of projects to provide housing, food and temporary social assistance to victims of trafficking (Recommended by Colombia)**

**IRI: partially implemented**

+

**Recommendation n°138: Take effective measures to prosecute and punish trafficking and the exploitation of persons, as recommended by the Committee against Torture (Recommended by Israel)**

**IRI: partially implemented**

**SRI response:**

The Italian government sustained strong efforts to protect trafficking victims during the last years. Article 18 of the anti-trafficking law allows authorities to grant residence permits and provide protection and job training services to victims of trafficking, and during the reporting period the government expanded Article 18 benefits to labor trafficking victims.

**CPPDU response:**

The budget for 2011 has marked a drastic cut in state funding for social policies, reducing the budget to 1.472 billion euro in 2010 to 349.4 million euro (€ 2,520 in 2008, and 271.6 expected for 2013). Among the various consequences, August 1, 2010, in order to reduce service costs, 14 regional offices of the saving prostitutes toll have been closed to replace them with a single central location.

The set of measures introduced by the Palermo Convention (2000) and its Protocols is very broad and constructive in defining exactly in this direction the magnitude, severity and pervasiveness of the crime of trafficking in human beings for purposes of sexual and/or labor exploitation. The obligation for each State to adopt measures to allow victims of trafficking to remain in the host country is foreseen and vice versa it is prescribed to the State of which the victim is a national, in the case the same decides voluntarily to repatriate, to promote his/her return.

In Italy, our legislator has been a forerunner in the international arena in affirming by law this principle with the introduction of art. 18 of Legislative Decree no. 286/1998. This tool provides for the possibility of the release by the Quaestor of a special stay permit for men and women subjected to violence or serious exploitation, when there



is danger for their safety, for trying to escape the influence of a criminal association or as a result of statements made in a criminal case. The permit is issued to allow them to escape from violence and exploitation and to participate in a program of assistance and social integration, on-demand or on the advice of the Public Prosecutor. The permit, which is valid for six months, may be renewed for the same reasons, for a year or for a longer period. After that time, the stay permit may be renewed for business or converted into a stay permit for study purposes.

Such tool shows a double-track protection:

- 1) the possibility of social integration of the woman (or man) who, through a program of assistance and obtaining a stay permit, has the opportunity to break with the past and escape from exploitation building a new life project. With this means, the victim of trafficking retrieves a dignity annihilated by the experience of the abuse;
- 2) the possibility for victims of trafficking to initially call on the social services or agencies and non-governmental organizations, with an certainly easier and less traumatic approach than the one connected to a complaint to the police (judicial procedure). This possibility of a social path is the most significant aspect of the regulation, because although the social path is still bound to result in the judicial procedure, it represents an action of support to the victim aimed at creating a relationship of trust with the associations taking charge, becoming therefore an incentive for the subsequent judicial cooperation.

This virtuous cycle is, however, made less effective by some other following laws and by a certain carelessness of the problem that affects active policies.

By virtue of the Security Package Law 15.07.2009 No. 94, which introduces the crime of illegal migration as a criminal offense, the Italian migration policy is strongly oriented towards the repression of illegal migration, and this case was superimposed on the need to identify and support victims of trafficking.

Being trafficked persons generally undocumented and lacking a stay permit, they are regularly conducted in the C.I.E. and expelled from the country, without any effective method incorporating the emersion and identification.

With the introduction of the crime of illegal migration, the already difficult task of identifying victims of trafficking and other forms of severe exploitation becomes much more difficult, since to the reserves, fear, intimidation, the risk of criminalization is added. Evidently, the new statutory provisions do not exclude that the victims of the crimes of exploitation can take advantage of the appropriate humanitarian treatment, but the underlying problem is the fact that these are extremely hidden criminal phenomena, the criminalization of irregular migrants and its subsequent immediate expulsion prevent the activation of the virtuous mechanisms of emergence and identification of a victim or at least seriously compromise them.

In conclusion, the tightening of migration policies and the general climate of "illegal hunting" carried out thanks to the complicity of media mainstreaming, anti-prostitution ordinances set up by many Italian Mayors in the past two years, have in fact relegated the problem of human trafficking and exploitation of prostitution in the background, so that today the pursuit of the crime of illegal migration or the need to



make invisible street prostitution appear to take precedence over the protection of human rights of women victims of trafficking, that are often not informed of the possibility of being included in social protection programs, therefore falling into the net of administrative detention, and the risk of being deported to their countries of origin.

This persistent mechanism of fraying rights appears evident in the increasingly restrictive, and sometimes claustrophobic, implementation of Article 18: if it is on the one hand a law by now dated, incapable of accounting for the continuous evolutions in which the phenomenon of human beings trafficking is capable of renewing itself in the light of the new-style repressive migration policies, on the other hand, there is a more limited interpretation of this legislative framework, in which the pursuit of the crime is considered prevailing over the demands the effective protection of women who are victims: it is becoming increasingly common to see women, within the CIE, who alone had the courage to denounce their exploiters, and who have been, however, led into the center, however, as previously affected by expulsion decree. The use of the social track is also always more rare, even if provided for by the law, which foresees a procedure attached to the criminal proceeding as a step preliminary to the issuance of a stay permit.

The failure to take account of the victims as subjects of rights, as well as being unacceptable in principle, can compromise the achievement of the objectives of the laws against trafficking

On 28 March 2011, the National Anti-Mafia Prosecutor, Piero Grasso, has reported that: "Four hundred children, landed in Lampedusa, have disappeared. Some of them were found with slips of paper on which the number of a contact person to get in touch with, probably, belonging to some criminal organization".

**Recommendation n°29: Continue efforts to solve problems related to the penitentiary system, in particular overcrowding in prisons (Recommended by Russian Federation)**

**IRI: partially implemented**

+

**Recommendation n°49: Encourage the adoption of alternatives to the deprivation of liberty, and of agreements allowing sentences to be served in countries of origin and the possibility of reintegration of foreign prisoners (Recommended by Nicaragua)**

**IRI: not implemented**

#### CPPDU response:

Recommendations [29 and 49], both accepted, demand actions to reduce overcrowding in Italian prisons, suggesting the adoption of alternative measures to imprisonment and the possibility of reintegration of foreign detainees. With the establishment of the technical-led Government headed by Mario Monti in November 2011, a state of emergency resulting in excessive overcrowding of prisons throughout the country was again extended on December 23, 2011. Subsequently, the new government ordered the separation of the Office of Deputy Commissioner for the situation deriving from the overcrowding of structures from that of the Head of the Department of Penitentiary Administration, currently held by Giovanni Tamburino substituting the outgoing Franco Ionta.



The Plan for Prison Building, introduced in 2010, has been partially implemented the following year, but it is still far from seeing the 20 pavilions and eleven new institutions designed to relieve congestion in the system made. In February 2011, the works foreseen by the Prison Plan for the extension of a pavilion with 200 places in the structure in Piacenza were started, while at the end of 2011 the first three calls for the construction of the extension works of the structure of Lecce, Taranto and Trapani for a total of 600 places were published, hence, a negligible percentage compared to the exceeding number of detainees.

It should be noted, moreover, that the data on overcrowding in Italian prisons for which Italy is at the top of the list of European countries with a rate of overcrowding of 145.8 per cent (i.e. more than 145 inmates per each bed), is misleading. The calculation is performed by relating the prison population with the capacity of the structures, which, apparently, has increased. From 2007 up to today it appears that Italy has increased the capacity of its prisons of 2,557 places. To a closer inspection, these are not the first effects of the Prison Plan; we are instead assisting to a major concentration of detainees in the available spaces and to the conversion into prison cells of premises originally intended for other essential activities for the livability of the institutions. To May 31, 2012, according to the statistics of the Department of Penitentiary Administration, there are 66,487 detainees for the 45,558 places foreseen by the regulations.

With regard to the staff the following data are registered: 193 surveillance magistrates instead of 208 and the Penitentiary Police staff should be of 45,109 units, but only 39,232 units are active. The implementation of the staffing of the Penitentiary Police that had been planned by the Government through hiring 2,000 new agents, has not been realized. The staff is therefore still lacking as well as finding itself facing a management which is per se difficult as it needs to deal with a number of detainees superior to the regulatory capacity in a disproportion that is to the detriment of the staff and of the detainees.

An increasingly closer relationship between overcrowding and frequency of suicides in prison is in fact evident, caused hence both by the deprivation of liberty and the poor living conditions of the structures. Since the beginning of 2012 about 16 percent of detainees deaths in custody were caused by suicide, and also among the staff, the number of suicides have increased. It must be also considered that in the prisons 1,331 educators and 1,507 social worker operate: quite scarce figures. Overcrowding is also a question of social costs: from 2001 to December 31, 2010 the average daily cost of each individual detainee amounted to Euro 138.7 and it must be considered that since 2007 the detainees were increased up to 50 percent and the resources of the DAP have been decreased by 10 percent.

Recommendation [49] suggested "the adoption of alternative measures to the deprivation of liberty ... and the possibility of reintegration of foreign detainees." Regarding the possibility to integrate professionally detainees, up to 30 June 2011 13,765 people worked in the prison, that is, 20.4 per cent of the detained population, of which 11,508 were working employed by the Prison Administration and 2257 for



external employers, but from 2006 to 2011 the budget allocated for the remuneration of detainee workers decreased by approximately € 21,735,793, reaching € 49,664,207 at the end of 2011, despite the inmates increased by more than 15,000 units . In addition, at the end of June 2011, detainees recruitment incentives, for cooperatives and companies, foreseen by the Law 22.6.2000, n. 193, so-called "Smuraglia" for the current year, were no longer operating since the budget available to cover the tax benefits provided by the DM February 25, 2002, 87 was exhausted. In February 2012, in addition, the Draft Bill n. 937 Rules for fostering the work of detainees, presented in October 2011 and aiming at the inclusion of detainees in the labor market, in execution of the sentence or through alternative measures, through tax benefits for companies employing them, has also been blocked by the Budget Committee of the Chamber, for lack of funding,

With regard to the rehabilitation of detainees, for psychological care € 2.6 per month are invested, hence € 0,8 cents per day. Instead for "educational, cultural, recreational and sports activities" € 3.5 euro per month, i.e. € 0,11 cents per day per inmate.

On 31 December 2011 foreigners were 24,954 and became 24,016 in May 31, 2012. They account for 36 percent of the prison population. In fact, the slight decline in the last year (881 foreign detainees less, almost all of the overall decline of last year) is due to the significantly impact of the judgment of the Court of Justice of the European Union which in April 2011 established the duty of the Italian Courts to disapply the rules contained in the Bossi-Fini Law providing for the arrest for the breach of obligation of removal of the Quaestor for the migrant who is not in compliance with the documents. Many non-national detainees have committed crimes related to the use or possession of drugs. A full 36% of the prison population is in for violating the Fini-Giovanardi Law on drugs. Alternative measures to detention, when applied, have been successful with a recurrence of 0.46 percent. Hence a re-evaluation of the penalties, of alternative measures to detention and their applicability, especially in the case of non-nationals would be useful.

**Recommendation n°79: Incorporate in its national law the crime of torture corresponding to the definition of torture in article 1 of the Convention against Torture (Recommended by Czech Republic)**

IRI: *not implemented*

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**Recommendation n°80: Incorporate the crime of torture into domestic law, as recommended by the Committee against Torture (Recommended by Netherlands)**

IRI: *not implemented*

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**Recommendation n°152: Take steps to incorporate the crime of torture as defined by article 1 of the Convention against Torture into domestic law (Recommended by New Zealand)**

IRI: *not implemented*

#### CPPDU response:

On 20 May 2011, Italy was reconfirmed Member State of the UN Human Rights Council for the period 2011-2014. Applying for a second term, the Italian Government



expressed the voluntary commitments for human rights it intended to pursue, among these, the absence of the intention to introduce the crime of torture into domestic criminal can be noted. On this serious breach, supported by the rejection of the recommendation number 8 by the Italian Government in 2010, impacts also the absence of any reference to the ratification of the Optional Protocol to the Council of Europe Convention against Torture (OPCAT). On such an occasion decisive internationally as it is undoubtedly the a candidacy to sit among the 47 Member States of the UN Human Rights Council, Italy has hence failed to promise also with regard to the need to set up an independent body to be able to visit and inspect places of detention, including centers for migrants and asylum seekers. The substantial immobility in prevention and condemnation of all forms of torture and inhuman and degrading treatment where the Italian legislator has ended up is accompanied by the aggravating deafness to the calls of the more recent case law. In particular, it is worth recalling the important judgment of the Criminal Court of Asti of January 30, 2012 that sent acquitted five prison policemen accused of violence and abuse suffered by two inmates in the Home District of Asti between 2004 and 2005. Among the reasons for the judge, where the abuses are clearly documented, it is plainly evidenced the existence of a gap in the law concerning the assumption of torture and it is equally tersely denied what claimed in 2010 by the Italian Government, i.e. that all of the cases of crime foreseen in the Italian law are per se self-sufficient to cover the case of torture. The Asti sentence, the most recent on behalf of a jurisprudence to this effect, recalls the definition of torture and inhuman and degrading treatments as written in the UN Convention of 1984 that Italy has signed, ratified and which still awaits to be fully implemented.

**Recommendation n°143: Take measures to raise awareness of existing legal provisions against hate speech, and to take prompt action to bring those responsible for breaking the law to justice (Recommended by Canada)**

**IRI: not implemented**

**LGBT response:**

Article 3 of Law no. 654 of 1975 which ratifies and implements the 1966 International Convention on the Elimination of All Forms of Racial Discrimination, as amended by the already mentioned Law no. 203 of 1995 (so-called Mancino Law) penalises: a) those who propagandize ideas founded on racial or ethnic superiority or hate, or solicit someone to commit, or themselves commit, acts of discrimination for reasons of race, ethnicity, nationality or religion; b) those who, in every way, solicit someone to commit, or themselves commit, violence or acts which induce to violence for reasons of race, ethnicity, nationality or religion; c) those who take part or support organizations, associations, movements or groups which aim to solicit discrimination or violence for reasons of race, ethnicity, nationality or religion.

Such criminal provisions do not punish hate speech related to homophobia and transphobia .

During the period of the XV legislature (April 2006-February 2008) many bills were presented before Parliament, in order to extend these criminal provisions to discrimination on the ground of sexual orientation. However, none of these have been approved because of the government crisis and the subsequent early



dissolution of Parliament in February 2008 . As seen above in 2009 and 2011 two bills including homophobia and transphobia in Italy's bias-motivated crime laws were rejected by the Chamber of Deputies on the grounds they were unconstitutional.

The two bills aiming at fighting against hate crimes on grounds of sexual orientation and gender identity that have been brought before the Chamber of Deputies in 2011 (AC-2807 and AC-4631) and are currently being discussed in the Justice Committee of the Chamber of Deputies (see art. 2) also aim at fighting homophobic and transphobic hate speech through the amendment of Law no. 654 of 1975 (so-called "Reale" Law), ratifying the 1966 UN Convention on the Elimination of All Forms of Racial Discrimination and Law as amended by the Mancino Law (Law no. 205 of 1993).

However, it has to be recalled that the 'Court of Cassation', with decision no. 24513 of 17 July 2006, annulled a first instance judgment of acquittal of a man who used the epithet 'frocio' against another man: the Supreme Court held that the judgment was «against the logic and social sensitivity» and that the use of such epithet shows «a clear intent of derision and scorn».

## SOGI

**Recommendation n°51: Ensure adequate protection of LGBT people, not only through police forces on the streets, but legally via anti-discrimination law (Recommended by Norway)**

IRI: *partially implemented*

LGBT response:

Directive 78/2000/EC establishing a general framework for equal treatment in employment and occupation has been implemented in Italy by Legislative Decree no. 216/2003: discrimination based on sexual orientation has been explicitly banned for the first time. Such legislative act, issued by the government acting upon delegation of the Parliament, aims to combat both direct discrimination (differential treatment based on a specific characteristic) and indirect discrimination (any provision, criterion or practice which is neutral on its face but is liable to adversely affect one or more specific individuals or incite discrimination). Harassment, which creates a hostile environment, is deemed to be discrimination too. It covers: conditions of access to employed or self-employed activities, including promotion; vocational training; employment and working conditions (including pay and dismissals); membership of and involvement in an organisation of employers or workers or any other organisation whose members carry on a particular profession and it applies as much to the public sector as to the private sector including public bodies as well as for paid and unpaid work.

The Italian transposition of Directive 78/2000/EC created many significant exceptions to the principle of non – discrimination: with regard to sexual orientation, Legislative Decree no. 216/2003 originally stated in its art. 3 that it could not apply to the armed



forces or the police, contrary to the EU directive. This controversial part has then been amended by Law no. 101/2008, art. 8 septies.

Besides, Art. 1468 of Legislative Decree no. 66 of 2010 containing the ‘Military Code’ prohibits all discrimination against LGBT military personnel in access, recruitment, duty assignments and transfers.

More recently, Law no. 183 of 2010 known as the “Collegato Lavoro” affected several aspects of employment law: its art. 21 provides for measures aimed at guaranteeing equal opportunities, the wellbeing of workers and the lack of discrimination in public administration offices. It strengthens the fight against all discriminations and sexual orientation is mentioned as one of the grounds of discrimination. It also established a new Committee ('Comitato Unico di Garanzia per le pari opportunità, la valorizzazione del benessere di chi lavora e contro le discriminazioni - Single Warrant Committee for equal opportunities, for enhancing the worker's wellbeing and against discriminations') named CUG, which will substitute the CPO absorbing all its functions with the additional tasks of working against discrimination in all public workplaces.

There are no national laws explicitly forbidding discrimination based on gender identity or referred to trans people; however, discrimination against such individuals are to be considered legally forbidden because of the general prohibition of gender discrimination as the European Court of Justice ruled in the case ‘P. v. S. and Cornwall Council County’. Nevertheless, lack of a specific law yield to a lower level of protection of trans persons and may reinforce the condition of invisibility of their condition of discrimination.

#### SRI response:

The National Office against Racial Discrimination does significant work to address discrimination against LGBT people in Italy, despite lacking a specific mandate to do so. National anti-discrimination legislation adheres to a hierarchy of grounds by which sexual orientation and gender identity are afforded less protection than other protected categories. While LGB persons are protected against discrimination in employment, national law does not explicitly protect them from discrimination in other spheres like access to goods and services, or housing. Italy does not grant same-sex couples equal access to marriage, nor does it recognize same-sex civil unions.

#### CPPDU response:

##### Discrimination Based on Sexual Orientation

From the point of view of the implementation of the standards contained in the Recommendation n. [51] we highlight how in this country the adoption of a law against acts of discrimination, assaults and violence against lesbian, gay, bisexual and transgender, as well as an adjustment of the legislation that ensures equal access to the rights for all citizens meeting a systematic and fierce opposition from the Government and the national Parliament.

In our country there are two particular laws. The first concerning the humanitarian protection for foreign nationals who are discriminated against or persecuted in their



homeland because of sexual orientation or gender identity contained in the Bossi-Fini Law.

The second concerns the implementation of the European Directive 2000/78 Afghanistan discrimination in the workplace, which has been implemented in a insufficient and problematic way and therefore results difficult and scarcely applicable.

Recently an Observatory of the State Police, the OSCAD, has been established designed to monitor and protect victims of discrimination crimes, including homophobia and transphobia. The Ministry for Equal Opportunities has launched in the past year an awareness campaign against homophobia and transphobia.

After the approval of a ruling of unconstitutionality passed last year on an anti-homophobia law, we measure presented by Hon. Concia (PD) for the establishment of an aggravating circumstance for crimes committed on the basis of sexual orientation and gender identity.

The most important interest groups as well as CGIL indentify in the extension of the Law Mancino the most suitable tool not only to sanction but also to prevent from the cultural point of view the homophobic and transphobic phenomenon present in our country in increasing and alarming size and proportion.

In Europe homophobia protection laws are present in Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Luxembourg, Netherlands, Norway, Romania, Slovenia, Spain, Switzerland, Sweden, Hungary , England, Serbia and Montenegro and Czech Republic

The approval of a horizontal directive on discrimination in the European Parliament will urge even more Member States to produce legislation in this regard.

Italy has an urgent need to recover a guilty delay and to adjust its legislation for the protection of a vulnerable segment of the population particularly exposed to discrimination and violence. Any delay in this regard is an act of moral complicity.

**Recommendation n°73: Give special attention to cases of possible discrimination for reason of sexual identity or orientation, and ensure that cases of violence against such persons are appropriately investigated and prosecuted (Recommended by Spain)**

**IRI: not implemented**

#### LGBT response:

No information is available on the curricula of the training courses that Police and Carabinieri officers attend so it is impossible to determine if such trainings deal with the need to make special efforts to investigate homophobic or transphobic hate crimes or hate motivated incidents.

In 2010 the 'Observatory for security against acts of discrimination' (Osservatorio per la sicurezza contro gli atti discriminatori - OSCAD) was established to help individuals who belong to minorities to enjoy their right to equality before the law and



guarantee protection against any form of discrimination. According to the official communication ('circolare') sent by the Department of the Public Security to the provincial police offices, the 'Questure', in March, 25th 2011 , the OSCAD is entitled of organizing training courses for police forces on issues related to discrimination in the field of security. The OSCAD Chief President has also signed a Memorandum of understanding with the 'National Office Against Racial Discrimination' (Ufficio Nazionale Antidiscriminazioni Razziali – UNAR) . The agreement includes the UNAR support for trainings activities on anti-discrimination to police forces. However it is unknown the number of trainings organized, the number of beneficiaries involved and the detailed curricula.

It is unknown the existence of training programmes for judiciary as well as the adoption of specific procedures amongst judiciary. Regarding police forces, according to the official communication sent by the Department of the Public Security to the provincial police offices, the 'Questure', in March, 25th 2011 , the OSCAD has defined a procedure to collect information about cases of discrimination in the field of security against persons belonging to minorities. Cases can be reported by other institutions, civil society's organisations, and citizens including LGBT persons and NGOs. The communication describes the procedure as follows: when cases of violence or discrimination are directly reported to OSCAD, the Observatory first analyse the cases and, afterwards, transmits them to the appropriate local office of the *Polizia di Stato* or *Arma dei Carabinieri* in order to gather proofs. The Observatory then follows the development of cases. The provincial police offices also have to inform the OSCAD of the discrimination cases reported to them.

Nevertheless, according to the abovementioned communication there is neither reference to a procedure that might help police officers to recognise those cases nor explicit criteria that define discrimination in the field of security.

#### SRI response:

On 27 July 2011, Italy's parliament has rejected a bill to protect lesbian, gay, bisexual and trans people from discrimination. Italy already bans discrimination on the grounds of race, religion, ethnicity and nationality but campaigners say rising numbers of homophobic and transphobic attacks means LGBT people need more protection. Last year, Berlusconi, former Italian premier brushed off criticism, saying: "It's better to be passionate about beautiful women than to be gay."

#### CPPDU response:

[See response to recommendation n° 51]

**Recommendation n°124: Strengthen measures to prohibit discrimination based on sexual orientation and gender identity and combat hate crimes on these grounds (Recommended by Netherlands)**

IRI: *not implemented*

#### LGBT response:

Law no. 205 of 1993, commonly referred to as the Mancino Law, allows judges to increase the sentence to be imposed for a crime, by up to half, if it was committed «with the purpose of discrimination or hatred based on ethnicity, nationality, race, or



religion, or in order to facilitate the activity of organizations, associations, movements, or groups that have this purpose among their objectives».

Grounds for hate crimes such as sexual orientation and gender identity are not included in the law. Lesbian, gay, bisexual and transgender rights groups have been advocating for several years for a broadening of hate crimes.

During the past decade different bills have been presented before Parliament, in order to extend the above mentioned criminal provisions to discrimination on the ground of sexual orientation. However, none of these have yet been approved.

During the period of the XV legislature (April 2006–February 2008), different bills were presented before Parliament, in order to extend these criminal provisions to discrimination on the ground of sexual orientation. However, none of these have been approved because of the government crisis and the subsequent early dissolution of Parliament in February 2008.

On October 13, 2009, the Chamber of Deputies threw out bill AC-1658–1882 brought by some members of the opposition parties to include homophobia and transphobia in Italy's bias-motivated crime laws on the grounds it was unconstitutional. The preliminary questions moved by the coalition 'Unione di Centro' and supported by 'Lega Nord' and 'Popolo delle Libertà' were approved: doubts of constitutionality concerned the supposed violation of many constitutional norms, among which: «[...] the norm is in contrast with art. 25 Const. because in the absence of a definition of "sexual orientation", the aggravating circumstance violates the principle of strict legality; it has to be noticed that the term "sexual orientation" is not defined nor is it findable in the criminal system. The term is extremely general since it might refer to specific phenomena such as homosexuality as well as, more generally, to any "sexual tendency" including incest, pedophilia, zoophilia, sadism, masochism and any other kind of sexual choice that have nothing to do with homosexuality [...]».

In May 2011 a revised bill against homophobia and transphobia (AC-2802) was introduced in the Chamber of Deputies but it was once again rejected on July 26, 2011.

In September 2011 two other bills aiming at fighting against hate crimes on grounds of sexual orientation and gender identity have been brought before the Chamber of Deputies (AC-2807 and AC-4631) and are currently being discussed in the Justice Committee of the Chamber of Deputies.

#### SRI response:

Incitement to hatred, violence or discrimination on the grounds of sexual orientation and gender identity are not specific criminal offenses under Italian law. The statute providing for enhanced penalties for crimes motivated by bias does not include sexual orientation and gender identity as protected characteristics. A bill to reform the statute was defeated in October 2009, and a new bill presented in May was strongly contested by members of the majority in Parliament, with further debate postponed pending an opinion about its conformity with the Italian constitution.

CPPDU response:

[See response to recommendation n° 51]

Recommendation n°154: *Undertake further campaigns against homophobia*  
 (Recommended by Norway)

IRI: *partially implemented*

LGBT response:

In 2010 the Department for Equal Opportunities has launched the social communication campaign 'Refuse Homophobia' (Rifiuta l'omofobia). The campaign includes several communication materials such as video and radio spots.

Nevertheless, it is unknown the existence of a comprehensive strategy including long-term education and awareness raising programmes, aimed at tackling discriminatory or biased attitudes and behaviour within the general public and correcting prejudices and stereotypes against LGBT persons is still missing.

SRI response:

The Italian Department for Equal Opportunities has launched the campaign "Rifiuta l'omofobia!" (rejects omophobia!) in this [website](#).

CPPDU response:

[See response to recommendation n° 51]

## Women & Children

Recommendation n°3: *Adopt a national plan for children as soon as possible*  
 (Recommended by Uruguay)

IRI: *fully implemented*

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Recommendation n°4: *Adopt and implement a national plan of action for children*  
 (Recommended by Iran)

IRI: *fully implemented*

SRI response:

The National Observatory on Childhood and Adolescence coordinates the activities of the central administration, of Regions, local authorities, associations, professional organizations and NGOs focusing on children. The National Observatory has the task of drawing up official documents concerning childhood and adolescence.

The National Action Plan for the protection of the rights and development of children and adolescents, which is elaborated every two years with the aim of establishing the priorities of programmes concerning minors and of strengthening cooperation for the welfare of children around the world. After hearing the mandatory opinion of the Parliamentary Committee on Childhood and Adolescence, the National Plan is



approved by the Council of Ministers, adopted through a Decree of the President of the Republic and published on the Official Journal.

The Two-Year Report on the condition of children in Italy and on the implementation of their rights.

The Draft report of the Italian Government to the UN on the implementation of the international Convention on the Rights of the Child of 1989 at the deadlines established by art. 44 of the Convention.

As laid down by Presidential Decree no. 103/2007, the National Observatory carries out its activities through the National Documentation and Analysis Centre for Childhood and Adolescence.

**CPPDU response:**

The cut in resources allotted for children and adolescents and the lack of equalization tools at national level, such as the basic levels of social benefits, increase the discrimination at the regional level and do not ensure that all children have equal access to their rights. Serious concern is expressed over the cancellation of the National Extraordinary Fund for the Socio-Educational Services for early childhood and the failure to provide the allocation of resources to the National Fund for Social Policies. In addition, the National Plan for Childhood and Adolescence 2010/2011, promulgated after seven years in January 2011, does not include any funding. It should be also noted that it is difficult to understand how and where in Italy are allocated resources devoted to children and adolescents, and which are the effects of the laws and the national economic proceedings and of the actions at regional level and of local authorities.

**Recommendation n°6: Adopt special procedures to ensure the effective protection of the rights of unaccompanied children in their access to asylum procedures (Recommended by Czech Republic)**

IRI: *not implemented*

**SRI response:**

While the significant solicitation of UNHCR, neither Berlusconi's government, nor the 2011 government headed by Monti have taken significant steps in this direction. Italian legislation in this sector reflects a significant emergency approach.

**CPPDU response:**

With regard to the UPR Recommendation n. [6] on the reception of unaccompanied minors it should be noted that the issue regarding the right to the protection and hospitality remains still open. To December 31, 2011 they turn out to be 7750, 1791 of which are untraceable. Most of the unaccompanied minors reported to the Committee for Foreign Minors (7,333) are young people between the ages of 16 (2,006) and 17 years (4,207) and were placed in facilities for minors (6844). A legislative level there is no single legislative text of reference for the protection and reception of unaccompanied minors. A critical point is also represented by the inadequate conditions of initial reception and the lack of a national reception system. The structures in which children are received, as they arrive or are traced in the



territory, are unfit, especially for a long period of time. In addition there is a lack of a national reception system capable of identifying quickly whether and in which municipalities places in communities for children are available and of clarifying the competence and responsibility, including economic, to make the placement of the child.

One among the most critical issues for the protection and reception of unaccompanied minors, remains the age assessment. In the attempt of determining the age declared by migrants, medical tests should be [sought], in fact, only as a last resort, i.e. only if doubts obvious and justified arise with respect to the declaration made and it is not possible to determine the age in other ways, for example by requesting documents to the consular authorities of the country of origin. In practice, it happens that medical tests are utilized first and/or in lieu of other instruments and, mostly, even when there is no reasonable doubt as the major or a minor age is obvious.

**Recommendation n°28: Continue efforts to establish an independent institution for the promotion and protection of human rights and fundamental freedoms, as well as an independent national body for the promotion of the rights of the child (Recommended by Russian Federation)**

IRI: *not implemented*

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**Recommendation n°67: Establish an ombudsperson for children according to the Paris Principles (Recommended by Norway)**

IRI: *not implemented*

#### CPPDU response:

Italy remains still today one of the few states ([www.nhri.net](http://www.nhri.net)) without an independent national human rights institution, in line with the Paris Principles and the Resolution 48/134 adopted by the UN General Assembly on 20 December 1993 and the Resolution of the Council of Europe (97) 11 of 30 September 1997. The UPR with its A/HRC/14/4/Add.1 recommendations 11-15 May 2010, along with all the specific recommendations of the United Nations Treaty Bodies that have examined the Italian context in the last decade (CRC / C / 15/Add198 of March 18, 2003, CESCR / ITA / 04 of 26 November 2004; CCPR/C/ITA/CO/05 of 2 November 2005, CEDAW, 2005 A/60/38 (SUPP), CAT / C / E / CO / 4 of 18 May 2007, CERD/C/ITA/CO/15 of May 16, 2008, CERD/C/ITA/CO/16-18 of March 9, 2012), have highlighted this Italian gap.

The Italian really has no justification. The Italian Government, on May 8, 2007, in presenting its first candidature to the new UN Human Rights Council for the following three years (Italy was elected for the period 2007-2010) has formally committed itself in front of the General Assembly of the United Nations "... to create the Independent National Commission for the promotion and protection of human rights and fundamental freedoms ...". However, despite having disregarded this formal commitment, again in 2011, while presenting for the second time its candidature to the UN Human Rights Council has again formally promised as voluntary pledge to create "the Independent National Commission for the Promotion and Protection of human rights in accordance with the Paris Principles ..." to fulfill during its second term 2011-2014 (Italy was elected on May 20, with formal effect from 19 June 2011).



In the same year, after more than a decade of attempts by several parliamentarians, a new Draft Law no. 4534: "Establishment of the National Commission for the promotion and protection of human rights", prepared by the Government without any involvement of civil society, by 27 MPs, was approved in the Senate in July 2011 and submitted to the Chamber of Deputies, where it has been modified. The new text, which has not yet been officially announced, and therefore it is not possible to analyze the recent changes made, is still standing in the Constitutional Affairs Commission of the Chamber of Deputies pending approval before being returned to the Senate for final approval.

As per what concerns the process for the parliamentary debate it can be noted that, apart from the knowledge of some parliamentarians, in recent years, from 2004 to 2012, there has been no consultation process, inclusive, transparent and participatory, taking into account that the participation of civil society in all stages leading to the creation of an independent national human rights institution is one of the basic requirements of the Paris Principles and international standards. This fact contrasts with the recommendations of the United Nations formally expressed by the Office of the UN High Commissioner for Human Rights, Office of National Institutions.

The Paris Principles specifically recommended that the creation of an independent national human rights institution is carried out through a transparent, participatory and inclusive process of all social forces of civil society considered in its broadest sense (Article 1 of Section Composition and guarantees of independence and pluralism) with its active participation in at least three life stages of creation: creation, composition / appointment of the members of the Commission and the mechanisms and methods of cooperation between the national institution for human rights and civil society.

### **National Ombudsperson for the Rights of the Child**

2011 was a pivotal year: in June, the Law for the establishment of the National Ombudsperson passed and, in November, the first National Ombudsman of the Rights of the Child was appointed. The establishing Law provides that the Ombudsperson is appointed through the agreement of the Presidents of the two Chambers (Chamber of Deputies and Senate), and that this appointment is incompatible with any other office or activity in both the public and private sectors. Among the competences, hearing primarily of children and adolescents, but also consultation of associations and organizations; the signaling of an emergency, but also of appropriate actions to be taken by the competent institutions, in particular, are to be evidenced. However, it should be noted, that to this time the regulations to be adopted by Decree of the President of the Council of Ministers have not yet been approved, this delay is affecting the work and activities of the Office of the Ombudsperson. Currently, nine regional ombudspersons are active and among them three do not have an exclusive mandate. Often the establishing laws differ in mandate, expertise and resources available, causing a further differentiation in access to rights.

In particular, with reference to the current Draft Bill being debated in Parliament for the establishment of an independent national human rights institution, it will be necessary, in the final definition of said law, to pay special attention to the link with the National Ombudsperson for the Rights of the Child, to implement an approach



that fully includes the rights of children and adolescents within a strengthened national framework on human rights.

**Recommendation n°54: Ensure real equality of opportunities for women in the labour market, and consolidate the principle of equal pay for equal work (Recommended by Cuba)**

IRI: *partially implemented*

**SRI response:**

Several measures were taken to address this issue without success. Gender pay gap persist, especially in the private sector. And low rate of female occupation persist in the southern regions.

**CPPDU response:**

In terms of the proclaiming the principle, it is clear that in Italy Equal Opportunities are fully recognized at institutional level, but in the context of the labor market strong discrimination persists and, what is most worrying, not always the direction in which the Government is moving is the one of their concrete implementation.

With regard to equal opportunities in the workplace there are some improved measures announced by the new Government but not yet launched.

The bill "Reform of the Labor Market" presented to the Council of Ministers in April 2012, in Article 55 envisages to overcome the "blank resignations" (in 2009 - after the Brunetta Law it concerned 800,000 women ( Source: ISTAT).

According to Minister Fornero, it is not necessary - by repealing the Brunetta Law of 2008 - to revive the Law 188/2007, which should however be reformulated, as this is a repealed law. This position was considered weak both by the unions and the women's movements.

The Minister of Labor, besides having repeatedly stated to wish to eliminate this legalized practice, which she defined "shameful", is committed to foresee in cited bill, provisions that can make women's work more compatible with family obligations, including the involvement of both parents in the parental leave. Such measures, focusing mainly on considering the family as a social safety net, also on behalf of the Minister for Social Cooperation and Integration, do not constitute a guarantee for an increased access of women to labour.

Moreover, they are measures that have not yet entered in regimen as the new regulatory text has not yet been launched.

Currently, the female unemployment rate stands at 9.9 percent with an increase of 0.3 per cent: compared to the previous year, an increase of 0.6 (less than the male unemployment rate). The idle are around 37.1 percent, with a slight decrease compared to last year. Always compared to the previous year, there was a female employment rate of 46.9 percent with a slight increase compared to the 46.1 of the previous year, an increase which also occurs in the male employment rate (the reason could be the impossibility of leave for retirement). But with regard to women's



employment, the reality - although not easily codified as per the nature of non-standard contracts and the entity (discordant) of wages - does not seem geared to "equal opportunities". It is a heterogeneous landscape that escapes control and on which it is difficult to make statistics than those observed empirically which show wages lower to any national legislation under the blackmail of losing the job.

The economic and financial crisis, even more than in the past, has not in fact allowed any improvement to the condition found in the previous monitoring.

The lack of investments in kindergartens and nursery schools, both in the South and in the North of Italy, together with welfare cuts operated by local and regional institutions, continues to impact on the free caretaker work of women in the family.

Please refer to the comments already made last year about the "Plan Italy 2020" as no changes have been registered.

**Recommendation n°71:** *Extend outreach and identification efforts to women and children in prostitution, to ensure that trafficking victims are identified, given care and not penalized for crimes committed as a direct result of being trafficked to identify proactively potential trafficking victims among its undocumented immigrants to continue to investigate and prosecute allegations of trafficking-related complicity and to expand public awareness campaigns aimed at reducing domestic demand for commercial sex acts (Recommended by United States)*

IRI: *partially implemented*

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**Recommendation n°116:** *Strengthen efforts to combat trafficking in women and children, and to take effective measures to prosecute and punish trafficking in persons, as raised by the Committee on the Rights of the Child and the Committee against Torture (Recommended by Japan)*

IRI: *partially implemented*

#### SRI response:

The Government of Italy fully complies with the minimum standards for the elimination of trafficking. The government generally continued to implement a flexible, victim-centered approach to victim identification and provided comprehensive protection and assistance to a significant number of trafficking victims in 2011. It continued vigorously to prosecute and convict trafficking offenders using its trafficking law. NGOs remain concerned, however, that the government's focus on the expedited return of illegal migrants – such as its efforts in 2009 to interdict African migrants on the high seas and deliver them to Libya, and to deport foreign women found in street prostitution without screening them for trafficking indicators – may have resulted in trafficking victims not being identified by authorities, and their being treated as law violators and thus penalized for unlawful acts committed as a direct result of being trafficked. The Italian government continued its strong efforts to identify and protect victims of trafficking by promoting a flexible, victim-centered approach to identifying potential trafficking victims. Although Italy does not have a formal reflection period during which trafficking victims can recuperate and decide whether to assist law enforcement, authorities informally grant this to victims and do not limit it to a finite number of days. The Government of Italy continued to vigorously investigate, prosecute, and convict trafficking offenders during the reporting period.



Italy prohibits all forms of trafficking in persons through its 2003 Measures Against Trafficking in Persons Law, which prescribes penalties of eight to 20 years' imprisonment.

#### CPPDU response:

The budget for 2011 has marked a drastic cut in state funding for social policies, reducing the budget to 1.472 billion euro in 2010 to 349.4 million euro (€ 2,520 in 2008, and 271.6 expected for 2013). Among the various consequences, August 1, 2010, in order to reduce service costs, 14 regional offices of the saving prostitutes toll have been closed to replace them with a single central location.

The set of measures introduced by the Palermo Convention (2000) and its Protocols is very broad and constructive in defining exactly in this direction the magnitude, severity and pervasiveness of the crime of trafficking in human beings for purposes of sexual and/or labor exploitation. The obligation for each State to adopt measures to allow victims of trafficking to remain in the host country is foreseen and vice versa it is prescribed to the State of which the victim is a national, in the case the same decides voluntarily to repatriate, to promote his/her return.

In Italy, our legislator has been a forerunner in the international arena in affirming by law this principle with the introduction of art. 18 of Legislative Decree no. 286/1998. This tool provides for the possibility of the release by the Quaestor of a special stay permit for men and women subjected to violence or serious exploitation, when there is danger for their safety, for trying to escape the influence of a criminal association or as a result of statements made in a criminal case. The permit is issued to allow them to escape from violence and exploitation and to participate in a program of assistance and social integration, on-demand or on the advice of the Public Prosecutor. The permit, which is valid for six months, may be renewed for the same reasons, for a year or for a longer period. After that time, the stay permit may be renewed for business or converted into a stay permit for study purposes.

Such tool shows a double-track protection:

- 1) the possibility of social integration of the woman (or man) who, through a program of assistance and obtaining a stay permit, has the opportunity to break with the past and escape from exploitation building a new life project. With this means, the victim of trafficking retrieves a dignity annihilated by the experience of the abuse;
- 2) the possibility for victims of trafficking to initially call on the social services or agencies and non-governmental organizations, with an certainly easier and less traumatic approach than the one connected to a complaint to the police (judicial procedure). This possibility of a social path is the most significant aspect of the regulation, because although the social path is still bound to result in the judicial procedure, it represents an action of support to the victim aimed at creating a relationship of trust with the associations taking charge, becoming therefore an incentive for the subsequent judicial cooperation.

This virtuous cycle is, however, made less effective by some other following laws and by a certain carelessness of the problem that affects active policies.



By virtue of the Security Package Law 15.07.2009 No. 94, which introduces the crime of illegal migration as a criminal offense, the Italian migration policy is strongly oriented towards the repression of illegal migration, and this case was superimposed on the need to identify and support victims of trafficking.

Being trafficked persons generally undocumented and lacking a stay permit, they are regularly conducted in the C.I.E. and expelled from the country, without any effective method incorporating the emersion and identification.

With the introduction of the crime of illegal migration, the already difficult task of identifying victims of trafficking and other forms of severe exploitation becomes much more difficult, since to the reserves, fear, intimidation, the risk of criminalization is added. Evidently, the new statutory provisions do not exclude that the victims of the crimes of exploitation can take advantage of the appropriate humanitarian treatment, but the underlying problem is the fact that these are extremely hidden criminal phenomena, the criminalization of irregular migrants and its subsequent immediate expulsion prevent the activation of the virtuous mechanisms of emergence and identification of a victim or at least seriously compromise them.

In conclusion, the tightening of migration policies and the general climate of "illegal hunting" carried out thanks to the complicity of media mainstreaming, anti-prostitution ordinances set up by many Italian Mayors in the past two years, have in fact relegated the problem of human trafficking and exploitation of prostitution in the background, so that today the pursuit of the crime of illegal migration or the need to make invisible street prostitution appear to take precedence over the protection of human rights of women victims of trafficking, that are often not informed of the possibility of being included in social protection programs, therefore falling into the net of administrative detention, and the risk of being deported to their countries of origin.

This persistent mechanism of fraying rights appears evident in the increasingly restrictive, and sometimes claustrophobic, implementation of Article 18: if it is on the one hand a law by now dated, incapable of accounting for the continuous evolutions in which the phenomenon of human beings trafficking is capable of renewing itself in the light of the new-style repressive migration policies, on the other hand, there is a more limited interpretation of this legislative framework, in which the pursuit of the crime is considered prevailing over the demands the effective protection of women who are victims: it is becoming increasingly common to see women, within the CIE, who alone had the courage to denounce their exploiters, and who have been, however, led into the center, however, as previously affected by expulsion decree. The use of the social track is also always more rare, even if provided for by the law, which foresees a procedure attached to the criminal proceeding as a step preliminary to the issuance of a stay permit.

The failure to take account of the victims as subjects of rights, as well as being unacceptable in principle, can compromise the achievement of the objectives of the laws against trafficking



On 28 March 2011, the National Anti-Mafia Prosecutor, Piero Grasso, has reported that: "Four hundred children, landed in Lampedusa, have disappeared. Some of them were found with slips of paper on which the number of a contact person to get in touch with, probably, belonging to some criminal organization".

**Recommendation n°75: Implement existing Law 91/1992 on Italian citizenship in a manner that preserves the rights of all children born in Italy (Recommended by Chile)**

**IRI: not implemented**

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**Recommendation n°146: Take necessary measures, including administrative measures, to facilitate access to education to children who are not of Italian origin (Recommended by Uruguay)**

**IRI: not implemented**

CPPDU response:

Recommendation n. [75] on the right to citizenship, transposed by our Government, in our view, is still disregarded. It is necessary without delay to reform the Law 91/1992 in order to ensure facilitated routes for the acquisition of the Italian citizenship for foreign children born in Italy and minors arrived in our country at an early age. According to the latest ISTAT data, the foreign population resident in Italy at 31 December 2010 amounted to 4,570,317 persons, of which about 22 percent (993,238 units) minors. Out of these about 650,000 were born in Italy (the so-called second generation); in 2010 approximately 78,000 children were born from two foreign parents (both EU and non-EU). Finally, in school year 2010-2011, 711,046 non-Italian pupils were enrolled in the national education system, which is equivalent to 7.9 percent of the total school population. If we compare these data with those for the acquisition of the citizenship, in particular for new eighteen year old young people of foreign origin but born in Italy the gap between the increasingly significant presence of the so-called second generation and the relatively small number of acquisitions of citizenship, it is evident. In 2010, in fact, according to the Ministry of the Interior citizenships granted as a result of residence or marriage amounted to 40,084, while those granted by the municipalities were 25,854.

In the 2010-2011 school year students with foreign nationality were 709,826: 37.1 percent in the North-West, 28.4 percent in the North-East, 23.3 percent in the Center, 7.9 in South and 3.4 in the Islands. The nationalities present in the Italian school are 188, bearers of differences that are configured on one hand as innovative contributions to the socio-educational context, and on the other as specific needs placed on the organization of the educational system. Besides the quantitative dimension and the rate of increase, another factor of great importance is the territorial link, through the birth in Italy, of those who continue to be called foreign minors. To January 1, 2011, among the 4,570,317 foreign residents, of which 993,238 were minors, the children born in Italy were almost 650,000, averaging 13 percent of resident migrants (1 of 8). Birth in Italy is the condition of 78.4 per cent of the students enrolled in kindergarten (3 of 4) and 53.1 percent of those attending primary school (about 2 of 4). The school is therefore urged to capture a more complete take-over of the structural dimension of migration, which is now fundamental in the present and future Italian society.



**Recommendation n°78: Incorporate in its legislation the 1996 Supreme Court judgement that corporal punishment was not a legitimate method of discipline in the home, and criminalize corporal punishment in all cases, including in education (Recommended by Spain)**

**IRI: not implemented**

**Global Initiative to End All Corporal Punishment of Children (GIEACPC) response:**

Since the initial UPR of Italy in 2010 there has been no reform to ensure that legislation explicitly prohibits all corporal punishment in childrearing. It is currently unlawful by virtue of the 1996 Supreme Court ruling but in the absence of law reform to confirm this there is always the possibility of the ruling being overturned by subsequent rulings. The jurisprudence of the UN Committee on the Rights of the Child and other international and regional treaty monitoring bodies is clear that children's right to legal protection from all forms of corporal punishment requires the reform of written legislation.

**Recommendation n°82: Increase its efforts and adopt a new national plan of action for children, ensuring specialized training for teachers and persons in the field of education of children with disabilities (Recommended by Spain)**

**IRI: partially implemented**

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**Recommendation n°117: Strengthen efforts to finalize, adopt and implement, in consultation and cooperation with relevant stakeholders, including civil society, a national plan of action for children, as recommended by the Committee on the Rights of the Child (Recommended by Israel)**

**IRI: partially implemented**

**CPPDU response:**

The cut in resources allotted for children and adolescents and the lack of equalization tools at national level, such as the basic levels of social benefits, increase the discrimination at the regional level and do not ensure that all children have equal access to their rights. Serious concern is expressed over the cancellation of the National Extraordinary Fund for the Socio-Educational Services for early childhood and the failure to provide the allocation of resources to the National Fund for Social Policies. In addition, the National Plan for Childhood and Adolescence 2010/2011, promulgated after seven years in January 2011, does not include any funding. It should be also noted that it is difficult to understand how and where in Italy are allocated resources devoted to children and adolescents, and which are the effects of the laws and the national economic proceedings and of the actions at regional level and of local authorities.

**Recommendation n°83: Increase measures to identify women and child victims of trafficking effectively in order to provide them with adequate assistance, and to consider not penalizing them for crimes committed as a direct result of being trafficked (Recommended by Philippines)**

**IRI: fully implemented**

**SRI response:**

The Italian government continued its strong efforts to identify and protect victims of trafficking by promoting a flexible, victim-centered approach to identifying potential trafficking victims. Although Italy does not have a formal reflection period during



which trafficking victims can recuperate and decide whether to assist law enforcement, authorities informally grant this to victims and do not limit it to a finite number of days. NGOs praised the good results of this approach when combined with comprehensive assistance.

CPPDU response:

[See response to recommendation n° 71]

Recommendation n°91: *Make efforts aimed at preventing and eliminating all forms of discrimination and abuse vis-à-vis children* (Recommended by Uzbekistan)

**IRI: not implemented**

CPPDU response:

With regard to access to education and schooling of Roma and Sinti children problems related to frequency and drop out of school are still unsolved. At least 20,000 Roma under twelve years, in large part from Romania and former Yugoslavia, escape compulsory education in Italy and it is estimated that "the remaining peer Roma and Sinti are in a general educational delay of not less than three years". In addition, housing conditions, the lower educational level, poor access to health services are among the risk factors for the health of people of Roma origin, especially for children. Finally, the lack of stable accommodation can also lead to a lack of recognition of Italian citizenship, because it is impossible to prove legal residence continuously from birth to the age of 18 years.

It should be noted that in 2011 took place in Geneva at the United Nations the exam of the implementation of the UN Convention on the Rights of the Child (CRC) in Italy, after which, the UN Committee on the Rights of the Child issued its Concluding Observations (October 2011).

Many of the issues raised in the UPR which specifically relate to children have been raised and confirmed also by the above-mentioned international organizations.

**Financial resources**

In general, Italy is still proving careless to childhood; in fact, the funds dedicated to it decrease, and the number of poor children, especially in the regions of Southern Italy conversely increases.

The cut in resources allotted for children and adolescents and the lack of equalization tools at national level, such as the basic levels of social benefits, increase the discrimination at the regional level and do not ensure that all children have equal access to their rights. Serious concern is expressed over the cancellation of the National Extraordinary Fund for the Socio-Educational Services for early childhood and the failure to provide the allocation of resources to the National Fund for Social Policies. In addition, the National Plan for Childhood and Adolescence 2010/2011, promulgated after seven years in January 2011, does not include any funding. It should be also noted that it is difficult to understand how and where in Italy are allocated resources devoted to children and adolescents, and which are the effects of the laws and the national economic proceedings and of the actions at regional level and of local authorities.



## Child Reform

As occurred at the time of the previous Monitoring Report, also this year there has been the failure in reforming the juvenile justice system. A law for the juvenile prison system has not yet been, in fact, adopted. Capable of rethinking the function of the sentence with reference to the minor and aiming at reducing the use of imprisonment and transforming the role and functioning of the IPM.

## Data Collection

In Italy a data collection system focused on minors is still lacking, which is representative and uniform among the various regions in order that data can be comparable and regularly updated. In particular, the lack of reliable data on some specific issues is highlighted: to contrast of pedophilia and child pornography (Law 38/2006), adoptable children (operation start up of the "database of adoptable children and parents waiting for adoption ", ex. art. 40 Law 149/01 and disaggregated data collection in relation to the different types of adoptions in particular cases ex. art. 44;) and for children outside the family, whose modality of data collection - patchy and uneven - makes it difficult to build a national information system. Finally a national system for data collection and analysis on violence and abuse of children and of children with disabilities, including those aged from 0 to 6 years.

## Violence against children

With regard to contrasting violence against children, it is stressed that in addition to the severe lack of data, a gap still persists regarding an information system for monitoring child abuse in Italy, as well as no improvement in wide-range interventions for prevention, detection and treatment of witnessed violence and the introduction of the ban on corporal punishment and ill treatment of children within the family (Recommendation repeated by the Committee on the Rights of the Child in 2011 and accepted by our Government as part of the UPR. In Europe there are 22 countries that have introduced an outright ban to the use of corporal punishment within the family).

[...]

**Recommendation n°93: Promote initiatives to protect women from violence, such as the national network on violence against women, and the national observatory against sexual and gender-based violence, and elaborate the national plan to combat all forms of violence, including domestic violence (Recommended by Israel)**

IRI: partially implemented

### SRI response:

While the significant efforts taken by the Italian department of equal opportunities (like the campaign "Respect women Respect the world") no national observatory against sexual and gender-based violence, and no national plan to combat all forms of violence, including domestic violence were discussed at the governmental level.

### CPPDU response:

With reference to Rec. [93], this year saw a horrifying number of women victims of violence. In Italy 59 women have been killed so far this year, a number reached never before. The Association Donne in rete contro la violenza (Network of Women



Against Violence) which aims at supporting the 60 Anti-Violence Centers – surely insufficient - on the whole Italian territory, has recently recalled "the institutions to an act of political responsibility towards the" femicides ", a phenomenon of male violence on women in our country, asking once again that the fight against violence against women is a strategic priority. " The Association did so on last May 29 , 2012, with a dramatic initiative: "A kick to violence, for women's freedom" a football game played by the national football team.

In 2010 156 women were killed by men (husbands, ex-husbands or ex-partners, relatives or strangers), in 2009 172, 15 more than in 2008 and 20 more than in 2007. In 70 percent of cases, the woman is killed in the house and in 79 percent of cases the femicide is committed by an Italian (source: ISTAT, Annual Report on the State of the Country, Casa delle Donne, 2010).

### **Ongoing Legislative Initiatives in the Field of Sexual Violence**

The Chamber of Deputies approved at its first reading, on July 14, 2009, a consolidated text of numerous Draft Laws (including one of the Government), which provides an organic intervention in the field of sexual violence. This text, which is currently before the Senate (AS 1675), foresees, *inter alia*, heavier penalties for crimes related to sexual violence, further aggravating circumstances, the introduction of the offense of sexual harassment (as defined in the conduct of someone who causes a disturbance by an act or behavior with content sexually explicit), the possibility of intervention in the proceedings of the local authorities, of the Anti-Violence Centers and of the Presidency of the Council (in the case of offenses against children or within the family), measures for information and social support to victims of violence, school initiatives against violence and sexual discrimination.

In addition at the Commission for Justice of the Camera the exam of a Draft Bill extending access to legal aid also for expenditure related to proceedings held abroad for sexual violence committed abroad against Italian citizens has started.

Monday, June 25, 2012, Rashida Manjoo, the UN Special Rapporteur on Violence Against Women, its Causes and Consequences, presented in Geneva, at the Human Rights Council, the report issued as a result of her mission to Italy last January 2012.

Rashida Manjoo, in her report, examines the situation of violence against women in our country, analyzing the causes and consequences, debating the "response of the State" in the prevention of trafficking, protection of victims and identification of remedies necessary to address the problem and prosecute and punish perpetrators. You can read [[the document online](#)]

### **National Plan Against Gender-Based Violence and Stalking**

The Budget Law for 2008 (Law no. 244 of 2007) established a fund with the Presidency of the Council for the implementation of a plan to combat violence against women by allocating to this purpose EUR 20 million for the year 2008.

These financial resources have never been utilized during these years, up to 2011 when, following the favorable opinion expressed by the Joint Conference at its



meeting on October 28, 2010, the Court of Auditors has given the authorization (17 February 2011) to the first National Plan .

### **Female Genital Mutilation**

Law no. 7 of 2006 lays down the necessary measures to prevent, combat and curb the practice of female genital mutilation as a violation of fundamental rights to the integrity of the person and the health of women and children (Article 1).

This law specifically introduced in the Penal Code an autonomous offense (Mutilation of the female genital organs, Art. 583-bis), which punishes with imprisonment from 4 to 12 years anyone, in the absence of therapeutic causes, who procures a female genital mutilation (clitoridectomy, excision, infibulation, and other similar practices)

**Recommendation n°121: Strengthen further its efforts to end trafficking in women and children, and to take effective measures to prosecute and punish trafficking in persons (Recommended by Canada)**

IRI: *partially implemented*

SRI response:

The Italian legislation has so far developed a complex system of intervention in the field of human trafficking considering, as a priority, the protection of victims' rights and in the meanwhile being committed to the prosecution of the traffickers. The Italian legal framework as to the anti-trafficking response is therefore essentially based on two main tools:

1. Article 18 of the National Law on Migration (Legislative Decree n° 286 of 1998), providing for long term protection programs for trafficked persons (Assistance, recovery, residential facilities, trainings, job placement, residence permit, social inclusion)
2. Law n. 228 of 2003 "Provisions against the Trafficking in Human Beings". Providing both for short term assistance programs (art.13) and for prosecution of traffickers.

CPPDU response:

[See response to recommendation n° 71]

**Recommendation n°144: Take more effective measures to combat racial discrimination, in particular against vulnerable groups of women, especially Roma and migrant women, as well as measures to reinforce the respect of their human rights by all available means (Recommended by Chile)**

IRI: *not implemented*

OA response:

No relevant initiative tackling gendered patterns of discrimination.



## Other

**Recommendation n°7:** *Adopt the draft law on an independent national human rights institution in accordance with the Paris Principles, as soon as possible* (Recommended by France)

IRI: *not implemented*

+

**Recommendation n°14:** *Consider establishing, at the earliest, a national human rights institution that is compliant with the Paris Principles* (Recommended by India)

IRI: *not implemented*

+

**Recommendation n°31:** *Continue its efforts on the draft law to set up an independent human rights institution that would function in an independent manner, in accordance with the Paris Principles* (Recommended by Kuwait)

IRI: *not implemented*

+

**Recommendation n°32:** *Continue its efforts to establish a national human rights institution, with a mandate to promote and protect human rights in conformity with the Paris Principles* (Recommended by Burkina Faso)

IRI: *not implemented*

+

**Recommendation n°44:** *Create an autonomous and independent national human rights institution in conformity with the Paris Principles and with the technical assistance of OHCHR* (Recommended by Chile)

IRI: *not implemented*

+

**Recommendation n°66:** *Establish an independent national human rights institution in accordance with the Paris Principles* (Recommended by Azerbaijan)

IRI: *not implemented*

+

**Recommendation n°68:** *Establish its national human rights institution in accordance with the Paris Principles before the end of 2010* (Recommended by Denmark)

IRI: *not implemented*

+

**Recommendation n°69:** *Establish its national human rights institution, on priority, in accordance with the Paris Principles* (Recommended by Pakistan)

IRI: *not implemented*

+

**Recommendation n°70:** *Expedite the process towards the establishment of an independent national human rights institution in conformity with the Paris Principles* (Recommended by Philippines)

IRI: *not implemented*

+



Recommendation n°72: *Finalize the establishment procedure for the national human rights institution according to the Paris Principles* (Recommended by Bosnia & Herzegovina)

IRI: *not implemented*

+

Recommendation n°113: *Speed up efforts towards the establishment of an independent national human rights institution in conformity with the Paris Principles* (Recommended by Malaysia)

IRI: *not implemented*

+

Recommendation n°150: *Take steps to accelerate the existing efforts to establish an independent human rights institution* (Recommended by Algeria)

IRI: *not implemented*

SRI response:

The planning phase of creating more fully fledged NHRI was stopped by the government change of 2011

CPPDU response:

Italy remains still today one of the few states ([www.nhri.net](http://www.nhri.net)) without an independent national human rights institution, in line with the Paris Principles and the Resolution 48/134 adopted by the UN General Assembly on 20 December 1993 and the Resolution of the Council of Europe (97) 11 of 30 September 1997. The UPR with its A/HRC/14/4/Add.1 recommendations 11-15 May 2010, along with all the specific recommendations of the United Nations Treaty Bodies that have examined the Italian context in the last decade [...] have highlighted this Italian gap.

[...]

As per what concerns the process for the parliamentary debate it can be noted that, apart from the knowledge of some parliamentarians, in recent years, from 2004 to 2012, there has been no consultation process, inclusive, transparent and participatory, taking into account that the participation civil society in all stages leading to the creation of an independent national human rights is one of the basic requirements of the Paris Principles and international standards. This fact contrasts with the recommendations of the United Nations formally expressed by the Office of the UN High Commissioner for Human Rights, Office of National Institutions.

[...]



## Methodology

### A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted the Permanent Mission to the UN either in Geneva (when it does exist) or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.
4. UN Agencies which sent information for the UPR were contacted.

We posted our requests to the States and NHRI, and sent emails to NGOs and UN Agencies.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

### B. Processing the recommendations

The persons we contact are encouraged to use an Excel sheet we provide which includes all recommendations received by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was "fully implemented" nor that it was "not implemented", UPR Info usually considers the recommendation as "partially implemented", unless the implementation level is obvious.



UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

### C. Implementation Recommendation Index (IRI)

*UPR Info* developed an index showing the implementation level achieved by the State for the recommendations received at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1. An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

#### ***Disclaimer***

*The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.*



## Uncommented recommendations

Hereby the recommendations which the MIA does not address:

rec. n°	Recommendation	SMR	Response A	Issue
8	Apply criminal provisions on hate speech and hate crimes strictly, and conduct public awareness-raising campaigns to promote tolerance	Czech Republic	Accepted	5 Human rights education and training, Freedom of opinion and expression,
11	Condemn all racist and xenophobic statements, especially by public and elected officials, and make it clear that racist discourse has no place in Italian society	Norway	Accepted	4 Racial discrimination
12	Condemn forcefully and consistently, at the highest level, all racist and xenophobic statements, especially by public and elected officials	Pakistan	Accepted	4 Racial discrimination
23	Consult with and involve civil society in the follow-up to the universal periodic review, including in the implementation of recommendations	United Kingdom	Accepted	4 UPR process, Civil society,
38	Continue the steps in its policy to combat discrimination, especially in view of the increased number of racist acts	Lebanon	Accepted	2 Racial discrimination
40	Continue to ensure that the freedom of the media is guaranteed and, in this regard, to take into account the recommendations of the Special Rapporteur on the right to freedom of expression and the Human Rights Committee	Netherlands	Accepted	2 Treaty bodies, Special procedures, Freedom of the press,
41	Continue to implement constitutional principles relating to freedom of religion and the need to respect religions and their symbols	Kuwait	Accepted	2 Freedom of religion and belief
45	Denounce hate speech and prosecute actively in the justice system those responsible for racist and violent acts	Belgium	Accepted	5 Racial discrimination
46	Develop a national integrated human rights plan in accordance with the Vienna Declaration and Programme of Action	Iran	Rejected	5 National plan of action
53	Ensure full compliance with international law with regard to forced evictions	Sweden	Accepted	4 Right to housing
56	Ensure that amendments to the immigration law are in accordance with existing obligations under the International Covenant for Civil and Political Rights	Spain	Accepted	4 Migrants, International instruments,
59	Ensure that legislative reforms do not infringe the independence of the judiciary	Austria	Accepted	4 Justice
60	Ensure that provisions in the security package are in full compliance with its obligations under international law	Austria	Accepted	4 Public security

## Mid-term Implementation Assessment: Italy



	Establish an effective and inclusive process to follow-up on universal periodic review recommendations, bearing in mind that the active participation of civil society is essential to a meaningful review process	Norway	Accepted	4	UPR process, Civil society,
64	Establish an independent national human rights institution	Iran	Accepted	5	NHRI
76	Implement fully law No. 38-01 on the protection of the Slovenian minority in Italy, and Law No. 482-99	Slovenia	Accepted	5	Minorities
77	Implement fully the visible bilingual topography in the Friuli-Venezia Giulia autonomous region populated by the Slovenian minority	Slovenia	Accepted	5	Minorities
86	Increase the visibility of Slovenian television programmes throughout the Friuli-Venezia Giulia autonomous region, as stipulated in article 19 of law No. 103-75	Slovenia	Accepted	4	Minorities
87	Intensify efforts in the resettlement of refugees, especially with regard to the protracted refugee situations identified by UNHCR	Morocco	Accepted	4	Asylum-seekers - refugees
88	Intensify efforts to combat racial discrimination and intolerance targeting foreign nationals and minority groups, including by investigating promptly and taking action against the perpetrators of racist and xenophobic speeches and public statements	Malaysia	Accepted	5	Racial discrimination, Minorities,
96	Publicize broadly its National Action Plan against Racism and promote its full implementation	Canada	Accepted	5	Racial discrimination, National plan of action,
97	Ratify the Council of Europe Convention on Action against Trafficking in Human Beings	Kyrgyzstan	Accepted	5	Trafficking
98	Ratify the International Convention for the Protection of All Persons from Enforced Disappearance	France	Accepted	5	International instruments, Enforced disappearances,
106	Reinforce the action of the National Office against Racial Discrimination to ensure that it offers victims of acts of discrimination and intolerance in all its forms the most effective protection possible	Algeria	Accepted	4	Racial discrimination
108	Respect the institutions of the Slovenian minority by special treatment and inclusion in decision-making processes kindergartens, schools and theatres	Slovenia	Accepted	4	Minorities
109	Restore Slovenian names to road signs in villages in the Resia-Rezija community	Slovenia	Accepted	5	Minorities
115	Strengthen cooperation with UNHCR in order to guarantee access to a just procedure in identifying the protection needs of those travelling to or are in Italian territory	Mexico	Accepted	4	Freedom of movement
120	Strengthen further authorities' efforts to combat racism in the field of sports, including through legislative measures	Austria	Accepted	4	Racial discrimination

## Mid-term Implementation Assessment: Italy



126	Strengthen the independence of the judiciary	Iran	Rejected	4	Justice
127	Strengthen the mandate and independence of the National Office against Racial Discrimination in line with the Paris Principles	Pakistan	Accepted	4	NHRI
128	Strengthen the mandate of the National Office against Racial Discrimination	Bosnia & Herzegovina	Accepted	4	Racial discrimination
129	Strengthen the National Office against Racial Discrimination in terms of its capacity to provide assistance to victims and raise awareness	Philippines	Accepted	4	Racial discrimination
130	Take a comprehensive set of measures to tackle racism and racial discrimination and to combat more resolutely all its forms and manifestations, particularly racist and xenophobic political platforms	Iran	Accepted	4	Racial discrimination
136	Take appropriate measures to exempt public health and education officials of the obligation to report undocumented migrants seeking medical attention or educational services	Brazil	Accepted	4	Migrants
137	Take effective measures to develop alternatives to institutionalization and place children in institutions only as a measure of last resort	Azerbaijan	Accepted	4	Rights of the Child
139	Take further measures to protect and integrate immigrants, asylum-seekers and persons belonging to minorities, including by carrying out investigations into violent attacks against such individuals	United Kingdom	Accepted	4	Minorities, Migrants, Asylum-seekers - refugees,
148	Take new measures to ensure effective access to identification documents for all citizens	Czech Republic	Accepted	4	Other
149	Take regular action to prevent hate speech and to take appropriate and prompt legal measures against those who incite discrimination or violence motivated by racial, ethnic or religious reasons	Brazil	Accepted	4	Racial discrimination, Freedom of religion and belief,
151	Take steps to address issues raised by both the Special Rapporteur on the independence of judges and lawyers and the Human Rights Committee regarding the independence of the judiciary and the administration of justice	United Kingdom	Accepted	4	Treaty bodies, Special procedures, Justice,
155	Update and make more comprehensive its National Action Plan against Racism, in consultation with civil society and concerned communities	Canada	Accepted	4	Racial discrimination, National plan of action,

A= Action Category (see on [our website](#))

SMR = State making recommendation

## Contact

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