



## Human Rights Council

### 20<sup>th</sup> Session of the UPR Working Group (October – November 2014)

## Universal Periodic Review (UPR) of the Republic of Italy

### Joint Stakeholders' Submission

Submitted by:

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(NGO in Special Consultative Status with ECOSOC)

and

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(Geneva, 14 March 2014)

## **A.1) NATIONAL INSTITUTION FOR THE MONITORING OF HUMAN RIGHTS**

### **1. Lack of an independent National organization for the promotion and verification of the respect of human rights in general and rights of the child in particular (Rec. 11, 12, 13, 15)<sup>1</sup>**

2. Italy has declared it accepts the recommendation “*considering the same already implemented or in the course of implementation*”. Let us assess the situation:

- The document “Italy one year after the UN council recommendations on human rights” published in June 2011, by the **Committee for the promotion and protection of human rights**, reported the strange “*abnormality of a nation with a great constitutional history of recognition and protection of fundamental rights and a significant democratic tradition (...) which lacks an independent institution at a national level in conformity with the Paris Principles, an abnormality that is now being discussed in all international forums concerning our Country*”<sup>2</sup>.

### 3. What does actually exist with regard to control of Human Rights in general?

- ✓ There is an **INTERMINISTERIAL COMMITTEE FOR HUMAN RIGHTS**<sup>3</sup>. It is a body of the Foreign Affairs Ministry in charge of presenting a report to the Parliament every year, regarding the protection and observance of human rights in Italy. At the end of 2012, the committee had been suppressed as part of a plan for a reduction in public spending; however, it was restored by the Minister of Foreign Affairs Emma Bonino in September of 2013, in light of the preparation of the **Common Core Document**, the fundamental document for a comprehensive presentation of the Italy-system for the upcoming UPR of October 2014.
- ✓ At the Senate, there is an **EXTRAORDINARY COMMISSION FOR THE PROTECTION AND PROMOTION OF HUMAN RIGHTS**<sup>4</sup>. It is entirely made up of Senators and it operates in connection with the NGOs that deal with the fundamental rights of the person. It raises awareness within the Government, Institutions and public opinion regarding violations and weaknesses in terms of rights protection.
- ✓ At the Chamber of Deputies, there is a **PERMANENT COMMISSION ON HUMAN RIGHTS**. This body is responsible for examining general issues pertaining to human rights, especially at the international level, as it is part of the Foreign Affairs Commission of the Chamber.

4. None of these agencies which work for human rights in several instances and with complementary tasks, responds to the demands of the 1991 Principles of Paris and Resolution 48/134 of the United Nations adopted on December 20th, 1993, which commits all signatory States to “*establish national authoritative and independent bodies for the promotion and protection of human rights and fundamental freedoms*”.

5. Even before the UPR of Italy, some bills had been presented on said issue; however, following the “recommendations”, proposals A.S. 1223 (by initiative of P. Marcenaro) and A.S. 1241 (initiative of B. Contini and S. Fleres) were accepted and merged into bill A.S. 2270 by government initiative, which was almost unanimously approved by the Senate on July 20, 2011, under the heading “*Institution of the National Commission for the promotion and protection of human rights*”. Said text was submitted to the Chamber of Deputies (A.C. 4534) and combined with other bills (A.C.1918 e A.C.1720). The discussion began on October 27<sup>th</sup>, 2011; however, the obstructionism of a minority prevented it from reaching its examination by the Assembly, until on December 18th, 2012, the Chambers were dissolved<sup>5</sup>.

<sup>1</sup> Human Rights Council. Document A/HRC/14/4.

<sup>2</sup> [http://unipd-centrodirittiumani.it/public/docs/19\\_06\\_2011\\_Final\\_con\\_6\\_doc\\_UPR\\_e\\_pledge.pdf](http://unipd-centrodirittiumani.it/public/docs/19_06_2011_Final_con_6_doc_UPR_e_pledge.pdf), p. 57.

<sup>3</sup> Instituted with law 80 of 1999. We refer here to the last reports dated 10/6/2011

([http://documenti.camera.it/\\_dati/leg16/lavori/documentiparlamentari/indiceetesti/121/004\\_RS/INTERO\\_COM.pdf](http://documenti.camera.it/_dati/leg16/lavori/documentiparlamentari/indiceetesti/121/004_RS/INTERO_COM.pdf)) and 08/27/2012 ([http://www.camera.it/\\_dati/leg16/lavori/documentiparlamentari/IndiceETesti/121/005/INTERO.pdf](http://www.camera.it/_dati/leg16/lavori/documentiparlamentari/IndiceETesti/121/005/INTERO.pdf)) on data collected in 2010 and 2011.

<sup>4</sup> The last available report is of 12/19/2012

(<http://www.senato.it/documenti/repository/commissioni/dirittiumani16/relazionefinale.pdf>).

<sup>5</sup> See: Preface to the **Report of the Extraordinary Commission for the Protection and Promotion of Human Rights**

<http://www.senato.it/documenti/repository/commissioni/dirittiumani16/relazionefinale.pdf>

## **A.2) A NATIONAL INDEPENDENT BODY FOR THE PROMOTION OF THE RIGHTS OF THE CHILD**

6. The parliamentary Commission for childhood exists since 1997 and it became the **Parliamentary Commission for Childhood and Adolescence** with the law of 8/03/2009, n. 112. It has the task of «acquiring data, favouring the exchange of information and promoting adequate synergies with agencies and institutions for the promotion and protection of childhood and adolescence, operating in Italy and abroad and with associations, non-governmental organizations and all other subjects operating in the area of protection and promotion of the rights of minors, as well as foster care and adoption». It controls the implementation of international covenants pertaining to rights of the child and adolescents and reports on the results of its activity to the Chambers at least once per year.<sup>6</sup>

7. With law n. 451/1997, the **National Observatory for Childhood and Adolescence** was established with the task of coordinating central administrations, regions, local agencies, associations, professional boards and non-governmental organizations dealing with childhood. Its functions were updated in 2007 (DPR 193 of 14/05/2007) under the joint presidency of the Ministry of Labour and Social Policies and the Minister with delegated authority for family policy. Members are selected among state administrators, agencies and associations, volunteers and third sector organizations and experts in terms of childhood and adolescence. Its task is as follows: prepare official documents pertaining to childhood and adolescence<sup>7</sup>. For its activity, the National Observatory relies on the **National centre of documentation and analysis for childhood and adolescence**<sup>8</sup>.

8. This entire institutional structure of promotion and control responds only in part to the requirements issued at the end of the 2010 UPR that Italy committed to implement.

The real problem is that what is established by law does not occur. This is also due to the real difficulties related to two main factors:

- The several political crises over the last few years certainly did not favour a regular and continuous work by any of the aforesaid institutions, especially the first and most important one: the Parliamentary Commission for Childhood and Adolescence.
- The economic crisis with cuts in public spending drastically reduced the funds available to both the National Observatory and the Centre for Documentation, affecting their operational capabilities.

### **9. RECOMMENDATION:**

- To implement law 451/1997 comprehensively for an effective coordination between the National Observatory for Childhood and Adolescents and its contact agencies and institutions for an improvement of the rights of the child.

## **A.3) AN OMBUDSMAN FOR THE RIGHTS OF THE CHILD**

10. Italy has responded to this point: in fact, on July 12, 2011, law 112 established the **Guarantor Authority for Childhood and Adolescence** with the following powers:

- To oversee the implementation of the UN Convention of 1989;

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<sup>6</sup> Reference documents are the *surveys* described in Parliament

([http://parlamento.camera.it/organismi\\_bicamerale/16/71/73/80/scheda\\_commissione.asp](http://parlamento.camera.it/organismi_bicamerale/16/71/73/80/scheda_commissione.asp)).

<sup>7</sup> 1) The National Plan for Action and intervention for the protection of rights and the development of subjects in developmental age, prepared every two years to prioritize programs referred to minors and to strengthen cooperation for the development of children in the world.

2) The Two-year report on the conditions of children in Italy and the enforcements of pertaining rights. The last report refers to years 2008-2009 and it served as the basis for the latest National Plan for Childhood.

3) The Government Report to the UN on the enforcement of the International Convention on the rights of the child of 1989, at the deadlines referred in art. 44 of the Convention. The last available report is titled "*GROWING RIGHTS – Third-fourth report to the United Nations on the conditions of children and adolescents in Italy*" was published in February of 2009 and refers to researches performed in the years 2006-2008.

<sup>8</sup> [www.minori.it](http://www.minori.it)

- To spread the knowledge and culture of children and adolescents' rights;
- To report any case of violation of the rights of minors to competent authorities;
- To ensure that minors are guaranteed equal opportunity in their access to their rights;
- To express opinions on the National Action Plan for the protection of the rights of subjects in developmental age;
- To express opinions on the Government Bills of the Government and the proposed legislation of the Chambers regarding minors;
- To report to the Government, regions and local bodies involved on all suitable initiatives to ensure a full promotion of the rights of the child and of adolescents.

11. He is also responsible for organizing the **National Conference to Guarantee the Rights of Children and Adolescents** made up of regional ombudsmen. On November 30th of the same year, Vincenzo Spadafora, former President of the Italian Committee for UNICEF, was appointed Ombudsman for the Rights of the Child. As far as regional ombudsmen, only a few appear to have been appointed (9 regions and the independent provinces of Trento and Bolzano) and with considerable differences regarding skills, resources and manner of operating.<sup>9</sup>

#### **12. RECOMMENDATION:**

- Complete the appointments of regional ombudsmen attributing to all the skills, resources and suitable operating procedures and favour their coordination of the National Conference by the Guarantor Authority for Childhood and Adolescence, so as to ensure the full enforcement of law 112.

### **B. PROTECTION OF ALL CHILDREN IN ITALY**

#### **13. Enforce law n. 91/1992 so as to observe the rights of all children born in Italy (rec. 40)<sup>10</sup>**

14. The law in Italy that governs the acquisition of citizenship is L. 91/1992 (with subsequent amendments/additions) whose fundamental principles may be summarized as follows:

- Transmission of citizenship *iure sanguinis*, that is by birth father or mother who are Italian citizens, or in case of minor age, by acquisition of Italian citizenship by a cohabitating parent (Art. 1 and 2);
- Acquisition of citizenship by birth on Italian territory (*iure soli*) only in some cases: unknown or stateless parents (who cannot transmit their own citizenship to the child according to the law of the State of origin) or if the child from unknown parents is found on Italian territory, not in possession of any other citizenship;
- Granting of Italian citizenship to foreign citizens married to Italians and to foreign citizens residing in Italy, under certain conditions (Art. 4, 5 and 9);
- Possibility of maintaining dual citizenship (Art.11);
- The minor from foreign origin whose foreign parents have become Italian citizens automatically acquires Italian citizenship.

15. The most discussed case (very frequent today) is that of minors born in Italy from non-citizen parents, but lawful residents. Minors born in Italy from foreign parents may apply for Italian citizenship at the age of 18; however, they only have one year to arrange for it and in any event they must prove to have resided continuously on Italian territory to that date. In addition, their stay on Italian territory may be impaired and interrupted at any time by issues concerning the parents, such as loss of employment, income reduction or termination of a rental contract: if any of the foregoing occurs, the parents must return to their country of origin. Even as adults, failure to possess citizenship may impair the person's right to live a full life: for instance, you may not register with professional associations to carry out certain professions.

<sup>9</sup> See **THE RIGHTS OF CHILDREN AND ADOLESCENTS IN ITALY (I DIRITTI DELL'INFANZIA E DELL'ADOLESCENZA IN ITALIA) – 6th° Update and follow-up report on the Convention on the rights of the child and of adolescents in Italy 2012-2013**, by the Working group for the Convention on the Rights of the Child and of p. 21 and following (<http://www.gruppocrc.net/-documenti->)

<sup>10</sup> Human Rights Council. Document A/HRC/14/4.

16. It clearly is an injustice. Suffice it to think that in 2012, out of the total births in Italy, approximately 15% were children of foreign citizens with a strong contribution to the much needed population growth in Italy. There is a widespread call for a review of law 91/1992 precisely because it does not respect the rights of all (children, adolescents and adults) to live in the country of residence with full dignity. The most authoritative voice of protest comes from the **President of the Republic Giorgio Napolitano** who reiterates article 3 of the Italian Constitution<sup>11</sup>: *“I hope that the Parliament will also tackle the issue of citizenship to children born in Italy from foreign immigrants”*

17. There is a bill of a **Law by popular initiative (N. 5030)**<sup>12</sup> at the Chamber of Deputies and actions by civil society promoted by **Unicef** which first hopes for the use of criteria related to residence and to consider principles of non-discrimination and the best interest of minors<sup>13</sup>, and by **Caritas Italiana** which launched a campaign for the right to citizenship entitled *“I too am Italy”*<sup>14</sup> which was signed by very many associations and even mayors, entire city councils and small Italian towns<sup>15</sup>.

#### 18. RECOMMENDATION:

- Modify the current legislation in terms of acquisition of citizenship, acting on the recommendations of involved subjects from civil society and the spirit of the popular proposed legislation (N. 5030), overcoming party positions in favour of a law which allows the children of immigrants to become Italian.

#### C) A NATIONAL ACTION PLAN IN FAVOUR OF CHILDHOOD (Rec. 42)<sup>16</sup>

19. The recommendation was accepted by Italy; nevertheless, some improvements are still necessary. The National Plan for Childhood (NPC) exists since 2003<sup>17</sup>, but it was established with major limitations: a) it did not respect the original system required by the National Observatory for Childhood and Adolescence; b) it lacks coordination with the National Plan for the Family; it has no financial backing<sup>18</sup>.

20. In addition, the National Plan does not operate in a regular fashion: it is a two-year plan drawn-up for the years 2000-2001, then for 2002-2004 and lastly for 2009-2011, which is the last available.<sup>19</sup>

21. Even the Committee on the rights of the Child expressed complaints after examining Italy during its 58th session<sup>20</sup>: *“The Committee is concerned that said Plan has not yet been implemented, that resources have not yet been allocated and that the process of funds designation for the action Plan at a regional level may further delay its implementation. In addition, the Committee is concerned that the Plan lacks a specific monitoring and evaluation system”* (Rec. 10).<sup>21</sup>

#### 22. RECOMMENDATION:

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<sup>11</sup> *“All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, and political opinions, personal and social conditions. It is the duty of the Republic to remove those obstacles of an economic and social nature which in fact limit the freedom and equality of citizens, impede the full development of the human person and the effective participation of all workers in the political, economic and social organization of the country”.*

<sup>12</sup> [http://www.camera.it/\\_dati/leg16/lavori/schedela/apriTelecomando\\_wai.asp?codice=16PDL0058120](http://www.camera.it/_dati/leg16/lavori/schedela/apriTelecomando_wai.asp?codice=16PDL0058120)

<sup>13</sup> <https://www.unicef.it/doc/3576/cittadinanza-iocometu.htm>

<sup>14</sup> <http://www.litaliasonoanchio.it/>

<sup>15</sup> [http://www.istitutosanti.org/cm\\_page.asp?vCodice=20030004&vLink](http://www.istitutosanti.org/cm_page.asp?vCodice=20030004&vLink)

<sup>16</sup> Human Rights Council. Document A/HRC/14/4.

<sup>17</sup> D.P.R. July 2 2003, published in the Official Gazette n. 254 of October 31, 2003.

<sup>18</sup> ITALY ONE YEAR AFTER THE RECOMMENDATIONS OF THE FOR HUMAN RIGHTS COUNCIL p. 63 ( [http://unipd-centrodirittumani.it/public/docs/19\\_06\\_2011\\_Final\\_con\\_6\\_doc\\_UPR\\_e\\_pledge.pdf](http://unipd-centrodirittumani.it/public/docs/19_06_2011_Final_con_6_doc_UPR_e_pledge.pdf))

<sup>19</sup> See <http://www.gruppocrc.net/Il-Piano-Nazionale-d-azione-per-l>

<sup>20</sup> September 19 – October 9, 2011.

<sup>21</sup> *“The Committee is concerned that this Plan is not implemented, that no budget has been allocated and that the process of allocating funds for the Plan at the regional level could further delay its implementation. Furthermore, the Committee is concerned that the Plan of Action lacks a specific monitoring and evaluation system”* (CRC/C/ITA/CO/3-4 of October 31, 2011).

- Implement the 2003 National Plan for Childhood while respecting the original structure agreed with the National Observatory for Childhood and Adolescence, in coordination with the National Plan for the Family, while allocating the necessary financial resources.

#### **D. CHILDREN WITH DISSABILITIES**

##### **23. Approve a National action plan for children and provide specialized training to teachers and practitioners in the area of education of children with disabilities (Rec. 43)<sup>22</sup>**

24. Italy declared it accepted the recommendation “*considering the same already implemented or in the course of implementation*”.

25. The **Summary Report on the Monitoring of the 3rd National Plan for Childhood**, published at the beginning of 2013 by the *National Centre of Documentation and analysis for childhood and adolescence*, acknowledges that the issue of welcoming and integrating children with disabilities represents a fundamental challenge to overcome barriers, not so much architectural as cultural, social and economic, and that the inclusion of children with disabilities is a quality indicator of child policies.

26. In Italy – states the document – the specialist approach was overcome; moreover, the rehabilitative medical model, which considered disability only as a medical matter, and school initiatives follow the ICF model (International Classification of Functioning) of the OMS. In fact, the ICF interprets disability as an interaction between a shortcoming in the functioning and the social/cultural context where the person lives, placing the attention on the barriers posing obstacles or the facilitating mechanisms that promote the participation of the child with disabilities to social activities in school and learning processes.

27. Said process initiated in Italian schools in the early 70s as a protest against marginalizing institutes and structures; in the following decades, a significant cultural and conceptual evolution took place with regard to the issue of disability: the child with disabilities had to be as much as possible as all others... and the term of integration gradually replaced the one of simple insertion.<sup>23</sup> In 2009, Italy ratified the **Convention on the Rights of Persons with Disabilities**<sup>24</sup> and the pertaining optional protocol adopted by the UN General Assembly on December 13<sup>th</sup>, 2006. The Convention does not recognize “new” rights to individuals with disabilities; it rather rephrases their needs in terms of human rights. In 2010, the DGCS (Directorate General for Economic Co-operation and Development) approved the **Guidelines**<sup>25</sup> to introduce the issue of disability to policies and activities of the Italian Cooperation based on the statements of the UN Convention and International reference standards. On September 5<sup>th</sup>, 2011 a *Working Table* was established (Italian Network for Disability and Development, made up of the associations Aifo, Dpi Italia Onlus, EducAid and Fish) to draft an action plan for the enforcement of the same.

#### **The Action Plan on Disability**

28. In July of 2013, the **Action Plan on Disability** was made public; it focused on the concept of *inclusion* in social environments, structures, and the territory. We must add to this **the National Observatory on the conditions of persons with disabilities**, created with Law 18 of 2009, to control the same Plan and to prepare the Italian Report on the application of the Convention to the Committee on the rights of persons with disabilities of the United Nations.

29. The document **First Italian Report to the United Nations on the implementation of the UN Convention on the Rights of Persons with disabilities** prepared by the *Ministry of Labour and Social Policy* in November

<sup>22</sup> Human Rights Council. Document A/HRC/14/4.

<sup>23</sup> [http://www.minori.it/sites/default/files/pianoinfanzia2011\\_rapportodisintesi.pdf](http://www.minori.it/sites/default/files/pianoinfanzia2011_rapportodisintesi.pdf) pages 66-69

<sup>24</sup> <http://www.governo.it/backoffice/allegati/42085-5202.pdf>

<sup>25</sup> [http://www.cooperazioneallosviluppo.esteri.it/pdgcs/documentazione/PubblicazioniTrattati/2010-07-01\\_LineeGuidaDisabilita.pdf](http://www.cooperazioneallosviluppo.esteri.it/pdgcs/documentazione/PubblicazioniTrattati/2010-07-01_LineeGuidaDisabilita.pdf)

of 2012, highlights a substantial compliance of Italian Regulations with the dictates of the CRPD (Convention on the Rights of Persons with Disabilities) in terms of school inclusion.

30. The Working Group for the **Convention on the Rights of the Child and Adolescents** (CRC Group)<sup>26</sup> appears less optimistic, as it makes some notes on the actual situation in the *6th Report on the application in Italy of the UN Convention on the Rights of the Child*<sup>27</sup>:

- The situation on the national territory is still characterized by high levels of dissimilarity and fragmentation: the right to early diagnosis and individualized rehabilitative treatment is seldom recognized in regional welfare models among the essential levels of healthcare. The organization of services is still poor and too often left to the costly efforts of parents.
- Much information is missing pertaining to the 0-5 age range and only partial information is available as of the age of 6. Therefore, the extent and characteristics of disability are not yet well-identified.
- The concept of **handicap** still prevails in Fundamental Laws, thereby preventing the spreading of a culture appropriate to the times, beginning with the framework law on assistance 104/1992.

31. Nevertheless – states the CRC Group – the launching of the aforesaid *Observatory on the conditions of persons with disabilities* represents an important new development especially in terms of *school inclusion*.

### **Specialized training for Teachers and school personnel**

32. Also according to the observations of the CRC Group, training of personnel remains a highly critical point. There is still a lack of initiatives to ensure adequate training for all teachers (especially those in actual service), school executives and support staff. This represents a serious obstacle to the school inclusion of students with disabilities, fuelling the phenomenon of “delegation” only to teaching assistants (moreover, these are not always adequately trained) and serious risks of exclusion and discrimination.

- There are still evident problems in the **allocation of support teachers**:
  - More and more families turn to the courts to obtain an increase in hours;
  - A considerable number of students changed his or her teacher assistant in the course of the same academic year or in passing from one to the other;
  - The situation is particularly significant in the Southern part of the country.
- In general, the number of specialized teachers increased through the years; however, especially in certain provinces, it is still very scarce. New specialist courses for teachers have been long anticipated, but in fact these were never put into practice;
- The data pertaining to the participation of students with disabilities to extra-curricular activities is quite discouraging: according to ISTAT (National Statistics Institute) data, only one in two students performs them and there is a minimal number of participants to school trips and educational travels;
- Very often, the maximum number of 20-22 students per class is not observed (as established by DPR 81/2009);
- Many teachers still struggle with the Identified Educational Plan and they are lacking clear information on the evaluation criteria of the educational process of students with disabilities.

33. In general – as stated in the 6th Report of the CRC Group - “*there is considerable detachment among the existing norms and the practice adopted by competent subjects at the most different levels, along with a lack of monitoring and verification systems of the observance of the law and the actual quality of school inclusion*”.<sup>28</sup>

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<sup>26</sup> Network of 82 subjects from the Third Sector engaged in the promotion and protection of the rights of the child and of adolescents, coordinated by Save the Children Italy, with the main objective of preparing the **Report on the enforcement of the Convention on the Rights of the Child and of Adolescents**, alternative to that of government agencies, to submit to the *Committee on the Rights of the Child* at the High Commissioner for Human Rights of the United Nations. To date, six reports have been published. This document refers to the latest one, pertaining to 2012-2013 (<http://www.gruppocrc.net/-documenti>).

<sup>27</sup> Pages 92-93; 104-106 ([http://www.gruppocrc.net/IMG/pdf/6\\_rapporto\\_CRC.pdf](http://www.gruppocrc.net/IMG/pdf/6_rapporto_CRC.pdf)).

<sup>28</sup> 6th Report in [http://www.gruppocrc.net/IMG/pdf/6\\_rapporto\\_CRC.pdf](http://www.gruppocrc.net/IMG/pdf/6_rapporto_CRC.pdf) p. 92-93; 104-106. Following are the Recommendations of the CRC Working Group: (p. 106). **To the Labour and Social Policy Ministry** to urgently put in place what is required for the definitive adoption of the Two-year Program on disability and its subsequent full enforcement. **To the Ministry of Education,**



#### **34. RECOMMENDATION:**

- Make data available pertaining to minors with disabilities in Italy;
- Increase the number of teachers assistants and improve the training of teachers and specialized school personnel;
- Favour in institutions and in society a culture of integration and non-discrimination in terms of handicap, using in all laws and institutional language the expression "person with disability" and similar ones (instead of disabled and similar ones), consistent with the UN Convention on Persons with Disability.

#### **PREVENTION OF SOME FORMS OF DISCRIMINATION AGAINST CHILDREN**

#### **35. Take appropriate measures to prevent and eliminate all forms of discrimination and abuse of minors (Rec. 37)<sup>29</sup>**

#### **Discrimination by reason of race, gender, ethnic origin and others<sup>30</sup>**

36. In Italy, there is an **Anti Racial Discrimination National Office** (UNAR) responsible for promoting equality among all citizens and removing discrimination particularly based on race or ethnic origin, (Law July 9 2003, n. 215) which operates within the Equal Opportunity Department of the Presidency of the Council of Ministers. By way of a "*contact-centre*" (telephone number 1522) and other information, UNAR prepares every year a report for the Parliament regarding the actual application of the principle of equality of treatment and the effectiveness of protection mechanisms. In addition to presenting a statement of accomplishments, said annual report informs political institutions and the public about the actual action and cultural issues related to discrimination by reason of race.

37. In its latest report regarding the 2012 data,<sup>31</sup> UNAR reports on 1283 cases of discrimination addressed by the Office: over half of these (51.4%) regarded episodes of discrimination by reason of race or ethnic origin. We may also add to this number the 30 cases of discrimination by reason of religious belief or personal convictions since often times the "foreigner" is offended or attacked precisely by virtue of his belonging to a specific religious belief (a typical example of this are episodes of Islam phobia).

38. More generally, although the Office began to systematically address all factors of discrimination over the last two years, racism and ethnic intolerance continue representing its core activity. Many reports are received from individuals, whether victims or witnesses (68.8%), and others from agencies and institutions (31.2%). The report contains detailed tables by region... however, generally 53.6% of the cases occur in Northern Italy, 27.6% at the centre, 14% in the South and 4.9 directly on the Internet.

39. Among the cases of ethnic-racial discrimination addressed by UNAR in 2012, 19,6% took place in the context of mass-media; 18,2% on the other hand pertained to work, whereas 17% to public life. A little over one case out of ten (11.5%) occurred in the supply of services by public bodies; 11.4% occurred during leisure time. Discrimination pertaining to access to homes and schools represents respectively 7.3% and 5% of the total cases; percentages are lower in other contexts.

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**University and Research:** **a)** reconvene and guarantee a continuous and stable activity of the National Permanent Observatory for the integration of students with disabilities; **b)** implement mechanisms for monitoring and verification, also through the collection of qualitative data and promotion actions, on the actual school inclusion of students with disabilities based on the establishment and effective application of the Individual Educational Plan. **Other data:** survey of the daily newspaper "Avvenire" of 12/17/2013 <http://uicilombardia.org/articolo.php?id=845>

<sup>29</sup> Human Rights Council. Document A/HRC/14/4.

<sup>30</sup> Also referred to Recommendations n. 18, 19, 20, 23, 24, 25, 28, 29, 30 e 33.

<sup>31</sup> <http://cde.redattosociale.it/File/Associato/439847.pdf>



40. Certain facts recorded in 2011<sup>32</sup> had caused a cry of alarm from **Human Rights Watch**: «*Italy does little against xenophobic violence*». According to said human rights agency in fact, the Italian Government does not take the appropriate measures to prevent and prosecute the racist and xenophobic violence that is rampant in the country<sup>33</sup>

#### **Integration of rom, sinti and travellers communities<sup>34</sup>**

41. In the last review also recommended to Italy to review the situation of the Rom population and, in consultation with them, to adopt a national law and prepare an action plan to guarantee their rights. According to the Special Rapporteur, to fight all forms of racism, discrimination, xenophobia and intolerance, Italy should recognize the Rom and Sinti as national minorities and protect and promote their language and culture.

42. Italy actually has a law on minorities (n. 492 of 1999) which does not include the Rom or their language, the “Romanès”; it also lacks a plan, a National regulation, to set flexible and shared action lines that take into account differences, needs and the territorial context of minorities. There are some regional laws and local dispositions that are usually scarcely respectful of the rights of minorities.

43. The Government headed by Mario Monti (November 17th 2011 – December 18th 2012) had seriously addressed this issue, also as part of the enforcement of Communication n. 173/2011 of the European Commission, in the attempt to address the complex situation with an inter-ministerial approach; a planning document was ready: “**NATIONAL STRATEGY FOR THE INCLUSION OF THE ROM, THE SINTI AND THE TRAVELLERS**” with a 2012-2020 perspective, which in addition to overcoming the limitations of Law 492/1999, a concrete activity of inclusion of the Rom, Sinti and Travellers (RSC) was planned to finally overcome the emergency phase of the past years. The Monti Government crashed in December 2012, and to this date there is no political news on this document. The only new development is that a National Conference is planned from April 3rd to the 5th, 2014, entitled “**ITALIA ROMANÌ**” organized by the non-profit organization “July 21st” which will focus precisely on the aforesaid “National Strategy”.

#### **Access to educational system for all minors, particularly foreign and immigrant children<sup>35</sup>**

44. The presence of foreign students in Italian schools varies widely (students come from approximately 200 different nations) and is ever growing: during academic year 2012/2013 the number of students of non-Italian citizenship is equal to 786.630 units, that is 30.691 more units as compared to the previous school-year.

45. What is concerning is the different regularity of the school process as compared to students with Italian citizenship. According to the 2012/2013 data, 38,2% of foreign students fall behind in school. The percentage increases with age: in primary school, they are 16,3% (against the 2% of children with Italian citizenship), in lower secondary school, these are 44,1% (against 8%) and in upper secondary school 67,1%, against 23,9% of Italians.<sup>36</sup>

46. Most of the students without Italian citizenship actually attended all or part of the Italian school curriculum while those requiring close attention are enrolled for the first time at the Italian school system with the main problem of learning the language.

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<sup>32</sup> The attack of December 13, 2011, on the Senegalese community of Florence, with the murder of two immigrants, the mad violence two days before in Turin against a Rom camp due to the report by a girl of a made-up rape, the shots on August 13, 2011, in Casal di Principe, against a bus of immigrants, not to mention the massacre in 2008 in Castelvoturno, ordered by the boss Giuseppe Setola that caused six deaths among Africans...

<sup>33</sup> See <http://www.hrw.org/news/2011/03/21/italia-agire-subito-porre-fine-alla-violenza-razzista> and the document titled: “The Daily Intolerance”: <http://www.hrw.org/sites/default/files/reports/italy0311itWebUseThisOne.pdf>

<sup>34</sup> Also referred to Recommendations n. 56-62 and subsequent ones.

<sup>35</sup> Rec. n. 41

<sup>36</sup> Official data from the **Ministry of Education**: [http://www.istruzione.it/allegati/Notiziario\\_Stranieri\\_12\\_13.pdf](http://www.istruzione.it/allegati/Notiziario_Stranieri_12_13.pdf)

47. Regarding the Rom and Sinti communities, the *Committee for the promotion and protection of human rights in Italy*<sup>37</sup> in its 2nd Follow-up Report after the UPR published on June 27, 2012, refers to the CERD (United Nations Committee for the elimination of racial discrimination) statements about Italy, expressing the concern that these communities may continue suffering discrimination in terms of access to education (...), that few are enrolled in secondary schools, that there is a high rate of school drop-outs among them and that very few continue in higher education<sup>38</sup>. It also reports that there allegedly are at least 20,000 Rom below the age of twelve, for the most part from Rumania and former Yugoslavia, who evade compulsory education in Italy; it is estimated that «*the remaining Rom and Sinti of the same age experience a generalized learning delay of no less than three years*». <sup>39</sup>

48. Many strongly complain about the continuous decrease in resources allocated to education by Italian governments, thus the inability to improve services and adjust them to the actual needs of minors. This is reported by the international bodies in charge of the Examination of the Rights of Minors, such as the UN Committee for the Rights of the Child (CRC)<sup>40</sup> and the Italian CRC group, whose network of NGOs is at the forefront in promoting the rights of the most marginalized.<sup>41</sup>

### **The phenomenon of early school abandonment**

49. In the European scene, Italy ranks fourth from the bottom in the classification of the twenty-seven EU countries. The indicator used to analyze the phenomenon in the European context is the one of *early school leavers*, that is the young between the ages of 18 and 24 who abandoned their studies without obtaining a high-school diploma: nearly 20 percent in 2009 with a slight decrease in 2012. Southern Italy is especially affected (Sicily, Sardinia and Campania) and particularly in the two years of high school (14-16 years old). In addition, this phenomenon applies in particular to male students<sup>42</sup>. We also know that dropping out is usually the result of school failure and that it rapidly develops in family conditions of poverty, poor education and social integration.

### **50. RECOMMENDATION:**

1. Do not make further cuts in education spending;
2. Ensure all human, technical and financial resources necessary to the school integration of foreign children and those belonging to minorities: language courses (Italian L2 for foreigners but also foreign languages for Italians and for the children of immigrants);
3. Spread through all schools some practical steps for acceptance:
  - A commission for the reception of foreign students and their families,
  - An intercultural mediator to help in many practical problems,
  - Information materials and forms in the families' native language,
  - Extracurricular socialization activities, teaching programs that include the study and history of all continents, etc.,
  - Specific teaching and intercultural approaches to favour integration;
4. Accelerate the process of granting of Italian citizenship to children of immigrants born in Italy and/or who complete a significant study cycle in Italy;
5. Allocate new resources for support and invitation to study projects for kids in more disadvantaged family or environmental situations; also, implement a computerized system of public registry of students to rapidly monitor the entire school career of each student.

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<sup>37</sup> A network of NGOs created in 2002 for the creation of a National independent institution for human rights. It published two important follow-ups which constitute the *follow-up* to the Universal Periodic Review of Italy performer in February 2010 (<http://www.comitatodirittiumani.net>).

<sup>38</sup> See <http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.ITA.CO.16-18.pdf> n. 20.

<sup>39</sup> **Committee for the promotion and protection of human rights:** "2nd Follow-up Report" p. 27.

<sup>40</sup> **Committee on the Rights of the Child** – session 58: Concluding observations-Italy: n. 61.

<sup>41</sup> See **CRC Working Group:** "6th Update Report on the monitoring of the Convention on the Rights of the Child in Italy" in several parts of chap. 6 (especially p. 108).

<sup>42</sup> Data from the Ministry of Education on [http://www.minori.it/sites/default/files/dati\\_miur\\_dispersione\\_scolastica.pdf](http://www.minori.it/sites/default/files/dati_miur_dispersione_scolastica.pdf)

## **E. PROTECTION OF MINORS IN SPECIAL SITUATIONS AND FIGHT AGAINST SPECIFIC CRIMES.<sup>43</sup>**

51. Italy has accepted the recommendations referred to special situations and fighting of specific crimes.

### **Unaccompanied foreign minors**

52. The foreign minors, even if they have entered Italy unlawfully, are bearers of all rights guaranteed by the **Convention on the rights of the Child**, ratified by Italy and made effective by Law n. 176/91. The Convention establishes that all decisions regarding minors must consider the principle of the *“best interest of the child”* and that said principle must apply to *all minors with no discrimination*. It additionally recognizes to all minors an ample range of rights, among which the *right to protection, to health, to education, to family unity, to protection from exploitation, to participation*.

53. Well then, especially after the outcry aroused everywhere due to the landings of immigrants on Italian coasts, particularly in Lampedusa, including many underage children, the UN Committee for children’s rights clearly expresses its concern about Italy’s behaviour regarding “unaccompanied minors” (UM):

*“The Committee expresses concern for the lack in the State of a common and holistic approach with regard to UM, including the lack of complete guidelines and a legislation framework in that regard. In addition, it fears that the existing legal protection measures... are not applied in a uniform manner in the different regions of the state...”*<sup>44</sup>

*“The Committee recommends that the State should introduce a comprehensive legislation to guarantee assistance and protection to said minors... a National specific and permanent authority to monitor the conditions of UM, to identify their needs, address the problems in the current system, and prepare guidelines in that regard...”*<sup>45</sup>

### **54. RECOMMENDATIONS:**

- Establish a National system of reception of UM, clarifying procedures and responsibilities and a specific multi-annual fund.
- Establish a National register of facilities suitable to welcome minors.

### **Consumption of drugs, alcohol and tobacco among minors**

55. The 2013 annual report on **drug addiction** in Italy is quite alarming: on a sample of 34.385 subjects between the ages of 15 and 19, 21,43% have used **cannabis** at least once in the past 12 months (+ 2,29% as compared to 2012); a slight increase of **cocaine** 2,01% (1,86% in 2012), **heroin** is stable (0,33%), stimulant drugs are picking up: **methamphetamine and/or ecstasy** 1,33% (1,12% in 2012) and **hallucinogens** 2,08% (1,72% in 2012).<sup>46</sup>

56. In Italy, the first contact with **alcoholic beverages** occurs at a very early age; according to the **International HBSC survey** performed in collaboration with OMS on the behaviours of kids in school age in 40 European states, Italian kids of 11, 13 and 15 years old are at the first places as to their weekly consumption of alcohol. Moreover, the European survey **ESPAD** tells us that perception of availability of alcoholic beverages in young Italian students is among the highest in Europe. Particularly, the phenomenon of *“binge drinking”*<sup>47</sup> is rising among the young: in young boys from 11 to 25 years old, it went from 13,7% in 2003 to 14,7% in 2010 and among girls of the same age, from 5,5% to 6,3%.<sup>48</sup>

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<sup>43</sup> Referred to Recommendations 44, 83, 84, 85 and 86. Document A/HRC/14/4.

<sup>44</sup> UN Committee on the Rights of the Child, document CRC/C/ITA/CO/3-4 of October 31, 2011, par. 66.

<sup>45</sup> UN Committee on the Rights of the Child, document CRC/C/ITA/CO/3-4 of October 31, 2011, rec. 67.

<sup>46</sup> Annual Report to Parliament from the Department for Drug-prevention policies, found at: <http://www.politicheantidroga.it/progetti-e-ricerca/relazioni-al-parlamento/relazione-annuale-2013/presentazione.aspx>

<sup>47</sup> [http://www.hbsc.unito.it/it/index.php?option=com\\_content&view=article&id=111&Itemid=175&ref=ISS\\_6&anno=2010&lang=it&campione=ita](http://www.hbsc.unito.it/it/index.php?option=com_content&view=article&id=111&Itemid=175&ref=ISS_6&anno=2010&lang=it&campione=ita)

<sup>48</sup> Data from the Health Ministry, found at [http://www.salute.gov.it/portale/temi/p2\\_6.jsp?lingua=italiano&id=2351&area=alcol&menu=vuoto](http://www.salute.gov.it/portale/temi/p2_6.jsp?lingua=italiano&id=2351&area=alcol&menu=vuoto)

57. The DOXA survey “**Smoking in Italy, 2011**” performed by the Institute of Health, reported that in 2011 there were approximately 11.8 million smokers in Italy, which corresponds to an average of 1 in 4 people with a predominance of the male gender over females.

The survey especially highlighted the concerning situation of the youth. In fact, it showed that in the age group between 15 and 24 years old, 15,9% of males are smokers and actually 21,8% of females.<sup>49</sup>

58. The problem was addressed by the UN Committee for the Rights of Minors at the end of the review of Italy (October 2011): “*The **Committee** recommends the State to adopt appropriate measures to eliminate the use of unlawful drugs by minors through programs and communication campaigns, educational activities on essential skills and training of teachers, social workers and other relevant figures. They must include programs promoting healthy lifestyles among adolescents to prevent the use of alcohol and tobacco and on the application of rules for the advertising of said products to minors. The Committee invites the State to present information on said activities and data on the use of unlawful drugs by minors in the next periodic report to the Committee.*”<sup>50</sup>

#### 59. RECOMMENDATIONS:

- The Government and Parliament are to adopt a more restrictive legislation regarding the advertising of alcoholic beverages and access to the same by underage children.
- The Government is to encourage and promote campaigns on the promotion of healthy lifestyles among adolescents through schools, the public healthcare system and Local Agencies, within a Plan of Health Promotion, while allocating appropriate resources to the same.

#### **Pornography, sexual exploitation, abuse of minors**

60. The **UN Committee on the Rights of the Child** had welcomed the establishment of the **Observatory to fight paedophilia and child pornography**, of the **National Centre for the monitoring of child pornography on the Internet**, of the **Observatory for prostitution and criminal phenomena related to it**, as well as the adoption of **law n.11/2009**, which provides for aggravating circumstances in sexual offences committed against children. At the same time, it complained of several shortcomings, including scarcity of resources allocated, insufficient data regarding said criminal activities, insufficient prevention of sexual abuse activities and the exploitation of particularly vulnerable minors. Among the recommendations:

- Definition of the concept of child pornography in its own Criminal Code;
- An effective program of prevention of sexual abuse;
- Strengthening of resources allocated to the Analysis unit of child pornography material;
- Effective operation of the Observatory to fight paedophilia and child pornography<sup>51</sup>.

#### 61. RECOMMENDATIONS:

- Definitely approve a national Plan for the prevention and fight of abuse and sexual exploitation of minors.
- Establish a database pertaining to the phenomenon of sexual abuse of minors.
- Allocate sufficient resources to fight the phenomenon of said abuses, strengthening in particular the functioning of the Observatory for the fight against paedophilia and child pornography.

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<sup>49</sup> [http://www.iss.it/binary/fumo/cont/fumo\\_2011\\_long\\_def2\\_.pdf](http://www.iss.it/binary/fumo/cont/fumo_2011_long_def2_.pdf)

<sup>50</sup> **Committee on the Rights of the Child** – session 58: Concluding observations-Italy: n. 54

<sup>51</sup> **Committee on the Rights of the Child** – session 58: Concluding observations-Italy: n. 74 and 75