



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

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## Committee on the Elimination of Racial Discrimination

### 110th session

#### Summary record of the 2985th meeting\*

Held at the Palais Wilson, Geneva, on Tuesday, 8 August 2023, at 3 p.m.

Chair: Ms. Shepherd

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\* No summary records were issued for the 2983rd and 2984th meetings.

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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**

*Twenty-first periodic report of Italy (CERD/C/ITA/21; CERD/C/ITA/Q/21)*

1. *At the invitation of the Chair, the delegation of Italy joined the meeting.*
2. **Mr. Petri** (Italy), introducing his country's twenty-first periodic report (CERD/C/ITA/21), said that Italy had recently implemented a number of legislative amendments to help combat behaviour that fuelled hatred, including on social media platforms, where widespread hate speech targeted individuals on the basis of their race, skin colour, nationality or ethnic origin. The comprehensive definition of "hate crime" contained in the Criminal Code provided a strong legal basis for investigating and prosecuting such crimes. In addition, the National Office against Racial Discrimination and the Observatory for Security against Acts of Discrimination ran anti-discrimination training and awareness-raising programmes throughout the country.
3. The Government was drafting a new national plan against racism, xenophobia and intolerance, in line with the European Union Anti-racism Action Plan 2020–2025, to complement national anti-racism policies. Building on the success of the National Plan of Action Against Racism, Racial Discrimination, Xenophobia and Related Intolerance 2015–2017, the new plan would help to ensure a coordinated response by institutions and civil society to racism in the country. The Government was also taking steps to improve the implementation of the National Strategy for the Inclusion of Roma, Sinti and Camminanti Communities. In the area of migration, Italy provided immediate assistance to persons in emergency situations while ensuring the social, cultural and labour integration of those foreign nationals who settled in the country.
4. **Ms. Esseneeme** (Country Rapporteur) said that the State party's periodic report most likely contained outdated information, since its consideration – initially scheduled for the spring of 2020 – had been postponed owing to the coronavirus disease (COVID-19) pandemic. She hoped that the delegation would provide relevant, up-to-date information during the dialogue.
5. She wished to know how the five special regions of Italy differed from the other 15 regions. In addition, she would like to know whether the country's privacy law provided for any difference in the treatment of nationals and non-nationals in terms of data collection and, if so, on what grounds. She noted that the Constitution referred to the principle of respect for self-determination and wondered which population groups could self-determine and what set them apart from the rest of the population. The Constitution also referred to the imposition of limits on the right of ownership for reasons of social solidarity and economic stimulus. She wished to know what those limits were and how they were imposed. It would also be useful to know to what extent the Interministerial Committee for Human Rights cooperated with non-governmental and civil society organizations in drafting the State party's periodic reports to the various treaty bodies, and which of those organizations contributed to implementing the Committee's concluding observations.
6. The Committee noted that article 604 bis of the Criminal Code criminalized propaganda based on racial or ethnic superiority or hatred or incitement to discrimination. However, the Criminal Code did not criminalize all forms of discrimination provided for in article 1 of the Convention. In addition, the Committee had received reports that persons who were convicted of crimes under article 604 bis frequently received fines rather than prison sentences, and that those fines were not always commensurate with the offence committed. In that regard, she would welcome an update on the case of a former member of the European Parliament, Mario Borghezio, who had appealed to the Supreme Court of Cassation to quash a ruling of the Milan Court of Appeal upholding a decision of the Milan Criminal Court to fine him for having made racist remarks during a radio interview in 2013. In the light of reports that hate speech and attacks motivated by racial hatred were becoming more widespread, and that politicians had fomented such hatred with impunity, she was eager to know what practical measures the State party had taken to prevent racist hate speech, whether it had involved the groups targeted by such speech in developing those measures, what steps

it envisaged taking to ensure that politicians and public authorities refrained from inciting racial discrimination, in line with article 4 (c) of the Convention, and which specific legal provisions criminalized hate speech.

7. She would be grateful for information on the number of cases of hate speech detected by the Observatory on Media and the Internet since 2018; on the judicial or administrative actions taken in respect of those cases, beyond merely removing the offending content; on whether the Observatory's detection software identified the authors of hate speech; and on whether the State party had made any further progress towards ratifying the Additional Protocol to the Convention on Cybercrime, concerning the Criminalisation of Acts of a Racist and Xenophobic Nature Committed through Computer Systems. Likewise, she would appreciate an update on the activities of the Observatory for Security against Acts of Discrimination during the period under review. Given that the latter Observatory had no investigative powers, she wished to know what legal or judicial measures were taken in response to identified acts of discrimination. She wondered whether the fact that such crimes could not be reported anonymously limited the impact of the two observatories, particularly as victims might fear reprisals if their identity was known.

8. It would be helpful to have up-to-date information from the National Office Against Racial Discrimination on the proportion of cases of discrimination that were based on race and ethnicity. Since the Office was not empowered to initiate legal proceedings, she would like to know what measures were taken to follow up those cases that were reported to it. She would also like to know whether the opinions issued by the Office had any particular legal value, such that they might influence court rulings. She was keen to know in how many cases the Office had assisted victims for the duration of legal proceedings, until the sentence had been handed down and adequate redress had been provided. She also wished to know how many law enforcement officers had been trained to identify and investigate hate crimes and what specific training modules had been offered during the period under review. She wondered whether the impact of that training could be quantified and, if so, what improvements had been made, particularly in identifying and investigating hate crime cases.

9. She encouraged the delegation to provide up-to-date statistics on migrants in Italy, disaggregated by country of origin. Given that the State party had asserted that its legal framework effectively upheld migrants' rights, she wondered whether it planned to become a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Against the backdrop of reports that the State party was using the state of emergency declared in April 2023 as a pretext for returning migrants whom it considered to be illegal, and was building detention centres specifically for those migrants, she would be interested to know what was being done to ensure that such persons were treated with dignity and were provided with adequate accommodation, nutrition and health care. She would appreciate an update on the implementation of the decision issued by the European Court of Human Rights regarding the forcible removal of four Tunisian migrants in 2017. It would be useful to know what measures the State party was taking to ensure compliance with the principle of non-refoulement and to prevent such collective expulsions in the future.

10. Given that special residence permits, whose issuance was provided for in Act No. 132 of 2018, on immigration and security, were more restrictive than the humanitarian permits of stay which they had replaced, she wished to know how many migrants had become undocumented following the expiry of their humanitarian permits. She would welcome the delegation's response to claims that such migrants could be arrested and deported, despite having lived legally in the country for several years. She was particularly eager to know what action the State party was taking to protect migrant children and young adults whose humanitarian permits of stay were no longer valid. The State party was to be lauded for bringing its legislation on the protection of migrant children into line with international standards, in particular through the adoption of Act No. 47 of 2017, on measures for protection of unaccompanied foreign minors; she would like to know, however, whether the decrees implementing that law had been issued and, if so, what notable progress had been made in the protection of migrant children.

11. In view of reports that asylum-seekers remained undocumented while awaiting decisions on their applications for international protection, leaving them vulnerable to

marginalization, she wished to know what measures the State party was taking to provide such persons with residence permits pending the outcome of asylum cases. Furthermore, given claims that persons who had been granted refugee status faced administrative hurdles that prevented them from enjoying their rights, in particular their rights to education and employment, it would be useful if the delegation could provide information on the implementation of the national integration plan adopted in October 2022, including on the resources allocated to that end, and on the steps that it was taking to facilitate refugees' access to the administrative documentation they needed.

12. She would also be grateful if the delegation could provide further information about the impact of the law known as the Cutro Decree, in particular what would become of migrants whose requests for special protection status were rejected and – as the Decree removed the requirement to provide social services for migrants – how the State party would ensure that migrants in need of special care or assistance were identified effectively. She wondered whether the State party had assessed the compatibility of the Decree with international human rights law and what measures were in place to ensure that organizations and individuals involved in migrant rescue operations were not prosecuted.

13. It would be useful to know how the State party justified restricting most foreign nationals who were not European Union citizens to performing only manual and low-skilled jobs. She wondered whether non-European Union foreign nationals had access to professional training and what progress had been achieved since the adoption of the 2016 national action plan on business and human rights. She wished to learn what measures were in place to ensure that unscrupulous employers of migrants were prosecuted and that irregular migrants could earn a living. It would also be helpful to know what categories of protected persons were included in the mandatory public sector quotas stipulated by Decree-Law No. 101 of 2013, what were the criteria for identifying such persons and how the quotas were decided. In addition, she would appreciate information on any measures taken to reduce the high level of school dropout among the children of migrants, Roma and other poor minorities.

14. She would welcome information on the number of stateless persons in Italian territory and on the measures taken to simplify the administrative and judicial procedures for identifying and recognizing statelessness and for naturalizing stateless persons. She wondered whether the State party had considered granting Italian citizenship to all stateless children born in its territory. She would be interested in hearing the delegation's thoughts on what might be done to increase awareness of the legal rights accorded to stateless persons and to facilitate their access to basic social services. It would also be interesting to learn why the State party had adopted Act No. 132 of 1 December 2018, which provided for the withdrawal of citizenship from persons convicted of certain crimes. She wondered whether citizenship was withdrawn automatically in such cases, what categories of individuals could see their citizenship withdrawn and whether individuals could be left stateless as a result.

15. The Committee would welcome information on the presence of historic linguistic minorities in Italy, including where they lived and whether there were any differences between their ways of life and those of the rest of the population. It would be useful to know whether members of such minorities had Italian citizenship, how they were represented in public affairs and why they were behind the national averages with regard to education and other areas.

16. She wished to know what the objective of the Diaspora Summit held in 2017 had been and what actions had been taken to further the stated aims of the National Conference on Development Cooperation held in 2018. In particular, she wondered which members of the diaspora in Italy had benefited from those actions and how many migrants of African descent had received the training offered through the Associazioni Migranti per il Cosviluppo project to support the development of small-scale social or economic projects in migrants' countries of origin. She would be grateful if the delegation could provide statistics on the number of persons of African descent who had obtained Italian citizenship and on their participation in public affairs. She would also welcome information on what the State party was doing to combat the structural discrimination faced by persons of African descent.

17. With regard to the issues raised in the Committee's concluding observations on the State party's combined nineteenth and twentieth periodic reports ([CERD/C/ITA/CO/19-20](#)),

she would welcome statistics on the number of reports of racial discrimination, the prosecutions pursued, the penalties imposed, the reparations granted to victims and the measures taken to prevent hate crimes and violence against persons of African descent. She wished to know how many persons of African descent worked as law enforcement officials. It would also be useful to know how many worked as schoolteachers, whether the country's colonial past – and the persistent impact of racially discriminatory policies linked to colonization – was covered in the educational curriculum and what activities had been carried out as part of the International Decade for People of African Descent.

18. **Mr. Payandeh** (Country Task Force) said that he wondered why the State party had not provided all the population data requested by the Committee and how, without such data, it intended to fulfil its obligations under the Convention, which required the State party to assess the actual socioeconomic situation of protected groups. He wished to know how the topics of human rights, racial discrimination and equality were addressed in the national school curriculum and whether an action plan to promote global citizenship education was being developed. It would also be useful to know whether activities to promote understanding and awareness of Roma, Sinti and Camminanti history and culture were ongoing and whether the impact of such activities had been evaluated.

19. **Mr. Kut** said that he wished to know whether Italy had decriminalized all forms of irregular migration and what practical measures were in place to guarantee the principle of non-refoulement. He also wondered what had been done to put an end to the eviction of Roma, Sinti and Camminanti communities and the use of segregated camps and to ensure that they had adequate accommodation.

20. **Mr. Diaby** said that, in the light of recurring incidents of hate speech and racism at sporting events in Italy, he would like to know whether the Government intended to legislate against racism and discrimination in sport, especially football. He also wished to know whether it intended to adopt a national plan to combat statelessness by 2024, the year in which the Global Action Plan to End Statelessness 2014–2024 would terminate. Commending Italy on its ratification of the Convention relating to the Status of Stateless Persons, he asked whether it planned also to ratify the Convention on the Reduction of Statelessness.

21. **Ms. Stavrinaki** said that it would be interesting to learn what health and social services were provided to migrants, many of whom experienced extreme violence during their journey to Italy. Given the large proportion of gynaecologists who were registered as conscientious objectors to abortion, she wondered how the State party ensured access to abortion, especially for migrants and refugees, and whether it monitored the impact of abortion access on maternal mortality.

22. **Ms. Tebie** said that she would be grateful if the delegation could provide information on the implementation status of the National Strategy for Roma Inclusion 2012–2020 and on the Strategy's impact on the integration of Roma.

23. **Mr. Balcerzak** said that he wished to know more about the State party's current national policy on immigration, in particular in the light of the closure of certain reception centres.

24. **Mr. Amir** said that he wondered how the State party justified the difference in the way that European and African migrants were treated and whether it had ever apologized publicly for its colonial past.

25. **Mr. Yeung Sik Yuen**, referring to information submitted by the civil society organization Associazione 21 luglio regarding incidents of hate speech against the Roma by political figures, asked whether the individuals concerned had been prosecuted and acquitted or whether they had been absolved from prosecution. If the latter were true, how did it affect the credibility of the entity responsible for implementing the National Strategy for Roma Inclusion 2012–2020?

26. **Mr. Guissé** said that he would welcome the delegation's comments in response to claims that the State party's migration policy criminalized both migration and the defence of migrants attempting to reach Italy. He wondered whether the delegation was aware that the

State party's migration policy rendered it complicit in crimes against migrants that were taking place in neighbouring Mediterranean countries.

*The meeting was suspended at 16.20 and resumed at 16.35.*

27. **A representative of Italy** said that all acts that were punishable under article 4 of the Convention had been criminalized in Italian legislation. The list of offences contained in Act No. 654 of 1975, which had confirmed his country's ratification of the Convention, had been expanded and incorporated into articles 604 bis and 604 ter of the Criminal Code. Those articles criminalized the dissemination of ideas based on racial discrimination and the incitement to and the commission of acts of discrimination or violence, based on race, ethnicity or religion. The Code also prohibited participation in groups or the establishment of associations that disseminated ideas based on racial hatred; the dissemination of propaganda based on denial or defence of the Holocaust was considered an aggravating circumstance. Such acts were punishable with terms of imprisonment ranging from 6 months to 4 years. Article 604 ter provided for heavier penalties for crimes motivated, *inter alia*, by ethnic, racial or religious hatred. The relevant provisions were applied rigorously by the courts, and severe penalties were imposed for acts of racial discrimination and hate crimes. Prison sentences could also be accompanied in some cases by the imposition of fines.

28. Mr. Mario Borghezio had initially been sentenced to payment of a fine for defamation. The Supreme Court of Cassation had ruled that members of Parliament who committed acts of racial hatred could not invoke article 21 of the Constitution concerning freedom of speech or article 68 concerning immunity for members of Parliament. In addition, they were prohibited from participating in national or local elections for a period of three years.

29. **A representative of Italy** said that the National Office against Racial Discrimination monitored online hate speech based on international guidelines. It applied a multi-stakeholder approach involving the Ministry of Justice, the Ministry of Foreign Affairs and International Cooperation, the Ministry of Education, the Ministry of the Interior and civil society organizations with the aim of identifying and removing hate speech found online. An algorithm had been developed for that purpose. Training courses were provided for law enforcement agencies, the judiciary, teachers, communications and media professionals and victims' groups. The Observatory for Security against Acts of Discrimination was also involved in those activities.

30. A memorandum of understanding had been signed with the Serie A football league and the Italian Football Federation to combat hate speech in the world of sport through information and communication campaigns. A memorandum of understanding had also been signed with the United Nations Educational, Scientific and Cultural Organization to combat racism on a local and worldwide basis.

31. **A representative of Italy** said that the Observatory for Security against Acts of Discrimination had been established in 2010 with the aim of preventing and combating hate crimes. It was composed of members of the National Police and the Carabinieri Corps. The legal tools used to combat crimes linked to hate speech were based on article 604 bis and article 604 ter of the Criminal Code. Under article 90 quater of the Code of Criminal Procedure, victims in conditions of particular vulnerability were entitled to protective measures. Particularly vulnerable persons who had been the victims of crimes motivated by racial hatred could be accommodated in protected locations in police headquarters or in 75 other safe locations.

32. **Mr. Petri** (Italy) said that the Postal and Communications Police had implemented nationwide initiatives to identify and monitor web platforms used to spread hate speech crimes and to identify perpetrators.

33. **A representative of Italy** said that article 28 of Legislative Decree 150 of 2011 provided for strong protection against all forms of discrimination. Civil judges were empowered to award compensation to victims and could order the cessation of discriminatory conduct against both individuals and collective entities. Judges could also order urgent measures to pre-empt discriminatory conduct, including discrimination on the basis of language, ethnicity, race, religious beliefs, age and sexual orientation. Discriminatory behaviour relating to the provision of goods and services was also prohibited.

34. **Mr. Petri** (Italy) said that Law No. 132 of 2018 had split the Italian migrant reception system into two levels. First-level reception centres were reserved for seekers of international protection, while second-level centres hosted beneficiaries of such protection, including unaccompanied minors, victims of trafficking, domestic abuse and other forms of violence, and persons who entered the country through humanitarian corridors, including Ukrainian nationals who entered pursuant to Legislative Decree No. 16 of 2023. Guidelines on how to identify vulnerable persons had been issued to all stakeholders. They provided practical guidance on the identification of migrants entitled to special protection, including pregnant women, unaccompanied minors, victims of trafficking, people with mental health issues, and victims of violence, torture or any other form of physical or psychological abuse, in order to prevent discrimination and to facilitate the issuance of permits. The principle of non-refoulement was strictly observed and all cases were handled in accordance with the fundamental principles enshrined in Italian law, European Union legislation and the 1951 Convention relating to the Status of Refugees.

35. **A representative of Italy** said that the provisions of articles 5 and 19 of the Consolidated Immigration Act regarding non-refoulement had not been changed or otherwise affected by the Cutro Decree. Article 19 (1) of the Act prohibited the expulsion or rejection of persons who were liable to be subjected to persecution on the basis of race, sex, nationality, religion, political opinions, or personal or social conditions, or who were at risk of being repatriated to a country where there were reasonable grounds to believe that the person might be subjected to torture or other inhuman or degrading treatment.

36. **Mr. Petro** (Italy) said that territorial commissions for the recognition of international protection assessed each case on an individual basis, taking into account the personal circumstances of asylum-seekers and their risk of persecution.

37. **A representative of Italy** said that the National Labour Inspectorate considered that a multi-agency approach was required to protect migrants in the workplace. In 2020 it had launched a three-year nationwide plan to combat labour exploitation, including the exploitation of migrant agricultural workers through the practice known as *caporalato*. Two projects had been launched under the plan, and labour inspection task forces had been set up under those projects. In addition to labour inspectors, the task forces included cultural mediators from the International Organization for Migration (IOM), with which the National Labour Inspectorate had signed a collaboration agreement in 2021. Their goal was to gain the trust of vulnerable individuals and to ensure that they were properly protected. The task forces could also seek assistance from other bodies, such as health authorities, law enforcement agencies and social security institutions. Training courses for labour inspectors and other professionals had been jointly organized with IOM to ensure that labour inspectors acted appropriately and to avoid the risk of secondary victimization of migrants.

38. The National Labour Inspectorate collaborated with local prosecutors and the task forces in combating labour exploitation and *caporalato*, which were offences under the Criminal Code. Reports to the judiciary highlighted the circumstances in which victims were exposed to such phenomena so that judges and the Ministry of the Interior possessed the information required to issue special residence permits to victims of labour exploitation.

39. **A representative of Italy** said that there were both administrative and judicial procedures for the recognition of statelessness. Children born in Italy whose parents were stateless or could not pass on their nationality to their children would receive Italian citizenship, as would children whose parents were unidentified or unknown. De facto statelessness was recognized, in line with the international conventions on statelessness. Individuals could only be stripped of their citizenship if they had been involved in terrorism.

40. **A representative of Italy** said that the progress made in his country with regard to statelessness had been recognized by international bodies, including the United Nations High Commissioner for Refugees. The National Strategy for the inclusion of Roma, Sinti and Camminanti communities provided for work to be undertaken on the issue of statelessness in the Roma community. A survey was planned to gain a better understanding of the current situation regarding statelessness.

41. There was a growing population of persons of African descent in Italy. The authorities had been cooperating with non-governmental organizations representing that community to

promote equal opportunities, combat discrimination and raise awareness of the history and culture of African countries. The National Office Against Racial Discrimination provided funding to 450 such organizations and maintained an ongoing dialogue with them regarding measures to combat Afrophobia. A study of Afrophobia carried out in 2022 had yielded useful ideas for improving the response to the issue.

42. **A representative of Italy** said that the National Institute of Statistics had been gathering information on discrimination for over 20 years; the most recent data were from 2022. The Institute cooperated with other government bodies to gather the necessary statistics for its analyses. It was not possible to disseminate data disaggregated by citizenship and ethnic origin owing to privacy concerns. Of the total resident population, 8.5 per cent, or 5 million people, were foreign nationals. Data on their nationality could be shared with the Committee, but could not be published.

43. There had been an increase in the number of asylum-seekers, who were predominantly young people, arriving in the country when the borders had been reopened following the lifting of COVID-19 pandemic restrictions. In 2021 and 2022 more than 51,000 work permits had been issued. Migrants from some countries, including the Philippines, Peru, the Republic of Moldova and China, had an employment rate of 60 per cent. Eight out of ten foreign nationals in the country had foreign educational or professional qualifications; 30.4 per cent had a university degree. Only 3 per cent of those qualifications were recognized by the State. However, some 70 per cent of those foreign nationals did not consider such recognition to be necessary; most foreign nationals were employed in low-skilled jobs and did not consider it necessary to obtain recognition of their foreign credentials or undertake further training to advance in their jobs.

44. Migrants could receive a resident permit for reasons of family reunification. It had been observed that migrants from some regions, particularly those from Asia, were less likely than migrants from other regions to speak Italian in their jobs or social lives.

45. **Ms. Esseneme**, noting that racial discrimination was a criminal offence, said that she would appreciate clarification regarding whether proceedings to obtain redress for victims of discrimination were civil or criminal. She would also like more information about the practical effects of the implementation of the Cutro Decree. She had been surprised to hear the delegation say that persons of African descent, who worked primarily in low-level manual jobs, did not wish to undertake further study to improve their career prospects. Further explanation in that regard would be appreciated.

46. **Mr. Payandeh** said that the Committee had received reports of hate speech by politicians and members of the Government, including comments that perpetuated stereotypes and linked migrants to crime. He would like to know how the State party addressed that issue. Statistics on socioeconomic indicators, including housing, the labour market and education, among different population groups would be welcome. Such data could be anonymized to allay any privacy concerns.

47. **Ms. McDougall** said that she would like to know how many persons of African descent were citizens or permanent residents.

48. **Mr. Diaby** said that it would be interesting to learn whether the State party might consider legislating against racism in sport, particularly football.

49. **A representative of Italy** said that it was possible to open both civil and criminal proceedings in discrimination cases. Those proceedings could be simultaneous.

50. Asylum-seekers and persons applying for special or international protection had the right to appeal any decision taken by an administrative authority regarding their residence permit. Judges were obliged to support applicants throughout the process and could suspend administrative measures. All applicants to whom special, international or humanitarian protections had been denied were granted free legal aid to enable them to lodge an appeal.

51. **A representative of Italy** said that new official statistics on poverty would be published in November, in line with European Union regulations. Those statistics would show which households were above and below the poverty line, by citizenship among other

variables, although microdata could not be provided for privacy reasons. Statistics on the number of citizens of African descent would be provided in due course.

52. **Mr. Guissé** said that he would appreciate a response to his earlier question regarding the criminalization of migrants and human rights defenders working to protect them. He would also like to know whether there were any provisions that enabled the State party to impose certain conditions to avoid human rights violations in countries to which migration management was outsourced.

*The meeting rose at 6 p.m.*