



MINISTRY OF FOREIGN AFFAIRS
Inter-ministerial Committee for Human Rights

Italy's contribution in relation to the request of the Office of the High Commissioner for the Human Rights of the United Nations pursuant to HRC Resolution A/HRC/21/30 on the "Elaboration of international complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination"

September 2014



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Following to your query, Italian Authorities are in a position to provide the following information.

2. Bearing in mind the text of resolution A/HRC/21/30:

i. Kindly provide information on the phenomena of xenophobia in your national context, including any general trends.

According to yearly collected data, in 2013 959 cases were reported to the competent authorities engaged in the fight against all forms of racial discrimination, mainly the **National Office against Racial Discrimination (UNAR)**. 80% of these reports were considered as discriminatory acts and conducts, following the available alert procedure through the website (34.2%), the media (33.6%) and phone call (19.9%). The victim of discrimination got in contact directly with the UNAR Contact Center (84.7%). The cases were recorded in large and medium Municipalities, primarily located in Northern and Central Italy. Among the main discriminatory areas there are the following: media (34.2%) and public life (20.4%), working environments (7.5%), school (4.1%).

ii. How is xenophobia addressed in your country (include any legal and judicial frameworks and practices, substantive and procedural measures)?

The 1948 Italian Basic Law includes all basic and fundamental rights as enshrined in international and regional legal instruments and conventions.

The Italian legal system aims at ensuring an effective framework of guarantees, to fully and extensively guarantee the fundamental rights of the individuals, providing them with a wide range of protection means which have, as their core, the principle of non-discrimination set out at Art. 3 of the Italian Basic law: "All citizens possess an equal social status and are equal before the law, without distinction as to sex, race, language, religion, political opinions, and personal or social conditions." The main scope of the Basic Law above provision emerges by its second paragraph that, in addition to establishing the autonomous principle of the so-called "substantial" equality and equal opportunities for all citizens in social, economic and political life, expresses a rule of interpretation to be reflected in the implementation of the principle of the so-called "formal" equality. In fact paragraph 2 describes the guarantee of non discrimination vis-à-vis the results produced or to be produced in the concrete life relations, thanks to the primary constitutional imperative of removing the "de facto" limits to equality and to pursue the ultimate goal of the "full" self-determination of the individual along with the "effective" participation in community life.

Moreover, it is well known how all along its history the European Union provided itself with a steady legal base, as an instrument to act against all forms of discrimination. In this perspective, the implementation of the principle of equal treatment by the European Commission resulted in the promulgation of two Directives for the protection of rights against all forms of discrimination: the Directive 2000/43/EC, which prohibits all forms of discrimination based on race or ethnic origin, in any area or sector, both private and public; the Directive 2000/78/EC, that regulates the prohibition of discrimination on grounds of religion or belief, disability, age or sexual orientation, as regards employment and occupation.

According to the guiding principles included in Art. 29 of Community Law No. 39/2002, the Italian Government promptly transposed the contents of the Directive through the adoption of the Legislative Decree No. 215 of July 9th, 2003. By means of this Decree the national regulations was provided with important regulatory and administrative provisions ensuring the implementation of effective instruments of protection against all forms of discrimination on grounds of race or ethnic origin according to a comprehensive approach based on the principle of equal treatment in the public and private sectors, with respect to access to employment, occupation, guidance and vocational training, membership of workers' or employers' organisations, social protection, healthcare, social benefits, education, goods and services, judicial protection of victims by civil actions against

discrimination, including presumptive proof in favour of the victim and awarding compensation for damage. Beside the fact that the Italian Parliament in working for the transposition of EU Council Framework Decision 2008/913/JHA into Italian legislation by introducing further offences such as publicly condoning, denying or grossly trivialising crimes of genocide, crimes against humanity and was crimes (as enshrined in Arts. 6, 7 and 8 of the ICC Statute), to be considered as racist and xenophobic forms and expressions, the Italian legal system also includes specific provisions to combat racist and xenophobic speech, including those actions directed to spread ideas founded on racial or ethnic hatred and the incitement to commit acts of violence on racial, ethnic or religious grounds. The legislation in force punishes the constitution of organizations, associations, movements or groups which have, among their aims, the incitement to discrimination or to violence motivated by racial, ethnic or religious reasons. It also provides for a special aggravating circumstance for all the crimes committed on the ground of discrimination or racial hatred. As to the use of racist or xenophobic language in politics, by law it is laid down that the judicial authorities are entrusted and have to verify the existence of criminal contents in documents, speeches and programs made by political representatives.

iii. Which national mechanism(s) with competences to protect against and prevent all forms and manifestations of racism, racial discrimination, xenophobia and related intolerance does your country have in place? Kindly indicate the(ir) mandate(s) and powers, including any proposals for improvement on the basis of national experience.

In accordance with EU Directives 2000/43/EC and 2000/78/EC and their respective transposition decrees (Decree No. 215/2003 and Decree No. 216/2003, establishing the principle of equality with respect to all forms of discrimination on grounds of gender, ethnicity, race, sexual orientation, religion, personal beliefs, age and disability), the above mentioned **National Office against Racial Discrimination (UNAR)** has been established at the Department for Equal Opportunities of the Presidency of the Council of Ministers as National Equality Body, entrusted by law, with the promotion of equality and the removal of discrimination by assisting victims and monitoring discriminatory phenomena in Italy.

In recent years the field of intervention of the Office has been extended at the national level *ratione materiae*, i.e. covering discrimination based on race, ethnic origin, religion, personal convictions, disability, age, sexual orientation or gender identity. Accordingly UNAR has carried out

counter-discrimination measures, has promoted the inclusion of Roma, Sinti and Camminanti and vulnerable social categories such as elderly and persons with disability, has struggled with homophobia and transphobia taking into consideration the so called multiple discriminations. It has progressively recorded an increasing number of reports, and this contributed to the enhancement of its active role.

The **Observatory for the Security against Discriminatory Acts (OSCAD)** has been established in 2010 at the Italian Ministry of the Interior, to reply to the demand for security from potential victims of discrimination through the adoption of a comprehensive approach including the interventions of Police Forces to prevent and repress hate crimes.

To this scope OSCAD aims at: managing the under-reporting and supporting the emersion of discriminatory offences on the ground of ethnic or racial origin, gender, religion, sexual orientation and gender identity, disability, age and language; reacting immediately and efficiently to these offences on the territory through Police Forces and the Carabinieri Corps; enhancing the exchange of information collected during investigations, training opportunities and exchange of good practices among Police Forces, also at the international level (Interpol); monitoring the discriminatory phenomena in all forms; improving the awareness of these phenomena with the involvement of all relevant stakeholders; promoting initiatives aimed at preventing and make consciousness the public about this topic.

vii. Which CERD recommendations has your country implemented with regard to national mechanisms and xenophobia, including any legal and judicial frameworks and practices, substantive and procedural measures? What has been your national experience (including challenges) in this regard?

Since 2013 the drafting work of the **National Plan of Action against racism and xenophobia** has been launched charging an ad hoc Working Group to elaborate this document.

The NPA aims at implementing a comprehensive strategy to support national and local policies to prevent and repress racism, xenophobia and related intolerance, accordingly with international and European commitments assumed by Italy in last decades, and to improve a multi-ethnic and multicultural, open and democratic society. It is based on a strong synergy among central and local institutions, civil society and all relevant stakeholders. More than 80 associations have been involved to give their contribution for the compilation of the NPA.

In conformity with Legislative Decree No. 215/2003, the NPA moves from a clear and distinctive definition of the counter-action to racism, xenophobia and related intolerance: it focuses on discrimination based on race, colour, ethnic or national origin, religions or beliefs, also adopting a gender and a cultural approach. The international and national legal framework in force is explained, followed by a statistical overview concerning potential victims of discrimination, also referring to the need to elaborate specific indicators to deal with this topic.

Within the NPA several strategic areas are identified where implement target actions in the next 3 years: labour; housing; education; sport; media; awareness raising; Police Forces; Public Administration; health. The identification of these areas is the results of statistical data recorded by the UNAR Contact Centre (by the toll free number 800.90.10.10 and the website web www.unar.it), as well as in line with the relevant axes of the EU policy on this matter.

The NPA is multi-sectoral in its proper structure: in other words the target of beneficiaries could be extended including foreign citizens living in Italy, Italian citizens of foreign origin and related second third generations, victims of discrimination on the ground of colour at school or at work, foreign children born in Italy and attending the school in the last 3/5 years, religious and linguistic minorities.