



european network against racism

ENAR Shadow Report 2011-2012

ENAR SHADOW REPORT

Racism and related discriminatory practices in Italy

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism in the EU and its Member States. NGO reports are, by their nature, based on many sources of data - official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by racism. It is this that gives NGO reports their added value, complementing academic and official reporting.

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1. Executive summary

The period from January 2011 to July 2012 has seen significant changes for immigrant communities and minorities in Italy. Although some progress has been made by the current government, the economic crisis and the spending cuts are likely to reset the commitments that the government has taken towards protecting minorities which are vulnerable to discrimination.

Employment:

Direct and indirect discrimination are widespread in employment, in recruitment as well as in the workplace. The economic crisis has had a disproportionate impact on immigrants. The slowdown of entry flows is an immediate consequence of deterioration in employment opportunities and conditions. In 2012 the Ministry of Labour and Social Policy - Immigration Office stopped the procedures (so-called 'click day') for hiring of domestic workers, carers and non-EU employee provided for by the 2012 Flows Decree.

At the time of writing, we are waiting to find out the terms of the new 'sanatoria' (a fiscal amnesty referring to immigrant workers) which would allow the regularization of certain categories of immigrant workers.¹

- Introduce a more flexible system of regulation through the issuance of a six-month residence permit that would allow holders to look for a job, as proposed by the European Parliament in Strasbourg.
- Public administration must take steps to enforce the European and Italian antidiscrimination laws, in particular in the employment sector.

The **special focus** of this report is on Muslim communities. Muslims in Italy are an unusually heterogeneous population and are dispersed throughout Italy.² Muslims are often the victims of stereotypical views voiced by certain political leaders. These views are reflected in public opinion, via the mass media. Islamophobia in Italy has some specific traits.³ On one hand, there is a public debate arguing that Muslims pose a danger to society, on the other hand there is the so-called 'well-educated' Islamophobia, which uses data, statistics, historical and social references to persuade people that sooner or later an 'irreparable break' will lead to a clash between Islam and the West. Islamophobia aims to stigmatize an entire civilization and to alarm the public about a possible alteration of their European identity.

- Enact a law on religious liberty that does not require the signature of an agreement with the State, but guarantees to Muslims the same rights

Immigrazione.biz, *Sanatoria 2012, manca solo l'ufficialità per il decreto*, <http://www.immigrazione.biz/4094.html>, accessed 28 August 2012

² Cucinielli, Antonio, *Islam in the Italian Multicultural Society*, (Roma, 2008), available at: <http://www.ismu.org/index.php?page=462#>, accessed 05 August 2012.

³ The analysis on Islamophobia's features in Italy is based on the book by Allam, Khaled Fouad, *L'Islam spiegato ai leghisti*, (Milano: Piemme, 2011)

as those currently enjoyed by other religious groups that have signed the agreement 'intesa'.

- Enable the construction of appropriate places of worship.

Education:

Italy has a poor record in terms of integration of immigrant pupils⁴. In the early years of secondary school, some immigrant children experience exclusion and academic difficulties. Non-Italian students (CNI⁵) encounter problems including: delay in entering the school, poor academic performance⁶ and the concentration in vocational and technical schools.⁷ Roma, Sinti and Caminanti students experience particularly serious difficulties; dropout levels are high and they encounter severe forms of discrimination.⁸

- It is necessary to provide welcome and introductory courses to facilitate integration in the Italian school system and to provide information and administrative forms in several foreign languages. A protocol must be established for the reception of immigrant children and the permanent presence of cultural mediators in the schools.
- Revise the 'volunteer system' which currently characterizes the Italian school system, in which the school or even the teacher assumes responsibility for solving the problems related to immigrants or students encountering discrimination.

Housing:

Italy lacks instruments to enhance housing welfare and social protection. Social housing policies at local and national level are ineffective,⁹ in spite of the fact that immigrants have represented a significant proportion of demand for housing in recent years.

The economic crisis has hit all the weaker sections of the Italian society, in particular immigrants. The scope of persons who lack the means to access to private rental market has grown in recent years. In Italy a widespread prejudice towards immigrants persists, and this sector is particularly characterized by ethnic segmentation.

- The Italian authorities should ensure that legislation countering direct and indirect racial discrimination in access to housing is rigorously applied, both in the private and public sectors.

⁴ Cfr. Huddelston, Niessen MIPEX III... cit. (2011) pag 20

⁵ CNI is the definition of the students with not italian citizenship of the Ministry of Education, Universities and Research (Ministero dell' Istruzione, dell'Università e della Ricerca MIUR 2011),

⁶ Bosetti, Elena 'Alunni con cittadinanza non italiana. Verso l'adolescenza', *Quaderni ISMU*, 4 (2011) pag. 7 and following.

⁷ Cfr. Callia, Raffaele, Giuliani Marta, Luatti, Lorenzo, Pittau, Franco, Ricci, Antonio, *L'organizzazione delle politiche in materia di immigrazione e asilo in Italia...*cit. pag 28

⁸ For an exhaustive presentation, please see cfr. Bosetti, Elena 'Alunni con cittadinanza non italiana...'cit. pag 33 and following

⁹ Repubblica.it, *Genitori ai clan: 'Via bimbi rom da scuola, incendiato campo nomade: 18 arresti.* (10 July 2012), Available at: http://napoli.repubblica.it/cronaca/2012/07/10/news/camorra_rogo_in_campo_rom_ed_estorsi_18_arresti-38810513/?ref=HREC1-7 (last accessed 19 July 2012)

⁹ Cfr. Caritas/Migrantes, *Immigrazione Dossier statistico ...* cit. pag 189

- The Italian authorities should identify and encourage the best practices at local and national level

Political participation:

In Italy, the issues of voting rights and citizenship for immigrants are becoming more central to public discussion. A definitive and positive result has not been reached yet. Italy has a relatively restrictive regime regarding the right to vote. The current government is showing a greater openness to the possibility of extending the right to citizenship to those who were not born from Italian parents through a partial overcoming of the principle of *jus sanguinis*.

Media:

In 2011 discrimination is prevalent in the media: online, on television and in the press. The media help to create and perpetuate negative stereotypes of immigrants and other vulnerable groups. Xenophobic and racist expression online spread rapidly.¹⁰

In particular, the phenomenon of anti-Semitism on the Internet gives no sign of slowing down.

Muslims are particularly vulnerable to discrimination and racist attacks. The mass media are characterized by prejudice against this group¹¹ and contribute to the consolidation of a negative image of Islam and Muslims in general, especially with their insistence of discussing the supposed incompatibility between Islam, democracy and modernity¹²

- Take steps to promote the importance of fair and objective reporting
- The media should stop portraying cases involving Muslims as proof that Islam is basically a violent religion, but should instead present them as isolated episodes, in order to minimize the negative impact on public opinion.

Access to goods and service in the public and private sector:

While discrimination in access to services and goods both public and private, continues to be a problem, between 2010 and 2011 the complaints of discrimination in access to goods and services decreased: those regarding the provision of financial services went from representing 3.3% of the overall total in 2010 to 1% in 2011. However, there are still areas where discrimination is widespread, notably in sports. Discrimination in public services is a concern; many public service providers are unaware of regulations and national laws. Discrimination in this area is generally related to the restrictive application of national rules by regions.

¹⁰ Colaiacomo, A., *Intervista a Massimo Monnanni, direttore Generale dell'Ufficio Nazionale antidiscriminazioni razziali (UNAR) presso la Presidenza del Consiglio dei Ministri*, <http://www.immigrazioneoggi.it/punti-di-vista/monnanni.html>

¹¹ Yallaitalia, *La bufala sul facchino musulmano: troppo verosimile per essere falsa*. Available at: <http://www.yallaitalia.it/2012/07/la-bufala-sul-facchino-musulmano-troppo-verosimile-per-essere-falsa/> accessed 27 July 2012

¹² Louassini, Z., *L'islam: tra immagine e realtà. La difficile ricerca di uno sguardo veritiero* (01 July 2001)

- Supervise the correct application of laws in public administration.
- Provide appropriate training to public administration personnel to enable them to avoid discrimination in the execution of their duties.

The most significant developments in the last year include:

- Impact of court decisions against discrimination. These demonstrate that institutional racism can be tackled through legal measures
- Increasingly widespread recognition of racist motivation as an aggravating factor in sentencing for violent crimes.
- Involvement of civil society in matters relating to the acquisition of citizenship and the right to vote in local elections for non-EU immigrants.

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3. Introduction

This report covers the period between January 2011 and the end of July 2012.

Racism remains an unresolved problem in Italy. The Roma population, Muslims, migrants, refugees and asylum seekers are particularly vulnerable. Housing segregation of Roma and Sinti communities is a serious concern: they are often subjected to forced evictions without the possibility of legal redress. The 'Arab spring' and the related difficulties in the management of flows of people escaping from North African countries have had a negative impact for migrants and asylum seekers. Muslim communities have been increasingly targeted by hate speech and violations of their freedom of religion.

The most important legal development during the period under review was the transposition into the national legislation of the European Directive 2008/115/CE on the repatriation of irregular third-countries citizens. In accordance with the directive, the law now provides that the expulsion is no longer a mandatory provision for the Police Commissioner, but it must now be decided on a case-by-case basis, taking into account the particular circumstances of the foreign citizen in question.

Public and political discourses continue to discuss migrants' issues in the context of an emergency; the North African crisis has been addressed the same way as the so called 'Roma emergency' in 2008.

This edition of the Shadow Report is focused on the difficult situation of the Muslims communities in Italy. As will be discussed in-depth in chapter n.5, Muslims are still victims of some stereotypical views which have been voiced by some political leaders and are reflected in public opinion via the mass-media. The building of mosques is still a controversial issue, due to the opposition of some local administrations, led by representatives of some specific parties (such as Lega Nord).

This Report will start with an analysis of the most significant developments in Italy during 2011-2012 and of the situation of the Muslim communities. Then it will examine the issues of racism and related discrimination in various areas of collective society. The last part of the report provides a civil society assessment of the impact of policies and legal developments which affect communities vulnerable to racism and discrimination.

4. Significant developments in the country during the period under review

In 2011 Italy celebrated 150 years of history as a unified Nation. In 1861 there were 22,182,000 residents of whom only 88,639 were foreigners, i.e. one for every 250 Italians.¹³ On January 1st 2012 there were 60,851,000 Italian residents of whom less than 56 million were Italian citizens.¹⁴ There were 4,859,000 foreign residents (8% of the overall population) an increase of 289,000 compared to the previous year.¹⁵

Italy has become a country with a high immigration rate but has yet to put in place sufficient mechanisms to promote integration and inclusion.

In recent years Italy has seen a demographic growth due to the migration flows. The average fertility rate of foreign-born women is 2.07 children compared to 1.33 among Italian women.¹⁶ An increasing number of foreign minors (i.e. 'second generation' immigrants)¹⁷ have also been registered. According to official data, on 1 January 2011 993,000 foreign-born minors were resident in Italy (21.7% of the foreign population)¹⁸.

150 years after its foundation, Italy must therefore manage a population that grows only thanks to the immigrant contribution. In the near future it will have to deal with a considerable presence of 'dash Italians' (Colombo 2012, p. 159).

4.1 Changes in regard to the communities most vulnerable to racism or related discrimination

Racism remains an unsolved problem. The Roma population, Muslims, refugees and asylum seekers are particularly affected.¹⁹ This situation was underlined by the Human Rights Commissioner of the Council of Europe in a report published after his visit to Italy on May 26th-27th 2011.²⁰ With regard to Roma and Sinti, the Commissioner encouraged Italian authorities to take action against the use of racist and xenophobic political declarations targeted against these communities. The Commissioner also expressed its concern for

¹³ Caritas/Migrantes, *Dossier Statistico Immigrazione XXI Rapporto*, (Roma: Idos, 2011), p. 7

¹⁴ Istat, *Indicatori demografici. Stime per l'anno 2011*, <http://www.istat.it/it/archivio/51645>, accessed 05 August 2012.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ This is, however, a more complex reality that includes all of the children with a migratory background.

¹⁸ Istat, *Rapporto annuale 2012*, (Roma: Istat, 2012), p. 67, available at: <http://www.istat.it/it/archivio/61203/>.

¹⁹ European Commission Against Racism and Intolerance, *Rapporto dell'EcRI sull'Italia (quarto ciclo di monitoraggio)*, (ECRI: Strasbourg, 2012), available at: <http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/italy/ITA-CbC-IV-2012-002-ITA.pdf>, accessed 12 July 2012

²⁰ Council of Europe, *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Italy from 26 to 27 May 2011*, <https://wcd.coe.int/ViewDoc.jsp?id=1826921>, accessed 12 August 2012.

the forced evictions of Roma and Sinti settlements, which have often been conducted in clear violation of international human rights protections. Despite the fact that in 2011, the Council of State had declared the so-called 'Nomads Emergency' - that is a simplified mechanism for the identification and deportation of Roma and Sinti persons living in "unauthorized" camps, introduced in 2008²¹- to be illegitimate, a number of forced evictions have been reported since then. Those involved have not had access to effective remedies²².

On February 2012, the government has appealed to the Supreme Court against this decision. Association 21, ASGI, Amnesty International, Human Rights Watch, and Open Society Justice Initiative have later addressed a joint appeal asking the Government to drop the appeal.²³

In 2011 the situation in Italy became very difficult for refugees, asylum seekers and for all irregular immigrants, particularly following the political crisis in North Africa and the difficulties in the management of flows of people escaping from those countries. Between the middle of January and the end of July, 48 036²⁴ migrants had reached the Italian shores, compared to the 1,430 who had arrived in the entire 12 months of 2010. The Government and some media talked about a 'human tsunami' from North Africa. However, according to UNHCR, Italy had received only 56,000 refugees in the first month of 2011, a much smaller number than other European countries such as Germany (600,000) and the UK (240,000).²⁵ There were 37,350 in Italy in 2011, slightly more than in 2008, when there were more than 31,000 requests.²⁶ Of the 25,626 evaluated requests, only 56% of them have granted some form of protection to the applicants.²⁷

The SPRAR system, which finances around 3,000 projects for asylum seekers and refugees every year, cannot meet the actual needs of these groups. This was the case even before the 'Arab Spring'. Most of the people who are not able to access the SPRAR program are forced to occupy abandoned properties or to settle in often overcrowded temporary camps.

²¹ Consiglio di Stato, sentenza n. 6050/2011, available at: http://www.giustizia-amministrativa.it/DocumentiGA/Consiglio%20di%20Stato/Sezione%204/2009/200906400/Provvedimenti/201106050_11.XML

²² Amnesty International, *Rapporto Annuale 2012 – Italia*, <http://rapportoannuale.amnesty.it/sites/default/files/Italia.pdf>, accessed 28 July 2012.

²³ Human Right Watch, *Italy, leave 'nomad Emergency in the past*, <http://www.hrw.org/news/2012/05/11/italy-leave-nomad-emergency-past>, accessed 08 August 2012

²⁴ Consiglio Italiano per i Rifugiati onlus, *Crisi nel Nord Africa, il numero degli sbarchi*, <http://www.cir-onlus.org/23%20agosto%202011%20sbarchi.htm>, accessed 07 August 2012

²⁵ European Migration Network, *Italia, Rapporto Annuale sulle Politiche 2011*, (Roma: Idos, 2012)

²⁶ Consiglio Italiano per i Rifugiati onlus, *ITALIA, RICHEIDENTI ASILO 2011: aumento non drammatico delle richieste di asilo in Italia - il commento del CIR*, <http://www.cir-onlus.org/Richiedenti%20asilo%20Italia%202011.htm>, accessed 07 August 2012

²⁷ European Migration Network, *ITALIA, Rapporto Annuale sulle Politiche 2011*, (Roma: Idos, 2012)

This situation is dangerous for the refugees and asylum seekers and also fuels racism and xenophobia against them.²⁸

Humanitarian organisations, as well as the Senate's extraordinary Commission for Human Rights' Protection and Promotion, have repeatedly criticized the living conditions inside CARA and CDA.²⁹

A decision of the Stuttgart's Administrative Court, handed down on July 12th 2012, upheld an appeal from a Palestinian family, blocking their refoulement to Italy 'due to the systematic defects' of Italian's reception system, the five family members would have faced the risk of inhuman or degrading treatment.³⁰ The Stuttgart's Court sentence is not the first one to prevent governments from sending asylum seekers back to the EU country they entered. Italy is often that country.

There are also serious problems within CIE - the structure used to hold irregular non-EU citizens who are destined to expulsion. In 2011, 7,735 migrants have been held in the 15 active Italian CIE and only 3,880 have been repatriated.³¹

This data confirms that those structures are not only unable to guarantee the dignity and fundamental rights of the migrants held inside, but are also highly ineffective as a means of countering irregular migration. Moreover, during 2011 and 2012, several riots occurred inside CIE and CARA.³²

In 2011 a significant flow of unaccompanied foreign minors have been reported, and 4,580 minors arrived in Italy as a consequence of the North African crisis.³³ Adequate safety and reception conditions have not been guaranteed in their arrival place, Lampedusa. Identification procedures have not been well-timed and minors have had to wait up to two months before their relocation to *comunità alloggio* (collective social housing). During this delay, spent inside the CPSA, minors had to sleep on the floor in very

²⁸ European Commission Against Racism and Intolerance, *Rapporto dell'EcRI sull'Italia (quarto ciclo di monitoraggio)*, (ECRI: Strasbourg, 2012), p.43 <http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/italy/ITA-CbC-IV-2012-002-ITA.pdf>, accessed 12 July 2012

²⁹ Senato della Repubblica, Commissione straordinaria per la tutela e la promozione dei diritti umani, *Rapporto conclusivo dell'indagine sulla condizione di Rom, Sinti e Caminanti in Italia*, (February 2011), <http://www.senato.it/documenti/repository/commissioni/dirittiumani16/RAPPORTO%20ROM%20.pdf>, accessed 10 August 2011

³⁰ CIRDI, Centro d'Informazione su Razzismo e Discriminazioni in Italia, *Sentenza tribunale di Stoccarda: Italia disumana con i profughi*, available at: <http://www.cirdi.org/giurisprudenza/sentenza-tribunale-di-stoccarda-italia-disumana-con-i-profughi/>, accessed 16 July 2012.

³¹ Medici per i Diritti Umani, *L'iniquo ingranaggio dei CIE, Analisi dei dati nazionali completi del 2011 sui centri di identificazione ed espulsione*, http://www.mediciperidirittiumani.org/comunicato_18_luglio.html, accessed 1 August 2012

³² *L'Unità.it*, 16 April 2012, 'Rivolte nei Cie. Ribellione al disumano', available at <http://diversamente.comunita.unita.it/2012/04/16/rivolte-nei-cie-ribellione-a-trattamenti-inumani-e-degradanti/>, accessed 10 August 2012

³³ European Migration Network, *ITALIA, Rapporto Annuale sulle Politiche 2011*, (Roma: Idos, 2012)

uncomfortable conditions. Some minors have committed self-harm due to the discomfort they face.³⁴

With the entry into force of law no 129 of 2 August 2011, which has adapted Italian legislation to the European Directive 2008/115/CE on the repatriation of irregular third-country citizens, the restraint time inside CIE has been prolonged and is now between 30 days and 18 months. This temporal extension has barely been questioned by humanitarian organisations. The critical aspect is that people who have not committed any crime are to be detained in structures way below the minimum standards of a civilized society and with no judicial review of potential violations of their fundamental rights.³⁵

One of the most significant provisions of the 'Security Package' (L. 94/2009) was declared illegitimate by the Constitutional Court's ruling n.245/2011. In order to avoid any attempts to bypass the regulation on illegal immigration, the controversial rule prohibited marriages for foreign citizens who were not legally residing in Italy. According to the Court, the foreigner would have been treated in a different way compared to an Italian citizen concerning the protection of inalienable rights and that these restrictions would have introduced an intolerable limitation of the rights of an Italian citizen who wanted to marry an illegally resident foreigner.³⁶

Regarding the 2009 case 'Hirsi Jamaa and Others v. Italy,' concerning the *refoulement* of immigrants from Libya, the Italian authorities were condemned by the European Court of Human Rights in Strasbourg, in its judgment of 23 February 2012, for violation of the European Convention on Human Rights and in particular of the *non-refoulement* principle.³⁷

The regulatory system of immigration is still based on the consolidated law on immigration that came into force in 1998 and has now been modified by Law n.94 of July 15th 2009, the so-called 'Security Package'. There are no comprehensive national provisions. Granting of refugee status is based on the Geneva Convention of 1951 and the Protocol of 1967. Directives 2004/83/CE on qualifications and 2005/85/CE on procedures have been transposed into national legislation³⁸. The regulation of the right of asylum has always gone in hand with the regulation of immigration as a whole.

As concerns immigration, the leading authority is still the Minister of Interior but due to the need for more effective integration, the Monti's Government has created the Ministry for International Cooperation and Integration. The most important developments this year were caused by the arrival of migrants

³⁴ Caritas/Migrantes, *Dossier Statistico Immigrazione XXI Rapporto*, (Roma: Idos, 2011), p. 175

³⁵ Asgi, Magistratura Democratica, Giuristi Democratici, *Decreto legge 23/6/11 n. 89 in materia di espulsioni, trattenimento e reati collegati: una normativa ingiusta e inefficace*, http://www.asgi.it/public/parser_download/save/1_asgidocumenti.dl8911.pdf, accessed 11 August 2012

³⁶ European Migration Network, *ITALIA, Rapporto Annuale sulle Politiche 2011*, (Roma: Idos, 2012)

³⁷ European Court of Human Rights - Sentence 23 February 2012, n. 27765/2009.

³⁸ Legislative Decrees 2007/251 of 19.11.2007 and 2008/25 of 28.1.2008 respectively

from North Africa and by the strategies put in place by the Government to deal with the situation.

Shortly after the first arrivals, Berlusconi's government declared a humanitarian emergency state.³⁹ The Italian Government, referring to the common interest and the high management costs, asked the EU to activate the burden sharing principle. This is a procedure foreseen by the Directive 2011/55/CE and it provides that common action be taken to share the management of the migration issue. Meanwhile, the situation had become more and more critical: the flows of migrants had not stopped and the Prosecutors' Offices began to prosecute migrants arriving on the Italian shores because they had violated immigration laws. This caused considerable delay. The Government accepted the impossibility of using the communitarian instruments to relocate migrants to other EU countries. On April 5th, the Government issued a decree⁴⁰ granting temporary protection measures to the migrants who had arrived since the beginning of the year, giving them a six-month (this was later prolonged) temporary permit of stay for humanitarian reasons. This permit allowed migrants to freely circulate in EU countries in accordance with the Schengen Convention.

The decree caused a legal and political conflict with France, which temporarily reintroduced border controls. The two countries later agreed on the need to reassess Schengen agreements, in particular the introduction of the possibility of reactivating border controls in exceptional circumstances. A joint request made by France and Italy and supported by the Commission, was rejected with a large majority by the European Parliament, reasserting its opposition to any new mechanism that pursues objectives other than the reinforcement of the free circulation principle and of the EU governance within the Schengen area.⁴¹

On April 2011, the EU Court of Justice⁴² overturned the so called 'crime of illegal entry and staying', stating that this regulation, which foresaw detention measures for irregular immigrants which did not comply the order of the Police Commissioner to leave the national territory, was in conflict with the 'European directive on repatriation' (2008/115/CE), particularly the proportionality principle.

This decision had remarkable repercussions in the national legal system and led to the adoption of the law n.129 of August 2nd 2011. In accordance with the directive, the law now provides that the expulsion is no longer mandatory

³⁹ DPCM del 12 febbraio 2011: Dichiarazione dello stato di emergenza umanitaria nel territorio nazionale in relazione all'eccezionale afflusso di cittadini appartenenti ai Paesi del Nord Africa.

⁴⁰ DPCM del 5 aprile 2011, Misure umanitarie di protezione temporanea per i cittadini provenienti dal Nord-Africa affluiti nel territorio italiano dal 1 gennaio 2011 alla mezzanotte del 5 aprile 2011.

⁴¹ Parlamento Europeo, *Il PE si oppone alla reintroduzione dei controlli alle frontiere*, <http://www.europarl.europa.eu/news/it/pressroom/content/20110706IPR23543/html/II-PE-si-oppone-alla-reintroduzione-dei-controlli-alle-frontiere>, accessed 11 August 2012

⁴² Judgment of the Court (First Chamber) case C-61/11 PPU. (OJ C 113, 9.4.2011)

for the Police Commissioner, but it must now be adopted on a case-by-case basis, taking into account the particular circumstances of the foreign national concerned. Nevertheless, ASGI intervened, stating that the new law is only superficially inspired by the principles of gradualism and progressiveness in the directive on repatriation. Law enforcement agencies could revert to forced repatriation if certain conditions are present such as the risk that the individual might escape. This is based on disputable principles (such as the unavailability, often for reasons outside the individual's control, of passports or similar documents). This could undermine the guarantees foreseen by the directive on repatriation.⁴³

As concerns the asylum system, in particular in the aftermath of the Arab Spring, Italy's response has mainly relied on extraordinary measures of civil protection aimed at accommodating the asylum seekers. Civil society debate and in particular the report 'The Right to Protection'⁴⁴ have underlined, among other things, that the issue had been handled as a social security problem, dealt with only through emergency measures.

Regarding integration policies, in 2011 Italy issued the regulation n.179/2011 defining the contents of the integration agreement, which was introduced in the legal system through the law 94/2009⁴⁵. It foresees mutual obligations for both the foreign national (who must achieve specific integration objectives within two years) and the State, which commits itself to supporting the foreigner's integration process, in cooperation with Regions, local authorities and the non-profit sector.

As stated above, there are around 4,859,000 foreign nationals resident in Italy, around a quarter of whom are Romanian.⁴⁶ Among non-EU citizens legally resident in Italy, the largest communities are Moroccan (506,369), Albanian (491,495) and Chinese (277,570).⁴⁷ The quota for long-term residents has increased and it now comprises the largest proportion of legally resident foreign nationals (52.1%).⁴⁸

Having a long-term residence permit is considered a proxy for integration level: to obtain this permit the applicant is required to have been in Italy for at least five years, to have an adequate income and a place to stay, and to have a command of the Italian language⁴⁹. Integration levels in Italy are indicated

⁴³ Asgi, MD, Giuristi Democratici, *Decreto legge 23/6/11 n. 89 in materia di espulsioni, trattenimento e reati collegati: una normativa ingiusta e inefficace*, available at http://www.asgi.it/public/parser_download/save/1_asgidocumenti.dl8911.pdf, accessed 11 August 2012

⁴⁴ Study based on a on field research conducted in Italy by Asgi, Caritas, Communitas, Cespi, available at: http://www.asgi.it/home_asgi.php?n=2040&l=it

⁴⁵ Legge 15 luglio 2009 n. 94 (*Disposizioni in materia di sicurezza pubblica*)

⁴⁶ Istat, *Rapporto annuale 2012*, (Roma: Istat, 2012), p. 67, available at: <http://www.istat.it/it/archivio/61203/>

⁴⁷ Istat, *I cittadini non comunitari regolarmente soggiornanti*, available at <http://www.istat.it/it/archivio/67648>, accessed 15 July 2012

⁴⁸ Ibid.

⁴⁹ Decreto legislativo 8 gennaio 2007 n.3

by the growing number of naturalisations (70,000 in 2011⁵⁰). In this context, the continual appeals for a 'zero tolerance' against immigrants seem even more out-of-place and demagogic. The migrants' situation continues to be framed in terms of 'emergency' and the North African crisis has been dealt with in much the same way as the Roma emergency of 2008.

In mid-February, while only a few thousand (Colombo 2012, p. 144) migrants had reached the Italian shores, the media reported 'millions' of refugees, a biblical exodus of desperate people among whom Islamic terrorists and criminals escaped from Tunisian jails⁵¹ were hidden.

4.2 Legal changes in legal developments regarding discrimination and equality legislation from the previous year

- 5 April 2011, Decree of the President of the Council of Ministers, 'Humanitarian measures of temporary protection for citizens from the North Africa' who arrived on the Italian territory from 1 January to 5 April 2011⁵². On 12 February 2011 a state of humanitarian emergency was declared in the country until 31 December 2011, relating to the exceptional flow of citizens from the countries of North Africa. The decree of April 5th defined the measures implemented by the government, including the issue of a temporary residence permits for humanitarian reasons for a period of six months⁵³.

- On 23 June 2011 the so-called 'Decree on repatriation' came into force, then converted into law on 2 August 2011⁵⁴, concerning the free movement of EU citizens (EU Directive 2004/38/CE) and repatriation of illegal immigrants from third countries (2008/115/CE), the goal of which was to deal with the emergency situation caused by failure to transpose Directive 2008/115 and by intervention of the Court of Justice. The most important changes include:

- The amendment of Article 32 of the Immigration Act on conversion of the residence permit at the age of majority for unaccompanied immigrants. The minor can apply in any case provided that he or she is under protection and has received a positive opinion by the Committee for Foreign

⁵⁰ Istat, *Indicatori demografici. Stime per l'anno 2011*, available at <http://www.istat.it/it/archivio/51645>, accessed 05 August 2012.

⁵¹ For example: *Repubblica.it*, 11 February 2011, 'Maroni: 'Rischi umanitari e terrorismo'. L'Italia chiede missione davanti alla Tunisia', http://www.repubblica.it/cronaca/2011/02/11/news/maroni_problema_tunisia-12329395/, accessed 25 July 2012

⁵² Dpcm, 5 aprile 2011, available at: http://www.interno.gov.it/mininterno/export/sites/default/it/assets/files/21/0157_Dpcm_5_aprile_2011.pdf

⁵³ Immigrazione.biz, *Firmato il decreto per il rilascio del permesso di soggiorno temporaneo per i cittadini stranieri affluiti dai Paesi nordafricani*. Available at: <http://www.immigrazione.biz/3515.html> (last accessed 10 April 2011)

⁵⁴ Legge 2 agosto 2011, n.129, *Conversione in legge, con modificazione, del decreto –legge 23 giugno 2011, n.89 recante disposizioni urgenti per il completamento dell'attuazione della direttiva 2004/38/CE sulla libera circolazione dei cittadini comunitari e per il recepimento della direttiva 2008/115/CE sul rimpatrio dei cittadini terzi irregolari*. Available at: <http://www.cir-onlus.org/legge.129.2011.pdf>

Minors (CMS)⁵⁵.

- The amendment of the periods of detention in the C.I.E. (Centre for identification and expulsion) which can vary from 30 days to a maximum of 18 months. This change has prompted much international criticism.

- The measure has also extended the possibility of using the assisted voluntary return to irregular migrants, where the person concerned is able to obtain from the prefecture a time-limit between 7 and 30 days for the repatriation, with some exceptions.

- Decree of the President of the Republic of 14 September 2011, No.179⁵⁶, concerning the discipline of the integration agreement between the immigrant and the State: it establishes that the immigrant over the age of 16 years who reaches national territory for the first time and requires a residence permit of at least a year, is expected to sign an 'Agreement of Integration'⁵⁷ lasting two years, based on credits (so-called residence permit based on points). In order to reach the required score a number of the following must be undertaken: examination of knowledge of the Italian language, vocational training courses, achievement of educational qualifications, enrolment with the National Health System, signing of a rental contract or purchase of a property, voluntary service⁵⁸.

- In the autumn of 2011 acts by the Presidency of the Council were promulgated in order control the state of humanitarian emergency concerning the inflow of citizens from the countries of North Africa⁵⁹.

- On 28 June 2012 legislative Decree No.108 implemented a European directive on the conditions of entry and residence of third country citizens wishing to carry out highly skilled employment, the so-called 'Blue Card': the decree will be resumed in the section 6.1 'Racism and related discrimination in employment'.

The year 2011 was characterised by intensive case law, most notably:

- Legislative Decree 150/2011 has simplified the appeal procedures regarding civil judgments, including the refusal of admittance based on family

⁵⁵ The Committee for Foreign Minors to the Ministry of Labour and Social Policy is an inter-ministerial body established by the Art.33 of the Law no.286/98, in order to monitor the sojourn's modalities of the foreign minors temporarily present in the territory of the State and to coordinate the activities of local administrations, http://www.lavoro.gov.it/Lavoro/md/AreaSociale/Immigrazione/minori_stranieri/

⁵⁶ Dpr n.222 del 14 settembre 2011, available at: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:presidente.repubblica:decreto:2011-09-14:222>

⁵⁷ Cfr. Callia, Raffaele, Giuliani, Marta, Luatti, Lorenzo, Pittau, Franco, Ricci,, Antonio, *L'organizzazione delle politiche in materia di immigrazione e asilo in Italia*. (EMN, Roma 2012) cit. pag.13

⁵⁸ Immigrazioneoggi, *Accordo di integrazione: il governo approva in via definitiva il regolamento. Le nuove norme in vigore tra quattro mesi*. http://www.immigrazioneoggi.it/daily_news/notizia.php?id=003271 29 July 2012

⁵⁹ Dpcm 6 ottobre 2011 n.235. Available at: http://www.protezionecivile.gov.it/jcms/it/view_prov.wp?contentId=LEG28406 and Ordinanza del Presidente del Consiglio dei Ministri 21 ottobre 2011 n.3970, available at: http://www.interno.gov.it/mininterno/site/it/sezioni/servizi/legislazione/immigrazione/0943_2011_11_02_OPCM21102011.html

reunification and residence permits based on family reasons.⁶⁰

- The Constitutional Court, in judgment No.245/2011⁶¹, declared the rule prohibiting foreign citizens illegally residing in Italy to marry to be unconstitutional.⁶²

- Judgement of the Constitutional Court No.61/2011 concerns decisions relating to five judgements entered by the State in opposition to the laws of the Marche, Tuscany, Liguria Regions and in a second phase to those of Puglia and Campania (to which must be added the judgement No.40/2011 which saw the State contest the law of the Friuli Venezia Giulia Region). The regional laws concerned social integration policies addressing immigrants in generally and, in particular, to immigrants without a residence permit. The State tried to oppose such laws, but the Constitutional Court has guaranteed the sovereignty of Regions in the management of reception and integration⁶³.

- 30 July 2012, pronouncement of the Tribunale di Torino (Court of Turin): an EU citizen recipient of an expulsion measure may be detained at a C.I.E. (Centre for identification and expulsion) only during the validation process of expulsion that is no longer than 4 days after arrival⁶⁴.

In spite of these developments, Italian public opinion seems to have changed little. According to the report *Transatlantic Trends – Immigration 2011*⁶⁵, 28% of Italians consider immigration to be an opportunity, 48% consider to be a problem and 18% thought it was both. Moreover, the percentage of Italians that believe that there are too many immigrants in the country dropped (from 53% in 2010 to 48%), while the percentage of people who consider immigration to be a phenomenon which enriches the national society increased (58% against 49% in the year before). According to the same report, 74% of Italians believe that immigrants are mostly irregular and 80% declared that they are worried about this particular category of people. According to another survey conducted by ISTAT⁶⁶, 59.5% of citizens state that in Italy migrants are treated worse than Italians and the majority of interviewees consider that it is very difficult for an immigrant to be included in the Italian society, while 2.4% of the interviewees consider it to be impossible. The entry into force of the of the Integration Agreement was one of the most important steps in the promotion of immigrants' integration. Knowledge of the Italian language and citizenship education have become particularly relevant as to facilitate civil coexistence. The action of the State has then been

⁶⁰ Decreto legislativo 1 settembre 2011 n.150

⁶¹ Sentenza n. 254, Anno 2011 della Corte Costituzionale: Illegittimità costituzionale dell'art.116, primo comma Codice Civile per richiesta esibizione del permesso di soggiorno ai fini del matrimonio. Available at: <http://www.meltingpot.org/articolo16906.html>

⁶² Art1, c 15° della Legge 15 luglio 2009, n.94 *Disposizioni in materia di sicurezza pubblica*, modifica dell'art.116 del codice civile

⁶³ Ronchetti, Laura, I diritti fondamentali alla prova delle migrazioni (a proposito delle sentenze NN. 299 del 2010 e 61 del 2011), *Associazione Italiana dei Costituzionalisti*, 3/2011 (12 July 2011)

⁶⁴ Corte di Torino, ordinanza depositata 30 luglio 2012 , Available at: http://www.asgi.it/public/parser_download/save/1_12_23_itgiurisprudenza.pdf (1 August 2012)

⁶⁵ Transatlantic Trends Immigration – Key Findings 2011 (Washington DC: German Marshall Fund, 2011) available at: <http://trends.gmfus.org/transatlantic-trends/country-profiles/>

⁶⁶ Istat, *I migranti visti dai cittadini residenti in Italia*, <http://www.istat.it/it/archivio/66563>, accessed 12 July 2012.

incorporated into the work of local authorities and third sector associations, which are particularly active in the country. In 2011, the Ministry of Interior, which in Italy is the managing authority of FEI (European Fund for the Integration of third-country citizens), launched a national consultation aimed at identifying the integration needs of the territory.

This year, partly due to the 150th anniversary of the Italian unification, the debate around the access conditions to citizenship rights for resident foreigners, has been central in the Italian context. Citizenship rights for foreign nationals have always been restricted. At political level, the Minister of Interior Anna Maria Cancellieri has endorsed the idea of a valorisation of the *ius soli*, as long as it is combined with the required years of residence. The Ministry for International Cooperation and Integration proposed instead to consider the *ius culturae* concept, in order to give citizenship even to minor, if he or she has studied in Italy.

Particularly important was the national campaign 'Italy is me too'⁶⁷ promoted by 19 third sector associations. The aim was to collect signatures in support of two popular initiative law proposals to introduce the *ius soli* principle and the right to vote without discrimination based on citizenship or nationality.

In the first months of 2012 the campaign has collected 50,000 signatures, which are requested to present the two law proposals to the Parliament.

On February 28th 2012, the 'National Strategy for Roma, Sinti and Caminanti Inclusion' was sent to Brussels. This document responded to the European Commission requests included into the Communication no 173 of April 5th 2011. The document, sent the last possible day given by the Commission, foresaw a series of interventions based on instruction, work, health and accommodation, with the coordination of UNAR.⁶⁸ Even if some consider the available resources for the implementation of the projects included in this strategy to be insufficient, it will nevertheless be implemented using also the available resources from the past Nomad Emergency. It must be noted that just a few days earlier, the Government had appealed the Supreme Court against the abolition of the Nomad Emergency. Nevertheless UNAR had declared that the funds for the implementation of the strategy are not at risk.⁶⁹

⁶⁷ Available at <http://www.litaliasonoanchio.it/>

⁶⁸ Immigrazione Oggi, *Oggi a Bruxelles l'Italia presenta la 'Strategia nazionale d'inclusione dei rom sinti e caminanti'. Il documento redatto l'ultimo giorno disponibile con la regia del ministro Andrea Riccardi,* available at http://www.immigrazioneoggi.it/daily_news/notizia.php?id=003943, accessed 25 July 2012

⁶⁹ Redattore sociale, *Emergenza nomadi, Unar: "Ricorso solo amministrativo, esiste una nuova strategia",* available at <http://www.redattoresociale.it/DettaglioNotizie.aspx?idNews=390031>, accessed 11 August 2012

5. Special focus: Islamophobia

In 2010, Muslims made up less than 10 per cent of the population in any Western and Northern European country, for example 6% in Belgium, 7.5% in France, 5% in Germany and 4.6% in the United Kingdom.⁷⁰ In some of these countries a significant proportion of the Muslim population holds national citizenship. In Italy, Muslims represent an estimated 2.6% of the total population (1.583.000 individuals).⁷¹

The Muslim presence in Italy is mostly due to migration. According to the Caritas/Migrantes Dossier, among the 4,570,317 foreign nationals that were resident in Italy on December 31st 2010, 2,465,000 (53,9%) were Christians, 1,505,000 (32,9%) were Muslims, 120,000 were Hindu, 89,000 were Buddhist, 61,000 believed in other Oriental religions. 46 000 have connections with traditional beliefs such as Animism (mostly people from Africa), 7 000 were Hebrews. 83 000 people were members of other religions not taken into consideration by these estimates due to a lack of non-aggregated data.⁷²

The Muslim population in Europe is currently growing but at a slower pace than in the past. It is estimated that in 2030 Muslims will make up around 5% of the Italian population.⁷³

It is worth underlining that Muslims in Italy constitute an unusually heterogeneous population, unlike French Muslims, who are predominantly of North African origin or Muslims in Germany, who are mostly Turkish. Muslims in Italy come from several different countries, and include both Sunni and Shia. The primary countries of origin are Morocco (448,000), Albania (364,000), Tunisia (106,000), Senegal (75,000), Pakistan (73,000), Bangladesh (71,000), Macedonia (30,000), Algeria (25,000) and Kosovo (21,000)⁷⁴. Much like the rest of the immigrant population, the Muslim population is dispersed throughout the country. Because of its diversity the Muslim community in Italy is territorially dispersed rather than concentrated in particular neighbourhoods as it is the case in some other EU countries.⁷⁵

⁷⁰Pew Research Centre's Forum on Religion & Public Life, *The Future of Global Muslims Population – Projections for 2010-2030*, (January 2011), p. 124, available at: <http://www.pewforum.org/The-Future-of-the-Global-Muslim-Population.aspx>, accessed 25 July 2012.

⁷¹Ibid.

⁷² Caritas/Migrantes, *Dossier Statistico Immigrazione XXI Rapporto*, (Roma: Idos, 2011), p. 195. The estimates are based on the assumption that immigrants from a particular country reflect the religious groups divisions, which can be deduced from specialist publications dedicated to the subject.

⁷³ According to the Pew Research Center's estimations, the annual growth rate of the Muslim population in Europe was 2.2 per cent in the 1990–2000 decade and is forecast to decrease to 1.2 per cent in the decade 2020–2030

⁷⁴ Data refer to 2010 in Caritas/Migrantes, *Dossier Statistico Immigrazione XXI Rapporto*, (Roma: Idos, 2011), p. 196

⁷⁵ Cucinielli, Antonio, *Islam in the Italian Multicultural Society*, (Roma, 2008), available at: <http://www.ismu.org/index.php?page=462#>, accessed 05 August 2012.

In the aftermath of the attacks to the United States on September 11th 2001, perception of Muslims in Europe deteriorated and a rising level of hostility against Muslims was observed in several European countries⁷⁶, Italy included.

In Italy Muslims are victims of some stereotypical views which have been voiced by political leaders and reflected in public opinion via the mass-media. In the light of this trend, Mr. Nils Muižnieks, Council of Europe Commissioner for Human Rights, in the July 24th 2012 Human Rights Comment, spoke out against the policies of some European Countries that nourish Islamophobia. He noted that some political parties, in a number of countries including Italy, use an anti-Muslim kind of rhetoric for political gain.⁷⁷

Islamophobia in Italy has some specific traits.⁷⁸ On one hand, there is the public debate about Muslims as a danger in several political and social fields (this is especially supported by Lega Nord party which systematically underlines the 'Muslim danger' in its political communication); on the other hand there is the so-called 'well-educated' Islamophobia, which uses data, statistics, historical and social references to increase public consciousness about the 'irreparable break' that sooner or later will lead Islam and the West to clash.

This break between Islam and the West supposedly concerns the values on which each society is founded and the customs that typify it; for instance the use of veil is one of the many elements that allegedly indicate and aggravate inequality between men and women.

Media coverage of Muslim immigrants frequently concerns stories of parents that prevented their daughters from being emancipated, arranged marriages and generation gaps that turned into cultural conflicts. Sometimes these stories led to tragedy, with daughters murdered by their own fathers because they were 'too Western'. Commentators do not consider these cases such as isolated episodes, but as confirmation of their suspicion that Islam is basically violent and incompatible with modernity.

Islamophobia's aim is not only to stigmatize an entire civilization; its goal is also to alarm people about a possible alteration of their European identity. The term 'Eurabia' has been coined to define the kind of Europe in which the Arabic presence will grow stronger and stronger because of the immigrant population's exponential demographic growth.

⁷⁶ Amnesty International, *Choice and Prejudice – Discrimination against Muslims in Europe*, (Amnesty International 2012), p. 12, available at: <http://www.amnesty.it/rapporto-amnesty-international-sulla-discriminazione-dei-musulmani-in-europa>, accessed 25 July 2012.

⁷⁷ The Council of Europe Commissioner's Human Rights Comment, *Anti-Muslim prejudice hinders integration*, <http://humanrightscomment.org/2012/07/24/anti-muslim-prejudice-hinders-integration-5/>, accessed 14 August 2012.

⁷⁸ The analysis on Islamophobia's features in Italy is based on the book by Allam, Khaled Fouad, *L'Islam spiegato ai leghisti*, (Milano: Piemme, 2011)

In Italy, one of the biggest backers of this thesis is Mr. Mario Borghezio, member of the European Parliament and member of Lega Nord party. He has recently proposed to tax Muslims who have too many children, in order to slow down 'the great Islamic advance in Europe'.⁷⁹

Within 'well-educated' Islamophobia it is possible to find traces of a fear that Europe will never be the same again. This deconstructs and sometimes denies the contribution of the Islam to the universal civilisation and it tries to promote the thesis that Islam has been, and still is, a 'religion of conquest'. In doing so the Islamophobic movement generates fear and strengthens the negative image of Muslims.⁸⁰

Lega Nord represents one of the most critical political forces against globalisation and openly supports xenophobic ideas. Though its ideology is not based on 'race', it celebrates its sense of belonging to the 'Northern people' as opposed to Southern Italians, immigrants, Muslims, Roma and so on. Lega Nord's political strategy is focused on the fear of 'others'. It is worth noting that Lega Nord has been part of centre-right-oriented governments, including the 2008-2011 Berlusconi Cabinet in which one of its biggest exponents, Mr. Roberto Maroni, was the Minister of the Interior.

There are two layers to Lega Nord's political communication⁸¹: on the one hand it attempts to maintain tension and alarm about Islam and Muslims, using a particularly coarse political strategy; on the other hand it is aware that the current situation cannot be avoided and must be managed.

Minister Roberto Maroni created in 2010 the *Italian Committee for Islam*⁸², composed of both Muslim and non-Muslim experts and by Muslims operating in the field. It included people with different political opinions but it didn't represent the Islam as a religion in any way. This Committee was in charge of expressing its opinions about specific questions asked by the Minister, supposedly to the aim of improving social integration and the Muslim communities integration into the Italian society. A similar attempt had already occurred in the past; in 2005 the Minister of the Interior Mr. Pisanu issued a decree establishing the *Consulta Islamica* (Islamic Council), a national consultative body comprised of 16 prominent Italian Muslims representing a cross-section of Islam's organisational and ideological branches in Italy.

In March 2012, the Minister of the Interior of the new Monti Government delegated some of the Committee's competences⁸³ to the new 'Religions, Culture and Integration' Permanent Conference, created by the Minister for International Cooperation and Integration.

⁷⁹ *Notapolitica.it* 7 May 2011, 'Borghezio: i musulmani fanno troppi figli, tassiamoli', <http://www.notapolitica.it/liveblogging.aspx?id=446&date=634403232000000000>, accessed 14 August 2011.

⁸⁰ Allam, Khaled Fouad, *L'Islam spiegato ai leghisti*, (Milano: Piemme, 2011), p.67

⁸¹ Ibid, p. 98

⁸² Governo Italiano, *Costituito al Viminale il Comitato per l'Islam italiano*, 10 February 2012, <http://www.governo.it/Notizie/Ministeri/dettaglio.asp?d=55469>, accessed 14 August 2012

⁸³ Center for Studies on New Religions, *L'Islam e i movimenti di matrice islamica in Italia*, http://www.cesnur.org/religioni_italia/i/islam_01.htm, accessed 30 July 2012

The absence of a hierarchical body with an institutional leadership; divisions and oppositions between Muslim associations; the geographical distribution of Muslims in Italy and their ethnic, national, and ideological diversity, impede attempts at activating and uniting the Islamic community with the aim of reaching common political and social targets⁸⁴. These are some of the reasons why, up to now, no official agreements have been reached between the Muslim community and the State. The Italian Constitution (Article 8⁸⁵) grants the right to religious liberty to all and prohibits discrimination on religious basis. All religions are free, but not all of them are 'equal': their relations with the State are legalized through the so-called '*intesa*', signed by the religious representatives of recognised religious denominations. Unlike religious groups that have signed an agreement, Muslims cannot deduct donations to the community from taxes, delegate teachers to public schools to provide religious teaching, legitimately abstain from work on religious holidays, etc. Many Muslim representatives have pointed out that 'the problem is not the absence of a State agreement, but the system itself, which tends to stamp homogeneity on a Muslim community that does not adequately reflect reality. Requiring a single representative reflects State interests rather than the needs of the diverse Muslim communities, and also reinforces the stereotypical notion of a monolithic Islam'.⁸⁶

During the past few years, many bills on religious freedom have been proposed, aiming to reduce this inequality, but none of them has been voted on in parliament.

The lack of a hierarchical body also makes it very complicated to manage mosques. The number of mosques and places of worship in Italy is inadequate,⁸⁷ yet there is strong opposition to an increase in their number. For instance, some Lega Nord representatives have requested limitations on mosque construction.

They asked for a prohibition of the building of mosques at less than 600 meters from a church and/or demanded that every construction proposal to be systematically submitted to referendum⁸⁸. The concerns are often connected to the assumption that mosques could become places where young future terrorists could be trained and indoctrinated. This thought fosters the prejudices about the intrinsic link between Islam and terrorism which have

⁸⁴ Cucinielli, Antonio, *Islam in the Italian Multicultural Society*, (Roma, 2008), available at: <http://www.ismu.org/index.php?page=462#>, accessed 05 August 2012

⁸⁵ Governo Italiano, *La Costituzione della Repubblica Italiana*, <http://www.governo.it/Governo/Costituzione/note.html#2>, accessed 14 August 2012

⁸⁶ Open Society Institute, *The Situation of Muslims in Italy*, (EMU 2000), p. 265, available at: <http://emunion.eu/emudoc/EMU%20Country%20Report%20Italy%20-%20September%202010.pdf>, accessed 05 August 2012.

⁸⁷ European Commission Against Racism and Intolerance, *Rapporto dell'Ecri sull'Italia (quarto ciclo di monitoraggio)*, (ECRI: Strasbourg, 2012), <http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/italy/ITA-CbC-IV-2012-002-ITA.pdf>, p. 48 accessed 12 July 2012

⁸⁸ *Il Mattino di Padova* 23 July 2011, 'Crociata Lega: «Islam religione di morte. Un referendum su tutte le nuove moschee»', <http://mattinopadova.gelocal.it/cronaca/2011/07/23/news/crociata-lega-islam-religione-di-morte-un-referendum-su-tutte-le-nuove-moschee-1.1140398>, accessed 05 August 2012

repeatedly led to violent attacks against places of worship. As already mentioned in the previous chapter, media coverage the North African crisis has led the public to fear an invasion of terrorists

Finally, the issue of the veil, worn by some Muslim women has led to high-pitched debates in Italy. For example in the Northern part of Italy, an ancient anti-terrorism law has been used by some local authorities to punish women wearing *niqab* or *burqa*⁸⁹ (this has prompted UNAR intervention, which demanded the revocation of these discriminatory measures⁹⁰).

On August 2011, the Chamber's Committee for Constitutional Affairs approved a bill prohibiting the wearing of 'ethnic' garments which could hide one's face. The law provides fines up to €500 for those who do not respect the ban as well as detention for up to one year⁹¹. The law has been promoted by a Moroccan born Deputy from the Freedom Party⁹² and it has been welcomed by the then-Minister for equal opportunities Mrs. Mara Carfagna, with the following words: '*integral veil is never a free choice of women, but it is instead a symbol of cultural or physical oppression: to prohibit it in public places means to give back freedom to the immigrant women*'⁹³. These words confirm that public opinion and political parties do not distinguish between practices clearly violating human rights, and the exercise of freedom of religion or belief, such as the choice to wear a headscarf or other forms of religious and cultural symbols and dress.⁹⁴

In a recent study by ISTAT⁹⁵, 59.3% of the interviewees were partly or totally opposed to the statement 'religious practices of some immigrants pose a threat to our lifestyle'. 41.1% nevertheless would oppose the opening of a mosque near their home, 17.1% would be favourable and 41.8% are indifferent to the possibility. Those who would oppose mosque construction are particularly worried by public order and security problems that could result (28.3%). 26.6% believe that 'Muslims that are intolerant and would never allow the construction of a Catholic Church in their countries' (26,6%). Interviewees who opposed mosque construction also expressed concern about an increase of migrants in the area (18.3%) and in general the loss of the (Catholic) identity of the country. For this reason, 16.3% stated that

⁸⁹ The Council of Europe Commissioner's Human Rights Comment, *Anti-Muslim prejudice hinders integration*, <http://humanrightcomment.org/2012/07/24/anti-muslim-prejudice-hinders-integration-5/>, accessed 14 August 2012.

⁹⁰ European Commission Against Racism and Intolerance, *Rapporto dell'Ecri sull'Italia (quarto ciclo di monitoraggio)*, (ECRI: Strasbourg, 2012), p.48, available at: <http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/italy/ITA-CbC-IV-2012-002-ITA.pdf>, accessed 12 July 2012

⁹¹ Proposal n. 2422/2009, currently awaiting plenary debate

⁹² Popolo della Libertà, Silvio Berlusconi's party

⁹³ From *Corriere.it* 2 August 2011, 'Camera, primo sì verso il divieto del burqa', http://www.corriere.it/politica/11_agosto_02/burqa-disegno-approvato_670f397c-bd25-11e0-b530-d2ad6f731cf9.shtml, accessed 05 August 2012

⁹⁴ Amnesty International, *Choice and Prejudice – Discrimination against Muslims in Europe*, (Amnesty International 2012), p. 12, available at: <http://www.amnesty.it/rapporto-amnesty-international-sulla-discriminazione-dei-musulmani-in-europa>, accessed 25 July 2012.

⁹⁵ Istat, *I migranti visti dai cittadini residenti in Italia*, <http://www.istat.it/it/archivio/66563>, accessed 12 July 2012

'migrants must adapt to our religion'. Some showed a generic intolerance for different cultures, demonstrated by the statement 'their religion and culture are different from ours' (7.8%). More tolerance is shown for the possibility of opening places of worships other than a mosque (Synagogues, Orthodox Churches, Buddhist Temples etc...).

Italians are also more distrustful towards Roma and Sinti rather towards than Moroccan citizens (which represent the largest Muslim community) on issues not directly related to religion. For example, although the majority of Italians declare that it would not be a problem to have an immigrant as a neighbour, 68.4% would not like to have a Roma/Sinti as a neighbour. Romanians (indicated by 25.6%) Albanians (24.8%), and Moroccans (indicated by 19.2%), are respectively second, third and fourth among the least preferred neighbours. Concerning the possibility of a mixed marriage in the family, (involving for example their daughters), Italians consider it a problem to have a Roma/Sinti as a son-in-law (84.6%). More than a third of the respondents would have many problems (37.2%) and another third would have some problems (31.7%), if the hypothesis would concern a Romanian immigrant. Then come Albanians (33.8% many problems, some problems, 34%) and Moroccans (27.9% a lot of problems, some problems 39.6%).

6. Access and full participation in all collective areas of society

6.1 Racism and related discrimination in employment

6.1.1 Manifestations of racism and related discrimination in employment

In spite of the fact that Italy is considered to be favourable to labour mobility⁹⁶ and that the workplace is considered the main 'channel' of knowledge of immigrant persons for Italian people⁹⁷, the labour market is the area where the migratory dynamics and discrimination show themselves more clearly. Discrimination at work – in recruitment as well as in the workplace - is serious and long-lasting. Both 'direct' and 'indirect' discrimination are widespread, as well as multiple discrimination.

Discrimination is present in all macro-phases of the work cycle: access to the job market, to particular sector, working conditions, end of employment contracts⁹⁸. Over the years, the dual character of the employment market remains: the majority of foreign nationals, regardless of their level of qualification, are employed in the low-wage labour market, representing one third of the workforce employed in low skilled positions.

The gap between the wages of native and immigrant workers is still wide and is growing. The tendency to employ migrant workers in the lower-middle positions obviously impacts on wage levels. On average the immigrant employee receives €987 compared to the €1 200 euro of their Italian counterparts.⁹⁹ This gap varies according to region of residence, gender and sector. In southern Italy, the salary level is generally lowest, but the gap between Italian and immigrants wage is amplified: for example, in the Basilicata region, immigrant workers earn 42% less than native employees, and in Calabria they earn 40.8% less than their Italian colleagues. Gender differences are equally pronounced: on average a female immigrant employee earns a monthly salary of €797 compared to an average male salary of €1 135. The double discrimination against foreign women is emphasised: women are concentrated in a few occupational sectors, care giving and housework are usually the only job opportunities for the majority of female immigrant workers¹⁰⁰.

⁹⁶ Huddleston, Thomas and Niessen, Jan, in collaboration with Ni Chaoimh, Eadaoin, White, Emilie., *2011 Migrant Integration Policy Index III Italia* (British Council and Migration Policy Group, Bruxelles February 2011)

⁹⁷ In 2011, more than 38 per cent of Italian persons have declared that they have had relationship with immigrant people on the workplace, ISTAT, *I migranti visti dai cittadini* (Rome, 11 July 2012)

⁹⁸ Galossi, Emanuele, Leonardi, Salvo and Carrera, Francesca, *Combating discrimination against migrant workers* (@Solidar, March 2012)

⁹⁹ Fondazione Leone Moressa, *Gli stranieri: un valore economico per la società. Dati e considerazioni su una realtà in continua evoluzione*. (Il Mulino, 2011)

¹⁰⁰ For this part, please see: Baussano, Ludovica Francesca, *ENAR Shadow Report 2010 – 2011 - Racism and related discriminatory practises in Italy* (ENAR, March 2011)

Regarding the compliance with contracts and working condition, the common forms of discrimination identified include: an excessive use of overtime which is paid irregularly, the use of immigrant workers for the less desirable jobs, the non-payment of the severance indemnity (TFR).

According to the report of Solidar - IRES: 'Combating discrimination against migrant workers', there has been an increase in accidents affecting immigrant workers (+8.7%) and a decrease for Italians (-3.4%).

In Italy, there are currently¹⁰¹ 4 570 317 immigrants, who correspond to 7.5% of the total of population.¹⁰² Immigrant workers (2 089 000 according to ISTAT research) represent at least 9% of the workforce. Immigrant women constitute 9.4% of all women employed in Italy. Immigrant workers are younger than domestic ones: 32.6 per cent are between 25 and 34 years old. During the last decade, the employment increase is due almost exclusively to the inclusion of migrant workers (more than 2 million).

ISTAT (National Institute of Statistics)¹⁰³ estimates that there are, approximately, three million undeclared workers in Italy, 13% of whom are immigrants;¹⁰⁴ these data emphasize that there is an increasing illegal economy in which the exploitation of immigrant workers is an unascertainable phenomenon.

Most of the migrant workers are concentrated in small and medium size enterprises, especially in the North-East of the country. The distribution by sector has changed in the last years: a decrease in the manufacturing sector has corresponded to an increase in construction (18.1% of the total of workers employed)¹⁰⁵ and services: indeed, the immigrant workers, in particular women, assist 2.5 million Italian families.

Migrants are mostly employed in those sectors which are particularly vulnerable to the effects of the economic crisis. Demand for foreign labour by enterprises and by the service sector decreased of 37% between 2008 and 2009. In 2011 around 280 000 immigrants lost their job, and the unemployment rate for foreign workers is 11%, three points above the Italian average. In general, the slowdown of entry flows is an immediate consequence of the worsening conditions of employment; in particular, in 2012 the Ministry of Labour and Social Policy, Immigration Office, stopped the procedures (so-called 'click day') for hiring of domestic workers, carers and non-EU employees provided for by the 2012 Flows Decree¹⁰⁶.

¹⁰¹ ISTAT- Istituto Nazionale di Statistica (National Institute of Statistics), *La popolazione straniera residente in Italia* (Rome, January 2011)

¹⁰² Caritas/Migrantes, *Immigrazione Dossier Statistico XXI Rapporto* (Idos, Rome October 2011)

¹⁰³ La Stampa.it, *L'Istat: tre milioni di lavoratori in nero. L'economia in nero è il 17% del Pil.* (September 2010). Available at: <http://www1.lastampa.it/redazione/cmsSezioni/economia/201007articoli/56682girata.asp>

¹⁰⁴ Cfr. Solidar IRES, *Combating discrimination ...cit*, page 2

¹⁰⁵ Cfr. Fondazione Leone Moressa, *Gli stranieri: un valore economico per la società...* cit.

¹⁰⁶ Stop ai flussi di ingresso per i lavoratori extracomunitari, *Immigrazione.biz*. Available at: <http://www.immigrazione.biz/3825.html> (accessed 10 January 2012),

There have been frequent legislative changes affecting the working conditions of migrants in recent years, reflecting the political and cultural profile of the centre-right government. At the moment the legal framework is based on the Immigration Act (dg.lgs 286/98)¹⁰⁷: the law contains a number of key measures affecting labour regulations, concerning social integration, discrimination and institution of a fund for migration policies¹⁰⁸. Significant and restrictive changes were introduced with the 'Bossi-Fini Law' (Decreto Legge 30 luglio 2002, n.189)¹⁰⁹, in particular the establishment of a strict and mandatory link between the residence permit and the employment contract. After the establishment of a new Government, the years 2011-2012 saw some more progressive laws:

On 6 December 2011, the government approved the Decree Law no. 201 which states that foreign workers awaiting the issue or renewal of residence permits can work¹¹⁰.

On 10 January 2012 the temporary law that limited access to the labour market to Romanian and Bulgarian citizens has lapsed. The Italian government receipted the resolution¹¹¹ of the European Parliament in order to guarantee free access for Romanian and Bulgarian workers to the labour market¹¹².

On 28 June 2012, the government promulgated the decree by which it implements the European Directive 2009/50/CE on the conditions of entry and residence of third Countries citizens who wish to engage in highly skilled employment (Directive on 'Blue Card')¹¹³.

6.1.2 Facilitating factors or protective measures to combat employment challenges

In the period 2010 - 2011, the Ministry of Labour and Social Policy engaged in audits to ascertain the presence of discriminatory practices in employment:

¹⁰⁷ T.U. Immigrazione, Testo unico sulle disposizione concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero (DLGS 286/1998). Available at: <http://www.altalex.com/index.php?idnot=836>

¹⁰⁸ T.U. Immigrazione, Testo unico sulle disposizione concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero (DLGS 286/1998), Articolo 3 Politiche migratorie

¹⁰⁹ Law Decree n.189 (30 July 2002) available at: <http://www.parlamento.it/parlam/leggi/02189l.htm>

¹¹⁰ Law Decree n. 201 Art.40, comma 3 – Permesso di soggiorno per lavoratori stranieri (6 Dicembre 2011). Available at: http://www.lavoro.gov.it/NR/rdonlyres/37EA2A50-EF4D-46C5-ACDA-C9FF8EE85A3B/0/newsletter_1_2012.pdf

¹¹¹ Resolution of the European Parliament about the free circulation of workers in European Union (15 December 2011), available at http://bancadati.italialavoro.it/BDD_WEB_CONTENTS/bdd/publishcontents/bin/C_21_NormativaEuropa_853_documenti_itemName_0_documento.pdf

¹¹² For more details, please see: Cittadini romeni e bulgari: dal 1 gennaio 2012 non più restrizioni nel mercato del lavoro, *Immigrazioneoggi*. Available at: http://www.immigrazioneoggi.it/daily_news/notizia.php?id=003749, (last accessed 15 May 2012)

¹¹³ ASGI, *Pubblicata su G.U. la normativa sulla 'Carta Blu Europa' per l'ingresso e soggiorno dei lavoratori stranieri altamente qualificati*. Available at http://www.asgi.it/home_asgi.php?n=2312&l=it

2,856 violations of the law on equal opportunities, discrimination and protection of working mothers were recorded. Particular attention was paid to the verification of proper contracts and to control the dangerous workplaces¹¹⁴.

In August 2012 the Legislative Decree No 109 of July 2012 entered into force¹¹⁵ implementing Directive 2009/52/Ec; it provides for aggravating circumstances in the case of undeclared work of foreign employees (offence foreseen by Article 22, paragraph 12 of the Immigration Act).

In order to facilitate tort claims, the Decree also provides that an immigrant who denounces an employer or cooperates in the proceedings against him or her, should be granted a temporary renewable residence permit for a period of six months.

As emphasised by IOM (International Organisation of Immigration), the basic principle of the decree should be to give migrants the opportunity to access justice and denounce employers who exploit them, thus 'providing a specific humanitarian protection'¹¹⁶. In addition, IOM makes clear reference to the need to consider all indices of exploitation falling under the new offense of 'illegal hiring'¹¹⁷, introduced in September 2011¹¹⁸. The government also provides a new amnesty for crimes related to illegal entry and stay,¹¹⁹ in order to bring irregular forms of employment into the open.

On December 22, 2011 IOM and 'Italia Lavoro' (in collaboration with the Ministry of Labour and Social Policy) have signed a cooperation agreement to improve the management of migration flows from the main immigrants home countries. The project foresees the implementation of activities abroad, in order to support the 'Network development services abroad for the management of working migration flows.' The aim is to implement the new strategy of the Ministry of Labour and Social Policy, specifically the General

¹¹⁴ European Commission against Racism and Intolerance, *Rapporto dell'ECRI sull'Italia (quarto ciclo di monitoraggio)* (February 21, 2012) pag.97

¹¹⁵ Ministry of Labour and Social Policy, Dlgs n.109 del 16 luglio 2012 – lavoratori irregolari-Emersione dei lavoratori irregolari. Available at http://www.lavoro.gov.it/Lavoro/Notizie/20120726_DLGS_109_16072012.htm

¹¹⁶ OIM, *Protezione umanitaria per i migranti sfruttati che decidono di denunciare i datori di lavoro, le proposte dell'Organizzazione Internazionale per le Migrazioni alla luce dell'imminente recepimento della Direttiva sullo sfruttamento lavorativo.* (22 June 2012, Rome). Available at: http://www.italy.iom.int/index.php?option=com_content&task=view&id=179&Itemid=90 (last accessed 23 June 2012)

¹¹⁷ Ministry of Labour and Social Policy, Dlgs n. 138 del 13 agosto 2011 Titolo III Art.12 'Intermediazione illecita e sfruttamento del lavoro'. Available at: http://www.lavoro.gov.it/NR/rdonlyres/D492B74F-D788-4EDF-A491-41F8CB3B9C83/0/20110813_DL_138.pdf

¹¹⁸ Pasca, Elvio, Si definitivo al reato di caporalato, *Stranieri in Italia*, <http://www.stranieriinitalia.it/attualita-si-definitivo-al-reato-di-caporalato-13749.html> (accessed 16 September 2011)

¹¹⁹ Polchi, Vladimiro, 'Immigrati, chi denuncia lo sfruttatore potrà avere il permesso di soggiorno', *Repubblica.it*. Available at http://www.repubblica.it/solidarieta/immigrazione/2012/07/06/news/legge_immigrazione-38627182/ (accessed 6 July 2012)

Directorate of Immigration and Integration Policy, which provides for the establishment of agreements between Italy and these countries.¹²⁰

Also the Italian trade unions confederation has been very actively engaged, over the years, in fostering the integration of third Countries migrants. This collaboration is articulated at different levels:

- membership policies and services designed specifically for the migrant population.
- collective bargaining on specific provision related to the working and life needs and expectations of the migrant workers
- political mobilisation and campaigns for legislative improvements and facilities for third Countries migrants.

¹²⁰ Ministry of Labour and Social Policy, General Director of Immigration and Integration Policies – *Notizie, Aggiornamenti normative e giurisprudenziali, eventi in material di immigrazione*. 1 (January 2012) 19-20

6.2.1 Manifestations of racism and related discrimination in education

According to the Migrant Integration Policy Index (MIPEX III) while education is a very important sector, it is very weak in the integration policies of most European Union countries. Italy does not differ from that negative average. In fact, according to the evaluation of MIPEX III Italy ranks the 19th place, and is thus an unfavourable country for the integration of immigrant pupils¹²¹. Multiple problems feature in the educational experience of immigrant students, including access to education at different levels, lower academic performance than native Italian students and difficulty in obtaining qualifications.

Currently the most recent data concerning pupils with non-Italian citizenship (CNI¹²²) in the school system refer to the school year 2010/2011¹²³. There were 711,064 pupils with non-Italian citizenship, representing almost 8% of the total population of students. Their numbers are increasing, slowly but steadily. The highest proportion is from Romania with 126,452 students, accounting for 17.8%, followed by Albania (99,421) and Morocco (92,620)¹²⁴. In addition, according to ISTAT, the presence of immigrant students is expected to increase to 12 million in 2050.

Primary schools have higher numbers of pupils with non-Italian citizenship than other levels of education (9%), while the high school has seen the largest increase in the numbers of immigrant students compared to the previous year.

In fact, the percentage distribution of students enrolled in primary school has decreased in the last decade by 7%, while the high school has grown from receiving 14% of students with non-Italian citizenship in the school year 2001/02 to more than 21% in the school year 2010/11. With regard to the other levels of compulsory education (kindergarten and secondary school) admissions have remained stable over time.

In addition, the incidence of 'immigrant' pupils born in Italy exceeds 42%, a datum that is higher than last year, when the rate was 34%. At the same time the number of new arrivals decreased, that is those who are entering the Italian educational system for the first time (this dropped from 7% in the 2009/2010 academic year to 5% the following year).

The datum is still significant and relates to the entrance to the first year of

¹²¹ Cfr. Huddelston, Niessen MIPEX III... cit. (2011) pag 20

¹²² CNI is the definition of the students with not italian citizenship of the Ministry of Education, Universities and Research (Ministero dell' Istruzione, dell'Università e della Ricerca MIUR 2011),

¹²³ Bosetti, Elena "Alunni con cittadinanza non italiana. Verso l'adolescenza", *Quaderni ISMU*, 4 (2011) pag. 7 and following

¹²⁴ Gruppo di lavoro per la Convenzione sui diritti dell'infanzia e dell'adolescenza, *Quinto Rapporto di aggiornamento sul monitoraggio della Convenzione sui diritti dell'infanzia e dell'adolescenza in Italia* (May 2012) pag.91 and following

each school level. In particular, in the early years of secondary school, it may mean inclusion difficulties and delay in full academic participation. In fact, as pointed out by the European Commission¹²⁵, the young migrants often have insufficient skills in the comprehension of written texts and in the use of the language of the host country. They also encounter difficulties associated with the migration process, which involves a certain degree of instability and insecurity at familial, legal and educational level¹²⁶.

The difficulties of the CNI students include for example - besides delay in entering the school discussed above – poor academic performance; their failure rates are almost twice those of Italian students¹²⁷. They tend to be concentrated in vocational and technical schools¹²⁸. The data seem to confirm that the choices of young immigrants focus on vocational education, due to the need to find a good job as soon as possible in order to become independent from their families. Higher rates of immigrant minor students undertake work experience than their young Italian counterparts.¹²⁹

There is a strong difference of opinion between the Italian public and a part of the political class regarding the integration of immigrants in education: almost all Italians are in favour of integration within the classroom. 92% of the Italian public¹³⁰ think that it is preferable to distribute immigrant students across various classes rather than grouping them into separate classes as proposed by the Lega Nord Party in 2008¹³¹.

The education system has undergone a number of reforms in recent years, especially in 2009-2010¹³², which led to a series of consequences not yet fully evaluable due to the lack of concrete data. The most important developments include: overcrowding in classrooms, reduction of teaching staff, reduction of school time and time spent in school activities, which impact heavily on inclusive education.

¹²⁵ European Commission, *Migrant children and education: challenges and opportunities for EU education system*, (2008) available at: http://ec.europa.eu/education/news/20080703-migrant-children-and-education_en.htm

¹²⁶ Santagati Mariagrazia, La scuola, in FrancoAngeli, ed., Fondazione ISMU: *Diciassettesimo Rapporto sulle migrazioni 2011*. (Milano, 2012) pag 115- 127

¹²⁷ Cfr. Callia, Raffaele, Giuliani Marta, Luatti, Lorenzo, Pittau, Franco, Ricci, Antonio, *L'organizzazione delle politiche in materia di immigrazione e asilo in Italia...*cit. pag 28

¹²⁸ For an exhaustive presentation, please see cfr. Bosetti, Elena "Alunni con cittadinanza non italiana..."cit. pag 33 and following

¹²⁹ Colombo, Maddalena and Santagati, Mariagrazia, Interpreting social inclusion of young immigrants in Italy, *Italian Journal of Sociology of Education*,1 (2010)

¹³⁰ Cfr. ISTAT, *I migranti visti dai cittadini...*cit pag. 8

¹³¹ Benedetti, Giulio, 2008, "Sì alle classi separate per stranieri" *Corriere della Sera* (15 October 2008). Available at: http://www.corriere.it/cronache/08_ottobre_15/stranieri_classi_separate_benedetti_792ff016-9a7c-11dd-8bde-00144f02aabc.shtml (last accessed 15 June 2012)

¹³² DPR 20 marzo 2009 n.89 Revisione dell'assetto ordinamentale, organizzativo e didattico delle scuole dell'infanzia e primo ciclo di istruzione ai sensi dell'articolo 64, comma 4, del decreto legge 25 giugno 2008 convertito con modificazione, dalla legge 6 agosto 2008 n.133 and DPR del 20 marzo 2009 n.81. Norme per la riorganizzazione della rete scolastica ed il razionale utilizzo delle risorse umane della scuola, ai sensi dell'art. 64, comma 4 decreto legge 25 giugno 2008.

In brief, the phenomenon of the inclusion of immigrant students seems to have stabilized and we are witnessing a tapering in the increase in the number of students in Italian schools, with more significant increases occurring in secondary schools. Some issues have continually recurred in recent years; high rates of immigrants repeating a year, particularly in secondary schools, the concentration of immigrant students in technical and vocational education and delay in entering education and early school leaving. We must underline that the Italian legislation is very clear and well-constructed¹³³; for example, the law specifies that the right to education is applicable regardless of migratory status and that all laws and obligations relating to education apply equally to all immigrant minors.¹³⁴ It also states that the right to education includes the achievement of qualifications at all levels of education, regardless of whether or not the students possess residence permits or identity documents¹³⁵. However, a major difficulty is limited awareness of these legal provisions.

It is necessary to pay specific attention to the students belonging to Roma, Sinti and Caminanti cultural groups, with or without Italian citizenship. In the school year 2010/2011 a total of 12,377 from these groups attended schools at any level, of whom 47% are girls (5,875). Their number has decreased over the past three years; most of them attend primary school, while only 1.3% are enrolled in high school. Unfortunately, severe forms of prejudice and discrimination persist. In their case, racism is sometimes expressed in an extremely violent manner¹³⁶.

6.2.2 Facilitating factors or protective measures to combat education challenges

The Italian school system provides for the acceptance of applications for inclusion at all stages of the year, with enrolment in the class corresponding to the pupil's age. Experimental practices developed to facilitate new students include; the establishment of reception committees and the formulation of reception protocols, the use of multilingual information sheets, the "volunteer system" that characterizes the Italian school, in which the school or even the teacher assumes responsibility for solving the problems related to immigrant students¹³⁷.

¹³³ For an exhaustive presentation please see: PICUM and ASGI L. 2012, *Sviluppare strategie per migliorare la protezione dei minori con una situazione migratoria irregolare in Europa*, - Conference Proceedings Torino 24 May 2012

¹³⁴ Art.38 T.U. 286/98 cit

¹³⁵ Art. 45 D.P.R. 394/99, *Regolamento recante norme di attuazione del testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero, a norma dell'art.1, comma 6 del decreto legislativo 25 luglio 1998, n.286*. Available at: http://www.sportellostranieri.bergamo.it/dpr_394_99.htm

¹³⁶ Repubblica.it, *Genitori ai clan: "Via bimbi rom da scuola, incendiato campo nomade: 18 arresti"*, (10 July 2012), Available at: http://napoli.repubblica.it/cronaca/2012/07/10/news/camorra_rogo_in_campo_rom_ed_estorsi_oni_18_arresti-38810513/?ref=HREC1-7 (last accessed 19 July 2012)

¹³⁷ Cfr. Gruppo di lavoro per la Convenzione sui diritti dell'infanzia e dell'adolescenza, *Quinto Rapporto di aggiornamento sul monitoraggio della Convenzione sui diritti dell'infanzia e dell'adolescenza in Italia* (May 2012) cit.

In addition, many municipalities are developing programs aimed at facilitating access to school for Roma, Sinti and Caminanti children, including the provision of school bus services and a series of agreements designed to reduce early school leaving¹³⁸.

¹³⁸ Cfr. ECRI, *Rapporto dell'ECRI sull'Italia*, cit.

6.3 Racism and related discrimination in housing

6.3.1 Manifestations of racism and related discrimination in housing

The current legislation on immigration establishes that one of the requirements needed to obtain and renew a residence permit is certification of suitable housing and a regular employment contract. Italy lacks an effective social housing policy at both national and local level¹³⁹, in spite of the fact that immigrants in recent years represent a significant proportion of demand for housing.

The economic crisis has disproportionately hit the weaker sections of Italian society, and the scope of persons who do not have the means to access housing has grown in recent years, including low-income families, elderly, young couples, workers and students and, in particular, regular immigrants. In a context of widespread unease, it is perhaps not surprising that 55% of Italians believe that in the allocation of social housing, with the same requirements, immigrants should be included in the list after the Italians¹⁴⁰.

According to recent estimates, 62.8% of immigrants live in rented accommodation, while 8% live at their place of work (as in the case of domestic workers and care assistants), almost 10% live with family or with other immigrants from their country of origin. 19.1% live in their own home.

Over the past nine years, 800 000 homes were purchased by immigrant workers. Sales rose steadily between 2004 and 2007 due to easy access to credit.¹⁴¹

Since 2008, due to the economic crisis and the contraction of bank credit, purchases by immigrants have declined steadily. In 2011 there was a slight increase, which was reversed in the first half of 2012: the purchase of homes by immigrants decreased by 20% compared to the same period of 2011.

This sharp decline was primarily caused by difficulty in accessing credit, which for immigrants becomes an almost insurmountable obstacle.

In Italy in order to buy a house, after the outbreak of the crisis it is necessary to pay 50% upfront. Additional guarantees are often required for immigrants compared to Italian buyers. The situation is even more serious in certain regions: according to the Regional Observatory of the Lombardy Region, buying a house has become an impossible task for 80% of immigrants.¹⁴² They state this is less true for immigrants from Eastern Europe (65%) and

¹³⁹ Cfr. Caritas/Migrantes, *Immigrazione Dossier statistico ...* cit. pag 189

¹⁴⁰ Cfr. ISTAT, *I migranti visti dai cittadini ...* cit.

¹⁴¹ Scenari Immobiliari, *IX Rapporto Osservatorio Nazionale Immigrati e Casa* (July 2012. Currently the Report is being published)

¹⁴² Immigrazione.biz, *Acquisto della casa, per l'80% degli immigrati è un'impresa difficile* (May 2012). Available at: <http://www.immigrazione.biz/3971.html>, last accessed 15 May 2012

much more true for those who come from sub-Saharan Africa (97%)¹⁴³.

For many immigrants the choice of buying is not so much a sign of having obtained stability, but a solution to the difficulty of finding a house for rent¹⁴⁴.

A study published in 2011¹⁴⁵ highlighted the issue of ethnic segregation within the housing rental market. Immigrants of Arab/Muslim origin are especially likely to encounter prejudice and discrimination. The research conducted involved sending e-mail in response to rental ads. It was found that, when the sender was a male with an Arab/Muslim surname, the possibility of non-response or negative response was much higher than if the name was Slavic or Italian, (with the exception of women with Arab/Muslim surname in Southern Italy (-0.93%)). Northern Italy is particularly prejudiced against men with Arab/Muslim surnames (-7.48% versus -4.52% of immigrant women with Arab/Muslim surnames). This percentage is lower in central and southern Italy.

Discriminatory conduct in housing mostly concerns conflicts between flat owners and neighbours (52%). According to a recent survey conducted by ISTAT¹⁴⁶ most Italians would not have a problem having an immigrant as a neighbour. However, almost 70% would not want to have a Roma/Sinti person as neighbour; in second and third place among the least agreeable neighbours according to the survey were Romanians (indicated by 25.6%) and Albanians (24.8%).

Real estate agents report that last year demand was mainly oriented towards finding rental accommodation. This trend creates a number of problems of various kinds, including higher rents because of the crisis (which in the case of immigrants are often higher), irregular contracts and lower quality of buildings¹⁴⁷.

Furthermore, it emerged that some estate agents receive 'instructions to discriminate', i.e. discriminatory practices towards immigrants are implemented on the recommendation of a manager or an organisational document.¹⁴⁸

It should be recalled that the right to housing was included among the fundamental rights by the Constitutional Court in 1988¹⁴⁹. The Immigration Act provides for different levels of public intervention regarding reception and measures to ensure social integration, such as the offer of public housing and

¹⁴³ Bianchi, E., Guzzetti, G., Citati, P. L. 2012 *Il dono dell'accoglienza*. Fondazione Cariplo, Conference Milano

¹⁴⁴ Carchedi, Francesca, Carrera Francesca, Mottura Giancarlo *Immigrazione e Sindacato* (IV Rapporto, IRES, April 2010) pag.33

¹⁴⁵ Baldini, Massimo, Federici, Marta, Ethnic Discrimination in the Italian rental housing market, *Journal of Housing Economics*, 20 (2011) pag 7- 13

¹⁴⁶ Cfr. ISTAT, *I migranti visti dai cittadini...*cit.

¹⁴⁷ Cfr. Scenari Immobiliari, *IX Rapporto Osservatorio Nazionale Immigrati e Casa ... cit.*

¹⁴⁸ UNAR, *Relazione al Parlamento sull'effettiva applicazione del principio di parità di trattamento e sull'efficacia dei meccanismi di tutela*. (2011)

¹⁴⁹ Sentenza n. 217/1988 Corte Costituzionale. available at: <http://www.giurcost.org/decisioni/1988/0217s-88.html>

support for first time buyers and for those seeking private rental.

Since responsibility for public housing is regional, national legislative developments are not entirely constitutional, as evidenced by the Constitutional Court judgement No.61/2011. It deals with decisions relating to five judgements entered by the State in opposition to the laws of the Marche, Tuscany, Liguria Regions and in a second phase to those of Puglia and Campania (to which the judgement No.40/2011 must be added. This saw the State contest the law of the Friuli Venezia Giulia Region). The regional laws concerned social integration policies addressed generically to all immigrants and, in particular, to immigrants without a residence permit. The State tried to oppose such laws, but the Constitutional Court has upheld the sovereignty of Regions in the management of reception and integration¹⁵⁰.

According to the XXI Dossier Caritas/Migrantes the current situation creates a 'geographical diversification of the right to housing': in many regions there are no differences between immigrants and Italians in the criteria of housing, while others impose precise requirement regarding the amount of time spent living in the region or base decisions on a points system which favour those who have a greater number of years of residence in the region.¹⁵¹

Between 2011 and 2012 numerous rulings have been promulgated by the Italian courts against regulations and circulars of the local public administrations. Moreover the Italian State has been the subject of an infringement procedure of the European Union law No.2001/2009, initiated by the European Commission against the Italian Republic. The procedure related to the local law of the City of Verona in the field of public housing, which excludes the third-country nationals¹⁵².

Notable judgments include an order of the Court of Brescia, DD. 13 June 2012, which recognised the discriminatory character of the City of Ghedi (Lombardy) which granted fair rent housing only to Italian citizens. The judge of Brescia dismissed the regulation arguing that discrimination based directly on nationality of immigrants constitutes indirect discrimination based on the ethnicity/race as it affects persons belonging to ethnic-racial minorities other than the majority of the Italian population.¹⁵³

During the period under consideration, the housing conditions for the communities of Roma, Sinti and Caminanti (RSC) remained extremely critical.

¹⁵⁰ Ronchetti, Laura, I diritti fondamentali alla prova delle migrazioni (a proposito delle sentenze NN. 299 del 2010 e 61 del 2011), *Associazione Italiana dei Costituzionalisti*, 3/2011 (12 July 2011)

¹⁵¹ Caritas/Migrantes, *Dossier Statistico Immigrazione XXI Rapporto*, (Roma: Idos, 2011)

¹⁵² ASGI, *Commissione europea: Procedura d'infrazione del diritto UE in relazione alla legislazione regionale del Veneto sugli alloggi di edilizia pubblica*. (May 2012) Available at: http://www.asgi.it/home_asgi.php?n=2220&l=it

¹⁵³ ASGI, *Tribunale di Brescia: Discriminatorio il Regolamento comunale che preveda l'assegnazione di alloggi in equo canone ai soli cittadini italiani*. Available at: http://www.asgi.it/public/parser_download/save/tribunale_brescia_ordinanza13062012.pdf

As evidenced by the annual report of ECRI on Italy¹⁵⁴, most of the members of the RSC community suffer serious forms of discrimination and marginalization in all aspects of life. The situation relating to housing conditions between 2011 and 2012 has not improved: the RSC live in totally inadequate houses, located in isolated areas without access to many services. These precarious conditions have a negative impact on their health. Key problems include: lack of access to appropriate sanitation, overcrowding, segregation in urban areas¹⁵⁵.

6.3.2 Facilitating factors or protective measures to combat housing challenges

Good practices implemented by civil society in recent years have had effects on national and local policy. On 10 June 2010 in the 'Plan for the integration of security', the Council of Ministers committed resources to facilitate access to housing for immigrant populations through projects of social housing (in particular recovery and DIY).

In 2012, the Italian Federation of Professional Real Estate Agents (FIAP) and UNAR signed a memorandum of understanding aimed at preventing and combating all types of discrimination in real estate. The agreement, which will last for two years, provides for combined training, information and awareness-raising initiatives, targeting both real estate agents as well as customers. It aims to promote at a better understanding of the regulatory and protecting tools.¹⁵⁶

With regard to the housing condition of the RSC communities, the 'National Strategy for the inclusion of Roma, Sinti and Caminanti'¹⁵⁷ is intended to promote access to housing: creating micro-areas which meet the specific needs of RSC families who request them; ensuring access to housing, including access to public housing; ensuring an integrated approach to housing policies in synergy with an economic, social, socio-educational and health intervention; providing adequate information to users and tenants; promoting greater use of the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the European Agricultural Fund for Rural Development (EAFRD) for the provision of housing programs specifically aimed at RSC communities.

¹⁵⁴ ECRI, *Fourth Report on Italy (CRI (2012)2)2 adopted on 6.12.2011, available at <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Italy/ITA-CbC-IV-2012-002-ENG.pdf>*

¹⁵⁵ Eurofound, *Condizioni di vita dei Rom: alloggi e condizioni di salute scadenti*. (22 March 2012). The executive summary is available at: <http://www.eurofound.europa.eu/publications/htmlfiles/ef12021.htm>

¹⁵⁶ Ufficio Nazionale Antidiscriminazioni Razziali, *FIAP e UNAR insieme per combattere la discriminazione nel settore immobiliare*. Available at: <http://2.114.23.93/Unar/News.aspx?idNews=1925>, accessed 15 June 2012

¹⁵⁷ Ufficio Nazionale Antidiscriminazioni Razziali, *Strategia Nazionale d'inclusione dei Rom, dei Sinti e dei Caminanti. Attuazione comunicazione Commissione Europea N.173/201*. Available at: http://ec.europa.eu/justice/discrimination/files/roma_italy_strategy_it.pdf pag.37

6.4 Racism and related discrimination in health

6.4.1 Manifestations of racism and related discrimination in health

The right to access to healthcare is guaranteed by Article 32 of the Italian Constitution, which states: 'The Italian Republic safeguards health as a fundamental right of the individual and interest of the community, and guarantees free medical care to the indigent.'¹⁵⁸ However, policies aimed at protecting the health of migrants and refugees are a recent development; the issue is dealt with under the Immigration Act which foresees access to healthcare for immigrants, whether or not they are enrolled in the National Health Service (NHS)¹⁵⁹. The right to health and healthcare for immigrants explicitly includes refugees and irregular immigrants, providing them with access to emergency care as well as the essential and continuing and preventive medicine programs. In addition, the Immigration Act contains an explicit ban on reporting of the irregular status of the immigrant by hospitals (Article 35 paragraph 5). The measure reflects the position of the European Parliament. For this reason the proposal, contained in the 'Security Package' developed by the Italian government in 2008,¹⁶⁰ to abolish the prohibition on doctors reporting irregular immigrant patients to the authorities, provoked strong criticism both by the general public and by departments within the welfare structure itself. The government withdrew the amendment with a subsequent circular,¹⁶¹ but the introduction of the crime of illegal entry and stay has created a situation of confusion and widespread fear among the immigrant communities.

Only legal migrants are allowed to subscribe to the National Health Service (NHS) and there are no exceptions for minors: undocumented minors are not allowed to subscribe to the NHS and are not guaranteed the same access to health care as that reserved for regularly residing minors.¹⁶² Children under 6 years have the right to free healthcare under the same conditions as minors with citizenship, but after this age they lose this status and are entitled to the same access to healthcare as adult irregular immigrants. They have the right to urgent and essential healthcare, which can be continued until the completion of treatment and the rehabilitation period.

In order have access to health care irregular immigrants must apply for the

¹⁵⁸ Cfr. Costituzione della Repubblica Italiana, Art 32 cit. Available at: http://www.jus.unitn.it/cardoza/obiter_dictum/cost/art32.htm

¹⁵⁹ Cfr. T.U. Immigrazione, Artt. 34 and 35, respectively: 'Assistenza per gli stranieri iscritti al Servizio sanitario nazionale' and 'Assistenza sanitaria per gli stranieri non iscritti al Servizio sanitario nazionale'. Available at: <http://www.meltingpot.org/articolo267.html>

¹⁶⁰ Di Thiene, Domitilla, *Il diritto alla salute non ha bisogno di documenti*, Salute internazionale (26 January 2009) Available at: <http://saluteinternazionale.wordpress.com/2009/01/26/il-diritto-alla-salute-non-ha-bisogno-di-documenti/>

¹⁶¹ Ministry of Home Affair, Circolare n.780/A7, for the text of the circolare, please see: http://immigrazione.aduc.it/generale/files/file/allegati/20091221-Immigrazione_circ-interno.pdf

¹⁶² European Union Agency for Fundamental Rights, *Migrants in an irregular situation: access to healthcare in 10 European Union Member States*, (Vienna, 2011) pag. 28

STP code (Temporarily Present Foreigner)¹⁶³, which is free and whose request may be made anonymously. The registration is valid for six months throughout the Italian territory and can be requested at any time. It may be renewed and partially covers the cost of medicines and allows the reimbursement of costs of healthcare services by the Local Health Unit (USL or ASL).

Undocumented immigrants in possession of the STP code have free access to some health services; otherwise the immigrant must pay a contribution for which he or she can apply for an exemption or delayed payment. The achievement of the STP code is subject to a request for recognition of 'state of indigence': immigrants must declare their status by filling in an official form. Undocumented migrants including minors cannot access non-urgent and non-essential health services, including those offered by general practitioners or pediatricians¹⁶⁴.

According to a study conducted by the NAGA association on a sample of 23 patients who had been admitted to Accident and Emergency in the hospitals of the City of Milan¹⁶⁵ and had regularly requested the STP code, 13.04% had not received the code, while 65% received it but no information about its meaning and its use; only 21% has been provided with a code with all relevant information regarding its use.

One of the main obstacles to healthcare for migrants is the lack of uniformity in the application of the national law. Even if immigration policy is decided at a national level, in the context of the promotion of measures of migrants' integration identified by the EU, progressive devolution has led to considerable disparity in the application of national rules on access to healthcare. Some regions, such as Lombardy, apply the national law very restrictively and limit the access of irregular migrants to emergency health services¹⁶⁶; on the contrary other regions, including Emilia-Romagna, Marche and Puglia, apply this law very broadly.¹⁶⁷

The obstacles that prevent immigrants, particularly minors, from enjoying the right to health, include:

- Some local health units require ID for the issue of the STP code.
- Immigrants are not always aware of their right not to pay the ticket (a partial contribution to costs), and this prevents or delays their access to health care.
- Funding cuts to health services may result in a restrictive interpretation of

¹⁶³ Art.34 of the implementation of the regulation provided by the National Law (T.U. 286/98)

¹⁶⁴ ASGI and PICUM, 2012, 'Sviluppare strategie per migliorare la protezione dei minori con una situazione migratoria irregolare in Europa', Torino, pp.9-10

¹⁶⁵ NAGA. 'La Doppia Malattia', indagine sulla (non) applicazione della normativa sanitaria per i cittadini stranieri irregolari a Milano (April 2011) Available at: http://www.naga.it/tl_files/naga/documenti/rapporto_doppia_malattia.pdf accessed April 2012

¹⁶⁶ Cfr. European Union Agency for Fundamental Rights, *Migrants in an irregular situation: access to healthcare in 10 European Union Member States*, cit. pag. 23

¹⁶⁷ Gruppo CRC, *Quinto Rapporto di aggiornamento....* cit. pag 82

certain rules.

Studies¹⁶⁸ carried out in recent years have revealed lower levels of health among immigrants, for example with regard to birth: a higher percentage of premature births, low birth weights and infant mortality. A higher number of children whose parents are migrants require care from a paediatrician. Their average stay is twice as long as that of Italian children.

In particular, there have been many cases of infants with feeding problems: one of the causes is that the health service does not take into account cultural differences regarding the weaning of children.

In addition, the migration process is sometimes very exhausting in physical and psychological terms. Despite the fact that minors of present the most serious cases on admission¹⁶⁹ and are often affected by psychological problems, mental health facilities are rarely accessible¹⁷⁰.

The lack of homogeneity in the management of health policies at local level is also a concern. Research by NAGA¹⁷¹ has highlighted an uneven practice, partial disapplication of the law and inefficient management of the STP code in recent years in the city of Milan. Causes identified include: a general lack of information, in some cases a deliberate non-implementation of existing legislation and, above all, the lack of binding and precise directives. All these factors lead to the exclusion of irregular immigrants from the enjoyment of their right to health.

6.4.2 Facilitating factors or protective measures to combat health inequalities

In order to facilitate the practical enjoyment of the right to health, in 2006 the Parliament established the National Institute for Health, Migration and Poverty (NIHMP) for the implementation of projects relating to health services management including prevention, treatment, training and research for the promotion of migrants' health. One of its characteristics is the presence of cultural mediators and interpreters, particularly useful during diagnostic, therapeutic and preventive phases. The Institute is particularly active in promoting the access of immigrants to health services and engages in training courses and information for social and health workers.¹⁷²

In June 2011, the Direzione Generale Diritto alla Salute e Politiche di

¹⁶⁸ Lauria L., Andreozzi S. (a cura di): *Percorso nascita e immigrazione in Italia. Le indagini del 2009* (pagg. 65 e seguenti) http://www.iss.it/binary/publ/cont/11_12_web.pdf, last accessed 11.12.2012

¹⁶⁹ Cfr. Gruppo CRC, *Quinto rapporto* ... cit, pag 83

¹⁷⁰ Cfr. ASGI and PICUM, 2012, *Sviluppare strategie* ... cit., pp.9-10

¹⁷¹ NAGA, *La doppia malattia*, Milano, April 2011, available at http://www.naga.it/tl_files/naga/documenti/rapporto_doppia_malattia.pdf, last accessed 11.12.2012

¹⁷² NIHMP, PASS Project, for more details please see: <http://www.inmp.it/index.php/ita/Progetti/Progetto-PASS>

Solidarietà-Coordinamento Interregionale in Sanità, in collaboration with Tavolo interregionale 'Immigrati e Servizi Sanitari', coordinated by the Osservatorio sulle Disuguaglianze nella Salute of the Marche Region created the document 'Guidelines for proper implementation by Regions and Autonomous Provinces of the legislation on healthcare services to foreign born population'¹⁷³: it is the first document jointly prepared by technicians of Regions and Autonomous Provinces together with the Ministry of Health and with the coordination of the Osservatorio Diseguaglianze of the Marche Region. The document, adopted unanimously by the Commissione Salute della Conferenza delle Regioni, systematically collects the rules for the provision of healthcare for immigrants in Italy with the aim of overcoming the divisions that characterize the management of their access to health in different regions. The document provides, among other things, compulsory membership to the NHS for 'migrant children throughout the country regardless of the possession of a residence permit.'

¹⁷³ Regione Marche: *Indicazioni per la corretta applicazione della normativa per l'assistenza sanitaria alla popolazione straniera da parte delle Regioni e Province Autonome italiane*. June 2011. Available at: <http://www.ars.marche.it/nuovo/html/novita.asp?cat=9&id=95>

6.5 Racism and related discrimination in access to goods and services

6.5.1 Manifestations of racism and related discrimination with access to goods and services in the public and private sector

Discrimination in access to public and private goods and services in Italy continues to be a concern. However, there have been some significant changes in comparison to previous years.

According to the UNAR,¹⁷⁴ between 2010 and 2011, complaints of discrimination in access to goods and services decreased: complaints regarding the provision of financial services decreased from 3.3% of the overall total in 2010 to 1% in 2011; those relating to discrimination in public places (bars, shops, clubs) decreased by more than one percentage point (5.4% in 2010 to 4.3% in 2011), as well as those relating to services provided by public bodies (accounted for 15.9% of the overall total in 2010, while in 2011 this dropped to 10.9%). However, complaints involving leisure have increased (in particular with regard to sport) (+1.8%), while those concerning public transport were unchanged compared to 2010 (+0.1%). With regard to the provision of services by public bodies, welfare receives the highest number of complaints about discrimination (40.3%) followed by registry services (7.5%).

Discrimination with regard to access to credit is well documented. Recently, the Bank of Italy published the results of a survey on a sample of 200 banks, aiming to monitor the degree of openness of the banking sector to providing the credit to foreign micro firms and sole traders. Research revealed that immigrant entrepreneurs pay an average of almost 70 base points more than the Italian entrepreneurs.¹⁷⁵

Data also reveals that there are differences between immigrant entrepreneurs depending on their origin: those from Eastern Europe pay on average 1.3 percentage points higher than their Italian counterparts, while those from Asia and Africa must pay nearly 40 and 85 base points higher; entrepreneurs from central and South America pay 20 base points more. Regarding entrepreneurs from the U.S. and Oceania however, there is no difference from the Italians¹⁷⁶.

The study revealed that the more the relationship between the bank and the entrepreneur is consolidated the easier it is for him to access credit at cheaper rates. At the same time, interest rates decrease proportionally to cultural integration of the entrepreneur; if he was born in Italy or if he is an

¹⁷⁴ Cfr. UNAR, *Relazioni al Parlamento...* cit. pag 12

¹⁷⁵ Giorgio, Albareto, Paolo Emilio, Mistrulli, *Bridging the gap between migrants and banking system*. Banca d'Italia (number 794, February 2011)

¹⁷⁶ Albareto, Giorgio, and Mistrulli, Paolo Emilio, *Brindging the gap between migrants and banking system*. *Banca d'Italia Working Paper 794* (2011)

immigrant of Italian origin. The research has also showed that the attitude of credit varies depending on the 'reputation' of the community the immigrant entrepreneur belongs to.

In addition, as we noted in previous reports, the availability of credit from the banks has drastically declines since the crisis, particularly for immigrants.

Discrimination has also been reported regarding access to insurance. According to research conducted by the Association for Legal Studies (ASGI) and Co-operation for The Development of Emerging Countries (COSPE) in 2011¹⁷⁷ and supported by a second study conducted by the Institute for the supervision of private insurance and public interest (I.S.V.A.P.), about a quarter of the insurance companies in Italy uses citizenship as a factor influencing the price of insurance (RC auto), although there are specific EU directives which state that an EU citizen and his family are entitled to the same treatment as nationals, as well as the non-EU citizen.

In light of the research, ASGI has lodged a complaint before the Court of Milan against two insurance companies who then decided to no longer include citizenship in their application form.¹⁷⁸

In April 2012, ASGI informed the European Commission of the application of different rates according to nationality, signaling the conciliation in the proceedings and highlighting the lack of a stance by I.S.V.A.P.¹⁷⁹. Following this communication, the EU stated that taking citizenship into account to calculate the insurance rate is a discriminatory restriction on the freedom to use a service¹⁸⁰.

A survey published in the Dossier Statistico Immigrazione 2011 by Caritas-Migrantes, indicated that immigrants are an asset to our country: they pay more in taxes than they use as consumers of goods and services. In fact, in the year in question immigrants which accounted for 7% of the total population have generated 1.4% of the tax and contribution revenues and absorbed 1.3% of public spending.¹⁸¹ This contradicts the beliefs of more than half the Italian population¹⁸².

¹⁷⁷ Pietravallo, Gaia, Garavello, Miriam, Enwereuzor, Udo C., *Relazione sul monitoraggio delle polizze RC auto proposte a clienti italiani, comitanti e di Paesi terzi*. (March 2011). Available at: http://www.asgi.it/public/parser_download/save/relazione_monitoraggio_polizze_rcauto.pdf

¹⁷⁸ ASGI, *Polizze RC Auto: le assicurazioni Quixa e Zurich non applicheranno più il parametro della cittadinanza che rendeva più care le tariffe applicate ai cittadini stranieri*. Available at: http://www.asgi.it/home_asgi.php?n=2057&l=it

¹⁷⁹ ASGI, *L'ASGI scrive nuovamente alla Commissione europea in merito alle tariffe differenziate per nazionalità nelle polizze assicurative RC auto*. Available at: http://www.asgi.it/home_asgi.php?n=2137&l=it accessed 15 April 2012

¹⁸⁰ Assicurazione.it *Ue: è discriminatoria l'assicurazione basata sulla nazionalità*. Available at: <http://www.assicurazione.it/assicurazione-auto/ue-stop-alle-discriminazioni.html> accessed 8 June 2012

¹⁸¹ Cfr. Caritas/Migrantes, *Immigrazione Dossier Statistico ...* cit. pag 307

¹⁸² IOM, *le migrazioni in Italia...* cit. pag.53

Discrimination in the public sector is generally related to the restrictive application of national rules by regions. This was the case concerning the issue decided by judgment 40/ 2011 of the Constitutional Court which invalidated the rule contained in the Act of the Region Friuli Venezia Giulia. This rule excluded non-EU citizens from the integrated system of social services and required residence of at least 36 months for EU and Italian citizens.¹⁸³

The Constitutional Court ruled that the law violates the constitutional principles of equality and reasonableness¹⁸⁴. The judgment discusses the suitability of qualified residency requirements under the laws of some regions as a criterion for access to welfare benefits. The ruling also applies to the issue of the exclusion of immigrants from social assistance: the decision notes that as the rule excluded whole categories of people on grounds of nationality or because of the residence criterion, it introduced an arbitrary distinction and violated the principle of equality¹⁸⁵.

The rule was strongly desired by the Lega Nord Party and approved by the centre-right regional majority and had been the cause of much controversy and conflict. While the Friuli Venezia Giulia region has eliminated the discriminatory requirements in 2010, the legislation had been implemented between January and August 2010, resulting in the exclusion of many immigrants. The Constitutional Court therefore rejected the hypothesis advanced by the region that the amendments were sufficient. The special feature of this judgment is that it is applicable to all the welfare regulations that the regional legislator of the Friuli Venezia Giulia has approved in the past three years which have constrained access to services for non-EU immigrants and short-term residents.¹⁸⁶

Racism in sport is a serious problem and is quite common in Italy. However, lack of data means it is difficult to assess the scale of this problem accurately. Immigrant minors face some obstacles in sport. For example, rigid membership rules in football prevent minor leagues and amateur teams from enrolling minors who are not European citizens.

Membership of immigrants in amateur championships is governed by the

¹⁸³ Corte Costituzionale, Judgement n. 40/2011, available at <http://www.cortecostituzionale.it/actionSchedaPronuncia.do?anno=2011&numero=40>, last accessed 11-12-2012

¹⁸⁴ ASGI, Corte Costituzionale, Sentenza N.40 anno 2011. Available at: http://www.asgi.it/public/parser_download/save/corte_costituzionale_sentenza_40_2011.pdf

¹⁸⁵ Corvaja, Fabio, *Cittadinanza e residenza qualificata nell'accesso al welfare regionale*, forthcoming publication on *Le Regioni* (2012) Available at: http://www.forumcostituzionale.it/site/images/stories/pdf/documenti_forum/giurisprudenza/2011/0025_nota_40_2011_corvaja.pdf

¹⁸⁶ For a detailed commentary of the sentence, please see: ASGI, Available at http://www.asgi.it/home_asgi.php?n=1410&l=it

internal rules of the federations and FIFA legislation.¹⁸⁷ The law, which was intended to prevent young players being brought to Italy for either work or sexual exploitation, has significantly reduced the circulation of the athletes. With regard to the enrollment of immigrant children and of EU citizens under the age of sixteen, some documents became mandatory including: the contract of employment of parents, the player's birth certificate and identity document of the player and his parents, the residence permit and the proof of residence¹⁸⁸.

Notably, while the residence permit is not required until the age of 18 years for temporary sports and recreational activities, this exemption is automatically lost when immigrants are adults, even those born in Italy. The only law aiming at protecting minors in sport was proposed in 2007 but not adopted. To date it has not been submitted again¹⁸⁹. So even in sports citizenship has an exclusive character. The membership rules of amateur clubs have been declared discriminatory by several judicial decisions. I May 2010 ASGI and Lodi per Mostar ONLUS association successfully appealed against the temporal condition of the residence permit required by Federcalcio in addition to the legal residence of the immigrant player.

The Court of Lodi stated that this requirement is contrary to anti-discriminatory law at international, European and national level and to the principle of equality, because the right to sport is a fundamental right and an instrument of social integration¹⁹⁰.

Italian sport was punctuated in recent years by many serious incidents of racism and anti-Semitism¹⁹¹ in Italian stadiums or which have had Italian supporters as protagonists¹⁹². ECRI expressed concern about this matter in its annual report on Italy. Despite the efforts made by the institutions to combat the problem, including the adoption of legislation to prevent and punish acts of violence motivated by racism, the incidents of racism and intolerance have increased in 2011¹⁹³.

¹⁸⁷ Fédération Internationale de Football Association (FIFA), *Nuove norme FIFA per il trasferimento dei minori in vigore dal 1° ottobre 2009*. Available at: http://www.calcioelege.com/L-C_1243.htm

¹⁸⁸ Cfr. *I diritti dell'infanzia e dell'adolescenza in Italia...* cit. pag.111

¹⁸⁹ Misure per la tutela dei minori nella pratica sportiva e per la promozione dei messaggi positivi ad essa legati, in ottemperanza alle indicazioni del Codice europeo di etica sportiva di cui alla raccomandazione del Consiglio d'Europa n. R (92) 14 adottata il 24 settembre 1992. Presentata il 19 novembre 2007

¹⁹⁰ ASGI, *Comunicato stampa- FIGC, regolamento sul tesseramento discriminatorio verso gli stranieri con permessi di soggiorno di durata limitata: accolto ricorso dell'ASGI e dell'associazione Lodi per Mostar ONLUS*. Available at: http://www.asgi.it/home_asgi.php?n=1016&l=it

¹⁹¹ Repubblica.it, *Cori antisemiti dalla curva Nord*, 22 April 2012. Available at: http://www.repubblica.it/sport/calcio/2012/04/22/news/cori_antisemiti-33745347/ accessed 22 April 2012

¹⁹² Repubblica.it, *'Buu' razzisti per Balotelli. Cori contro gli oriundi*. 17 November 2012. Available at: http://www.repubblica.it/sport/calcio/nazionale/2010/11/17/news/razzisti_balotelli_klagenfurt-9222917/

¹⁹³ Please see note 1

6.5.2 Facilitating factor or protective measures to promote equality in accessing goods and services

In March 2012 an agreement to combat racism on public transport was signed by the Company for the Mobility of Rome ATAC and UNAR: public transport drivers and crew on board will receive training to prevent and combat the phenomena of ethnic and racial discrimination; the protocol commits those involved to forms of operational coordination on the issue of discrimination and promotes the organisation of joint conferences and seminars on the subject¹⁹⁴.

In 2009, the Marche Region published the law 10/2009 entitled 'Norme per il riconoscimento del diritto al gioco e per la promozione dello sport di cittadinanza' (Rules for the recognition of the right to play and to promote the sport of citizenship), which recognised the social function of amateur sport and guaranteed free access of all without discrimination or exclusion¹⁹⁵.

¹⁹⁴ Immigrazioneoggi.it, *A Roma gli autisti dei mezzi pubblici contro il razzismo e le discriminazioni etniche*, Available at: http://www.immigrazioneoggi.it/daily_news/notizia.php?id=004036 Accessed 23 marzo 2012

¹⁹⁵ Regional Law n.10, *Norme per il riconoscimento del diritto al gioco e per la promozione dello sport di cittadinanza*, (3 April 2009). Available at: <http://www.federalismi.it/AppIOpenFilePDF.cfm?artid=12922&dpath=document&dfile=11052009125943.pdf&content=MARCHE,+L.R.+n.+10/2009,Norme+per+il+riconoscimento+del+diritto+al+gioco+e+per+la+promozione+dello+sport+di+cittadinanza+-+--+>

6.6 Racism and related discrimination in political participation

6.6.1 Manifestations of racism and related discrimination in the realm of political participation

In Italy, the issues of access of foreign citizens in the political life of the country, understood as the right to vote and acquisition of citizenship, have long been central.

Unfortunately, a definitive and positive result has not been reached yet. Italy is among the most restrictive countries regarding the right to vote, and to date there has been little significant improvement regarding political rights of immigrants.¹⁹⁶ Both civil society and the institutions are questioning the issues of recognition of Italian citizenship, in particular to the children of immigrants born in our country, and the extension of the right to vote to foreign nationals.

With regard to electoral rights, the first attempt to introduce the right to vote in local elections was made in 1997 with the draft Turco-Napolitano law (the Immigration Act). The provision was later abandoned and has not yet been recovered. However, other forms of political participation by immigrants have become popular throughout the country.¹⁹⁷

There is a rich legal basis for the establishment of participatory organisations such as Councils of Immigrants, including:

- Article 2, paragraph 4, of Legislative Decree No.286/1998, i.e. Immigration Act: 'the regularly resident immigrant participates in local public life'¹⁹⁸.
- Article 8, paragraph 5, of Legislative Decree No.267/2000, i.e. 'Testo unico delle leggi sull'ordinamento degli enti locali', under which local authorities must promote participation in local public life of EU citizens and legally residing immigrants¹⁹⁹.
- The Agreement of the Council of Europe on the participation of immigrants in public life at local level, dated 5 February 1992²⁰⁰, ratified by Italy with the

¹⁹⁶ Cfr. Huddleston, Thomas and Niessen, Jan, 2011 Migrant, Integration Policy Index III Italia...cit. pag 18, the Report puts Italy on fourteenth position in Europe. No changes has been recorded from the previous year.

¹⁹⁷ In 2008, in the Tuscany Region the immigrant persons were present in 2 County Councils and 9 City Councils, please see: Regione Toscana, *La partecipazione politica degli stranieri: organismi di rappresentanza e partecipazione alla governance e alla vita pubblica locale*, (March 2011). Available at: <http://toscana-notizie.it/wp-content/uploads/2011/03/Tour-immigrazione-brochure.pdf>

¹⁹⁸ Available at: <http://www.altalex.com/index.php?idnot=836>

¹⁹⁹ D.lgs. 18 agosto 2000, n.267, *Testo Unico delle leggi sull'ordinamento degli enti locali*. Available at: <http://www.camera.it/parlam/leggi/deleghe/00267dl.htm>

²⁰⁰ Council of Europe, *Convention on the Participation of Foreigners in Public Life at Local Level*. (Strasbourg 5 February 1992). Available at: <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?CL=ENG&NT=144>

exception of Chapter C that concerning the immigrants' right to vote.²⁰¹

An important role is therefore played by the Councils of Immigrants. Although not sufficient alone, they represent a useful and necessary tool to ensure effective participation of immigrants in the life of local authorities throughout the country. Despite the fact that non-citizens cannot, Italy has one of the highest rates of participation in civic life by immigrants: in Milan 14.6% of interviewees are enrolled in a union (compared to 5.5% of the native population), while in Naples 3.5% claims to be a member of a political party. In addition, Naples is the European city where immigrants have the greatest knowledge of (over 80%) and participation in (approximately 20%) immigrant organisations²⁰².

Italians are not particularly open to the extension of the right to vote to immigrants. Only 42% stated that they would be willing to grant the right to vote in local elections to immigrants without citizenship who have lived in Italy for some years. The majority (57%) do not agree²⁰³ with such a possibility, while the majority of immigrants (70-80%) expressed an interest in voting²⁰⁴.

There has also been debate on the acquisition of citizenship for immigrants, in particular regarding the so-called 'second generation'. The rules on the acquisition and recognition of Italian citizenship are governed by the law No.91²⁰⁵ of February 1992: the criterion for the attribution of the Italian citizenship is on the one hand the *jus sanguinis* and on the other the link with an Italian citizen, such that only the spouse or descendants of Italian citizens are favored in the acquisition of the *status civitatis*; the principle of *jus soli*, in general, is not allowed. With regard to the granting of citizenship by naturalization, the process takes much longer than the European average.

In 2011 there was a sharp contrast between Italian public opinion, which for the most part (72%) believes that the children of immigrants born on Italian soil should have Italian nationality and that citizenship should be given to immigrants who request it after a certain number of years (5 years for 38%, 10 for 42% and 15 years for 10.4%)²⁰⁶, and a part of the political class.. Broadly, center-right parties, which are the parliamentary majority, defend the *jus sanguinis*.

²⁰¹ Cfr. European Commission against Racism and Intolerance... cit. pag.14: In its third Report, ECRI urged Italy to extend the application of the Convention even to Chapter C, but until now no law has been promulgated in this regard

²⁰² Huddleston, Thomas, Tjaden, Jasper, Dag, *Immigrant Citizens Survey How immigrants experience integration in 15 European cities*. (May 2012) pag 44 and following

²⁰³ Istituto di Statistica Nazionale, *I migranti visti dai cittadini, Anno 2011*. (11 July 2011) pag 13

²⁰⁴ Polchi, Vladimiro, *Immigranti, l'80% vuole votare e partecipare alla vita del Paese*. Repubblica.it 10 May 2012. Available at: http://www.repubblica.it/solidarieta/immigrazione/2012/05/10/news/immigrati_l_80_vuole_votare_e_partecipare_alla_vita_del_paese-34774703/ (last accessed 10 May 2012)

²⁰⁵ Law 5 February 1992, no. 91, *Nuove norme sulla cittadinanza*. Available at: http://www.interno.gov.it/mininterno/site/it/sezioni/servizi/legislazione/cittadinanza/legislazione_30.html

²⁰⁶ Cfr. ISTAT, *I migranti visti dai cittadini*, cit. pag.14

Among the factors that were most often reported include the alleged practice of ‘marriages of convenience’. In this sense, the law 94/2009²⁰⁷ restricted the requirements for the acquisition of citizenship by marriage; in March 2012, a new directive on the matter has transferred competence to adopt the measures for citizenship by marriage from the Ministry of Interior to the prefects as ‘measures of purchase or denial of citizenship *jure matrimonii* are acts which do not require discretionary and political evaluation’²⁰⁸.

6.6.2 Facilitating factor or protective measures to promote equality in political participation

In 2011 various proposals to amend the legislation on citizenship were presented, but so far changes in the legislation have not been adopted. In light of the 150th anniversary of the Unification of Italy, civil social debate on citizenship was heated. At political level it has involved the principles of *jus soli* and *jus sanguinis*. The proposals made by the current government, in the person of the Minister of Interior Anna Maria Cancellieri and in the person of the Minister for International Cooperation and Integration, Andrea Riccardi, indicate a move away from the principle of *jus sanguinis*. Minister Cancellieri proposed taking into account the years of residence of parents. The Minister Riccardi introduced the principle of *jus culturae*, in order to grant citizenship even to minors who study in Italy²⁰⁹.

Towards the end of 2011, the President of the Republic Giorgio Napolitano repeatedly declared the need to revise the legislation relating to the acquisition of citizenship by second generation immigrants²¹⁰.

The need to move beyond the principle of *jus soli* is also evidenced by the studies published²¹¹ by Fondazione ANCI Ricerche (Associazione Nazionale Comuni Italiani²¹²) [ANCI Research Foundation (National Association of Italian Municipalities)] according to which some parts of the country saw an increase of 482% in the acquisition of citizenship by foreign minors between 2003 and 2010.

Based on ISTAT data, some projections were made which predict that between 2012 and 2029 the Italian population will be approximately 64 million inhabitants; there will be 10 million children, and one of these every five will

²⁰⁷ Law 15 July 2009, no.94, *Disposizioni in materia di sicurezza pubblica*, Available at: <http://www.parlamento.it/parlam/leggi/09094l.htm>

²⁰⁸ Ministry of the Interior – Directive 7 March 2012. *Cittadinanza- Trasferimento ai prefetti della competenza ad emanare i provvedimenti di acquisto della cittadinanza per matrimonio*. Available at: http://www.interno.gov.it/mininterno/site/it/sezioni/servizi/legislazione/cittadinanza/0938_2012_04_24_direttiva_07032012.html

²⁰⁹ Cesarini, Enrico; Giuliani, Marta; Pittau, Franco and Ricci, Antonio, *Italia Rapporto Annuale sulle Politiche* (European Migration Network, 2011) pag. 14

²¹⁰ Rete G2 – Seconda Generazioni: <http://www.secondegenerazioni.it/tag/giorgio-napolitano/> (last accessed May 2012)

²¹¹ Giovannetti, Monia and Nicotra Veronica, *Da residenti a cittadini, Il diritto di cittadinanza alla prova delle seconde generazioni*. (Cittalia ed. 2012)

²¹² Associazione Nazionale Comuni Italiani, <http://www.anci.it/> (last accessed 12 June 2012)

be of foreign origin. If the current legal framework remains in place, by 2029 only 7% of children will have become citizens, while 93% would be excluded from the full enjoyment of the fundamental rights guaranteed to the citizens of our country. If the popular initiative law²¹³ is approved the number of foreign minors without Italian citizenship would be more than halved.

Since 2011, some local governments (municipalities²¹⁴ and regions²¹⁵) have begun sending letters to inform immigrants, born in Italy who have reached the age of majority, of the possibility of applying for Italian citizenship.²¹⁶

In addition, the Municipality of Milan, led by Mayor Pisapia, is trying to extend the right to vote on city referendums to immigrants who have lived in the municipality for a year or more.

With regard to the third edition of the 'Manuale sull'integrazione per i responsabili delle politiche di integrazione e gli operatori del settore' (Handbook on Integration for those responsible for integration-policies and business operators), the national contact points have continued to expand. Italy has contributed to the construction of the specialists' web portal and to the production of scientific material.

²¹³ Modifiche alla L.5 febbraio 1992, N.91 'Nuove norme sulla cittadinanza', presentata dalla campagna 'L'Italia sono anch'io', available at http://www.litaliasonoanchio.it/fileadmin/materiali_italiaanchio/pdf/Cittadinanza_PROGETTO_DI_LEGGE.pdf (last accessed 21 April 2012)

²¹⁴ Dazzi Zita and Mismetti Carlotta, C'è posto per te, *D di Repubblica* (21 April 2012) pag. 80

²¹⁵ Cfr. Regione Toscana, *La partecipazione politica degli stranieri...* cit.

²¹⁶ Cfr. Law 5 February 1992, no. 91, *Nuove norme sulla cittadinanza* Art.4 co.2

6.7 Racism and related discrimination in media

6.7.1 Manifestations of racism and related discrimination in the media, including the internet

The proportion of complaints relating to discrimination in the media increased by more than two percentage points between 2010 and 2011, accounting for 22.6% of total complaints received by UNAR.

The Internet was confirmed as the area with the highest number of racist behaviour (84%), followed by press (10.7%), television (4.6%), and radio (0.8%): the anonymity guaranteed by Internet seems to be one of the factors feeding the proliferation of racism. Massimiliano Monnanni, the Director General of the National antidiscrimination body (UNAR) has expressed concern at the data relating to the media, not only because of discrimination and stereotyping of immigrants and other vulnerable groups, but also due to the rapid spread of online xenophobia and racism.²¹⁷

In particular, the phenomenon of anti-Semitism on the Internet gives no sign of slowing down, as highlighted by a parliamentary investigation on anti-Semitism carried out by the Commissione Affari costituzionali ed Esteri.²¹⁸ The report noted the problem of the publication of anti-Semitic materials online, particularly through social networks²¹⁹, and the publication of anti-Semitic 'black lists'²²⁰.

Muslims are also at risk of discrimination and racist attacks. Clear prejudice against the Muslim community is evident in the Italian mass media.²²¹ The media play a major role in solidifying a negative image of Islam and Muslims in general, especially through their insistence on discussing the supposed incompatibility between Islam, democracy and modernity²²².

One influential article, published in December 2009 by the newspaper

²¹⁷ Colaiacomo, A., *Intervista a Massimo Monnanni, direttore Generale dell'Ufficio Nazionale antidiscriminazioni razziali (UNAR) presso la Presidenza del Consiglio dei Ministri*, <http://www.immigrazioneoggi.it/punti-di-vista/monnanni.html>

²¹⁸ Commissione Affari Costituzionali ed Esteri in collaborazione con la Presidenza del Consiglio, *Indagine conoscitiva sull'antisemitismo*, Available at: <http://www.osservatorioantisemitismo.it/public/Documento%20conclusivo%20dell%27Indagine%20Conoscitiva%20sull%27Antisemitismo%206%20ottobre.pdf>

²¹⁹ Repubblica.it, *Lotta studentesca dell'Avogadro pubblica nuove vignette antisemite*, February 2012. Available at: <http://ricerca.repubblica.it/repubblica/archivio/repubblica/2012/02/25/lotta-studentesca-dell-avogadro-pubblica-nuove-vignette.html>

²²⁰ Pasqua, M. 2012, *Rimangono on line le liste antisemite su sito neonazista i nomi di 163 docenti*, *Repubblica.it*, 20 March. Available at: http://www.repubblica.it/cronaca/2012/03/20/news/liste_antisemite_holywar-31906322/ last accessed 20 March 2012

²²¹ Yallaitalia, *La bufala sul facchino musulmano: troppo verosimile per essere falsa*. Available at: <http://www.yallaitalia.it/2012/07/la-bufala-sul-facchino-musulmano-troppo-verosimile-per-essere-falsa/> accessed 27 July 2012

²²² Louassini, Z., *L'islam: tra immagine e realtà. La difficile ricerca di uno sguardo veritiero* (01 July 2001)

Corriere della Sera²²³ and mentioned by Annamaria Rivera in the 'Secondo Libro Bianco sul Razzismo in Italia'²²⁴, revived the theme of 'radical non-integrability' of Islam and Muslims in a social and political system different from those of Islam. The article presents various stereotypes about Muslims and discusses the Indian case, where 'the armies of Allah came in the early 1500s, settled the Mughal Empire and they dominated for two centuries the entire Country'.

In general, the media tend to publish sensationalist articles and reports,²²⁵ both in print and in television broadcasts. This creates and perpetuates stereotypes about groups vulnerable to racism. In the media, persons belonging to the Roma, Sinti and Caminanti and migrants are often linked with criminal or otherwise dangerous activities for the community.

A recent survey of the press²²⁶ revealed that the news relating to immigration issues occupy a marginal space, reaching no more than 1.47% of the total news published. Immigrants are generally referred to as passive actors or, if active, guilty of some negative behavior. Immigrants are prominent in crime reporting and their ethnic origin or religion is almost always specified in the headlines. Voices from within these communities are almost entirely absent from print media.

Coverage of these vulnerable groups on television²²⁷ is almost entirely confined to news stories (80%), followed by the news which discusses them as the passive object of 'political or institutional activities' (11%). With regard to the event covered by the news, most attention is given to the 'chronicle of an incident, a fact, an event' (62%), followed by news related to 'arrest, investigation or process' (14.7%). It is interesting to note that with regard to the role of the target groups: most of the news coverage they receive presents them as 'authors of a negative action' (53.7%), or 'the subject of a negative action' (23.5 %), or as 'the subject of a positive action' (10.5%), while news that offer them as 'authors of positive action' occupy only 1.5% of the total news referring to them.

Common elements in all these surveys are the role of the media in the creation of stereotypes and the lack of space given to the opinions of immigrants and groups vulnerable to discrimination. With regard to the creation of stereotypes, the media is part of a 'vicious circle of information'²²⁸

²²³ Sartori, Giovanni, *L'integrazione degli islamici*. Corriere della Sera.it (20 Dicembre 2010), available at: http://www.corriere.it/editoriali/09_dicembre_20/sartori_2eb47d0c-ed3e-11de-9ea5-00144f02aabc.shtml (last accessed 15 March 2012)

²²⁴ Cfr. Lunaria (a cura di), *Cronache di ordinario razzismo*, ...cit.

²²⁵ Cfr. ECRI, *Rapporto annuale Italia 2011*...cit, pag 25

²²⁶ ²²⁶ Ulasiuk, I., *Valutazione del ruolo dei media italiani nella riflessione della diversità e promozione dell'integrazione dei migranti* (Firenze 28 May 2012) pagg 20-22

²²⁷ Isimm Ricerche, Presentation of the Summary of the intermediate Report 'La diffusione, attraverso i programmi di informazione televisiva italiani, di stereotipi legati ai principali target a rischio di discriminazione', Available at: <http://www.cronachediordinariorazzismo.org/wp-content/uploads/image.pdf>

²²⁸ Di Cristina, M. *Giornalismo e immigrati: 'I media contribuiscono alla diffusione degli stereotipi'*, (22 March 2011), Available at:

that starts from institutional sources, is reported in the media and then resumed by the citizens and by policy again.

A further factor is the total absence of the voices of immigrants; the media do not value their opinion and their few institutional representatives are not consulted.

6.7.2 Facilitating factor or protective measures in the media

Combating racism has become a priority for civil society in Italy. UNAR urged, with no result, the Italian Parliament to ratify the additional protocol to 'The Council of Europe Convention on Cybercrime' which has already been signed by the Italian Government.

In addition, the Italian Government has decided to make greater efforts to prevent the spread of racism on the Internet. The Minister for Integration Mr. Andrea Riccardi announced that he is preparing a series of legislative instruments to sanction those who use the web to spread the racism, in collaboration with Minister of Justice Mrs. Paola Severino and Minister of the Interior Mrs. Anna Maria Cancellieri²²⁹.

<http://www.giornalisti.redattoresociale.it/2011/3/22/immigrati-media-e-stereotipi.aspx> ,

accessed 12 May 2012

²²⁹ Stranieri in Italia, *Razzismo sul web. Riccardi: 'Presto norme più severe'*, <http://www.stranieriinitalia.it/attualita-razzismo-sul-web-riccardi-presto-norme-piu-severe-15535.html> , accessed 17 July 2012

6.8 Racism and related discrimination in criminal justice

6.8.1 Policing and ethnic profiling²³⁰

At the moment there is no disaggregated data relating to recent discrimination on the part of the police and law enforcement agencies towards vulnerable minority groups. However, if we compare the data published by UNAR in 2010²³¹ and 2011²³², we can observe a decline in complaints to the police, which decreased from 8.5% in 2009 to 2.4% in 2010 and 1.8% in 2011.

The most recent research in this area is of 2010, EU MIDIS Report²³³, which involved 23,500 respondents belonging to ethnic minority groups. The investigation focused only on police checks on cars, on public transport or on foot. Results reveal that the perception of ethnic profiling in Italy is quite high among all three migrant minorities surveyed: 67% of Albanians, 45% of Romanians and 55% of North Africans believe that the last time they were stopped by the police was due to their ethnic background. The survey also explores casual police stops in the street. These are extremely frequent for migrants in Italy. In fact, one out of three respondents (of migrant origin) has been stopped by the police at least four times in the last 12 months. Only half of the respondents from Albania and Romania and one third of North Africans positively evaluated the police conduct during stops. Migrants from North Africa had the worst experience with the police: 41% believed that the agents were disrespectful during the checks while 21% of Romanians and 18% of Albanians claimed that the conduct ranged from fairly to very disrespectful. The percentage of negative evaluations of police treatment during checks by migrants living in Italy is the highest of all migrant communities in the EU countries included in the study.

One of the cases dealt with by UNAR concerned an Administrative Circular of the deputy commander of the municipal police of the City of Rome dated 3 January 2012, referring to the recording of greengrocer shops 'mainly run by people from the countries of North Africa'.²³⁴ However, discrimination legislation does not specifically refer to ethnic profiling²³⁵.

²³⁰ The Open Society Institute defines 'ethnic profiling' as the 'use of generalisations grounded in ethnicity, race, national origin, or religion - rather than objective evidence or individual behaviour - as the basis for making law enforcement and/or investigative decisions about who has been or may be involved in criminal activity'

²³¹ UNAR, *Rapporto finale: 'Studio per la definizione e l'organizzazione di un sistema di indicatori per la misurazione dei fenomeni di discriminazione razziale sul territorio nazionale e la costituzione di un centro di ricerca permanente'* (Rome October 2010)

²³² Cfr. UNAR, *Relazione al Parlamento ...* cit. pag 12

²³³ European Union Agency on Fundamental Rights, *EU-MIDIS European Union Minorities and Discrimination Survey*. Data in Focus Report: Police Stops and Minorities (2010). Available at: <http://fra.europa.eu/fraWebsite/attachments/EU-MIDIS-police.pdf>

²³⁴ Vitale, Giovanna, 'Sicurezza, l'ordine ai vigili 'Schedare le frutterie etniche', *La Repubblica.it*, 17 January 2012, http://roma.repubblica.it/cronaca/2012/01/17/news/sicurezza_l_ordine_ai_vigili_schedare_le_frutterie_etniche-28260931/, accessed 17 January 2012

²³⁵ Vulpiani, P. 'Ethnic Profiling: come è difficile distinguere buoni e cattivi', *NEAR*, 2 (2012), 8-10

In its fourth report, ECRI draws the attention of the Italian authorities to the fact that there have been a number of reports of incidents of mistreatment by the law enforcement agencies against persons belonging to ethnic minority groups. In particular, the report notes that the most frequent victims are people belonging to the RSC communities.²³⁶ One notable incident concerned two Algerian citizens who during repatriation (forced refoulement) from Rome to Tunis on 17 April 2012, were handcuffed and gagged with scotch tape by police officers, amid general indifference. This documented by a passenger, a filmmaker who photographed and posted the event on Facebook. Public reactions unanimously condemned police action, but as pointed out by the Hon. Emma Bonino, the episode is to be added 'to the already endless series of intolerable facts and situations for a country that prides itself on its standard of civilization'.²³⁷

We must stress that the absence of consistent data on cases of mistreatment perpetrated by law enforcement officials had made it difficult to provide a comprehensive analysis.

6.8.2 Racist violence and crime

The following laws currently prohibit racist and violent crime:

- Law No.654/1975²³⁸ gave effect to the International Convention on the Elimination of All Forms of Racial Discrimination (New York, 1966) and introduced a broad definition of 'racial discrimination' for the first time in the Italian legal order.
- Law No.205/93²³⁹, called 'Mancino Law' included, among other things, 'the imprisonment up to three years for anyone disseminating in any way ideas based on racial superiority or racial or ethnic hatred, or incites to commit or is committing acts of discrimination on racial, ethnic, national or religious grounds'.
- The next amendment to Article 13 of Law 85/2006²⁴⁰, *inter alia* reduces the severity of the penalty (from three years to 18 months), introduces the possibility of choosing between imprisonment and a fine; replaces the offence of 'diffusion' of racist ideas with the action of 'propaganda'. This means that the speech is accompanied by other actions.
- Recognition of aggravating circumstances applicable to offences motivated

²³⁶ Cfr. ECRI, *Rapporto dell'ECRI sull'Italia* ... cit. pag.53

²³⁷ Paci, Francesca, 'Scotch sulla bocca, bufera sul rimpatrio', *La Stampa.it*, 19 April 2012, <http://www3.lastampa.it/cronache/sezioni/articolo/istp/450768/>, accessed 28 July 2012.

²³⁸ Legge n.654, 13 October 1975, available at: <http://www.aieei.org/leyes/Legge%20n%20654%2013%20ottobre%201975%20legge%20Reale%20ratifica%20ed%20esecuzione%20della%20convenzione%20internazionale%20eliminazione%20di%20tutte%20le%20forme%20di%20discriminazione%20Razziale%20New%20York%207%2005%201966.htm>

²³⁹ Legge n.205/93, *Misure urgenti in materia di discriminazione razziale, etnica e religiosa*. Available at: http://www.governo.it/Presidenza/USRI/confessioni/norme/dl_122_1993.pdf

²⁴⁰ Legge n.85/2006, *Modifiche al codice penale in materia di reati di opinione*, available at: <http://www.camera.it/parlam/leggi/06085l.htm>

by discrimination or hatred based on ethnic, national, racial or religious grounds (Article 3, Law 122/1993).²⁴¹

In its fourth report ECRI underlines that these legislative provisions make it difficult to prove when there has been a diffusion of ideas or acts of racist behavior.²⁴²

Another obstacle is that Italy does not yet have a comprehensive collection of data on cases of racist crime and violence, although recently the authorities have begun the process of collecting such information. Consequently, there is only limited official data on racist crime.²⁴³ Given the lack of data available it is almost impossible to quantify the problem of racist violence in our country. It can be argued, however, that in the light of the spread of the problem of racist violence throughout Europe, Italy's response appears to be inadequate. However, some progress has been made largely through the efforts of UNAR.²⁴⁴

One of the tools put in place to combat racist violence and crimes is the Observatory for Security against Acts of Discrimination (OSCAD), created on 2 September 2010. OSCAD is part of the Department of Public Security - Central Direction of Criminal Police and is made up of representatives of the National Police and the Carabinieri.²⁴⁵

In collaboration with UNAR, OSCAD started collecting complaints about acts constituting the crime of discrimination: in little more than a year OSCAD has received 239 reports, of which almost 40% concerning acts which constitute crimes. The majority of the reports are based on ethno-racial (56.3%) discrimination or on sexual orientation (24.5%) and on religious belief (12.8%).

As concerns racist acts motivated by religious belief, the FRA 2011 report states that nearly half of Muslims surveyed who were victims of discrimination were unable to say whether discrimination was based on their religion or their migrant background.²⁴⁶

Religion does not seem to be one of the main reasons for racist attacks in Italy; the majority of the Italian population (59.3%) expressed a position of

²⁴¹ Legge n.205 del 25-6-1993 Art.3 *Circostanza aggravante*. Available at: <http://www.altalex.com/index.php?idnot=43453>

²⁴² Cfr. ECRI, *Rapporto dell'ECRI sull'Italia ...* cit. pag 17

²⁴³ European Union Agency for Fundamental Rights, *Annual Report 2011*, (2011) Available at: http://fra.europa.eu/fraWebsite/research/publications/publications_per_year/2012/pub-annual-report-2012_en.htm, pag 165

²⁴⁴ Sunderland, Judith, 'Italy's Complacency on Racism Puts Lives at Risk', *Human Right Watch*, 13 January 2012, <http://www.hrw.org/news/2012/01/13/italy-s-complacency-racism-puts-lives-risk>, accessed 28 July 2012

²⁴⁵ Polizia di Stato, Observatory for security against acts of discrimination – OSCAD, available at: <http://www.poliziadistato.it/articolo/view/25241/711aea47c09e4ee0f815f9be4f616170/>

²⁴⁶ FRA, *Fundamental rights: challenges and achievements in 2011*, available at <http://fra.europa.eu/en/publication/2012/fundamental-rights-challenges-and-achievements-2011>, last accessed 11.12.2012

tolerance towards other religions.²⁴⁷ In 2010 the data published by UNAR showed that from the migrants' point of view the episodes of discrimination were motivated more by ethnic (23.4%) or cultural (12.8%) than religious issues (6.4%)²⁴⁸.

However, people of Muslim faith have become increasingly subject to discrimination and violence, and have become the target of xenophobic speeches and articles. 2011 saw several attacks against women who wear the veil. On one instance a Muslim student was attacked by a fifty-year-old woman who wanted her to remove her veil.²⁴⁹

Published data are incomplete for at least two reasons: firstly, the official figures on racist offences do not cover all cases in which the victims believe themselves to have been the subject of attacks motivated by hatred, but only those that fall within the criminal law. Secondly, many victims are reluctant to report such incidents due to both a lack of confidence in law enforcement agencies²⁵⁰ and a mistrust of state institutions more generally. This is especially true of undocumented migrants.

A large number of perpetrators of racist violence are young: they are often minors who attack and beat immigrants arbitrarily. Very often these attacks occur in groups. On one occasion a vendor of Moroccan origin in Enna (Sicily) was attacked and beaten by a minor and another young man for refusing to offer a cigarette. The two aggressors were stopped by the police and charged with assault causing serious injuries²⁵¹.

Among the many cases of crime and violence motivated by racism, we include:

In December 2011 in Turin, a sixteen-year-old girl alleged that she had been raped by a Roma person. After a demonstration against criminality, organised by a group of inhabitants of the district where the girl lived, a group of demonstrators attacked the local Roma camp setting it on fire. The camp was destroyed and its inhabitants lost their homes. Later, the girl admitted that she had not been raped: she had invented the story to hide a sexual relationship with her boyfriend from her parents²⁵².

²⁴⁷ Cfr. ISTAT, *I migranti visti dai cittadini...* cit.

²⁴⁸ Cfr. UNAR, *Rapporto finale: 'Studio per la definizione e l'organizzazione di un sistema di indicatori per la misurazione dei fenomeni di discriminazione ...'* cit. (Rome October 2010) pag.52

²⁴⁹ Salvatore, Valentino, [Padova: studentessa musulmana insultata, donna tenta di strapparle il velo](http://www.uaar.it/news/2011/05/27/padova-studentessa-musulmana-insultata-donna-tenta-di-strapparle-il-velo). (27 May 2011) Available at: <http://www.uaar.it/news/2011/05/27/padova-studentessa-musulmana-insultata-donna-tenta-di-strapparle-il-velo/> accessed 4 March 2012

²⁵⁰ European Union Agency on Fundamental Rights, *EU-MIDIS European Union Minorities and Discrimination Survey*. Data in Focus Report: Police Stops and Minorities (2010). Available at: <http://fra.europa.eu/fraWebsite/attachments/EU-MIDIS-police.pdf> pag.14

²⁵¹ Livesicilia, *Aggressione razzista: due arresti*, (09 May 2012) Available at: <http://livesicilia.it/2012/05/09/aggressione-razzista-due-arresti> accessed 4 March 2012.

²⁵² Lettera 43, *Torino, 'lo stuprata dai Rom', ma è una bufala*. Available at: <http://www.lettera43.it/cronaca/33661/sedicenne-violentata-caccia-agli-aggressori.htm> (11 December 2011) accessed 12 May 2012

A second episode of racist violence erupted in Florence: a sympathiser of the neo-fascist organisation 'Casa Pound' killed two Senegalese nationals and seriously injured three others. Civil society organisations and some local authorities organised a large demonstration of solidarity in Florence on December 17th and the President of the Republic called for collective action to stop racist violence. After the murder several messages were published online in support of the killer.²⁵³

6.8.3 Hate speech²⁵⁴

Unfortunately, the use of racist or xenophobic arguments in public and political discourses has increased in recent years. Indeed, as underlined by ECRI in IV Rapporto sull'Italia, cases of hate speech have increased considerably whether they come from local politicians whether from national representatives.

In this context, the Lega Nord has invited the use of weapons to repel immigrants. On the occasion of the massacre in Norway in July 2011 the party's Euro-MP Mario Borghezio stated that: 'Many of the ideas are good, some great. It is because of the invasion of immigrants if they led to violence'.²⁵⁵ The current Secretary General of Lega Nord and former Minister of Interiors, Mr. Maroni, admitted in March 2012 that his party used racism instrumentally to gain consensus.²⁵⁶

Roma, Sinti and Caminanti minorities are frequently victims of violent racist and xenophobic statements. The attacks were so violent as to cause clashes between the previous government and the European institutions.²⁵⁷

Municipal elections were held in several Italian cities in 2011: electoral campaigns have been marked by an instrumental use of disembarkations from the countries involved in the 'Arab Spring' Egypt, Libya, Tunisia. The issue of immigration has become central again in political speeches and the recourse to violent attacks and discrimination became increasingly frequent. As highlighted in the Libro Bianco sul razzismo, the public debate on the management of disembarkations has revived old clichés of the invasion of

²⁵³ Frangini, Sara, 'Firenze, uccide due senegalesi e si uccide. Killer di estrema destra terrorizza la città', *Il Fatto Quotidiano*. (13 December 2011) Available at: <http://www.ilfattoquotidiano.it/2011/12/13/firenze-uccide-senegalesi-uccide-killer-estrema-destra-terrorizza-citta/177285/> accessed 13 December 2011

²⁵⁴ An extensive and detailed overview, including examples of both bad and good practices, is provided in the 'Observations submitted to the CERD for the thematic discussion 'Racist hate speech', joint submission by eight Italian associations, available at http://www.asgi.it/public/parser/download/save/osservazioni_cerd_28082012.pdf, last accessed 14/09/2012.

²⁵⁵ *Repubblica.it*, 26 July 2011, Available at: http://www.repubblica.it/politica/2011/07/26/news/borghezio_norvegia-19635604/ accessed June 2012

²⁵⁶ See broadcast in <http://tg.la7.it/politica/video-i523953>, last accessed 14/09/2012

²⁵⁷ Luciano Scagliotti, *L'Italia vista dall'Europa*, in Lunaria, *Rapporto sul razzismo in Italia*, Roma 2009, pp 132-137

immigrants from North Africa and the Muslim advance. Some public local authorities have refused to receive refugees²⁵⁸.

As explained in the aforementioned (see footnote 24) Observations to the CERD, Italian legislation against hate crimes is characterized by '*minimal penalties, interpretative doubts and poor implementation*'. Furthermore, politicians who engage in hate speech can *de facto* only be sanctioned either by the Presidents of the Chambers or by their own parties.

The EU Council Framework Decision 2008/913/JHA, which would provide stronger sanctions, has not yet transposed it in Italian legislation.

6.8.4 Counter terrorism

The action taken by the government under anti-terror laws continued to cause serious concerns in the period under analysis. As reported by ECRI, Italy has carried out numerous expulsions by virtue of the fight against terrorism. Moreover, in a number of cases, the European Court of Human Rights has found to be in violation of Article 3 of the European Convention on Human Rights, relating to the prohibition of torture and inhuman or degrading treatment or punishment²⁵⁹. In addition, concerns have been expressed about the use of counter-terrorism as a justification for non-compliance with the measures of the European Court of Human Rights.

In April 2011, in the case of *Toumi v Italy*, the European Court of Human Rights ruled that Italy had violated the prohibition of torture and inhuman and degrading treatment during the expulsion of a man to Tunisia in 2009. The Court ruled that Ali Ben Sassi Toumi, a Tunisian citizen who had been condemned for terrorism-related offences, had been forcibly repatriated from Italy to Tunisia in violation of the order in which the Court had suspended the repatriation. The Court stated that diplomatic assurances of humane treatment provided by the Tunisian government before the expulsion did not nullify the risk of torture and inhuman and degrading treatment.²⁶⁰

6.8.5 Facilitating factor or protective measures in criminal justice

- The Observatory for Security against Acts of Discrimination (OSCAD) which receives reports on cases of violence and discriminatory acts constituting criminal offences, was created on 2 September 2010. In addition, OSCAD has signed an agreement protocol with UNAR on 7 April 2011, which began a strong collaboration between the two organisations. The aims of the agreement are: the acceleration of the police interventions after a complaint of discrimination; the realization of training and refresher courses for the law enforcement officers, with the aim of promoting greater awareness among

²⁵⁸ Lunaria (a cura di), *Cronache di ordinario razzismo. Secondo Libro Bianco sul razzismo in Italia* (©Edizioni dell'Asino 2011) pag. 148

²⁵⁹ For a detailed description of rejection on the Mediterranean Sea, please see: Zirula, Stefano, *I respingimenti nel Mediterraneo tra diritto del mare e diritti fondamentali*, available at: <http://www.meltingpot.org/stampa17951.html>

²⁶⁰ Amnesty International, *Annual Report 2012*, (Fandango Libri, 2012) pag.6

operators on the issues of discrimination and fight against racism and providing them with legal and sociological tools useful to counter discrimination in an appropriate manner.²⁶¹

- 31 March 2011 saw the first ordinance which deals with the topic of 'ethnic profiling' and is the first express prohibition of this practice. The Court of Brescia found that the ordinance in which the city of Calcinato (Lombardy) had asked the municipal police to check and inspect the conditions of habitability and suitability for housing only on the basis that the houses were inhabited by immigrant citizens, had to be considered discriminatory and prohibited by law²⁶².

- With regards to hate speech, the NAGA association presented and won an appeal to the Civil Court of Milan against the Lega Nord Party and the Popolo della Libertà Party concerning their most recent election campaign for the City of Milan, during which the outgoing mayor and the centre-right coalition scapegoated the Roma as part of their election strategy. The city had been plastered with posters declaring that Milan would have become a 'Zingaropoli.' Later, the former Prime Minister Mr. Silvio Berlusconi attacked the Muslim Italian and immigrant citizens, stating that Milan was about to become an 'Islamic Zingaropoli'. It is the first time in Italy that a legal action condemning the political parties for discrimination has succeeded.²⁶³

²⁶¹ Protocollo d'intesa tra OSCAD e UNAR, available at <http://www.governo.it/backoffice/allegati/63209-6723.pdf>, last accessed 11.12.2012

²⁶² ASGI, *Tribunale di Brescia: Discriminatoria l'ordinanza del Comune di Calcinato che chiedeva agli stranieri un reddito minimo e l'idoneità dell'alloggio ai fini dell'iscrizione anagrafica e subordinava l'ospitalità di cittadini stranieri all'idoneità abitativa.* (13 March 2011) Available at: http://www.asgi.it/home_asgi.php?n=1559&l=it (accessed 15 March 2012)

²⁶³ NAGA, 'Zingaropoli': condannata Lega e PDL.' (13 June 2012) Available at: <http://www.naga.it/index.php/notizie-naga/items/zingaropoli-condannati-lega-e-pdl.html> (accessed 13 June 2012)

7. Civil society assessment and critique in ensuring protection of fundamental rights

In 2011, the Authority Responsible for the European Fund for the Integration of third-country nationals produced a national consultation aimed at identifying obstacles to integration and at evaluating the relevance of the action areas specified in policy documents of the European Integration Fund (EIF) and the types of projects indicated in the announcements of a call for proposals.

The research²⁶⁴, conducted in October 2011, involved Regions, Territorial Councils for Immigration and 142 associations. 244 questionnaires were analysed. Respondents were asked to identify integration needs and to evaluate the relevance of projects and actions undertaken following the EIF announcement of a call for proposals. Overall, the most relevant actions are:

- 1) Language training and civic education
- 2) Support to enhance employability of immigrant workers
- 3) Integration of immigrant children in school
- 4) Support in access to housing

With regards to language training, Regions and associations prioritise courses which support individuals with limited or no Italian language skills, while the Territorial Councils have stressed the importance of the systemic actions that strengthen networks among the institutional experts on the subject.

Even intercultural mediation acquires particular relevance in the policies that should be developed, especially in health and education: among the projects of social mediation and intercultural dialogue, the most important are those providing information and guidance to promote the access of immigrants to local services.

As for employability, projects considered most relevant are those aimed at improving the skills of immigrants, through services of guidance and skills development.

Among the projects involving information, communication and awareness the activation of information services intended to promote the protection of rights, the knowledge of duties and the access to services are considered essential.

The integration in schools should be promoted through better integration of immigrant children, through language training courses and through support and guidance services. To promote the integration of young immigrants, projects should be focus on social inclusion and acceptance of immigrant minors who have arrived in Italy recently.

²⁶⁴ Ministero dell'Interno, *Consultazione Nazionale 2011 sui fabbisogni territoriali di integrazione*, available at http://www.integrazionemigranti.gov.it/Documenti/Documents/Documenti%20da%20newslette%20gennaio%202012/Consultazione_fabbisogni_integrazione.pdf, last accessed 11.12.2012

With regard to the last axis on access to housing, the creation of services designed to provide guidance and assistance to immigrants in the housing search and execution of administrative practices are considered vital.

UNAR has tackled several important aspects of the fight against discrimination and its activities have become more visible in recent years. In particular, the first semester 2012 saw a substantial increase (+80%) in new cases of discrimination, with a significant growth in the number of complaints made by witnesses.

In recent years UNAR has concluded a number of agreements and protocols with institutions involved in the processes of integration and anti-discrimination: notably, the agreement with OSCAD as well as a number of important steps towards institutional dialogue with local authorities, aimed at the construction of a network of contact centres. It is hoped that this will enable better monitoring of the phenomena of racism and discrimination and the creation of a unique database at national level

UNAR also initiated a system of integrated governance with social partners, NGOs and associations representing immigrant communities. This has led to important milestones such as the adoption of the National Roma Integration Strategy by the Italian Government.

In addition, by adhering to the observations and recommendations made by the Committee on the Elimination of Racial Discrimination (CERD), by the European Commission against Racism and Intolerance (ECRI) and the European Union Agency for Fundamental Rights (FRA) in 2012 UNAR has started a consultation of the organisations involved in the fight against racism and discrimination, to prepare the 'Piano d'azione nazionale contro il razzismo, la xenofobia e l'intolleranza 2013-2015' by 2012. In the near future UNAR will be committed to comply with the commitments made by the current government with the recent General Directive on action and management of the Department for Equal Opportunities²⁶⁵

In its fourth report, ECRI welcomes the activities and policies implemented by UNAR in recent years, but highlights its need for independence from the Presidency of the Council of Ministers.

However, the Italian government has confirmed severe job cuts in UNAR in the second half of 2012: nine of the thirteen employees will be removed in October and the Director Mr. Monanni will be replaced by someone 'internal'. The international commitments of the government as the National Roma Integration Strategy and the National Plan against Racism are therefore in doubt²⁶⁶.

²⁶⁵ Presidenza del Consiglio dei Ministri, Dipartimento per le Pari Opportunità, *Direttiva generale per l'azione amministrativa del Dipartimento per le Pari Opportunità per l'anno 2012*, not published

²⁶⁶ *Stranieriinitalia*, La spending review colpisce l'UNAR. 'Ci indeboliscono'. Available at: <http://www.stranieriinitalia.it/attualita-la-spending-review-colpisce-l-unar-ci-indeboliscono-15521.html> (12 July 2012)

On 24 February 2012 the Plan for the 'National Roma Integration Strategy 2012-2020'²⁶⁷, which includes measures for education, employment, health and housing, was approved by the Council of Ministers. The plan was made by the Minister for International Cooperation and Integration Mr. Andrea Riccardi and will involve the Ministries of the Interior, Labor, Justice, Health, Education, University and Research and the local authorities through UNAR coordination.

The plan includes measures to 'increase the capacity-building of institutions and civil society for the social inclusion of Roma, Sinti and Caminanti' through the activation of 'Local Plans for the social inclusion of the communities'. Notable planned actions include: promotion of a permanent system of centres to combat discrimination, information campaigns, and implementation of participatory models in local decision-making processes for the communities.

The main areas of intervention of the Plan are:

Education: the goal is to increase the number of participants and reduce early school leaving, to promote access to education for young mothers and the achievement of high-level education through paths of pre-schooling, scholarships and other benefits.

Occupation: emphasis was placed on vocational training as a tool to overcome the difficulties in accessing employment and to promote the development of entrepreneurial activities. Consideration will be given to the specific integration needs of women and the young.

Health: attention is being paid to the need to provide access to healthcare services and to greater use of preventative medicine. The aim is to facilitate the access to health and to involve intercultural mediators in healthcare.

Housing: the objectives are: to definitively move away from the emergency paradigm, promote inter-institutional cooperation to increase the housing supply, provide information and training on economic and administrative resources concerning housing policies.

The opinion of the European Commission on the National Roma Integration Strategy has been positive. However the Commission did express concern over the lack of quantitative targets, indicators and funding channels. A monitoring system and an evaluation methodology are deemed necessary to further improve the Strategy.²⁶⁸

²⁶⁷ National Roma Integration Strategies, available at:

http://ec.europa.eu/justice/discrimination/files/roma_italy_strategy_it.pdf

²⁶⁸ European Commission, National Roma Integration Strategies, country factsheet on Italy available at http://ec.europa.eu/justice/discrimination/files/country_factsheets_2012/italy_en.pdf, last accessed 11.12.2012

8. Good practices

Example of NGO Good Practice in Employment

Among the good practices, we underline those proposed in Solidar–IRES Report: ‘Combating discrimination against migrant workers’²⁶⁹. Thanks to agreements with several national unions in some countries with strong migration links with Italy, the Italian Trade Union organised training courses in Italy, in the cities of Milan and Palermo, and in Morocco with two main objectives. The first is to increase knowledge of industrial relations in the construction sector in order to promote the development of collective action in Morocco and Tunisia. The course covered the topics of workplace safety, collective bargaining and union representation. The second objective is to inform and train groups of workers who are willing to move in Italy in order to find employment in the construction sector. As a result, the union has established an internal department that deals specifically with emigration and immigration issues.

Example of NGO Good Practice in Education

The project ‘In Piazza s’impara’²⁷⁰ is realised by the Gate Committee with the support of the City Council of Turin, the Province of Turin, the Piedmont Region, the Compagnia di San Paolo, the Ministry of Labour and Social Policy.

The project has been active for some years: on Sunday mornings on Piazza della Repubblica in Turin outdoor classrooms are prepared for language learning. The language courses are:

- The three-levels of Italian courses (attended by about 200 people each Sunday)
- Chinese
- Romanian
- Arabic

Users include young Italians, second generations and foreigners.

Example of NGO Good Practice in Housing

The Maisondu monde²⁷¹ project has been carried out thanks to the Fondo Immobiliare Lombardia, with the aim of recovering and using a building in Via Padova in Milan, creating 50 low-price flats, in order to:

- satisfy the housing demand of young couples and immigrant families in need, who are unable to access the apartments in the private market;

²⁶⁹ Cfr. Solidar IRES *Combating discrimination...cit.*

²⁷⁰ Available at: <http://vivoinbarriera.wordpress.com/2011/05/30/in-piazza-si-impara-a-porta-palazzo-sesta-edizione-giugno-2011/>

²⁷¹ Available at: <http://www.secondowelfare.it/terzo-settore/fondazioni/progetto-maison-du-monde.html>

- respond to the increasing low-cost temporary housing needs of people (i.e. workers on business travel, temporary workers, students, researchers, etc.);
- provide better housing for those who have already lived in the building for decades and are the historical memory of the place.

The project has two important purposes:

- build and implement an economically and socially sustainable model which provides quality housing, recreational, social and cultural activities in order to promote the revitalization of the neighbourhood;
- encourage the experimentation with a new model for the use of public-private resources and competences in social housing.

The Maisondumonde36 project offers: 50 flats, one office, 2 commercial units and several services intended to benefit the neighbourhood residents.

Example of NGO Good Practice in Health

ARTEMIS Project: 'Association and Territorial Network for Intercultural Mediation on Health'²⁷²

The project, funded by the European Community and the Ministry of Interior, is coordinated by the National AIDS Centre, Istituto Superiore della Sanità, the International Organisation for Migration and the Association 'l'Albero della Salute', the Tuscany Region Organisation for the promotion of the health of migrants. The project is mainly focused on HIV, AIDS, tuberculosis and sexually transmitted diseases and also aims to improve the integration process of third-countries citizens, thanks to a program of information and support in the socio-medical courses. About 40 migrants' associations, civil society and local Institutions of Tuscany and Lazio Regions will be involved in the project.

Activities planned include the realization of an experimental model of cultural mediation in order to promote information and guidance and improve the access by third-countries citizens.

Example of NGO Good Practice in Access to Goods and Services

The project 'Telefono Mondo'²⁷³ began in 1994 for the benefit of immigrants living in Italy. 'Telefono Mondo' is a telephone service that provides information, advice and explanation of laws and administrative rules for work, social life, study, citizenship, family reunification, political asylum, and more. The project also targets providers of public services, associations and employers. The information on the website is in

²⁷² ISS: Centro Nazionale AIDS: *Progetto 'Associazionismo & Reti Territoriali per la Mediazione Interculturale sulla Salute (ARTEMIS)*, for more details please see: <http://www.iss.it/aids/prev/cont.php?id=66&lang=1&tipo=43>

²⁷³ Available at: <http://www.telefonomondo.it/>

multiple languages to facilitate use by immigrants and the service is free.

Example of NGO Good Practice in Promoting Political Participation

On the occasion of the celebration for the 150th anniversary of Italy, the debate on the issues of citizenship has become particularly intense. During the year, a national campaign entitled 'L'Italia sono anche io'²⁷⁴, was launched with the aim of raising public awareness on the issue of citizenship law reform and to collect signatures for two popular law bills to 'change the rules of naturalisation (citizenship achievement)', which include the introduction of the *jus soli* principle and the right to vote for immigrants. At the beginning of 2012, the petition had reached the threshold of 50,000 signatures²⁷⁵.

Example of NGO Good Practice in Media

On 13 June 2012 the website 'Occhio ai Media' won the first competition on the best practices against racism, organised by the Association 'The racism is a bad story' in collaboration with the Social Editor Agency. 'Occhio ai Media' is a website monitoring the Italian press on the correct use of the words in immigration and discrimination fields in order to fight discrimination in media and facilitate the coexistence among different cultures. The website is the result of the initiative of a group of associations²⁷⁶.

On 19 July 2012, the President of the Association 'Charter of Roma', Valentina Loiero, wrote an editorial entitled 'Press Errors' about the discriminatory manner in which the media pose issues related to immigration and immigrants. The editorial was published in the Association website and picked up by many other websites and newspapers²⁷⁷.

Example of NGO Good Practice in Criminal Justice

Borderline Sicily: mobile humanitarian emergency unit.

Borderline Sicilia association works in Sicily, which in the last years became a border land between Africa and Europe. Sicily is not only a place of arrivals for migrants, but also an island where there are many kinds of different centres: reception centres for

²⁷⁴ Italia sono anche io: <http://www.litaliasonoanchio.it/>

²⁷⁵ Stranieri in Italia: Quasi 50 mila firme per riforma della cittadinanza e diritto di voto. (21 January 2012), available at: <http://www.stranieriinitalia.it/attualita-quasi-50-mila-firme-per-riforma-della-cittadinanza-e-diritto-di-voto-14471.html> (last accessed March 2012)

²⁷⁶ Please see: Io razzista? Occhio ai media, <http://www.occhioaimedia.org/> accessed 14 June 2012

²⁷⁷ For the full text, please see: http://www.paralleli.org/news_dettaglio.php?id=592&a=4 accessed 17 July 2012

asylum seekers, irregulars' detention and for unaccompanied minors. Yet, or just because of this fact, migrants meet severe opposition by local inhabitants. Therefore, the entry process for outsider is much more difficult than in the north, because on the island like other places in the south of Italy there is a lack of services even for nationals.

One of the projects of Borderline Sicilia is the mobile unit for humanitarian emergency in the Mediterranean. The aim of the mobile unit is to inform on the contradictions created by immigration laws and to denounce inefficiency, lack and critical aspects of the migrants' reception and detention system. Closely connected to the monitoring are advocacy and lobbying activities, whose main issue is to set up judicial inquiries about, for example, Tunisian migrants' illegal detention on ferryboats last year ('Floating Cie'). Another good practice is the consolidation of a regional network including different local actors involved in defending migrants' rights, promoting actions and best practices.²⁷⁸

²⁷⁸ Observation submitted to the CERD..., quoted.

9. National recommendations

Special Focus: Muslim Communities

- Adopt legislation on freedom of religion which does not require the signature of an agreement with the State, but guarantees to Muslims the same rights currently enjoyed other religious groups which have signed the agreement 'intesa'.
- Enable the building of appropriate places of worship.
- Abolish the bill that prohibits wearing 'ethnic' garments that hide one's face. This discriminates against Muslim women and could obstruct the rights to freedom of expression, religion or belief.

Employment

- Regularization: introduce legal and political measures to enable the legal entry of migrant workers, recognise the existence of a migrant workers' demands from the work system, allow a real opportunity to match demand and offer.
- The labour market has been characterized by a dual approach for migrants and minorities both in public and in private sector: eliminate barriers to employment, promote the overcoming of this duality.
- Public administration must enforce the European and Italian antidiscrimination laws, in particular in the labour sector.
- Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Member of their Families.

Education

- Carry out awareness-raising campaigns, at a national and local level, in order to fight and overcome resistance to the international dimensions of Italian schools.
- Remove the 'volunteer system' that characterizes the Italian school system, according to which the school or even the teacher assumes responsibility for solving the problems related to immigrants or students who encounter discrimination.
- Ensure a fruitful inclusion of foreign children in Italian schools, overcoming the strict results of the application of purely quantitative criteria in the formation of classes. In order to achieve this result, it is necessary to provide welcome and introductory courses to facilitate integration in the Italian school system and that provide information and administrative forms in several foreign languages, as well as on the establishment of a protocol for the reception of immigrant children and the permanent presence of cultural mediators in the schools.
- Guarantee quick practices of family reunification, in order to give to minors the possibility to arrive in Italy before the school begins so as to facilitate their integration.

Housing

- Ensure that legislation against direct and indirect racial discrimination in the housing field is rigorously applied, both in private and public sector, in particular regarding the phenomenon of 'instruction to discriminate' in private sector.
- Monitor local administration ordinances in order to stop those unequal, discriminatory and illegal in the allocation of public housing, that limit or exclude the third-countries nationals.
- Guarantee the execution of the National Roma integration strategies, in order to eliminate the inhumane conditions of living of Roma and Sinti communities and stop their segregation inside camps.
- Identify the best practices at local level in order to eliminate all discrimination based on colour, religion, ethnic origin, language or nationality in the field of housing and to ensure that these practices are applied on a national scale.

Health

- Ensure undocumented minors the same rights as Italians in accessing to healthcare, including preventative healthcare and a choice of pediatrician.
- Ensure the release of the STP code to all those who are entitled to it, and provide instructions as to its use in several languages.
- Strengthen regional level monitoring and analysis of the health needs of migrants.

Access to goods and services

- Supervise the correct application of laws in public administration.
- Ensure equal access to the banking and financial services both to Italian citizens and immigrants.
- Provide appropriate training to public administration personnel in order to cultivate the appropriate skills to avoid discrimination in the execution of its duties.

Criminal justice

- Record cases of ethnic profiling and discriminatory attitudes committed by law enforcement officers, and increase their training in antidiscrimination fields.
- Assess the effectiveness of the current provisions for combating the dissemination of racist ideas as well as of incitement to commit racist crimes. It is recommended that the institutions amend these provisions if necessary in order to ensure effective protection against such acts.
- Severely condemn any kind of racist discourse in politics, strengthen sanctions against politicians who use racist discourses. In particular, combat and punish the use of an anti-Muslim rhetoric in political discourses.

Media

- Allocate more space to journalists informed on the issues of immigration, minorities and antidiscrimination.
- Support the creation of multicultural media, for example through the creation of multicultural editorial offices.
- Encourage responsible and objective reporting.
- Media should stop considering cases that involve Muslims as confirmation that Islam is basically a violent religion, but considering them such as isolated episodes, in order to minimize a negative effect to the public opinion

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10. Conclusion

Racism and ethnic discrimination – including racist violence, hate crimes and speech and institutional discrimination - have been increasing. Political groups which incite racial and religious intolerance are on the rise too and gaining popular support, particularly among those parts of society exposed to the effects of economic downturn. Xenophobic populism remains a widespread tool in the propaganda of mainstream parties.

Nonetheless, there have been positive developments. The political context, after the fall of the centre-right Government led by Mr. Berlusconi and supported by the xenophobic Lega Nord, is slowly moving towards a less racist environment. The current Government led by Mr. Monti has displayed a positive attitude towards migrants and asylum seekers. However, the government has yet to implement any major favourable measures, nor has it repealed some of the discriminatory provisions of the previous Government, including the Italy-Libya agreements on immigration management. At least, on a practical level, push-backs at sea have stopped.

Changes in the legislation on citizenship and a more open approach to labour immigration are, for the first time, priorities in the political agenda of major mainstream parties and could become an important issue in the 2013 political elections. As this attitude is a result of the increased effectiveness of NGO community initiatives and the emerging role of minority organisations, hopefully it will be a durable change.

Surprisingly enough the role and action of national antidiscrimination bodies has been strengthened by the past Government. Though there is a clear risk of downturn due to the extensive cuts to public spending, during the past two years a better awareness of the positive role of those bodies has been built, together with an acceptable level of involvement of minority organisations and NGOs. It will be the civil society task to avoid any setbacks and push for further improvements.

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Annex 1: List of abbreviations and terminology

UNAR → (Ufficio Nazionale Antidiscriminazioni Razziali) The Office for the promotion of equal treatment and removal of discrimination based on race or ethnic origin, was established by Legislative Decree 9 July 2003, with the purpose of ensuring, in full autonomy and in conditions of impartiality, the effectiveness of the principle of equal treatment among persons, on the 64 operation instruments to ensure protection against discrimination in force and help to eliminate discrimination based on race and ethnicity.

CIE → (Centri d'identificazione e espulsione), Identification and Expulsion Centre.

CARA → (Centri di Accoglienza Richiedenti Asilo) Reception Centre for Asylum Seekers

CDA → (Centri di accoglienza) Reception Centre

ASGI → (Associazione Studi Giuridici sull'Immigrazione) The Association for Legal Studies on Immigration was established in 1990 and brings together lawyers, academics, legal practitioners and jurists with a specific professional interest in legal issues relating to immigration.

CPSA → (Centro di Primo Soccorso e Accoglienza)

SPRAR → (Sistema di Protezione per Richiedenti Asilo e Rifugiati)

ISTAT → (Istituto Nazionale di Statistica) The Italian National Institute of Statistics is a public research organisation. It has been present in Italy since 1926, and is the main producer of official statistics in the service of citizens and policy-makers. It operates in complete independence and continuous interaction with the academic and scientific communities.



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