

Office of the United Nations High Commissioner for Human Rights

**Report of mission to Italy on racial discrimination,
with a focus on incitement to racial hatred and discrimination**

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I. INTRODUCTION AND METHODOLOGY

1. During the course of 2018, the Office of the United Nations High Commissioner for Human Rights (OHCHR) received concerning information about the situation of racism, racial discrimination and related intolerance in Italy. Particular concerns were flagged regarding incitement to racial hatred and discrimination, and a possible increase in racist-motivated violence and hate crimes.

2. On 10 September 2018, in her opening address to the 39th session of the Human Rights Council, the High Commissioner for Human Rights stated that her Office intended “to send staff to Italy, to assess the reported sharp increase in acts of violence and racism against migrants, persons of African descent and Roma”. The Government of Italy subsequently extended an open invitation to OHCHR to conduct such a mission.

3. Between 28 January and 1 February 2019, an OHCHR team, led by the Chief of the Americas, Europe and Central Asia Branch, visited Italy to examine the situation of racial discrimination, with a focus on incitement to hatred and discrimination. While the mission focused on racial discrimination, it also considered other grounds of discrimination (such as religion and gender) in terms of their intersection and complex relationship with racism. The team relied on the binding legal obligations applicable to Italy, complemented by relevant standard-setting instruments and the recommendations of the United Nations human rights mechanisms. The team conducted its work pursuant to the mandate of the High Commissioner under United Nations General Assembly resolution 48/141.

4. The team visited Rome, Milan and Naples, and was assisted by two full-time interpreters throughout the mission. The team enjoyed the full support of the Government. It was received by the Inter-Ministerial Committee for Human Rights, and it met with the Ministries of the Interior, Justice,

Education and Labour; the Senate and Chamber of Deputies of Parliament; the Superior Council of the Judiciary; the National Office Against Racial Discrimination; the Department for Equal Opportunities to the Presidency of the Council of Ministers; the Office of the National Guarantor for the Rights of Persons Detained or Deprived of Liberty; and regional and local authorities.

5. The team also independently arranged meetings and interviews with a range of sources. With the support of stakeholders on the ground, it visited the premises of several organizations, community-based projects and housing settlements. It held four group meetings with over 70 people from a range of backgrounds, including civil society representatives, religious organizations, lawyers, doctors, social workers, service providers and journalists. In addition, the team held two targeted discussions with over 45 members of the Roma community, as well as on-site meetings at five locations with volunteers, professionals and community members. The team also held interviews with and collected accounts from over 15 families and victims of racial discrimination. Two of these testimonies were narrated, four were based on group interview, and the remainder came from private interviews.

6. In addition, OHCHR examined information received before, during and after the mission. This included Italian laws and judicial decisions, official reports and materials received from Government sources, reports and correspondence from civil society, media reports and social media. This report takes into account information received until the end of April 2019.

7. In line with its methodology on human rights monitoring, OHCHR has exercised due diligence to assess the credibility and reliability of sources, and has cross-checked the information gathered to confirm its validity. OHCHR has also taken measures to protect the confidentiality of sources and to avoid exposing them to the risk of reprisals.

8. OHCHR expresses appreciation to the Government of Italy for the cooperation extended before, during and after the mission. It also expresses its gratitude to the many stakeholders – organizations, professionals, community leaders, victims and many others – who met with the team.

9. The present report outlines OHCHR’s main findings and recommendations. In line with the High Commissioner’s mandate, OHCHR stands ready to continue its cooperation with the Government of Italy, including through provision of technical assistance to implement the recommendations made in this report and to support Italy’s fulfilment of its human rights obligations.

II. OVERVIEW OF RELEVANT NATIONAL LAW AND INSTITUTIONS

10. Italy’s legal framework contains a number of protections relevant to racial discrimination. The Constitution provides that “all citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions”.¹ It also includes protections for specific groups, such as linguistic minorities, religious denominations and foreigners.²

11. The main anti-discrimination laws are Decrees No. 215-216/2003.³ Decree No. 215/2003 seeks to ensure non-discrimination and equality for all persons regardless of their racial or ethnic origin in any area or sector, both private and public.⁴ It defines “equal treatment” as “the absence of any direct or indirect discrimination based on race or ethnic origin”. It expands discrimination to include

¹ Constitution, article 3. The article also goes beyond formal equality to provide a guarantee of substantive equality, stating that “It is the duty of the Republic to remove those obstacles of an economic or social nature which constraint the freedom and equality of citizens, thereby impeding the full development of the human person and the effective participation of all workers in the political, economic and social organization of the country”.

² Ibid. See articles 6, 8 and 10, respectively.

³ These decrees transpose, respectively, European Council Directives 2000/43/EC and 2000/78/EU into Italian law.

⁴ Decree No. 215/2003 lists the areas found in European Council Directive 2000/43/EC.

“harassment”, which is defined as “unwanted behaviours adopted on the grounds of race or ethnic origin that aim at or have the effect of causing the violation of a person’s dignity and creating a hostile, intimidating, degrading, humiliating and offensive environment”. The Decree provides for the possibility of civil action for discriminatory acts on the grounds of race, ethnicity or religion. Decree No. 216/2003 applies to discrimination based on religion or belief, disability, age or sexual orientation in the field of employment and occupation.

12. Furthermore, Decree No. 286/1998 on immigration and the treatment of foreign nationals prohibits discrimination on the grounds of race, colour, ancestry, national or ethnic origin, and religious beliefs or practices. It provides for the possibility of civil action in both private and public sectors for discrimination on these grounds.⁵ In addition, Decree No. 300/1970, on the rights of workers, prohibits discrimination on the basis of political opinion, race, religion, language, sex, disability, age, sexual orientation or personal belief. It provides for the invalidation of any act or agreement aimed to discriminate, and for sanctions for dismissal on discriminatory grounds.⁶

13. The Criminal Code prohibits racial discrimination, in particular through the amendments introduced by Act No. 205/1993 (referred to as the “Mancino Law”) and Act No. 85/2006. The Mancino Law brought into penal law the concept of “aggravating circumstances”, which allows judges to increase a sentence by up to one-half for offences committed with the purpose of discrimination or hatred based on ethnic, national, racial or religious grounds. It also criminalizes incitement to violence and discrimination, making it a punishable offence to “instigate in any way or commit violence or acts of provocation to violence for racist, ethnic, national or religious motives” or to “propagate ideas based on racial superiority or racial or ethnic hatred, or to instigate to commit or commit acts of discrimination for racial, ethnic, national or religious motives”.

14. In addition, several laws and policies protect and promote the human rights of specific groups. There are national laws regarding linguistic minorities, as well as regional laws aimed at protecting local languages and cultures.⁷ However, these provisions only apply where the community to be protected lives in a delimited territorial area, and thus do not apply to Roma and many other minorities. With respect to the Roma, Sinti and Caminanti (RSC), Italy has a National Strategy for inclusion for the period 2012-2020,⁸ which recognizes the need to fight discrimination against them. The strategy aims at the progressive elimination of poverty and social exclusion in the four areas of healthcare, education, employment, and housing; its implementation is overseen by the National Office Against Racial Discrimination (UNAR).

15. The legislative regime governing the status and rights of migrants has recently been modified by Law No. 132/2018 (known as the Decree-Law on Immigration and Security).⁹ It contains measures to restrict certain rights of migrants – including the “repeal” of humanitarian protection status in favour of a special protection permit in certain specified circumstances;¹⁰ an increase in the maximum period of immigration detention; reform of the reception system to restrict access to

⁵ See articles 43-44.

⁶ See articles 15-16.

⁷ See Law No. 482/1999 and Law No. 38/2001.

⁸ Adopted in accordance with European Commission’s Communication on an European Union Framework for National Roma Integration Strategies up to 2020, COM(2011) 173.

⁹ During the Government’s presentation of the Decree-Law, officials emphasized the security threats and economic cost of migrants. See www.governo.it/media/conferenza-stampa-del-consiglio-dei-ministri-n20/10023; www.facebook.com/salvinioofficial/posts/10156084272483155.

¹⁰ See CERD/C/ITA/21, para. 112, which states that “the humanitarian permit of stay has been repealed and are now envisaged well-defined special cases that enable a temporary protection to foreigners found in exceptional humanitarian conditions and that cannot be returned to their home country, such as: Medical treatment; Social protection; Victims of domestic violence; Major disasters; Acts of great civil values; Non refoulement in case of denial of international protection.”

“second-level” reception centres to beneficiaries of international protection and persons with certain vulnerabilities;¹¹ and the withdrawal of citizenship from persons convicted of certain crimes.¹²

16. Italy has a strong judicial system and legal profession, which has resulted in the development of jurisprudence on discrimination based on some of the legal provisions mentioned above. For instance, courts have found that the expression “dirty nigger” during a robbery constituted aggravating circumstances with discriminatory and hate intent,¹³ and that the statement that migrants must “go away” constitutes an aggravating circumstance of racial discrimination.¹⁴ In 2018, an aggravating circumstance of racial hatred was applied in the high-profile case of Luca Traini, who was sentenced to 12 years’ imprisonment for targeting persons of African descent in a shooting around Macerata.¹⁵ Courts have also made findings of criminal defamation aggravated by incitement or propaganda of racial hatred. In two cases involving former Minister for Integration Cécile Kyenge, it was held that comments by a district councillor on Facebook to “return to the jungle” constituted incitement to racial hatred,¹⁶ and that statements on a radio programme by an Italian Member of the European Parliament, including that she came from “tribal traditions”, constituted a racist offence.¹⁷ The Supreme Court has made rulings of criminal defamation for statements by municipal councillors against Roma people, highlighting that a greater degree of prudence is imposed by their public function.¹⁸

17. The law also provides for protection against victimization for seeking to obtain equal treatment.¹⁹ This principle has been extended by jurisprudence to even include human rights defenders, in a case that stressed that the actions of those who act against discrimination – even if they are not victims – should be enhanced and protected.²⁰

18. Furthermore, jurisprudence has also upheld the access to the enjoyment of human rights in various areas, without discrimination. One case held that it is illegitimate to racially discriminate against foreigners legally residing in Italy with respect to their access to fundamental rights (i.e. work, education, services and housing).²¹ Courts have held as discriminatory conduct the suggestion of a local authority not to rent housing to foreigners, the maintenance of separate housing subsidy lists for European Union and non-European Union citizens, the dismissal of an employee based on reprisal or oppression, the exclusion of non-European Union citizens from accessing jobs based on public competition, and the denial to enlist a foreign unaccompanied minor in a football society.²²

19. Italy’s equality body is UNAR,²³ which is located within the Department of Equal Opportunities at the Presidency of the Council of Ministers. UNAR is mandated to ensure equality

¹¹ The Decree-Law transformed the former system of second-line reception, known as the System of Protection for Refugees and Asylum Seekers (SPRAR), into the System of Protection for Beneficiaries of Protection and Unaccompanied Minors (SIPROIMI). All other asylum seekers are now hosted only in first-line centres. See Asylum Information Database, *Country Report: Italy*, 16 April 2019, pp. 80-01, which notes that the new system promotes reception in large centres and is premised on a logic of security and control, rather than of protection.

¹² See CERD/C/ITA/21, paras. 62, 106-108.

¹³ Supreme Court, case no. 2798, 21 July 2010, as cited in CERD/C/ITA/19-20, para. 195.

¹⁴ Supreme Court, Penal Section, case no. 32028, 12 July 2018.

¹⁵ See www.theguardian.com/world/2018/oct/03/italian-extremist-given-12-year-sentence-after-shooting-at-migrants.

¹⁶ Court of Appeal of Trento, Penal Section, *Italy v. Serafini*, case no. 315/2015, 11 October 2015.

¹⁷ Tribunal of Milan, *Borghezio v. Kyenge*, 18 May 2017, regarding statements made by MEP Mario Borghezio in a 2013 radio interview (see www.equalitylaw.eu/downloads/4462-italy-racist-offences-towards-european-mp-cecile-kyenge-pdf-110-kb). Of note, the Court refused to apply the exclusion of liability for opinions expressed as a politician, since the comments went outside this scope.

¹⁸ See Supreme Court, Penal Section, case no. 47894, 22 November 2012.

¹⁹ Decrees No. 215-216/2003, article 4-bis. See European Commission Directorate-General for Justice and Consumers, *Country report on non-discrimination: Italy*, 2018 (available at: www.equalitylaw.eu/downloads/4687-italy-country-report-non-discrimination-2018-pdf-2-02-mb), pp. 72-73.

²⁰ Court of Appeal of Milan, *Corti v. Comune Varallo, Buonanno, Botta*, case no. 3515/2014, 23 February 2017, cited in European Commission Directorate-General for Justice and Consumers, *Country report on non-discrimination: Italy*, 2018 (available at: www.equalitylaw.eu/downloads/4687-italy-country-report-non-discrimination-2018-pdf-2-02-mb), p. 91.

²¹ Monza Ordinary Tribunal, *A.s.c. a r.l.v. M.*, 27 February 2003 (information provided by the Ministry of Justice).

²² See CERD/C/ITA/19-20, para. 195.

²³ Created by Decree No. 215 of 2003. According to information submitted by the Government, a circular of October 2018 by the Secretary-General of the Presidency of the Council of Ministers delegated the administration of UNAR funds to its Director/Coordinator, thus reinforcing UNAR’s financial autonomy (see CERD/C/ITA/21, para. 22).

amongst all people, and its competencies include assisting victims of discrimination, conducting research and trainings, and issuing recommendations and opinions on discrimination. While UNAR's mandate was originally limited to discrimination based on racial and ethnic origin, its remit was extended in 2010 to cover all grounds of discrimination.²⁴ Since 2012, UNAR has also been responsible for coordinating and acting as National Contact Point for the National RSC Strategy.

20. With respect to discrimination and hate crimes, the Observatory for Security against Acts of Discrimination (OSCAD) was established in 2010. It is part of the Ministry of Interior's Department of Public Security, Central Directorate of Criminal Police, and is operated by the police and gendarmerie (*Carabinieri*). OSCAD was created to improve the actions of the police in preventing and combatting hate crimes, with functions to expose under-reporting, improve data collection and monitoring of hate crimes, and train law enforcement.²⁵ It has created an email address that anyone may use to report a case of discrimination on the grounds of race or ethnic origin, nationality, religion, language, physical or mental disability, sexual orientation and gender identity.²⁶ OSCAD analyzes reported incidents, and refers those that may constitute a criminal offence to the relevant police services for investigation. Any cases that are not liable for prosecution are forwarded to UNAR.²⁷ Reporting an act of discrimination to OSCAD does not replace filing a police report or calling the emergency number to request law enforcement intervention.

III. MAIN FINDINGS

A. *Institutional issues*

21. The existence of strong institutions is essential to monitor and ensure the implementation of international human rights standards at the national level. In particular, National Human Rights Institutions (NHRIs) can play a key role in the fight against racism, racial discrimination, xenophobia and related intolerance, including hate crimes and incitement to hatred.²⁸ Italy has consistently received recommendations from the United Nations human rights mechanisms to establish a NHRI that complies with the Paris Principles,²⁹ and it accepted recommendations to establish an NHRI at the second cycle of its Universal Periodic Review in 2014.³⁰

22. Despite these recommendations, Italy still lacks an NHRI. The OHCHR team was informed that a draft law to create an NHRI is currently under consideration by Parliament, but there is no timeline envisaged for its adoption and the legislative process can be lengthy. Many stakeholders highlighted that the absence of an NHRI is a serious challenge to independent monitoring and civil society engagement.

23. In the absence of an NHRI, the team learned about UNAR's functions as an equality body. While stakeholders highlighted many positive aspects of UNAR's work, civil society and UNAR staff acknowledged the limitations imposed by its lack of independence. Furthermore, the team learned that UNAR has multiple functions – acting both as an equality body, as well as the body responsible for implementing national anti-discrimination strategies, including the National RSC Strategy. While the latter function is appropriate for UNAR as a governmental body, the team learned that UNAR's lack of independence impedes its ability to operate effectively as an equality body,

²⁴ UNAR's remit was extended by ministerial directive, and now covers the grounds of ethnic or racial origin, age, religion, sexual orientation, gender identity, and disability.

²⁵ See CERD/C/ITA/21, paras. 35-36.

²⁶ The email address is oscad@dcpc.interno.it.

²⁷ UNAR and OSCAD have signed a Memorandum of understanding in 2011 for the sharing of data regarding cases of discrimination, under which UNAR forwards any case of discrimination liable for prosecution reported to its contact centre to OSCAD, and OSCAD forwards any case not liable for prosecution to UNAR. OSCAD forwards cases liable for prosecution to relevant police services for a proper investigation. See <https://fra.europa.eu/en/promising-practices/observatory-security-against-acts-discrimination-oscad>.

²⁸ See Human Rights Council resolution 39/17 on National human rights institutions (A/HRC/39/L.19/Rev.1), which was co-sponsored by Italy.

²⁹ CERD/C/ITA/CO/19-20, paras. 10-11; CCPR/C/ITA/CO/6, paras. 6-7; A/HRC/33/61/Add.1, para. 84.

³⁰ A/HRC/28/4; A/HRC/28/4/Add.1. See also <https://lib.ohchr.org/HRBodies/UPR/Documents/Session20/IT/ItalyMatriceOfRecommendations.docx>.

since an equality body should also comply with principles of independence and impartiality.³¹ The team received information indicating that this may contribute to underreporting of human rights violations, discourage engagement with victims and civil society, and endanger trust and cooperation depending on political developments.³²

24. The team heard similar concerns about OSCAD. While OSCAD clearly plays an important role in training law enforcement officers on hate crimes and racial profiling,³³ there is an important concern about OSCAD's effectiveness in relation to the underreporting of hate crimes, due to its placement within the Ministry of the Interior. Civil society representatives raised doubts about OSCAD's impartiality and ability to act as an intermediary. Victims also expressed uncertainty and mistrust that OSCAD would follow up effectively on complaints against police officers, given that it is staffed by police officers and placed within the same department of the Ministry of the Interior. In addition, the team noted that many stakeholders and vulnerable groups were unaware of the existence of OSCAD and the possibility to send to it complaints regarding discrimination.³⁴ These testimonies echo the recommendation of the Committee on the Elimination of Racial Discrimination that Italy should "adopt concrete measures, in consultation with affected groups, to increase the reporting of racist hate crimes by ensuring that the reporting mechanism is transparent and accessible, and that victims have trust in the police and the justice system".³⁵

B. Disaggregated data

25. OHCHR and United Nations human rights mechanisms have stressed that the systematic collection of disaggregated data is necessary to assess levels of discrimination and progress, and to develop adequate policies to address the situation of vulnerable groups.³⁶ As part of the 2030 Agenda, States have committed to more systematic data disaggregation to help achieve and measure the Sustainable Development Goals.³⁷ Italy has received numerous recommendations from United Nations human rights mechanisms to rectify gaps in the availability of data necessary to track racism, racial discrimination, xenophobia and related intolerance. This includes disaggregated data on the ethnic composition of its population; on violations of the ban against racial discrimination under criminal, civil and administrative law, including penalties imposed on perpetrators and remedies provided to victims; and on the representation of non-citizens in the criminal justice system.³⁸ The need for further disaggregation – including by migration status, age, gender and nationality – has also been raised, in order to analyze areas of intersection.³⁹ Taking into account these recommendations, the OHCHR team probed questions of data with the full range of Government authorities.

26. The team observed serious gaps with respect to disaggregated data on the ethnic composition of the population. Government authorities stated that collecting such data was not possible under

³¹ See A/71/301.

³² The Committee on the Elimination of Racial Discrimination has also raised concerns about the lack of independence of UNAR: see CERD/C/ITA/CO/19-20, paras. 12-13.

³³ See further Chapter III.D below on Law enforcement.

³⁴ See European Union Agency for Fundamental Rights, *Second European Union Minorities and Discrimination Survey (EU-MIDIS II): Main Results, 2017* (available at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2017-eu-midis-ii-main-results_en.pdf), pp. 42-55. It surveyed about 26,000 people from ethnic minority and immigrant backgrounds in all 28 EU Member States. The results showed that only 12 per cent of respondents had reported the most recent incident of discrimination, despite experiencing a much higher level of discrimination (24 per cent in the previous 12 months, and 38 per cent in the previous five years). For Italy, the reporting levels were particularly low (9 per cent) for persons of Sub-Saharan African background. The main reason provided for not reporting was the belief that nothing would happen or change as a result. Furthermore, most respondents were unaware of any organizations offering support or advice to discrimination victims (71 per cent overall, with 93 per cent of women and 86 per cent of men in Italy), or of any equality body (62 per cent overall, and 86 per cent in Italy).

³⁵ CERD/C/ITA/CO/19-20, para. 17.

³⁶ See in particular A/70/335, which provides an overview of the normative framework, role and benefits, and human rights safeguards in relation to collecting disaggregated data.

³⁷ See OHCHR, *A Human Rights-Based Approach to Data*, 2018. Target 17.18 of the 2030 Agenda reflects the importance of "high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts".

³⁸ CERD/C/ITA/CO/19-20, paras. 8-9, 15-17 and 27-28.

³⁹ See CEDAW/C/ITA/CO/7, paras. 28-29; CRC/C/ITA/CO/3-4, paras. 16 and 25. See also A/HRC/35/10, para. 52.

Italian law due to constitutional provisions and privacy concerns, and that data could only be collected regarding a person's nationality or migration status.

27. With respect to disaggregated data on hate incidents and crimes, OHCHR received relevant information from the Ministry of the Interior, the Ministry of Justice and UNAR. OSCAD recorded 1048 hate crimes in 2017, of which 828 (79 per cent) were based on race, nationality, language and religion. OSCAD has submitted data on hate crimes to the Organization for Security and Co-operation in Europe since 2013. This data indicates a steady increase in hate crimes recorded by the police since 2013; however, it is not possible to ascertain how much of the increase may be based on improvements in data collection. No data is available regarding how many of these cases have been prosecuted or resulted in a conviction.⁴⁰ OHCHR also received information from the Ministry of Justice regarding the progress of cases that were subject to criminal proceedings, which are monitored based on the implicated provisions of the Criminal Code. This data indicated that in 2017, there were 183 proceedings finalized related to aggravating circumstances based on discrimination on the grounds of race, ethnicity, nationality or religion; and there were 90 final decisions in proceedings regarding discrimination, hatred or violence on the ground of race, ethnicity, nationality or religion.⁴¹ However, the Ministry informed OHCHR that data is not further disaggregated based on the ground of discrimination, and it is therefore not possible to understand the specific bias motive at issue.

28. UNAR collects data through its Contact Centre, which operates a toll-free telephone hotline and online platform for people to report cases of discrimination. This data is broken down by the specific ground of discrimination. The latest data indicates that 70.5 per cent of the 4,273 registered cases of discriminatory acts and conduct in 2018, and 82 per cent of 3,909 reported cases in 2017, fell into the "ethnic-racial ground". This represents an increase from 2016, when 69 per cent of the 2,936 reported cases were classified under the "ethnic-racial ground".⁴² UNAR stressed that its data collection is not exhaustive, and that the increase in documented cases is likely based on a combination of different factors, including awareness. UNAR did note that in consideration of a growing phenomenon of hate speech⁴³ online, a specific National Media and Internet Observatory was created in 2016.

29. Based on recommendations of United Nations human rights mechanisms,⁴⁴ the team asked relevant ministries about the representation of minorities and persons of African descent in public service (including the education system, judiciary, police and the wider civil service). In response, the authorities asserted that they cannot collect such data, sometimes referring to constitutional protections. Based on those responses, the team found that there was a limited understanding of the difference between personal and aggregate data, and the distinctions between these types of data. It also noted limited awareness of past recommendations on this issue, such as the Committee on the Elimination of Racial Discrimination's recommendation to ensure that there are teachers of African descents in schools.⁴⁵

⁴⁰ See <http://hatecrime.osce.org/italy>. This official data shows that there were 472 hate crimes recorded by police in 2013, 595 in 2014, 555 in 2015, and 738 in 2016. Data is not yet available for 2018.

⁴¹ As noted above, Italian penal law only provides for these four grounds of discrimination. Other grounds and sectors fall under civil and administrative law.

⁴² CERD/C/ITA/21, para. 40.

⁴³ While there is no internationally agreed definition of "hate speech", article 20(2) of the International Covenant on Civil and Political Rights provides that "[a]ny advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law". In addition, the Committee on the Elimination of Racial Discrimination has noted that "[r]acist hate speech addressed in Committee practice has included all the specific speech forms referred to in article 4 directed against groups recognized in article 1" of the Convention on the Elimination of All Forms of Racial Discrimination: see General recommendation no. 35 on combating racist hate speech, para. 6. In January 2019, the United Nations Secretary-General requested that a comprehensive strategy and action plan be developed to respond to hate speech.

⁴⁴ See for example A/HRC/33/61/Add.1, para. 81; CERD/C/ITA/19-20, paras. 22 and 26.

⁴⁵ CERD/C/ITA/19-20, para. 26.

C. *Incitement to racial hatred, discrimination and violence*

30. The prohibition against incitement to hatred is established in article 20 of the International Covenant on Civil and Political Rights and article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination. In particular, States must “adopt immediate and positive measures” to eradicate all incitement to, or acts of, racial hatred or discrimination, including by creating offences punishable by law and by not permitting public authorities or public institutions to promote or incite racial discrimination.⁴⁶ Furthermore, international human rights law requires that “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law”.⁴⁷

31. The prohibition against incitement to hatred must be balanced against the right to freedom of expression.⁴⁸ Article 20 of the International Covenant on Civil and Political Rights requires a high threshold because, as a matter of fundamental principle, limitation of speech must remain an exception. International guidance has been developed to help distinguish what constitutes incitement to hatred, outlining a number of factors relevant to evaluating the severity of the speech in question. These include the context of the speech; the speaker; the intent; its content and form; the extent of the speech act; and the likelihood (including imminence) of the speech act.⁴⁹

32. The OHCHR team received numerous complaints about an increase in racism, racial discrimination, xenophobia and related intolerance against migrants, persons belonging to minorities, including Roma, and persons perceived as “foreigners” based on their ethnic, religious or linguistic profile. In particular, Government officials, civil society representatives, community members and victims drew OHCHR’s attention to the rise of hateful speech.

33. United Nations human rights mechanisms have highlighted concerns about the prevalence of racist discourse, stigmatization and negative stereotypes against migrants, Muslims, people of African descent, and the RSC communities in Italy, especially in the political discourse and media.⁵⁰ The Committee on the Elimination of Racial Discrimination has recommended that Italy ensure that all individuals, including politicians at all levels, are held accountable and sanctioned for the dissemination of ideas based on racial superiority or hatred.⁵¹ In the report on its mission to Italy, undertaken in 2015, the Working Group of Experts on People of African Descent expressed concern about “the rise of xenophobia across Europe caused by the political manipulation of people’s fears about the increase in the number of migrants”. It also expressed deep concern about “racist discourse in politics... and the immunity that has shielded parliamentarians who have made racist remarks”.⁵²

34. OHCHR has serious concerns that Italy is experiencing an increase of intolerance, racial and religious hatred, and xenophobia, which in some cases is allowed or even encouraged by political leaders and members of Government. In November 2018, United Nations Special Procedures spoke out about some politicians fuelling a public discourse that incites hatred and discrimination. They highlighted that “this climate of intolerance could not be separated from the escalation in Italy in hate incidents against groups and individuals, including children, based on their actual or perceived ethnicity, skin colour, race and/or immigration status”. The experts noted that during and after the 2018 election campaign, civil society had recorded 169 racially motivated incidents, including 126

⁴⁶ International Convention of the Elimination of All Forms of Racial Discrimination, article 4.

⁴⁷ *Ibid*, article 20.

⁴⁸ See articles 19 and 30 of the Universal Declaration of Human Rights; article 19 of the International Covenant on Civil and Political Rights; and article 5(d)(viii) of the International Convention of the Elimination of All Forms of Racial Discrimination.

⁴⁹ Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (A/HRC/22/17/Add.4). See also Committee on the Elimination of Racial discrimination, General recommendation no. 35 on combating racist hate speech.

⁵⁰ CERD/C/ITA/CO/19-20, para.14; CCPR/C/ITA/CO/6, para. 12.

⁵¹ CERD/C/ITA/CO/19-20, para. 15.

⁵² A/HRC/33/61/Add.1, paras. 38-39.

cases of racist hate speech and propaganda and 19 cases of racist violence.⁵³ During the campaign, civil society monitoring of social media posts of about 1,400 candidates over three weeks revealed 787 cases of racist and discriminatory messages by 129 candidates, 77 of whom were elected to office.⁵⁴

35. OHCHR reviewed numerous inflammatory statements by politicians, including members of Government. These included statements that black people should “go away”,⁵⁵ that Roma people should “work harder and steal less”,⁵⁶ that Islam is a “threat” and “incompatible” with Italy’s values and Constitution,⁵⁷ that Roma people should “have their hands cut off”,⁵⁸ and that migrants “must understand that we are racists” and “should all go home”.⁵⁹ There have been public statements by Italian Members of the European Parliament stating that “Gypsies are the dregs of the society”,⁶⁰ referring to the administration that appointed Italy’s first black Minister as the “bongo-bongo government”,⁶¹ and asserting that a proposed citizenship income “will end up in the pockets of Roma, of foreign citizens”.⁶² OHCHR observed that hateful speech is often justified on the basis of the defence of national identity and security, the criminalization of migration, and the economic crisis and the principle of “national” preference or “Italians first” – which can have the effect of making racial discrimination more socially acceptable.⁶³

36. Furthermore, the information received by OHCHR reveals an increase in racist and hate-motivated incidents and attacks. As noted above, data collected by UNAR indicates that cases of racist acts have increased since 2016.⁶⁴ Civil society has also reported an increase in the incidence of hate speech and hate crimes. One organization, which has been monitoring racism since 2011, documented 1,628 cases of racism in 2018, including 126 cases of aggression and physical violence – representing a marked increase from 46 such recorded cases in 2017.⁶⁵ Another organization has reported that racist episodes have “dramatically increased” since the last election, noting that such acts take place twice daily on average. With reference to media reports, it documented 37 incidents it considered to be serious between February and August 2018. These included: racist insults against an Eritrean woman and her baby at a hospital in Sicily (November); the beating of a Ghanaian boy that resulted in his paralysis in Campania (October); the beating of an Italian citizen of Moroccan origin in Veneto (August); the shooting by air-gun of a 15-month old Roma child in Lazio (July); the death of a Malian trade unionist in Calabria (June); and the shooting of six black persons in Macerata (February).⁶⁶ United Nations Special Procedures have also received information about acts of racially

⁵³ See OHCHR, “Legal changes and climate of hatred threaten migrants’ rights in Italy, say UN experts”, 21 November 2018 (available at: www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23908&LangID=E). The associated allegation letter is available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24117>.

⁵⁴ Amnesty International, *Conta fino a 10: Barometro dell’odio in campagna elettorale*, 2018.

⁵⁵ www.facebook.com/salviniofficial/posts/10155910405378155.

⁵⁶ <https://twitter.com/matteosalvinimi/status/982919551959683072>.

⁵⁷ See <https://youtu.be/88s1hr8w2B4>; <https://www.youtube.com/watch?v=scQUCsu9pMY>.

⁵⁸ See

https://torino.repubblica.it/cronaca/2018/11/12/news/ivrea_1_assessora_leghista_alle_politiche_sociali_insulta_i_rom_zecche_parassiti_vi_devono_mozzare_le_mani_-211475596/.

⁵⁹ See www.asgi.it/wp-content/uploads/2018/06/Tribunale-di-Milano-06.06.201-Est.-Boroni-APN-e-ASGI-Avv.ti-Guariso-Neri-e-Marzolla-c.-XXX-Avv.ti-Roetta-e-Rigato.pdf.

⁶⁰ See www.ilgiornale.it/news/cronache/buonanno-condannato-defin-i-rom-feccia-societ-1248757.html.

⁶¹ www.asgi.it/wp-content/uploads/2017/09/Sent.-Tribunale-di-Milano-18.5.2017-Borghesio-c.-Kyenge.pdf.

⁶² See www.politico.eu/article/antonio-tajani-parliament-president-roma-comments-slammed-rights-group/.

⁶³ See A/HRC/38/52. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance notes that “racist and xenophobic ideologies rooted in ethno-nationalism regularly combine with national security fears and economic anxieties to violate the human rights of non-citizens, indigenous peoples and minorities on the basis of race, ethnicity, national origin and religion” (para. 63).

⁶⁴ See above, paras. 27-28.

⁶⁵ Lunaria, *Il razzismo nel 2018: tra rimozione ed enfattizzazione*, January 2019 (available at: www.cronachediordinariorazzismo.org/wp-content/uploads/Focus_1_2019ilrazzisonel2018.pdf). The total number of cases includes racially motivated hate speech, physical violence, damage to property and discrimination. Lunaria notes that this is not official data, but consists only of cases documented by the organization.

⁶⁶ Italian Coalition for Civil Liberties and Rights, “Monitoring racist attacks in Italy 2018-2019”, document on file with OHCHR. See also www.google.com/maps/d/u/0/viewer?mid=1kjmhct5NVKjSwAfo9OndqprhgQ6OEr8A&ll=41.693812625085826%2C12.411597450000045&z=5. In the last mentioned incident, the perpetrator was sentenced to 12 years in prison, including an aggravating circumstance of racial hatred: see www.theguardian.com/world/2018/oct/03/italian-extremist-given-12-year-sentence-after-shooting-at-migrants.

motivated violence during the election campaign period of January-March 2018, including attacks in Castelnuovo, Latina, Pomigliano, Tarquinia, Benevento, Rome, Bari, Perugia and Riccione.⁶⁷

37. The OHCHR team heard from UNAR, civil society organizations, social workers and community members that racist statements are having a negative impact on various groups and sectors, and have permeated from the public to the private sphere. Community representatives and victims of racism stated that while negative stereotypes have long been entrenched amongst the general population, their experiences have recently worsened. An Italian man of African descent provided testimony that he encounters humiliating statements on a “daily” basis, and an Italian woman of African descent stated that she did not have children because she did not wish to send them to school in the current environment. The team interviewed an African man who works as an interpreter in a governmental body, who reported that an employee had blocked his access to the toilets and called him a “dirty negro”. Social workers stated that Roma women have been hit and spat on while begging, and numerous people reported being fearful of taking public transport. Racist remarks and acts have also occurred in the field of sport, such as physical attacks on Afro-descendant athletes and racist chants during sport matches.⁶⁸

38. In addition, stakeholders recounted the impact on children and youth from migrant or minority backgrounds, or who do not “look Italian”.⁶⁹ OHCHR learned about incidents where children were mistreated by peers and school staff.⁷⁰ Social workers interviewed in Naples reported that children have been insulted at school for not speaking Italian well enough or for “dressing like a Gypsy”. Throughout the mission, civil society organizations, social workers and community members reported incidents indicating that children are experiencing discriminatory rhetoric at school with a sense of normalcy, rather than a discourse of appreciation of diversity.

39. On the other hand, there have been notable actions against racial hatred, discrimination and violence. Some public manifestations supporting diversity have been unfolding, such as an anti-racism march in Milan on 3 March 2019 which gathered about 200,000 demonstrators under the slogan “People First”, with organizers issuing a mission statement saying diversity is a cultural treasure.⁷¹ There have also been judicial developments, both criminal and civil. OHCHR was impressed by the independence of the judiciary and actions it has been taking to address racial discrimination, including guidelines and publications, opinions on draft laws, and training courses.⁷² The Ministry of Justice pointed to the recent conviction of Senator Roberto Calderoli for comparing Member of the European Parliament Cécile Kyenge to an orangutan, and Government authorities stressed that Luca Traini was recently given a harsher sentence due to the aggravating circumstance of racial hatred. Courts have made adverse findings in cases against politicians, Members of the European Parliament, and Government officials.⁷³ In 2018, the Supreme Court found that stating that

⁶⁷ AL ITA 4/2018, by the Working Group of Experts on People of African Descent and the Special Rapporteurs on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; on extrajudicial, summary or arbitrary executions; on the human rights of migrants; on minority issues; and on the promotion and protection of the right to freedom of opinion and expression (available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24117>). As of the date of this report, the response from the Italian Government remained pending.

⁶⁸ See for example: www.bbc.com/news/world-europe-45017843; <https://edition.cnn.com/2018/12/27/football/kalidou-koulibaly-napoli-inter-milan-carlo-ancelotti-spt-intl/index.html>; www.ansa.it/english/news/sports/2018/12/27/sala-says-sorry-for-koulibaly-chants_36a08b3f-5480-4796-9d21-bd5c871146de.html; www.torinoggi.it/2018/12/19/leggi-notizia/argomenti/cronaca-11/articolo/avigliana-insulti-razzisti-e-botte-a-un-giovane-calciatore-africano-si-cercano-5-ragazzi.html; www.ilmessaggero.it/italia/razzismo_basket_denuncia-4129541.html; www.ilmattino.it/napoli/cronaca/napoli_choc_agguato_razzista_pugni_e_calci_al_calciatore_nero-4125450.html.

⁶⁹ See further regarding education below in III.E., Economic, social and cultural rights.

⁷⁰ See for example https://roma.corriere.it/notizie/cronaca/19_febbraio_21/foligno-maestro-bimbo-nero-guardate-quanto-brutto-e42206b0-35db-11e9-a9b4-ecf4c6ca5234.shtml.

⁷¹ See www.bbc.com/news/world-europe-47431311.

⁷² Such as a publication in 2018 titled “Race and injustice: Lawyers and justice in the years of the anti-Jewish laws”, and an opinion issued in November 2018 on the Decree-Law on Immigration and Security.

⁷³ For example, in 2016, the Tribunal of Milan found that Member of European Parliament Gianluca Buonanno had committed discriminatory harassment in contravention of Decree 215/2003, when he stated on television that Roma were “scum”. The Court found that the words were not used in the exercise of parliamentary functions, but had “the sole aim of denigrating and denigrating” (see www.asgi.it/notizie/23848/). In 2017, the Tribunal of Milan sentenced Member of European Parliament Mario Borghezio for the crime of defamation, aggravated by the commission of the offense by means of advertising and for the purpose of ethnic and racial discrimination.

migrants “must go away” constitutes incitement to racial hatred. However, this decision was immediately followed by the Interior Minister posting a tweet of a photo of people of African descent with the caption “go away”⁷⁴ – an act that has not yet faced judicial proceedings or official disapproval.

40. Based on the information received, OHCHR has serious concerns regarding the situation in Italy with respect to hateful speech. The prevalence of problematic statements appears to indicate that they are not occurring sporadically or in isolated cases. Rather, they occur quite regularly in the public discourse, including at high political levels, leading to strong risks of increase in racial discrimination and hate crimes in society at large.⁷⁵ During the mission, numerous interlocutors confirmed these concerns, including UNAR staff, who stated that “hate speech has become normalized, and the manifestation of hatred has become permissible”.

41. Despite some cases resulting in punishments against perpetrators, OHCHR observed an overall lack of urgency in taking decisive action against hateful speech. The team was informed by parliamentarians of the Senate and Chamber of Deputies that there have been no recent legislative debates regarding hate speech (both online and offline), and that no actions have been taken on the recommendations of the 2017 report by the Jo Cox parliamentary committee on hate, intolerance, xenophobia and racism.⁷⁶ The team was also concerned about several assertions by governmental authorities – including parliamentarians, regional authorities and representatives of the Ministry of Education – that racism is not a problem in Italy or that statements inciting discrimination are restricted to “politics”. Such comments may indicate that there is a denial of the problem that prevents it from being adequately addressed.

42. In particular, the team noted with concern that – although there have been cases where persons were held accountable for racial discrimination – there are still many problematic statements that have not resulted in sanction or condemnation, even when the speaker was a high-ranking political figure.⁷⁷ OHCHR emphasizes that international guidance considers the speaker’s position or status to be an important factor in assessing the severity of hate speech.⁷⁸ OHCHR recalls the recommendations of the Committee on the Elimination of Racial Discrimination that Italy condemn hate speech at the highest political level and ensure that all individuals, including politicians at all levels, are held accountable and sanctioned for the dissemination of ideas based on racial superiority or hatred.⁷⁹ Actions to combat hateful speech are required from all sides – not only from a legislative and judicial perspective, but also from political actors and Government leadership.

D. Law enforcement

43. International human rights law obliges States to ensure that all persons are equal before the law and enjoy the equal protection of the law.⁸⁰ This includes the rights to equal treatment before all organs administering justice, security of person, protection by the State, and effective protection and remedies against any acts of racial discrimination.⁸¹ In protecting and serving the community, law

⁷⁴ See www.facebook.com/salviniofficial/posts/10155910405378155.

⁷⁵ See the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (A/HRC/22/17/Add.4); A/HRC/28/64, paras. 25-28; OHCHR, “Target hate speech and hate crimes, Zeid urges States” (available at: www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21407).

⁷⁶ Available at: http://website-pace.net/web/apce/no-hate-alliance/-/asset_publisher/s2jd8a1WeN6D/content/-/06-07-2017-rome-italian-parliament%E2%80%99s-jo-cox-committee-on-hate-intolerance-xenophobia-and-racism-adopts-final-report/maximized.

⁷⁷ See for example above paras. 16 and 34-35.

⁷⁸ Committee on the Elimination of Racial Discrimination, General recommendation no. 35 on combating racist hate speech, para. 15; Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (A/HRC/22/17/Add.4), para. 29.

⁷⁹ CERD/C/ITA/CO/19-20, para. 15.

⁸⁰ International Covenant on Civil and Political Rights, article 26; International Covenant on the Elimination of All Forms of Racial Discrimination, article 5.

⁸¹ International Covenant on the Elimination of All Forms of Racial Discrimination, articles 5 and 6.

enforcement officials have a particular obligation to respect and uphold the human rights of all persons without discrimination.⁸²

44. Given the important role of law enforcement, OHCHR requested information from the Ministry of Interior about actions taken to address racist hate crimes and ensure accountability for acts of discrimination. The Ministry informed the team about measures to set up hearing rooms in police stations to listen to victims, provide for the possibility to call for interpreters and cultural mediators, and organize training courses for police officers, including on racial profiling and hate crimes. However, OHCHR identified several issues of concern.

45. Firstly, the team heard numerous troubling accounts of abuse of migrants, reportedly by police officers, particularly at the immigration office of the police station (*Questura*). Civil society, lawyers and migrants in Rome reported that migrants typically face an overnight wait outside the police station, and that only a small number of people are granted permission to enter and apply for asylum in the morning. The team also heard from lawyers in Campania that the *Questura* had recently introduced an online reservation system that was only open for a few minutes per week. Lawyers informed the team that police officers sometimes refused to accept a migrant's application for international protection without justification. They reported that there were even occasions where police officers destroyed migrants' documents, and that one migrant had been badly beaten by police during a recent eviction in Rome, but had not brought a complaint due to fear of reporting. The team also heard from a lawyer in Rome and another in Naples about occasions where police officers told migrants to "go and complain to Salvini" – in one case, after refusing to accept an asylum application, and in the other, after mistreating the migrant. Several lawyers and migrants informed the team that such abuses had recently worsened, possibly indicating that statements from a high level within the Ministry of the Interior have contributed to police officers (who are placed within the same Ministry) feeling emboldened to violate the law. Such difficulties in accessing asylum procedures have also been recorded in court cases and reported by civil society.⁸³

46. Lawyers also stated that they had been subjected to abuses by police officers, when recognized as persons who regularly represent and defend the rights of migrants. One lawyer in Rome informed the team that a police officer in the *Questura* had ordered her to hand over her driver's licence for "a check for security reasons", and that she was unable to get it back until she reported the incident to the *Carabinieri* and Council of Lawyers. Another lawyer in Naples stated that, since the beginning of the year, lawyers were no longer allowed to enter the *Questura* to accompany clients who were applying for residence permits.

47. A second important element of the accounts heard by OHCHR was that law enforcement officers do not wear visible identification badges or warrant numbers, which makes it difficult for individuals (both Italians and non-citizens) to effectively report misconduct and file complaints, as they are unable to identify the officer(s) involved. This was confirmed by the Office of the National Guarantor for the Rights of Persons Detained or Deprived of Liberty, which noted that this problem had already been highlighted during the 2001 G8 Summit in Genoa, but that thus far no solution has been found. The concern has been noted by the United Nations Human Rights Committee and Committee Against Torture, which have recommended that Italy ensure that law enforcement officers can be identified.⁸⁴ The European Court of Human Rights has also recalled that even masked police officers "should be required to visibly display some distinctive insignia – for example a warrant

⁸² See United Nations Code of Conduct for Law Enforcement Officials, articles 1-2.

⁸³ See Asylum Information Database, *Country Report: Italy*, 16 April 2019, which extensively documents obstacles to accessing the asylum procedure in the *Questura*. These include limited opening hours or online appointments, unlawful requirement of a domicile, and requests for proof of family ties. The report states that many cases have been reported "where asylum seekers were not allowed to enter the building of the *Questura* and were obliged to wait several hours outside, over a barrier, being exposed to psychological ill-treatment, such as verbal abuse and shouting. On several occasions, courts have found the refusal of the *Questura* to take action for the lodging of asylum applications unlawful" (p. 31). See also for example Tribunal of Rome, Human Rights and Immigration Section, case no. 72238/2018, 21 November 2018, where the Court ordered the immigration office of the police station to receive the applicant for international protection.

⁸⁴ CCPR/C/ITA/CO/6, para. 21; CAT/C/ITA/CO/5-6, para. 39.

number – thus, while ensuring their anonymity, enabling their identification and questioning in the event of challenges to the manner in which the operation was conducted”.⁸⁵

48. Thirdly, the team identified a number of areas of concern related to the recording and follow-up of hate crimes. As noted above, OHCHR heard that access to lawyers is sometimes impeded.⁸⁶ It also learned that access to interpreters is not always available, which impedes reporting of racist hate crimes. Victims informed the team that police have sometimes refused to record and investigate complaints of racist hate crimes, unless they were of very grave nature (e.g. shootings). In its General recommendation no. 31, the Committee on the Elimination of Racial Discrimination has pointed out that complaints should be recorded immediately, investigations pursued without delay and in an effective, independent and impartial manner, and that “any refusal by a police official to accept a complaint involving an act of racism should lead to disciplinary or penal sanctions”.⁸⁷

49. Finally, the team found gaps in relation to the understanding of racial or bias-based profiling amongst law enforcement officers. In particular, it noted that there is a lack of internal policies, including standard operating procedures and codes of conduct which define and prohibit racial profiling and other forms of bias-based profiling. OSCAD stated that the Ministry of the Interior does not collect disaggregated data from stop-and-search and other law enforcement actions, due to normative restrictions and technical challenges. Civil society representatives informed the team that persons of African descent are disproportionately subjected to checks by the police, and that this has also been experienced by tourists.⁸⁸ OHCHR stresses that discriminatory profiling is unlawful and violates human rights standards and principles, and that disaggregated data is important to be able to assess whether there are differences in police actions toward particular ethnic groups.⁸⁹ The Working Group of Experts on People of African Descent has also recommended to Italy to assess racial discrimination in the criminal justice system, and to consider laws that prohibit racial profiling by law enforcement agencies.⁹⁰

E. Economic, social and cultural rights

50. International law guarantees economic, social and cultural rights to all persons without discrimination of any kind.⁹¹ States have an immediate and cross-cutting obligation to address both formal and substantive discrimination, by public and private actors, through a range of strategies, policies and plans of action. States must also actively work to eliminate systemic discrimination and segregation, such as through incentives and programmes to change attitudes and penalize discrimination against traditionally neglected groups.⁹² The OHCHR team sought to understand issues and measures taken to address racial discrimination in the enjoyment of economic, social and

⁸⁵ European Court of Human Rights, *Cestaro v. Italy*, 7 April 2015, application no. 6884/11, para. 217.

⁸⁶ See para. 46 above and para. 82 below.

⁸⁷ Committee on the Elimination of Racial Discrimination, General recommendation no. 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system.

⁸⁸ See European Union Agency for Fundamental Rights, *Second European Union Minorities and Discrimination Survey (EU-MIDIS II): Being Black in the EU*, 2018 (available at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-being-black-in-the-eu_en.pdf). The report notes that 11% of respondents of African descent were stopped by police in the 12 months before the survey, and that 70% of respondents in Italy believed that the last stop they experienced was racially motivated (p. 30).

⁸⁹ See Committee on the Elimination of Racial Discrimination, General recommendation no. 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system. This recommendation notes the importance of information on the behaviour of law enforcement personnel vis-à-vis persons belonging to racial or ethnic groups (paras. 1-2), and calls on States to take steps to “prevent questioning, arrests and searches which are in reality based solely on the physical appearance of a person, that person’s colour or features or membership of a racial or ethnic group, or any profiling which exposes him or her to greater suspicion” (para. 20). See also European Union Agency for Fundamental Rights, *Preventing unlawful profiling today and in the future: a guide*, December 2018.

⁹⁰ A/HRC/33/61/Add.1, paras. 51-53 and 82.

⁹¹ International Convention on the Elimination of All Forms of Racial Discrimination, article 5(e); International Covenant on Economic, Social and Cultural Rights, article 2.2.

⁹² Committee on Economic, Social and Cultural Rights, General Comment No. 20, Non-Discrimination in Economic, Social and Cultural Rights. With respect to systemic discrimination, the Committee has noted that “discrimination against some groups is pervasive and persistent and deeply entrenched in social behaviour and organisation, often involving unchallenged or indirect discrimination” (para. 12), and that eliminating systemic discrimination will often require greater resources and particular attention to ensure implementation by officials and others in practice (para. 39).

cultural rights. It identified gaps and concerns in the areas of education, housing, employment, health and social services.

(i) *Education*

51. International human rights instruments provide that States recognize the right to education, in particular, by providing for free and compulsory primary education and accessible secondary education.⁹³ States must also ensure that education combats prejudices, fosters respect for human rights, and promotes understanding and tolerance among racial, ethnic or religious groups.⁹⁴ United Nations human rights mechanisms have made recommendations to Italy aimed at addressing racial discrimination in education. The Committee on the Elimination of Racial Discrimination has called for Italy to ensure that “all teachers and others working in educational institutions receive adequate training on the principles of equality and non-discrimination and on ways to deal with instances of racial discrimination in schools”.⁹⁵ It recommended that Italy ensure that there are teachers of African descent in schools, and that its colonial past be included in the school curriculum to convey the impact of racially discriminatory policies.⁹⁶ The Committee also recommended that Italy ensure that RSC children can access quality education that is culturally and linguistically appropriate at schools that are geographically accessible, and where they suffer no segregation or negative treatment by staff or students.⁹⁷

52. The OHCHR team met with representatives of the Ministry of Education, Universities and Research (MIUR), who stressed that segregation and racial discrimination in education do not exist in Italy, and that “political clashes” do not affect the situation in schools. They noted that Italy has been a pioneer of inclusive education, introducing programmes to include children with disabilities in mainstream schools in 1971, and abolishing special education in 1977. All children must attend school, regardless of their parents’ status,⁹⁸ and the number of foreign students per class is generally limited to 30 per cent to prevent segregation.⁹⁹

53. MIUR reported that there are approximately 50,000 foreign children in Italy (out of an overall population of 800,000 foreigners), and that the Ministry is in the process of strengthening support for the approximately 18,000 unaccompanied foreign children presently in Italy.¹⁰⁰ Education is also a priority area of the National RSC Strategy, which notes that the probability that a Roma child will reach high school is about one in one thousand.¹⁰¹ The Strategy includes commitments to secure non-discriminatory access by RSC to education, as well as to fight the phenomena of anti-Gypsyism.¹⁰²

54. The team observed extensive cooperation between the authorities and civil society at the local level. However, civil society and community representatives in all three cities visited informed the team that children from migrant or minority backgrounds, or who “do not look Italian”, have been

⁹³ International Covenant on Economic, Social and Cultural Rights, article 13; International Convention on the Elimination of All Forms of Racial Discrimination, article 5(e); Convention on the Rights of the Child, article 28.

⁹⁴ International Covenant on Economic, Social and Cultural Rights, article 13; International Convention on the Elimination of All Forms of Racial Discrimination, article 7; Convention on the Rights of the Child, article 29.

⁹⁵ CERD/C/ITA/CO/19-20, para. 26. See also A/HRC/33/61/Add.1, para. 55.

⁹⁶ Ibid. See also A/HRC/33/61/Add.1, paras. 55, 77 and 85-86.

⁹⁷ CERD/C/ITA/CO/19-20, para. 22. See also Committee on the Elimination of Racial Discrimination, General Recommendation no. 37 on discrimination against Roma, which recommends that States include chapters about the history and culture of Roma in textbooks at all appropriate levels.

⁹⁸ See article 34 of the Italian Constitution, which provides that schools are open to everyone.

⁹⁹ According to the Ministry, regional directors may decide to lower or increase this percentage, depending on the local situation.

¹⁰⁰ In its comments to this report, the Government noted that the Ministry of Labour’s data indicates that as at 30 June 2019, there were 7,272 unaccompanied foreign children present and registered in Italy (see www.lavoro.gov.it/temi-e-priorita/immigrazione/focus-on/minori-stranieri/Documents/Report-MSNA-mese-giugno-2019.pdf).

¹⁰¹ Presidency of the Council of Ministers, “National Strategy for the Inclusion of Roma, Sinti and Caminanti Communities – European Commission Communication No. 173/2011” (available in English at https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/ITA/INT_CCPR_ADR_ITA_22194_E.pdf), p. 50. Italy did not participate in the European Union Fundamental Rights Agency’s comparative data gathering concerning the situation of Roma in 2011-2016, so it is not known whether this situation has changed.

¹⁰² Ibid, p. 60.

harassed because of their skin colour, descent, clothing, hair style or accent, without prompt and effective intervention from school staff, which paves the way to the “normalization” of racial discrimination. A recent incident in Foligno (Umbria), where a teacher called a student of African descent “ugly” then tried to justify this as a “social experiment”,¹⁰³ raises important concerns about the training of teachers. OHCHR notes that measures have been taken in that case to discipline the teacher.

55. While measures to avoid segregation of students are important, the team was concerned to hear from social workers and Roma community members that schools have sometimes refused to accept Roma children based on the justification that the 30 per cent quota of foreign students was exceeded, thus forcing children to attend schools far from their homes. The team heard that the parents’ perception was that these decisions were often arbitrary and biased, which was reinforced by reports that such decisions and justifications were not transmitted to the parents in written form, which impeded effective complaint and accountability.

56. In addition, the team learned about policies that disproportionately affect Roma, migrant and minority families by excluding their children from school services such as the school bus and canteen. The team heard that many poor families who are forced to work in the informal sector cannot provide the documents required to prove their income, which would qualify them for services at the reduced rate. OHCHR expressed concern with MIUR about the policy applied in the municipality of Lodi (Lombardy) that required non-European Union families to provide extra documentation, which prevented children from accessing services.¹⁰⁴ In response, MIUR noted that this policy area falls within the responsibility of local authorities. MIUR highlighted that a Court had ruled that the policy was discriminatory and should be overturned, thus serving as a warning to all municipalities to avoid similarly discriminatory acts.¹⁰⁵

57. With regard to school curricula, MIUR stressed that training programmes for teachers highlight the multiculturalism of Italian society and the positive value of diversity. However, the team expressed concern that some textbooks still reinforce discriminatory stereotypes, such as a textbook for the fifth (and last) year of primary school entitled “*Diventa protagonista*” that included a statement that many of the foreigners in Italy are “illegal”.¹⁰⁶ During the mission, MIUR officials denied that the statement was problematic and promoted negative stereotypes. MIUR later clarified that the publisher had subsequently modified the text, and that schools are responsible for selecting their textbooks. OHCHR emphasizes that terminology can play a key role in inciting discrimination, and that calling foreigners “illegal” can stigmatize migrants and minorities by associating them to criminality.¹⁰⁷ This has also been recognized by Italian jurisprudence, which has held that calling asylum seekers “illegal” is both a mistake and an insult – as they enjoy a fundamental right to seek asylum, and the adjective has negative connotations and creates an intimidating and hostile environment.¹⁰⁸ OHCHR also stresses the Government’s responsibility in ensuring the content of textbooks, noting that schools choose from a list of textbooks that have been approved by MIUR.

58. MIUR declined to provide specific examples of the representation of Italy’s colonial past in the school curriculum, but noted that it must conform to uniform national guidance. MIUR officials also

¹⁰³ See www.thelocal.it/20190222/italian-teacher-apologizes-for-calling-black-pupil-ugly-as-an-experiment.

¹⁰⁴ See https://milano.corriere.it/notizie/cronaca/18_dicembre_13/lodi-caso-mense-sindaca-perde-tribunale-discriminazione-44da229e-feff-11e8-81df-fed98461c4ee.shtml; www.infomigrants.net/en/post/12833/lodi-a-city-divided-over-discrimination-of-migrant-children.

¹⁰⁵ Tribunal of Milan, case no. 20954/2018, 12 December 2018.

¹⁰⁶ The original Italian text stated: “È aumentata la presenza di stranieri, provenienti soprattutto dai paesi asiatici e del Nord Africa. Molti vengono accolti in centri di assistenza per i profughi e sono clandestini, cioè la loro permanenza in Italia non è autorizzata dalla legge”: Berardi et al., *Diventa Protagonista*, Il Capitello, 2016.

¹⁰⁷ General Assembly resolution 3448(XXX) of 1975 requested the United Nations to use the term “non-documented” or “irregular” regarding workers who illegally entered a country for work. The Committee on Migrant Workers has stated in its General Comment No. 2 that the word “illegal” should be avoided as it stigmatizes migrant workers. The Parliamentary Assembly of the Council of Europe has also explained, in its resolution 1509 (2006), that it prefers “irregular migrant”, as it does not carry the stigmatization of the term “illegal”.

¹⁰⁸ Tribunal of Milan, case no. 47117/26, 22 February 2017. Available at: www.equalitylaw.eu/downloads/4242-italy-harassment-by-political-party-through-hate-speech-pdf-108-kb.

stated that it was not possible to provide data on numbers of minorities or persons of African Descent working in professional capacities in schools, due to provisions of the Constitution.

59. Finally, OHCHR heard accounts from civil society and two victims of racial discrimination indicating that activities promoting diversity at schools are implemented on ad hoc basis, rather than based on national guidelines. MIUR informed OHCHR that under the autonomy model of the education system, each school must define its own three-year plan, taking into account the principles of promoting diversity and combatting discrimination. Nevertheless, civil society organizations reported that it can be problematic to implement joint projects in schools if the director is not in favour of initiatives against racial discrimination. The team spoke with organizations and students who urged for greater opportunities for cultural exchange and positive narratives with regard to minorities and migrants. One migrant informed the team that he is the only black person in his school, and has made personal efforts to meet citizens and share his story. He expressed a desire for more opportunities for positive storytelling, noting that he was aware of only one activity – organized in his school after-hours on Fridays – which provided such an opportunity.

60. OHCHR notes that children are at a sensitive stage of their lives, and experiences of discrimination – not least from persons in positions of authority, such as teachers – can have long-lasting effects. Educational institutions are extremely important in ensuring diversity and inclusion, and in shaping positive narratives.

(ii) *Adequate housing*

61. States must take appropriate steps to ensure the realization of the right to an adequate standard of living, including housing.¹⁰⁹ They also have specific obligations relating to forced evictions, including to undertake them only as a measure of last resort and to ensure adequate alternative housing.¹¹⁰ United Nations human rights mechanisms have expressed particular concern regarding the Roma – calling for States to avoid their segregation in housing, and to act firmly against any discriminatory practices affecting their access to housing.¹¹¹ Nevertheless, many RSC communities in Italy still live in segregated camps with poor conditions, and local authorities have continued to construct new segregated camps and to exclude Roma from accessing social housing.¹¹² Policy concerning Roma is still in the process of overcoming the legacy of decades of racial segregation policies, in which Roma were maintained in separate “camps for nomads”, based on the stereotyped assumption that Roma travel.¹¹³

62. The National RSC Strategy takes a step forward in recognizing that the past policies of segregating Roma in camps have fuelled marginalization and social exclusion.¹¹⁴ It specifies that housing must always be based on “the prevention of any spatial segregation” for the progressive and systematic movement of Roma out of the camps, through a broad spectrum of housing options such as ordinary social housing and support for purchase or rental.¹¹⁵ Against this backdrop, the team was alarmed to hear testimonies and learn of legal developments that contradict the commitments in the National Strategy. In particular, legal amendments from February 2017 weaken protection against

¹⁰⁹ International Covenant on Economic, Social and Cultural Rights, article 11(1).

¹¹⁰ See Committee on Economic, Social and Cultural Rights, General Comment No. 7, The Right to Adequate Housing, paras. 7-8.

¹¹¹ International Convention on the Elimination of All Forms of Racial Discrimination, article 5(e)(iii); Committee on the Elimination of Racial Discrimination, General recommendation no. 37 on discrimination against Roma, paras. 30-31.

¹¹² CERD/C/ITA/CO/19-20, para. 21; E/C.12/ITA/CO/5, paras. 40-44.

¹¹³ See Presidency of the Council of Ministers, “National Strategy for the Inclusion of Roma, Sinti and Caminanti Communities – European Commission Communication No. 173/2011” (available in English at https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/ITA/INT_CCPR_ADR_ITA_22194_E.pdf), pp. 4 and 14.

¹¹⁴ *Ibid.*, pp. 3, 14 and 78.

¹¹⁵ *Ibid.*, pp. 79-80.

forced eviction, establish additional conditions to qualify for social housing, and aim to expedite the expulsion of non-citizens from Italy.¹¹⁶

63. In its meetings with Roma community members, the team heard numerous accounts regarding lack of security of tenure, forced evictions, lack of access to mainstream housing, segregation, undignified and dangerous conditions, and excessive social control and surveillance. It was evident that commitments at the national level to move away from segregated housing have had limited success, especially in large urban areas such as Milan, Naples, Rome and Turin. By contrast, governmental authorities reported that smaller urban areas, in regions such as Emilia-Romagna, Tuscany and Umbria, had implemented policies for social inclusion of Roma, with smaller cities such as Terni (Umbria) having no slum housing whatsoever. In the case of the “River Camp” in Rome, community members reported that the dismantling of the camp in 2018 resulted in some people being sent to Romania, while the majority now live in smaller slums or squats. In Naples, the public authorities had designed a segregated housing project for a group of Roma from the former Yugoslavia, but the European Union declined to fund it due to the illegality of segregation. The team learned that the persons concerned still lacked adequate housing.

64. Roma community members expressed intense fear of forced evictions and family separations. They also noted that they had difficulty accessing the private rental market as many landlords refused to rent to them, and that their access to public transport was impeded due to the remote location of settlements. In Naples, families stressed that a practice of “induced evictions” – whereby they are forced to leave their homes or risk criminal proceedings (after receiving a notice to clean up by a certain date or risk criminal responsibility) – was even worse, as no responsibility is attributed to the State. They issued an impassioned plea to the team for an end to forced evictions, segregation and family separations. They also called for consultative mechanisms to be established under the National RSC Strategy.

65. Migrants and refugees also described degrading living conditions and homelessness. The team met migrants who had experienced torture in their home countries and harrowing journeys to Europe, who were sleeping in the street. Some migrants had temporary shelter at Tiburtina Station in Rome under the city’s “cold emergency” programme,¹¹⁷ in centres under the Protection System for Asylum Seekers and Refugees (SPRAR), or in centres for persons in a state of social fragility. Civil society and local authorities informed the team that these were temporary arrangements that would soon end. Many stakeholders expressed concern that the Decree-Law on Immigration and Security would curtail access to adequate housing for migrants, as many asylum seekers would no longer have access to second-level reception centres. Civil society representatives also reported that private landlords are often unwilling to rent to migrants, even when funding is available and documents are all in order.

66. Persons living in informal, segregated or exposed housing face violations of their right to adequate housing. They are at serious risk of harm, and stakeholders noted that fires are regularly reported due to the need to use of candles or impromptu heaters. The Roma communities met by the team also raised concerns regarding sanitation, waste removal, and camps built in industrial or contaminated areas. In addition, communities may be exposed to racist attacks. One Romani woman informed the team that she had found unignited Molotov cocktails on her doorstep three times in 2018.

67. OHCHR is concerned about the persistence of segregated housing and obstacles to inclusion of migrants and minorities in mainstream housing. These appear to stem from untackled racial

¹¹⁶ Decree-Law No. 14/2017 provides *inter alia* that persons squatting buildings are precluded from access to social housing for five years. These measures were further reinforced by Ministry of the Interior Decree No. 11001/123/111(1) of 1 September 2018, which provides for the acceleration of evictions of people who occupy buildings without legal title or in precarious security conditions.

¹¹⁷ At Tiburtina Station, the project consisted of folding cot beds that were available during the night-time hours. During the mission, the “cold emergency” was set to end on 5 February 2019. It was subsequently extended until 10 April 2019.

discrimination on the rental market, a lack of national resources committed to improving housing amongst disfavoured minorities, and rules that exclude persons who live in informal housing from accessing public housing. The housing situation of migrants and minorities is further exacerbated by insecurity of tenure and standing threats of eviction, and increased risks of exposure to racist-motivated attacks.

(iii) *Employment, health and social services*

68. The OHCHR team heard accounts expressing concern about discrimination in access to other economic, social and cultural rights, especially access to decent work, the right to health, and adequate social services. Civil society, migrants and some authorities raised particular concerns regarding the situation of migrants, including migrant agricultural workers and victims of trafficking, and the effects of the Decree-Law on Immigration and Security. Although the Ministry of Labour informed the team about a three-year plan to combat exploitation in agricultural labour, OHCHR has concerns that the impact of the Decree-Law could undermine positive initiatives in this regard.

69. In Campania, stakeholders reported administrative incompatibilities that prevent migrants from accessing social services, health care and legal employment. They noted that migrants receive temporary fiscal codes with 11 numbers (while permanent codes have 16 numbers), which are often not recognized by the software used in public offices or by banks, thus making it difficult to access services, open bank accounts, and receive payments for legal work. A lawyer, doctor and social worker explained separately to the team that some public offices require a residence permit, and do not recognize self-declared residence or receipts from the *Questura* certifying that a residence application is under review. This has caused migrant women to face difficulties registering newborn babies in the municipal office, which has required civil society intervention. Without proper registration, migrant women cannot take their child out of the hospital, and the child can be considered abandoned and put up for adoption. In Rome, two civil society representatives (including a doctor) informed the team that migrants have faced difficulties obtaining the health card that ensures their access to medical care,¹¹⁸ and that migrants who presented the card have been subjected to inappropriate questioning about their legal status by hospital staff.

70. Stakeholders noted that legal channels for migrants to obtain documentation had narrowed considerably, due to the changes to humanitarian protection status under the Decree-Law on Immigration and Security.¹¹⁹ This has had the impact of driving persons into the informal economy, while rendering employers non-compliant with the law. The mayor of Naples stated that the Decree will increase insecurity, as it will facilitate illegality and make rights-holders “invisible”, untraceable by the authorities, and more vulnerable to exploitation and organized crime. He noted that the city of Naples had issued its own Directive to give migrants access to social services and ensure their legal existence.¹²⁰

71. Stakeholders flagged that thousands of persons would be affected by the Decree-Law. These include migrant workers working in the agro-economy, many of whom suffer extreme exploitation and coercion at the hands of *caporali* (illegal labour brokers).¹²¹ Civil society stressed that although there were no changes to the legal protections afforded to trafficking victims,¹²² many of them would be affected since they are in the asylum seeker circuit due to the inability of many victims to disclose

¹¹⁸ The STP card for Temporarily Present Foreigners (*Straniero Temporaneamente Presente*).

¹¹⁹ See above para. 15.

¹²⁰ PG/2019/249091 of 15 March 2019.

¹²¹ See OHCHR, “Embrace migrant workers as rights holders essential to Italy’s agro-economy”, 12 October 2018 (available at: www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23722&LangID=E), where the Special Rapporteur on contemporary forms of slavery stated (at the end of her mission to Italy) that an estimated 400,000 agricultural workers risk being exploited and almost 100,000 likely face inhumane conditions and extreme forms of coercion, including physical or sexual violence or being forced to take performance-enhancing drugs.

¹²² Law No. 286/1998, article 18.

their trafficking experience at first instance.¹²³ Stakeholders also pointed out that many Roma persons are documented through humanitarian protection status, even if they were born in Italy or their families have been in Italy for multiple generations.¹²⁴

72. Civil society noted an “overall worsening of services” and reported that social services for migrants were closing down. Local authorities in Rome, Milan and Naples expressed concern that they will need to resort to “creative solutions” to provide for people’s housing, health and social needs, as resources are reduced and people become unprotected under the Decree-Law, yet nevertheless remain within the municipality’s territory. Following the mission, United Nations human rights experts issued a statement following the eviction of migrant workers from an informal settlement in Calabria, noting that as a result of the Decree-Law, “many migrants have been left in an irregular situation which marginalizes them and increases their vulnerability to sexual and work exploitation”.¹²⁵ OHCHR has concerns about the Decree-Law placing migrants and minorities in a vulnerable situation and having a negative impact on their access to conditions of dignity, including decent work, adequate housing, sanitation and health care.

F. Statelessness and the right to nationality

73. Civil society organizations estimated that there are about 15,000 stateless persons in Italy. Minorities, especially Roma, are particularly affected by statelessness.¹²⁶ OHCHR heard numerous accounts that statelessness remains a problem among Roma from the former Yugoslavia, many of whom arrived in Italy over 20 years ago and did not manage to secure the citizenship of any Yugoslav successor State, particularly if they were men seeking to avoid military service. These people now have children and grandchildren, such that Italy has unresolved statelessness cases spanning several generations. Civil society representatives also described problems of statelessness amongst people who immigrated to Italy with their parents decades ago, but have missed the window of opportunity to apply for Italian citizenship.

74. Civil society representatives (including representatives of affected communities) emphasized that citizenship laws are complex and provide for a specific window, between the ages of 18 and 19 years old, to apply for nationality. Although the law provides that a child born in Italy to parents who are stateless or cannot confer their nationality acquires citizenship by birth, the implementation of this clause is not automatic. Parents must provide supporting documentation to show that they are recognized as stateless, or alternatively, parents who cannot confer nationality are often requested to provide a declaration from their embassy attesting to that fact.¹²⁷ Another provision allows for a child born in Italy, who can prove uninterrupted residency, to apply for citizenship upon reaching the age of majority (18) for one year (until 19 years old).¹²⁸ In both cases, difficulties of proof have increased the risk and led to cases of statelessness, thus resulting in violations of the right to nationality under international human rights law.¹²⁹

¹²³ See A/HRC/26/37Add.4. See also A/HRC/38/45, which notes that “refugees and migrants are not likely to discuss their situation during first arrival interviews... In many cases, experiences of exploitation and trafficking in persons will only be shared at a later stage of the journey and not necessarily on arrival at the destination country. Such information is more likely to be shared in the context of a long-established relationship with a service provider that might not be originally mandated to perform identification, for example, health providers or protection actors” (para. 43). In its comments to this report, the Government noted the existence of a project under the Asylum, Migration and Integration Fund to provide information on the early identification of victims of trafficking and labour exploitation.

¹²⁴ See further Chapter III.F below on the Right to nationality and statelessness.

¹²⁵ OHCHR, “Italy must urgently protect evicted migrant workers from exploitation, say UN rights experts”, 13 March 2019 (available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24323&LangID=E>).

¹²⁶ The Committee on the Elimination of Racial Discrimination has expressed concern about “[t]he number of stateless persons among Roma, Sinti and Caminanti communities and the lack of information provided by the State party on the practical measures taken to remedy the situation”: CERD/C/ITA/CO/19-20, para. 21.

¹²⁷ See European Network on Statelessness, Stateless Index: Italy (available at: <https://index.statelessness.eu/country/italy>). See also *UNHCR Recommendations on the Relevant Aspects of the Protection Of Stateless Persons in Italy*, 2014 (available at: <https://www.refworld.org/docid/5513cff14.html>), which notes that “Italian authorities often find it difficult to have access to information on laws regulating citizenship in the country of origin of the parents as well as to the correct interpretation of such laws”.

¹²⁸ *Ibid.*

¹²⁹ See A/HRC/13/34, United Nations, *Guidance Note of the Secretary General: The United Nations and Statelessness*, November 2018, p. 7.

75. In addition, amendments introduced by the Decree-Law on Immigration and Security have doubled the waiting period for applications for citizenship by marriage and naturalization from two to four years, and provided for the possibility to revoke citizenship obtained by naturalization in the event of a conviction for crimes committed for terrorist purposes, without any guarantees to prevent statelessness.¹³⁰ Moreover, stakeholders reported that politicians have justified these legal changes using negative rhetoric, such as statements that more stringent measures were needed because “foreigners were too sly”.

G. Impact on particular groups

76. Information gathered by OHCHR shows that particular groups are being negatively affected by racial discrimination. These include migrants and persons belonging to minorities, including Roma, religious minorities and people of African descent. It also includes the “new generation” of Italians,¹³¹ who identify as Italian and may hold citizenship, yet are still perceived as “foreigners” and not “really Italian”.

77. OHCHR has concerns that the political discourse has developed to portray persons from these groups as outsiders, enemies, competitors and “others”. For example, the Decree-Law on Immigration and Security – even through its title – draws a link between immigration, citizenship and security, thus reinforcing discriminatory perceptions that stigmatize and associate migrants and minorities with criminality. During the Government’s public presentation of the Decree-Law, officials emphasized the security threat and economic cost of migrants.¹³² The linking of “immigration” and “security” has been feeding perceptions that migrants and minorities are to be feared, serving to exploit often-unrelated uncertainties and anxieties for political purposes. OHCHR has concerns that these linkages are leading to an increase of racial discrimination, hateful speech and hate crimes, as well as making them more socially acceptable.¹³³

78. Structural discrimination against the RSC community and anti-Gypsyism remain serious problems. They contribute to the socioeconomic marginalization and political exclusion of Roma people, and significantly influence their access to basic services. In meetings with regional and local authorities, the team heard comments from several officials about the “criminality” of Roma people. Such comments indicate that anti-Gypsyism remains pervasive in the public and political sphere, impacting the authorities’ actions and policies, and hindering implementation of the National RSC Strategy. One positive action highlighted was that the City of Milan had held a commemoration of the Roma holocaust in January 2019, together with local Roma civil society organizations. Nevertheless, civil society and Roma community members reported an increase in discrimination against Roma since 2018, incited in part by the Interior Minister’s declarations regarding conducting a census of Roma.¹³⁴ While Government authorities assured the team that no census have been conducted, civil society reported that inhabitants from two formal camps in Rome were photographed, fingerprinted and had their data registered in August 2018. OHCHR emphasizes that disaggregated data must be collected in accordance with human rights, and not as a potential tool to further discriminate.

¹³⁰ Respectively, articles 19ter and 10bis of Law 91/1992 (the Citizenship Act), as inserted by Law 132/2018, article 14.

¹³¹ The phrase “new generation” has been used at the request of the persons concerned, and has also been taken up by the Ministry of Labour (see www.lavoro.gov.it/notizie/pagine/il-conngi-presenta-il-manifesto-delle-nuove-generazioni-italiane-2019.aspx).

¹³² See www.governo.it/media/conferenza-stampa-del-consiglio-dei-ministri-n20/10023; www.facebook.com/salviniofficial/posts/10156084272483155.

¹³³ See A/HRC/38/52, para. 63.

¹³⁴ The declaration was the subject of a debate in European Parliament in July 2018, and the European Commission’s reply stated that it was informed by the Italian Government “that there are no plans to carry out a census of the Roma population with the intention of expulsion” (see www.europarl.europa.eu/doceo/document/E-8-2018-003334_EN.html). On 3 July 2018, the Lombardy Regional Council adopted Deliberation XI/40 which called for the implementation of a census of Roma settlements and their residents in the region, and the closing of unauthorized Roma camps. The OHCHR mission’s understanding was that no such census have been conducted in Lombardy.

79. In addition, the team found issues of intersectionality, particularly with regard to the following groups:

- Children from migrant and minority families have faced challenges in registering or accessing services at school. They have also faced discrimination in the education system, from teachers or their peers. In addition, stakeholders reported that migrant and minority children are more easily taken away from their families, based on reasons such as lack of adequate housing, unsanitary conditions, or absence from school.¹³⁵
- Women from migrant and minority backgrounds face multiple and intersecting forms of discrimination. The closure of SPRARs and changes to humanitarian protection status have impeded women's access to housing and social services (including for many survivors of trafficking), as accommodation and integration services are only available to beneficiaries of international protection, unaccompanied children, and persons entitled to stay due to special cases. As described above, administrative incompatibilities have hindered women from registering their children at birth. There are also concerns about violence, as the team heard reports about migrant and minority women being vulnerable to violence from their employers, being pushed or physically intimidated on the street, and being afraid to take public transport due to the possibility of facing hateful speech or hate crimes.
- The effects of racial discrimination are especially harsh for lesbian, gay, bisexual, transgender and intersex (LGBTI) migrants. Lawyers noted that they face difficulties in the asylum process.¹³⁶ They reported a lack of sufficient specialized training for those conducting asylum interviews, resulting sometimes in inappropriate questioning. Migrants may also struggle with acceptance in their own communities, and they may have difficulty being open about their LGBTI status due to fear of repeating discrimination experiences from their countries of origin.
- Persons with disabilities face particular barriers in accessing their economic, social and cultural rights. Stakeholders noted the devastating and disproportionate effect of forced evictions and the lack of suitable, accessible and adequate housing, and the lack of support for persons with disabilities, as well as for older persons and people with chronic health conditions. Social workers reported that problems with documentation have hindered children with disabilities' access to paediatric care and support in education.
- Discrimination against religious minorities has recently increased, because the value of diversity is being challenged. The team heard from UNAR that Italy has tended to consider itself as "mono-religious", with limited consideration of religious minorities. Representatives of the Muslim community noted that they are not officially recognized, and they do not have the possibility of obtaining legal recognition as corporate bodies for religion. They also reported that certain legislative initiatives in Lombardy and Veneto, including the regional "anti-mosque" laws, represent a discriminatory action against an entire religious community.¹³⁷

¹³⁵ See for example Council of Europe, *Human rights of Roma and Travellers in Europe*, 2012, chapter 4.2; European Roma Rights Centre, "Stealing children: institutionalising Romani children in Italy", October 2000 (available at: www.errc.org/roma-rights-journal/stealing-children-institutionalising-romani-children-in-italy); AFIN Research Group, "Orphaned and Vulnerable Romany Children and their Protection", June 2017 (available at: https://ddd.uab.cat/pub/afin/afinENG/afin_a2017m6n95iENG.pdf). The Government noted that a survey of RSC communities is currently being carried out to gather information, including about their living conditions and level of inclusion.

¹³⁶ Italy has ratified the 1951 Convention relating to the Status of Refugees, and article 8 of Decree 251 of 2007 acknowledges that persecution for membership in a particular social group characterized by the common feature of sexual orientation is considered a ground of persecution.

¹³⁷ Lombardy Regional Law no. 3 of 2015; Veneto Regional Law no. 12 of 2016.

80. OHCHR stresses the urgency of tackling racial discrimination and hateful speech – noting that its “normalization” has already begun, and that this can have serious consequences for all people of society.

H. Human rights defenders

81. The OHCHR team was impressed by the active engagement, commitment and resilience of a large spectrum of civil society actors and human rights defenders. Nevertheless, the team was concerned by numerous accounts, especially from migrants’ rights defenders, that they have been targeted because of their work. It heard reports of physical attacks on NGO premises, slashed tires on marked NGO vehicles, and threats to volunteers. In light of these challenges, some organizations even spoke about moving their premises outside of the country.

82. As previously mentioned, lawyers also reported that they faced obstacles to their efforts to provide legal assistance to migrants. Both in Rome and Naples, the team heard that in recent months, lawyers were no longer allowed to enter the *Questura* to accompany migrants who wished to submit asylum or residence applications, or to access clients detained in the *Questura*.

83. Members of Government who have spoken out in favour of human rights also reported receiving threats. Parliamentarian Laura Boldrini spoke about receiving threats of violence and gender-based violence, including online and on social media.

84. OHCHR is particularly concerned about the “smear campaign” against civil society organizations engaged in migrant search and rescue operations in the Mediterranean Sea, and the criminalization of their work.¹³⁸ The Government has made it nearly impossible for humanitarian vessels to continue rescuing migrants in the Mediterranean Sea, and the Minister of the Interior has openly declared Italian ports closed to vessels carrying rescued migrants, although some mayors have asserted that their ports remain open. Such actions have contributed to an increased rate of migrants drowning or going missing at sea, and resulted in several cases in 2018 and 2019 where rescued migrants were forced to remain on ships at sea for days.¹³⁹ Stakeholders emphasized that the policy to refuse permission to boats to disembark at Italian ports (including the Sea Watch, which was refused disembarkation during the week of the mission) was based on unilateral actions of the Minister of the Interior, with no apparent basis in law. Moreover, several criminal investigations have been launched against NGOs and their members for “abetting irregular migration,” a crime punishable with a jail sentence of up to five years and a fine of up to 15,000 euros for each migrant illegally transported.¹⁴⁰

85. OHCHR expresses concern about threats against members of civil society, professionals and human rights defenders. They are incompatible with democratic values and human rights standards, and threaten the strong and engaged civil society and culture of human rights that has developed in Italy over many years. These threats not only obstruct the work of civil society, but also fuel racial discrimination and hatred against the people that civil society is seeking to protect and support.

¹³⁸ See AL ITA 2/2018, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24084>. The Government reply is available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=34688>.

¹³⁹ See United Nations Support Mission in Libya & OHCHR, “Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya”, 20 December 2018, pp. 12-17.

¹⁴⁰ See European Union Agency for Fundamental Rights, *Criminalisation of migrants in an irregular situation and of persons engaging with them*, 2014 (available at: <https://fra.europa.eu/en/publication/2014/criminalisation-migrants-irregular-situation-and-persons-engaging-them>); Open Democracy, “Hundreds of Europeans ‘criminalised’ for helping migrants”, 18 May 2019 (available at: www.opendemocracy.net/en/5050/hundreds-of-europeans-criminalised-for-helping-migrants-new-data-shows-as-far-right-aims-to-win-big-in-european-elections/).

IV. CONCLUSIONS AND RECOMMENDATIONS

86. OHCHR recognizes the legislative, judicial, institutional and policy measures to address racial discrimination in Italy, while noting that some gaps still remain. Although various projects and initiatives are under way, the implementation of those measures also needs to be strengthened, through clear actions and systematic and prompt public condemnation of all instances of racist hate speech and hate crimes. The authorities should refrain from making statements inciting racial hatred and discrimination, particularly through the exploitation of anxieties amongst the population regarding security, economic prosperity and national identity, which pave the way for the normalization of racial discrimination. OHCHR also urges the Government to carefully assess the impact of legal amendments, to ensure that they do not further exacerbate the situation of persons in situations of vulnerability.

87. OHCHR presents the following recommendations to the Government of Italy, and stands ready to provide technical assistance upon the request of the authorities:

Institutional issues

- Establish an independent institution for the implementation and monitoring of human rights. Increased efforts should be made to establish a national human rights institution compliant with the Paris Principles.
- Ensure that the functions of an equality body (currently carried out by the National Office Against Racial Discrimination) are carried out by an institution that complies with principles of independence and impartiality.
- Ensure that an independent mechanism is available for the reporting of hate crimes, including complaints against law enforcement officers. Efforts should be made to raise public awareness and confidence in such a mechanism, and to increase cooperation with civil society.

Data disaggregation

- Establish human rights-compliant mechanisms for the collection of disaggregated data, which are necessary to assess levels of racial discrimination and areas of intersectionality, and to develop adequate policies to address racial discrimination and measures to evaluate their effectiveness. Efforts should be made to understand good practices from other countries in relation to a human rights-based approach to data, based on the principles of participation, disaggregation, self-identification, transparency, privacy and accountability.

Incitement to racial hatred, discrimination and violence

- Develop a comprehensive strategy to counter incitement to racial hatred, discrimination and violence. Such a strategy should include specific measures to address discrimination against specific groups, combat negative stereotypes, raise awareness, and promote intercultural understanding, tolerance and friendship.
- Systematically denounce reported cases of hate crimes and incitement to hatred, discrimination and violence, including by political leaders, and ensure prompt investigations and accountability.
- Adopt parliamentary codes of conduct against all forms and manifestations of racist hate speech, and encourage media and political parties to adopt and/or abide by ethical standards of conduct, particularly with respect to public speech.
- Organize trainings and meaningful awareness-raising campaigns for parliamentarians, government authorities and the public on human rights, racial discrimination, freedom of expression and hate speech. Promote local campaigns that reinforce solidarity and the value of diversity, and that combat prejudice, stigmatization and exclusion.
- Use terminology with care, including by refraining from referring to migrants as “illegal”, and avoiding the association of migrants or minorities with security or criminality.

Law enforcement

- Ensure that law enforcement officers wear visible identification badges or warrant numbers. These badges may provide for anonymity, but should enable for the officer to be easily identifiable, in order to promote transparency and accountability.
- Adopt effective internal policies and standard operating procedures for law enforcement officers that clearly define and prohibit racial and bias-based profiling. These should include clear guidelines for stops, identity checks and searches that include a reasonable suspicion standard; monitoring mechanisms to regularly assess profiling practices, including requirements for the recording and systematic review of stop-and-search data; and human rights-compliant collection of disaggregated data on identity checks, searches, complaints, investigations, prosecutions and convictions.
- Express commitment at a high level within law enforcement agencies to tackle racial discrimination. These should include a commitment to investigate all allegations of racist acts with a view to determining responsibilities, and a clear policy statement to address discriminatory practices, including racial profiling and other forms of bias-based profiling.
- Strengthen internal and external accountability measures related to discriminatory practices by law enforcement institutions. A review of existing measures should be conducted, in full consultation with civil society.
- Ensure systematic trainings and guidance materials for law enforcement officers, to promote their understanding of human rights standards and principles for combatting racial discrimination, incitement to hatred, hate crimes, and racial and other forms of biased based profiling.

Economic, social and cultural rights

- Ensure that policies and documentary requirements do not act as an obstacle to accessing economic, social and cultural rights. Remove rules that create discriminatory obstacles to access to public housing, and review and amend documentary requirements that hinder access to rights (e.g. incompatibility of temporary fiscal codes, lack of recognition of certain documents proving residence).
- Act on commitments to end segregated and other stigmatized forms of housing, including by tackling discrimination on the rental market.
- Strengthen protections in law and in practice against forced evictions, and provide genuine security of tenure to forms of housing which currently lack such security.
- Dedicate sufficient resources to tackling homelessness and housing exclusion among those most at risk, with a view to ensuring effective realization of the right to adequate housing for all.
- Strengthen efforts to monitor, address and end discrimination on the labour market and access to technical and vocational training.
- Consider amending the Decree-Law on Immigration and Security. Refrain from drawing a link between migrants and security, and ensure that legal measures do not lead to increased cases of statelessness, vulnerability to exploitation or lack of access to human rights.
- Review teacher training programmes, and ensure that training for teachers and school staff addresses prejudices and stereotypes; develops respect for human rights; and addresses non-discrimination and ways to deal with instances of racial discrimination in schools. Teachers and school staff should be increasingly sensitized regarding the values of diversity, inclusion and multilingualism, as well as common values, rather than aiming only at respect for differences.
- Undertake a comprehensive review of school curricula and textbooks to ensure they do not contain discriminatory remarks or stereotypes, and that they address legacies of colonialism and anti-Gypsyism in an appropriate manner that conveys the continued consequences of racially discriminatory policies. Ensure that curricula and educational materials contain specific content to strengthen respect for human rights, and to promote understanding, tolerance and friendship.

- Provide for greater opportunities for cultural exchange and positive storytelling, including with consultation and involvement of persons from migrant or minority backgrounds.
- Ensure that all children have full access to schools and school services. Decisions not to accept children due to the maximum quota of foreign students should be communicated in writing in order to promote transparency and accountability. Policies for access to school service should not be discriminatory.

Right to nationality and statelessness

- Redouble efforts to end statelessness, including through considering special measures to assess and address statelessness in the Roma population.
- Conduct data collection and analysis on statelessness, including through a question on country of citizenship in the next population census that lists “stateless” as a response option.

Impact on particular groups

- Devote particular attention and resources to eliminating systemic discrimination against and segregation of particular groups affected by racial discrimination, as well as intersecting facets of identity such as gender, age, disability, migrant status, sexual orientation and religion. Public discourse should not reinforce discrimination; policies and actions should be implemented that address both public and private actors; and swift actions should be taken to penalize discriminatory conduct.
- Continue efforts to develop and protect the status and access to rights of the Roma minority and religious minority communities (including Muslims and Jews), among other minority groups. This should include the right to protection and promotion of identity, which refers to the enjoyment of their own culture, to profess and practise their own religion, and to use their own language.
- Develop LGBTI sensitivity in asylum procedures, including through appropriate consideration of LGBTI status in reception procedures, and strengthening specialized training for officials at the *Questura* and Territorial Commission.

Human rights defenders

- Ensure that the provision of legal and humanitarian assistance and support is not criminalized or penalized. The State should specifically protect human rights defenders, and publicly condemn all instances of violence, discrimination, intimidation or reprisals against them.
- Ensure that civil society and human rights defenders are able to carry out their legitimate work in a safe, accessible and enabling environment, without fear of threats or acts of intimidation and harassment, both offline and online. Their actions to protect and promote human rights and equal treatment should be enhanced and protected.