



***MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL  
COOPERATION  
Inter-ministerial Committee for Human Rights***

***Italy Reply to the Letter of the Special  
Rapporteur on freedom of religion or belief  
asking for contribution for a Survey  
Questionnaire to States on Antisemitism***

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## **Italy Reply to the Letter of the Special Rapporteur on freedom of religion or belief asking for contribution for a Survey Questionnaire to States on Antisemitism**

Following to your query, Italian Authorities are in a position to provide the following information, as contained in the National Common Core Document, in the Twenty-first periodic report submitted by Italy in 2019 under article 9 of the UN Convention on the Elimination of All Forms of Racial Discrimination.

### **1. Judaism Within the State: The Right to Freedom of Religion or Belief**

The Italian Constitution guarantees all fundamental and inalienable rights of the human person, of which the freedom of religion and worship is great part. All individuals, in Italy, can profess their religion (or no religion at all) without suffering any discrimination in the enjoyment of their civil and political rights.

So Judaism, as all the other religious Denominations, benefits of “equal liberty” of expression, freedom of assembly, freedom of organization, freedom of worship.

In particular, the Italian Constitution provides specific articles on religious matters: Article 3 states the principle of non-discrimination based on religious grounds; Article 8 restates that all religious Denominations are equally free before the law and the no catholic ones can organize themselves freely and their relations with the State are based on bilateral agreement called “Intesa”; Article 19 affirms that everyone is entitled to freely profess his/her religious belief, both individually and collectively, to promote it, and also to celebrate religious rites in public or in private, unless they are not offensive to the public morality; lastly, Article 20 forbids any special legal limitation or special fiscal burdens at the expenses of religious associations and institutions with confessional aims.

Overall, the Jewish population in Italy is about 41,000<sup>1</sup> and the representative body of Italian Judaism is the Union of Italian Jewish Communities (*Unione delle Comunità ebraiche italiane* – UCEI), which, among other things, is entrusted with the task of coordinating and integrating the activities of the 21 communities located on the national territory<sup>2</sup>.

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<sup>1</sup> (Source CESNUR - <https://cesnur.com/lunione-delle-comunita-ebraiche-italiane/>).

<sup>2</sup> (Source UCEI - [http://ucei.net/giornatadellacultura/ebraismo-6/le\\_comunita\\_ebraiche\\_in\\_italia-3/](http://ucei.net/giornatadellacultura/ebraismo-6/le_comunita_ebraiche_in_italia-3/)).

Currently, the relationship between the UCEI and the Italian Government are ruled by the Agreement (*Intesa*) signed ex Article 8 of the Constitution in 1987 and then transposed by Law No. 101 of 8 March 1989 – ‘Rules for the regulation of relations between the State and the Union of Italian Jewish Communities’ - then modified by Law No. 638 of 20 December 1996.

Moreover this agreement states that “on the occasion of the presentation of draft laws relating to matters involving relations between the Jewish confession and the State, the appropriate agreements between the Government and the Union shall be promoted in advance, in accordance with Article 8 of the Constitution” (Article 33, para. 3).

This Agreement contains the solemn statement of the aforementioned principles of religious freedom, first of all, the right to profess the Jewish religion, to propagate it, to exercise its rituals and guarantees the freedom of assembly and expression of thought by word, written and any other means of dissemination.

It is structured around a fundamental nucleus of subjects such as: guarantee of spiritual assistance in hospitals, nursing homes, retirement homes and penitentiaries; religious education<sup>3</sup>; civil recognition of religious marriages; etc. The *Intesa* includes also very special rules concerning the identity of Judaism: the right to sabbatical rest and the recognition of Jewish religious holidays; the faculty of the oath with one’s head covered, the granting of special departments in cemeteries for the perpetual burial of the deceased.

Regarding ritual slaughter the *Intesa* provides for the possibility of slaughtering in accordance with the Jewish rite, as regulated by the Decree of the Minister of Health of 11 June 1980 authorizing slaughter without prior stunning in accordance with Jewish and Islamic religious rites, specifying that during the operation all precautions must be taken to avoid suffering as much as possible and any unnecessary state of excitement.

Currently the matter is governed by Regulation No. 1099/2009 (EC) that in respect of religious freedom, grants a certain degree of subsidiarity to each member State.

In Italy a derogation has been granted provided that the ritual slaughter takes place in authorized slaughterhouses and under the control of the local health authorities (Article 4, para. 4 of the Regulation No. 1099/2009). The claimant should submit all documents to local authorities for granting the authorization and later on they are transmitted to the Regional competent offices.

Violations of the provisions of the Regulation No. 1099/2009 are punished according to the Legislative Decree No. 131 of 6 November 2013. As for the import of the kosher meat EU legislation is in force (the Country of origin/place of production is recorded in the list of Countries for export permission; the product is properly certified).

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<sup>3</sup> In the field of school education, the UCEI has the right to freely establish schools and educational institutions at all levels, ensuring full freedom for equal schools and their pupils to be treated as equivalent to that of pupils in State schools and other local authorities, including with regard to the State examination. The Rabbinical Degree and the Jewish Culture Diploma to students with a secondary school diploma are recognized.

Male ritual circumcision is allowed and recognized by Italian legislation as part of the freedom of worship for the Jewish religion, extended by analogy to other religious denominations practicing circumcision.

Male Ritual Circumcision (MRC) is a scarce practice in the Italian culture but it is assuming particular significance in Italy due to the increase in foreign families that usually perform it for religious and/or cultural reasons. The National Committee for Bioethics (NCB) established in 1998 that “the communities that practice the MRC because of their specific culture, deserve full recognition of the legitimacy of this practice”, according to Article 19 of the Italian Constitution and to Law No. 101/89. Moreover “it would be desirable that this practice is performed by a private doctor or in public hospitals (..) but not charged to the community” (NCB 1998) and in fact the Decree of the President of the Council of Ministers containing ‘definition of essential levels of assistance’ (LEA) doesn’t not include MRC among the services insured by the NHS.

Currently parents who, due to religious and / or cultural rights, intend to have their child circumcised find different responses from various Regional Health Services, ranging from the recognition of the LEA agreements in Tuscany (DGR No. 561/2002) to the possibility of execution but paid by the claimant, till to the complete absence of responses from other Regions.

An integrated action is therefore necessary in order to guarantee the possibility of performing MRC in a hospital or outpatient setting and to provide the family of the newborn and the child with clarification about the implications and possible surgical complications that the practice entails, activating information and awareness campaigns for professionals and for the families and communities concerned.

Synagogues are present throughout the territory and, according to the Italian jurisdiction, buildings dedicated to worship, regardless of ownership, are subject to the ordinary law, except for the provisions arising from bilateral agreements (*Intesa*). All buildings dedicated to Jewish public worship, although belonging to individuals, cannot be diverted from that destination, not even by effect of alienation, until that destination did not cease. Similar provisions are contained in agreements with other religious denominations (Article 15).

The construction of new buildings of worship is subject to the issuance of a building permit, which has to be consistent with the urban plan.

The Italian legislation provides that the State can supply financial resources resulting from costs of urbanization, in order to facilitate the construction of buildings and equipment for the worship. Law No. 96/1955 – Article 1, grants lifetime checks of merit in favour, *inter alia*, of Italian citizens racially persecuted from 7 July 1938 to 25 April 1945 who lost at least 30% of their working capacity, if they have been subjected to acts of violence or harassment by the fascist regime.

Regarding the confiscated Jewish property the Italian Government established in 1998 an *ad hoc* Commission with the task of reconstructing the actions undertaken by public and private bodies in Italy to acquire the property of Jewish citizens whose report was published in 2001.

Afterwards, the Italian Government established the “Commission for the recovery of the bibliographic heritage of the Jewish community of Rome”. This bibliographic patrimony of the Jewish Community of Rome was lost during the raids carried out in October 1943, together with the deportation of the Roman Jews. The Commission concluded its work in 2008 without finding it, but left a report whose disclosure in the European countries may help a possible recovery.

## **2. Antisemitism in Law and Policy**

The basic rule guiding modern democracies in the protection of human rights is the effective implementation of the principles of equality and non-discrimination. It is, indeed, one of the main pillars of our constitutional code, upon which the domestic legislative system is based: “All citizens have equal social status and are equal before the law, regardless of sex, race, language, religion, political opinion, and personal or social conditions. It is the duty of the republic to remove all economic and social obstacles that, by limiting the freedom and equality of citizens, prevent full individual development and the participation of all workers in the political, economic, and social organization of the country” (Article 3). Institutionally standpoint, the Constitutional Court and the judiciary in general play a specific role, while National Office against Discrimination at the Presidency of the Council of Ministers is of particular relevance at the administrative level.

Among the relevant pieces of legislation, Legislative Decrees No. 215-216/2003 are worth of mentioning: through them Italy has transposed Directives 2000/43/EU and 2000/78/EU, with the twofold aim of: prohibiting all forms of discrimination based on race or ethnic origin, in any area or sector, both private and public; regulating the prohibition of discrimination on grounds of religion or belief, disability, age or sexual orientation, with regard to employment and occupation. By means of above Decrees the national regulations were 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.

Article 3 of Law No. 654/1975 (the so-called Reale Law), by which Italy ratified the International Convention for the Elimination of Racial Discrimination, introduces in the domestic legal system various relevant offences, including incitement to hatred. This Act has been later integrated and amended by Law No. 205/1993 (the so-called Mancino Law), as subsequently amended by Article 13 of Law No. 85/2006).

The legislative framework in force criminalizes: a) incitement to racial discrimination; b) racial discrimination; c) incitement to racial violence; d) racial violence; e) the promotion of ideas based on racial superiority or ethnic or racist hatred; and f) the setting up or running of, participation in or support to any organization, association, movement or group whose purpose is the instigation of racial discrimination or violence. The Mancino Law also prohibits the public display of symbols and emblems of such organizations and makes racist bias an aggravating circumstance in connection with any offence.

Specifically, the racial ground is of relevance as an aggravating circumstance of any other offence in accordance with Article 3 of the Mancino Law.

Within the Italian legislative framework a set of ad hoc measures have been adopted to counter specific forms of racial discrimination, intolerance and xenophobic attitudes. In compliance with Legislative Decree No. 7 of 1 January 2016, the public insult has been repealed. Offences such as defamation and menace – to be considered as conducts intentionally based on discriminatory grounds or ethnic, national, racial or religious hate – could amount to an aggravating circumstance so far avoiding a half increased basic sanction, the nullification of applicable mitigating circumstances, and ensuring in all cases *ex officio* prosecution.

With regard to the right to freedom of thought, conscience and religion and the possible intersectionality of racial and religious discrimination, Law No.115 of 16 June 2016 was adopted introducing imprisonment penalty from 2 to 6 years, in cases where propaganda, instigation and incitement are based “in whole or in part on denial of the Shoah or crimes of genocide, humanity and war crimes”, according to International Criminal Court Statute (Articles 6, 7 and 8).

Law No. 21 of 1 March 2018 introduced in the Criminal Code a specific section (*I-bis*) on crimes against equality - Articles 604 *bis* and *ter* - regarding respectively propaganda and incitement to commit crimes for reasons of racial ethnic and/or religious discrimination and the aggravating circumstances. Different rules contained in special laws have been transposed in these two articles, such as those established by Article 1 of law No. 115/2016.

Italy is strongly committed to raise public awareness and ensure the memory of the Holocaust lives on especially among students and young people, and celebrates the Holocaust Memorial Day (*Giorno della Memoria*) on the 27<sup>th</sup> of January of each year.

This recurrence has been recognized by Law No. 211 of 20 July 2000 establishing that this is the Day to remember the Holocaust, the racial laws, the Italian persecution of Jewish citizens, the Italians who suffered from deportation, imprisonment, death, and those who at the time opposed the project of extermination, protected, and saved the persecuted.

This law also provides that the Holocaust Memorial Day has to be celebrated through ceremonies, initiatives, meetings and joint moments of reflection on what happened to the Jewish people and to the Italian military and political deportees, in order to preserve the Memory of this tragic period, so that such events can never happen again.

In 2009 the Presidency of the Council of Ministers established the ‘Coordinating Committee for the celebrations in remembrance of Holocaust’, with the participation *inter alia*, of the Jewish community representatives. Usually chaired by the Undersecretary of State at the Presidency of the Council and, it carries out an effective and coordinated plan of institutional memorial ceremonies and events; promotes as well joint proposals and discussions on the most appropriate issues in order to raise awareness, especially among young people.

In this framework, every year the Presidency of the Council of Ministers and the Union of Jewish Communities organize a seminar targeted especially to students and experts dealing with issues related to Holocaust of particular cultural, political and social interest.

Every year, the Ministry of Education, Universities and Research, in collaboration with the Union of the Italian Jewish Communities (UCEI), supports the national competition “Young people remember the Shoah”. The President of the Republic, together with the Minister of Education and the President of the Union of the Italian Jewish Communities (UCEI), presents an award to the winners of this national competition during the national solemn ceremony to commemorate the Holocaust Memorial Day. In addition, every year, before the Holocaust Memorial Day, the Minister of Education and a delegation of students visit Auschwitz-Birkenau.

The Italian national curriculum includes teaching about the European fascism, the ideology of the Nazi Party and the Holocaust. Furthermore, the Holocaust is one of the main subjects taught in high schools, especially in history curricula. The Ministry, in cooperation with the Italian delegation at IHRA and the Union of the Italian Jewish Communities (UCEI), have submitted the national guidelines for teaching about the Holocaust.

Moreover, every year the President of the Republic celebrates the Holocaust Memorial Day with a solemn ceremony, during which some scholars – that participated to the Journey of Remembrance - are interviewed, the winners of the above-mentioned competition are awarded and some survived military deportees, or their families, are honored with a medal.

The Holocaust Memorial Day is also celebrated at local level through several initiatives and events directly or indirectly targeted to young people, in order to educate them to learn from the past and to take responsibility for shaping a better and brighter future.

Apart from this, the commitment of Italian government for the Holocaust Remembrance passes also through restoration of the Block 21 of the Museum of Auschwitz – Birkenau and setting up of the new Italian exhibition. Since 2015 the Presidency of the Council of Minister has established an *ad hoc* joint Committee with the participation of representatives of Ministries and of main associations of Jews and ex-deportees into the Nazi camps. This Committee is currently finalizing the project of the new Italian exhibition.

In addition, the Italian government supports also the establishment of cultural centers and museums in the national territory aimed at promoting, on the one hand the knowledge of this sad page of history and the dynamics that have generated it, on the other the disclosure of the Jewish culture, such as the National Museum of Italian Judaism and Shoah (MEIS) established in Ferrara in 2011. Also local authorities are committed in the institution of permanent exhibitions such as for instance the Shoah Museum of Rome, currently under construction.

### 3. Antisemitic Incidents

The role of National Office against Discrimination (UNAR) at the Presidency of the Council of Minister is crucial in protecting against other forms of discrimination such as, among other, disability, age, sexual orientation or gender identity, with particular attention to multiple discrimination.

In this field the monitoring activity and analysis of discrimination continues by collecting reports of discrimination by race, ethnicity, age, disability, religion, gender identity and sexual orientation through the various channels available (“Green Line” telephone number, institutional e-mails, website, UNAR network). According to yearly collected data, cases reported to UNAR in 2015 were 2.235 (+37% to 1.627 registered in 2014). Out of 1.814 cases that were effectively considered as discriminatory acts and conducts, 73,6 % fell to “ethnic-racial” ground, followed by sexual orientation (9,9 %), discrimination on the ground of the age (7,9%) and persons with disabilities (7,8%). As for the 2016, a total of 2.936 cases were reported to UNAR. Out of 2.652 cases that were considered as discriminatory acts and conducts, 69,4 % fell to “ethnic-racial” ground, followed by persons with disabilities (16,4%), sexual orientation (8,5 %) and discrimination on the ground of the age (4,7 %). In 2017, a total of 3.909 cases were reported to UNAR (almost 1000 more than in 2016). Out of 3.574 cases that were considered as discriminatory acts and conducts, 82 % belong to “ethnic-racial” ground followed by sexual orientation (9,1 %), persons with disabilities (4,4%) and discrimination on the ground of the age (2,4%). According to the most recent data, in 2018, 4.273 were registered. Out of 3.977 that were considered as discriminatory acts and conducts, 70,5 % fell to “ethnic-racial” ground, followed by sexual orientation (7,7 %), persons with disabilities (5,6%) and discrimination on the ground of the age (4,0%).

Also relevant figures could be mentioned, as provided by the Italian competent authorities to the attention of the EU FRA for the compilation of its annual report on antisemitism.

On a general note the issue of antisemitism is carefully monitored by the Division for General Investigations and Special Operations (DIGOS), also through regular relations with the associations and the concerned community, whose reports are thoroughly screened and reviewed. The incidents recorded concern act of vandalism against symbolic targets (synagogues, Jewish cemeteries, etc.) threatening letters and messages posted on the web bearing insults or threats, addressed to Jews or representatives of the Jewish community. Also writings on the walls hailing the Shoah, portraying swastikas and denial sentences are being sprayed, in particular on the occasion of the *Giorno della Memoria*.

The law enforcement activity<sup>4</sup> is ensured through the constant coordination and stimulus of the information/investigation action carried out by DIGOS and a regular monitoring over the associations or groups which promote, also indirectly, ideologies based on racism, often connected with the far-right principles.

As far as the soccer matches are concerned, the antisemitism behaviours substantiate themselves in

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<sup>4</sup> Such an activity is based on all the discriminatory conducts “related to racial, ethnic, national or religious motivations” (according to the wording of Article 1 of Law No. 205/1993 – Mancino Law).



chants, banners, sticker and graffiti, with the political belief of the ultras groups.

The incidents are however a few with respect to the numerous racism incidents recorded by other kind of sports events. The attention devoted by media to single events and the harshness of the sanctions applied by the sports judiciary leg, at least inside the sports' facilities, to a decrease in the phenomenon if compared with last years.

More in general, as to the incidents recorded along the years, the law enforcement activity against the so called Mancino Law violations was more effective; indeed since 2016 until 2018 63 persons were reported.

In Italy in 2010 the Observatory for the Security against Discrimination Acts (OSCAD)<sup>5</sup> was set up by the Head of Police Forces at the Criminal Police Central Directorate of the Ministry of the Interior to support the victims of discriminatory crimes<sup>6</sup>. The Central Directorate regularly sends to OSCAD the reports made by DIGOS on hate crimes. On this purpose DIGOS deploys qualified professionals, who have attended training and refresher courses aimed at "identifying, understanding and investigating into hate crimes"<sup>7</sup>, also organized by the same Directorate and which, upon request of educational institutes and other associations, participate in meetings and seminars in order to raise awareness on the phenomenon.

The following recorded data are provided only by the National Police since 2016 to 2018 on the basis of the reports received on the phenomenon.

Incidents			Reportees			Arrested		
2016	2017	2018	2016	2017	2018	2016	2017	2018
27	20	45	9		13	/	/	/
8*	12*	11*	19*	19*	6*	/	/	/
35	32	56	25	19	19	/	/	/

\* Discrimination incidents recorded during sports events, most of which during soccer matches with relative reportees.

#### 4. Information on States to promote tolerance and understanding including public-private

<sup>5</sup> On April 7, 2011, a MoU was also signed between OSCAD and UNAR in order to set the procedure for an information exchange between the two bodies, in case of discrimination cases having no criminal impact (UNAR competence) and those that are criminally relevant (OSCAD and other police offices competence).

<sup>6</sup> The Observatory starts partnerships with institutions at the national and international level, participates in communication social campaigns and, on the basis of the reports made by associations and private individuals, promotes *ad hoc* actions along the territory keeping the dialogue with law enforcement.

<sup>7</sup> On May 29, 2013, in Milan the Ministry of the Interior and the OSCE/ODIHR signed an international agreement aimed at implementing in Italy the so called TAHCLE Programme, which entails the training of law enforcement in the field of prevention and fight against hate crimes (courses started in February 2014).

## **initiatives**

In 2016 Italy put itself forward for the Presidency of International Holocaust Remembrance Alliance (IHRA) for 2018. Supported by the Presidency of the Council of Ministers, Italy was appointed on the occasion of the IHRA Plenary Assembly in November 2016 as recognition of Italian significant contribution to the memory of the Shoah and its constant commitment to strengthening its knowledge through education, remembrance and research. The Italian Chairmanship was aimed at achieving three main goals: 1) fulfilling institutional responsibilities, starting with the organization of two Plenary Assemblies (the first in Rome from 28 to 31 May and the second in Ferrara, from 27 to 29 November 2018) and completing the work initiated by the two previous Chairmanships on the “new IHRA strategy” (aimed at rationalizing the Organization’s activities and structure); 2) enhancing the awareness and visibility of the IHRA among policymakers and the wider public (especially through the organization of two international conferences, respectively on 27 May in Rome, on the theme of racial laws (The racist laws before and after the Shoah, models, practices and heritage), and on 12 November in Milan on hate incitement (The innocent enemy hate incitement in the contemporary Europe); 3) producing new material to be distributed in Italian schools, to facilitate and improve the quality of education on the Holocaust.