



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Summary record of the 2157th meeting

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Chairperson: Mr. Avtonomov

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The meeting was called to order at 3 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Sixteenth to eighteenth periodic reports of Italy (continued) (CERD/C/ITA/16-18, CERD/C/ITA/Q/16-18)

1. *At the invitation of the Chairperson, the delegation of Italy took places at the Committee table.*
2. **Mr. Brasioli** (Italy) said that his country had drawn lessons from the recent judgement of the European Court of Human Rights in the case *Hirsi Jamaa and Others v. Italy*, in which Italy had been found guilty of violating the principle of non-refoulement, and that it was firmly resolved to take legislative measures to give effect to the principles reaffirmed in that judgement in order to guard against the recurrence of such cases. The Italian Prime Minister had travelled to Libya to meet the new leaders and lay the foundations for increased cooperation in combating illegal immigration, while protecting the human rights of migrants. In the Tripoli Declaration the Italian and Libyan authorities had undertaken to respect the principles set out in the judgement of the European Court of Human Rights and to safeguard the rights of migrants passing through the Mediterranean. Italy intended to propose cooperation with the Libyan authorities in strengthening border controls. Italy also wished to expand its cooperation with other countries of the European Union affected by the migration phenomenon. It was cooperating actively with international organizations, in particular the International Organization for Migration (IOM) and the Office of the United Nations High Commissioner for Refugees (UNHCR), in order to address the problems presented by the influx of migrants, find ways of providing shelter for them and combat trafficking in human beings.
3. **Mr. Bottini** (Italy) said that Italy was aware of the need to craft legislation to facilitate the integration of persons of immigrant background, who made up 8 per cent of its population, over and above the urgent humanitarian and security measures that it had taken in recent years to cope with the influx of migrants. In order to strike the right balance between protecting the rights of foreigners and safeguarding national security, Italy had put in place a Ministry for International Cooperation and Integration. He cited a judgement handed down by the Constitutional Court in 2010 declaring article 61-11 bis of the Criminal Code unconstitutional. The Court had found that that provision, under which the mere commission of an offence by a person in an irregular situation constituted an aggravating circumstance, ran counter to the principle of the equality of all before the law enshrined in article 3 of the Constitution. Law No. 205 of 25 June 1993, known as Mancino's law, which provided that a racial motivation for an offence was an aggravating circumstance, had been applied in a judgement of 14 April 2011 concerning the so-called Castelvoturno case, in which a mafia organization had been found guilty of the murder of six African immigrants. The Court had found that those murders had clearly been motivated by the ethnic origin of the victims.
4. Two cases of racist speech involving public figures had recently marked Italy. In those cases, one of which was still pending, Mr. Tosi and Mr. Gentilini had been charged with incitement to racial hatred (see paragraphs 38 and 39 of the report). More recently, a former member of Parliament had been convicted for making racist remarks about Travellers on Facebook in 2010. Judges made every effort to uphold the human rights principles enshrined in the European Charter of Fundamental Rights. Thus, in August 2011, the Trieste Court had considered a regional law to be discriminatory in that it required applicants for social housing to have spent at least 10 years in Italian territory. In addition, the Constitutional Court had in 2010 recognized the unconstitutional character of a 1998 decree providing for a maximum prison sentence of 5 years for undocumented foreigners

who had not complied with an order to leave the territory. Clearly, Italy was tending to decriminalize illegal immigration, as shown by its adoption of Law No. 129/2011, which incorporated into domestic law the provisions of Directive 2004/38/EC on the rights of citizens of the Union and their family members to move and reside freely within the territory of the Member States. That law favoured voluntary repatriation and allowed forcible escort only in exceptional cases; it also set limits on the placing of undocumented persons in identification centres.

5. To facilitate the integration of second-generation immigrants, the State was exploring the possibility of granting Italian nationality to children under the age of 18 born in Italy to foreign parents in accordance with the principle of *jus soli*. The matter had not yet been settled, as care had to be taken to guard against any abuse while respecting children's rights. Migration laws in the autonomous regions were subject to constitutional oversight to make sure that they were in line with the State's migration policy and legislation, since if they were not they could be challenged before the Constitutional Court. While Italy already possessed a whole swathe of laws against discrimination, a bill was also being considered to amend Law No. 654 of 1975 on racial and ethnic discrimination so as to include sexual orientation among the prohibited grounds for discrimination. Thought was also being given to amending article 61 of the Criminal Code in order to introduce into it an aggravating circumstance in cases of hate crime motivated by a person's sexual orientation, which would not be able to be offset by a mitigating circumstance. Law No. 482/1999 on the protection of linguistic minorities would be replaced by innovative legislation taking into account the new technological realities, in accordance with the Council of Europe Convention on Cybercrime and its Additional Protocol, ratified by Italy in 2011. As cybercrime knew no borders, every effort was needed to combat the dissemination of racist ideas via the Internet, in particular by enhanced cooperation among European judicial police services. A legislative decree of 2003 had amended Mancino's law by requiring Internet providers to inform police services of any unlawful activity so as to be able to close down sites inciting racial hatred.

6. **Mr. Falco** (Italy) said that the incorporation of Directive 2004/38/CE into domestic law would not result in the immediate abolition of reception centres for migrants and asylum seekers, but every possible effort would be made to avoid expulsions. Since 2012, persons awaiting an administrative decision who could provide the necessary safeguards were already entitled to remain within Italian territory, through the application of an alternative measure to deprivation of liberty. Following the comments of the European Commission against Racism and Intolerance (ECRI) concerning discriminatory behaviour by the administration, an administrative measure had been adopted to relax the requirements for residence permits. As a result, foreigners holding residence permits would be required to pay for the renewal of their residence permits only every four years and no longer every two years as previously. That measure should facilitate family reunion and make it easier to obtain work permits, while streamlining administrative formalities both for those concerned and for administrative services and the police.

7. The crisis had significantly impacted efforts to combat discrimination: resources were lacking in every sector and budget cuts were bound to affect certain social benefits enjoyed by migrants. However, certain regions where immigration problems were more acute, particularly in the southern part of the country, would receive increased funds from the European Integration Fund. A €20 million appropriation had been earmarked for communes in four southern regions of the country in order to increase reception structures for migrants and improve the social benefits intended for them.

8. **Mr. Monnanni** (Italy) said that the National Office against Racial Discrimination (UNAR) would not cease to exist upon the establishment of the independent national human rights commission but that it would work in close cooperation with that body, in

accordance with the Paris Principles. The activities of UNAR had developed considerably over the past three years and the number of complaints of discrimination had risen from 373 to 1,000 in 2011. UNAR did not wait for complaints to be submitted to it but often took the initiative of monitoring media and social networks, in particular for racist language and incitement to racial hatred, and intervened to put an end to such practices. Between 2009 and 2011, the proportion of complaints and reports of discrimination had risen from 10 per cent to 21 per cent. Most had been from Italians, especially young people, who had now become more aware of the usefulness of reporting cases of discrimination as the Office had laid emphasis on awareness-raising in schools and universities. It was true that UNAR could not provide direct assistance to victims of discrimination but there were other effective means of doing so. On the question of equal treatment, UNAR had concerned itself with acts of discrimination committed by government offices and had on several occasions interceded to find solutions with the help of its legal service. It had been active in the promotion of freedom of religion and had taken action against discriminatory decisions that had prevented Muslims from acquiring premises to serve as places of worship. UNAR would be responsible for monitoring the implementation of the Roma strategy adopted by the Council of Ministers in February 2012. The first commitment of the Government was to secure adoption of a bill recognizing the Roma and Sinti minorities as national minorities. It had also undertaken to reassign the funds allocated for the settlement of urgent problems to actions on behalf of the Roma and Sinti communities. Lastly, it was intending to set up a working group composed of representatives of the Roma and Sinti communities together with a Roma and Sinti community forum which would serve as a representative body.

9. **Mr. Vulpiani** (Italy) said that, for many years, UNAR had been working in close collaboration with Roma and Sinti associations and was planning to set up a specific department for the purpose. Roma were probably those most likely to suffer from discrimination and, to stop them from being stigmatized, UNAR was proposing to make journalists aware of that problem throughout the national territory. The Roma strategy of UNAR rested on three pillars: work, health and housing. Italy was very concerned about the steep decline in the Roma child enrolment ratio in secondary and higher education. In higher education, the goal was to train Roma and Sinti students who could help the Italian authorities to facilitate the integration of those two communities in society. UNAR would continue to combat school dropout and to give disadvantaged children better access to vaccines and preventive medicine, as the infantile mortality rate was still too high in some regions. Housing measures taken in the past for Roma had been emergency measures that had actually contributed to their segregation and impeded their social integration. Italy therefore intended to put an end to the Roma camp policy by seeking housing solutions that respected the rights and needs of families. However, since many Roma and Sinti still wished to live in camps, it was planned to keep small camps which would ensure the maintenance of family unity while preventing segregation.

10. **Mr. Monnanni** (Italy) said that UNAR had consulted almost 200 regional and communal associations in order to evaluate its activities and define new priorities for action. The consultations had highlighted the need to intensify local activities by strengthening the networks to combat discrimination that UNAR had started to put in place and to develop initiatives in schools. According to 52 per cent of associations, UNAR had gained in effectiveness.

11. **Mr. Brasioli** (Italy) said that the Inter-ministerial Committee on Human Rights had carried out human rights awareness-raising and training activities, in particular with the support of academia. In March 2011, it had organized a conference bringing together deans of political science faculties in all the Italian universities to examine the question of human rights teaching in universities. It had also organized a series of meetings in Rome universities on the subject of "Human rights, from theory to practice", with the participation

of students, faculty, senior officials and representatives of NGOs and civil society in general.

12. **Mr. Ottaviano** (Italy) said that UNAR and the Higher Institute of Prison Studies gave human rights training to prison staff. Nine centres had been set up in the country to provide theoretical and practical courses for new recruits and refresher training for established staff. The courses had been designed to bring out the specific features of the prisoners' various cultures and ethnic groups and thereby to facilitate exchanges in the prison environment. Courses were also given on Islamophobia and on Muslim religion and civilization, in order to prevent any discrimination, even involuntary, by prison staff. Middle-grade and senior police and prison officers were also made more aware of the rights of prisoners to be treated on an equal footing, regardless of race or religion. In all, several thousand of them had received training over the past two years, including within the framework of the regional activities of the European Police College (CEPOL). Cultural mediators also played a key role by serving as a link between foreign prisoners and Italian institutions. In response to the question raised by Mr. Calí Tzay about a Nigerian prostitute who had been beaten in prison and photographed half-naked, he said that the director of the prison concerned had tendered his resignation, which had been accepted, and that criminal proceedings were under way.

13. **Mr. Monnanni** (Italy) said that a large number of events were being organized as part of the UNAR campaign against discrimination, including the free distribution, in March 2012, of information flyers and plastic bags bearing an anti-racism slogan in some 1,200 supermarkets throughout the country.

14. **Mr. Diaconu** asked whether it would not be desirable to set up a mechanism for dialogue between the State and local authorities so that the latter did not adopt a law contrary to national migration legislation or an international instrument, leading to what could be a very lengthy appeal being lodged against that law before the Constitutional Court. Italy should, as a matter of urgency, stamp out prejudice against Roma and migrants, which sometimes resulted in very serious situations, like the recent fire that had been started in a Roma camp as retaliation following baseless rumours concerning the rape of a young woman by a member of that community.

15. **Mr. Vulpiani** (Italy) said that appeals lodged with the Constitutional Court to settle disputes between State organs did not last as long as those lodged by individuals. In addition, the State had exclusive jurisdiction in a number of areas, like immigration, thereby averting conflicting norms. Potentially discriminatory regional bills were often brought to the attention of UNAR, even before they were considered by the competent legislative authorities and, in such cases, UNAR issued a negative legal opinion in order to interrupt the legislative process. That was what had happened with the bill submitted in Venetia in 2011, designed to limit access to certain social benefits to persons who had been living in the region for at least 10 years, which discriminated both against migrants and against Italians who had recently settled in the region, notably for professional reasons. Following the negative opinion of UNAR, the bill had been withdrawn. In the latter half of 2010, UNAR had denounced several situations that it considered discriminatory in the matter of access to services and to social housing along with the red tape to which foreigners were subjected and had so informed the authorities in all the prefectures, regions and municipalities of the country.

16. **Mr. Monnanni** (Italy) agreed that prejudice must be forcefully combated and said that, in the case of the fire in the Roma camp in Turin, the Minister for Cooperation and Integration had immediately gone there to express his solidarity. All too often public opinion tended to draw hasty conclusions about a population group on the basis of the criminal behaviour of one of its members. An awareness-raising campaign was currently

being carried out in public transport services, and booklets on the history of the Roma and the Sinti were being distributed in schools.

17. **Mr. de Gouttes** enquired about the maximum period of administrative detention of undocumented migrants and asylum seekers; the measures planned to improve living conditions in holding centres like the one in Lampedusa where, according to NGOs, the persons held were victims of ill-treatment; whether the legal assistance offered to asylum seekers and illegal immigrants really varied according to the law court and the region; and lastly, whether the State party took care to ensure humane treatment for undocumented minors held with their parents. The Committee would welcome further information from the State party in its next periodic report on the law prohibiting the wearing of a headscarf and comprehensive statistics on the number of complaints lodged, prosecutions initiated and sentences handed down for racism.

18. **Mr. Monnanni** (Italy) said that the bill on the wearing of headscarves, submitted by a single parliamentarian, was at a standstill. The wearing of a headscarf was still authorized and could not be prohibited by decision of a local authority. UNAR had intervened in some northern communes to prevent the installation of notice boards banning the *burqa*. Aggressions of a racist character had accounted for 5.8 per cent of criminal offences in 2011, as against 6.5 per cent in 2010. Not having more precise statistics on the issue, he undertook to provide the Committee with further information in writing.

19. **Mr. Vulpiani** (Italy) said that administrative detention could not exceed 18 months. He recalled that, in the spring of 2011, Italy had coped with a massive influx of refugees from North Africa to whom it had provided free legal assistance, daily meals and an allowance of five euros a day. In addition, the persons concerned had been allowed to correspond with their families abroad and to receive visits.

20. **Mr. Bottino** (Italy) said that one of the first measures of the new Government had been to open up holding centres to the media. He was unable to answer the questions about the situation of minors held with their parents; he would convey the requested information to the Committee at a later date.

21. **Mr. Murillo Martínez** asked what had become of the bill to recognize Roma and Sinti minorities and Travellers as national minorities. It would be useful to know whether civil society organizations had conducted surveys to determine the scale of racism in the country and, if so, what their findings were. Lastly, he enquired whether measures had been taken to eliminate the Roma databases that had been established in 2008.

22. **Mr. Monnanni** (Italy) said that one of the priorities of the Roma strategy adopted in February 2012 was to pass a bill granting the Roma and Sinti the status of national minorities. A drafting committee composed of representatives of the various ministries concerned, including the Ministry of Justice and the Ministry of the Interior, would be set up and the bill could be expected to be finalized by late 2013. The information gathered in 2008 through the Roma and Sinti census drive had been destroyed, so that there was no longer a specific database on those communities. In 2011, UNAR had allocated €250,000 for the establishment of the centre for research on ethnically- or racially-motivated discrimination. The centre had developed indicators that would enable the scale of the phenomenon of racial discrimination to be measured at local and national levels. The outcome of that work would be available by the end of 2013.

23. **Mr. Thornberry** asked whether the State party could ensure that the education system was opened to Travellers, in particular by recruiting teachers prepared to work where those communities were living and to follow them in their travels. It would be interesting to know where Roma children received intercultural education and whether Roma communities had a hand in the design of curricula. Lastly, he asked what concrete steps were being taken by the public authorities to combat the trivialization of racist

discourse and prejudice, which a growing proportion of the population seemed to find acceptable.

24. **Mr. Vulpiani** (Italy) said that in the 1960s the policy with regard to the education of Roma children had been to send teachers to work in those communities. It had been found, however, that the children were thereby marginalized even further. For that reason, and in a spirit of integration, the current policy was to require Roma children to be enrolled in regular schools. Under the training programme for mediators launched by the Council of Europe following the adoption on 20 October 2010 of the Strasbourg Declaration, several linguistic and cultural mediators had been trained. As a result, local authorities now had a list of approved mediators on whom they could draw in case of need.

25. **Mr. Amir** (Country Rapporteur) asked whether the State party was planning to withdraw its reservation to article 4 of the Convention.

26. **Mr. Saidou**, noting from paragraph 79 of the report that UNAR bestowed an award on enterprises with good practices in the integration of minorities, enquired whether the State party ensured that large Italian corporations respected the provisions of the Convention, including in their foreign subsidiaries.

27. **Ms. Crickley** asked when the State party thought it would be able to establish a national human rights institution and launch its new National Plan of Action against all forms of racial discrimination and what activities it was planning for 2012 to implement its Roma strategy. Had a timetable been set for the evacuation and demolition of the Roma camps and were the children currently living in those camps enrolled in regular schools? Lastly, she noted with concern that, owing to the discretionary powers vested in the local authorities for the granting of nationality and the substantial backlog in the processing of applications for naturalization, migrants continued to suffer from discrimination. The Committee would welcome comments from the delegation on the matter.

28. **Mr. Vázquez** wished to know whether the State party intended to amend its criminal legislation in order to introduce into it a provision making a racist motivation for an offence an aggravating circumstance, including in cases where it was combined with other motives.

29. **Mr. Brasioli** (Italy) said that he would forward to the competent authorities the Rapporteur's request concerning the withdrawal of reservations to article 4 of the Convention. As for the establishment of a national human rights institution, the delegation had good hopes that it would be able to be set up before the end of the current legislature, at the end of 2013.

30. **Mr. Monnanni** (Italy) said that a charter on equality of opportunity in the workplace, aimed in particular at ensuring equality of treatment irrespective of race or ethnic origin, had been adopted. As at 31 December 2011, 112 enterprises with a total of 6,000 employees had signed it. The National Plan of Action against all forms of racial discrimination should be able to be launched in September 2012 and a review of the results of the Roma and Sinti strategy would be carried out on 31 December 2012.

31. **Mr. Bottino** (Italy) said that the Minister for Cooperation and Integration had undertaken to cut by half the waiting period for a residence permit and to increase twofold the period of validity of that permit so as to alleviate the job insecurity of migrants. Lastly, and while recognizing that the Criminal Code should be supplemented by a provision making racial motivation an aggravating circumstance, he stressed that it was not always easy to determine what had prompted a person to commit an offence and that some offences which, at first sight, seemed racist in character, might have other motivations. Thus, in the case of the six illegal workers of African origin who had been killed in Campania in 2008,

the real motive of the offenders had been to disturb the peace and to terrorize the population.

The meeting rose at 6 p.m.