



**ECRI REPORT
ON ITALY**
(fourth monitoring cycle)

Adopted on 6 December 2011

Published on 21 February 2012

FOREWORD

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country-by-country monitoring work, which analyses the situation in each of the member States regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country-by-country monitoring deals with all member States of the Council of Europe on an equal footing. The work is taking place in 5 year cycles, covering 9-10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, and those of the third round at the end of the year 2007. Work on the fourth round reports started in January 2008.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The fourth round country-by-country reports focus on implementation and evaluation. They examine the extent to which ECRI's main recommendations from previous reports have been followed and include an evaluation of policies adopted and measures taken. These reports also contain an analysis of new developments in the country in question.

Priority implementation is requested for a number of specific recommendations chosen from those made in the new report of the fourth round. No later than two years following the publication of this report, ECRI will implement a process of interim follow-up concerning these specific recommendations.

The following report was drawn up by ECRI under its own and full responsibility. It covers the situation up to 22 June 2011 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.

SUMMARY

Since the publication of ECRI's third report on Italy on 16 May 2006, progress has been made in a number of fields covered by that report.

Antidiscrimination legislation has been strengthened and the authorities are working on improving data collection with respect to racist offences. UNAR (the *Ufficio Nazionale Antidiscriminazione Razziali*, National Office against Racial Discrimination) has significantly expanded its activities. A number of discriminatory measures adopted by public authorities have thus been annulled. The resources UNAR devotes to contacts with victims of discrimination have increased and the number of NGOs entitled to represent victims in court has been increased to over 450. UNAR has also concluded several agreements aimed at ensuring close co-ordination between the various levels of public authorities in their work fighting discrimination. For its part, the Chamber of Deputies has set up an Observatory on Xenophobia and Racism.

The National Federation of the Italian Press and the Order of Journalists have adopted a code of conduct (the "Rome Charter") aiming to make the media's handling of issues related to asylum seekers, refugees, victims of trafficking and migrants more objective. UNAR has set up a centre for monitoring the media as well as a special section on its website to identify any items containing discriminatory material and report them to the relevant interlocutors. Several NGOs have moreover recently set up a network to prepare regular reports on racism in the media.

The authorities have adopted legislation aimed at preventing racially motivated violent acts at sporting events, providing for aggravated penalties for such acts and establishing a national observatory on sports events.

Some municipalities are implementing programmes with the aim of promoting the social inclusion of Roma, for example by facilitating access to school for Roma children, supporting the inclusion of Roma in the labour market or distributing information to them on access to health care in Romanian and the Romany language. A number of initiatives are also implemented in the regions to improve the social inclusion of migrants in the field of housing and to better protect their health.

Italian law now makes provision for granting subsidiary international protection and it seems that the Territorial Asylum Commissions are functioning well. The Praesidium project, funded by the Ministry of the Interior, has been designed to build capacity to receive and provide services for migrants arriving in particular in remote areas, so as to improve these persons' access to information about their rights, to legal assistance and interpreters. The new reception system for asylum seekers seems to allow more asylum seekers to live in open-access conditions. The SPRAR (protection system for asylum seekers and refugees) continues to help its beneficiaries in the field of integration.

The Ministry of Education has held training seminars for teaching and auxiliary staff in schools, touching on the inclusion of Roma children in schools and how to promote integration at school; for pupils, respect for human rights and non-discrimination is covered in the new "Citizenship and Civilisation" subject.

Finally, some particularly questionable proposals initially foreseen as part of the "*pacchetto sicurezza*" (a group of legislative and regulatory measures adopted from May 2008) were in the end abandoned. Other discriminatory measures taken in this context as well as a number of discriminatory measures taken by mayors have also been annulled by the courts.

ECRI welcomes these positive developments in Italy. However, despite the progress achieved, some issues continue to give rise to concern.

In parallel to the introduction in 2006 of lesser penalties for criminal offences of incitement to hatred, the definition of these offences was reworded to make it more restrictive, reducing the scope of the law. Few victims of racist offences or racial discrimination lodge complaints and both the criminal law provisions against racism and anti-discrimination provisions are rarely applied. UNAR is still not entitled to bring legal proceedings and it still comes under the Department for Equal Opportunities of the Presidency of the Council of Ministers; this direct institutional link runs counter to the type of independence that is necessary for the effective operation of such a body.

The use of racist and xenophobic discourse in politics appears to be increasing, targeting Blacks, Africans, Muslims, Roma, Romanians, asylum seekers and migrants in general; in some cases the remarks made were followed by acts of violence against these groups. Migrants are regularly equated with insecurity and racist or xenophobic discourse reflects or leads to discriminatory measures and policies; these factors fuel racial discrimination, xenophobia and racism within the population at large and tend to give legitimacy to these phenomena. Sensationalist articles continue to appear in the media and many Internet sites contain messages of racial hatred and even incitement to racist violence.

Some particularly disturbing attacks have been launched against Roma settlements, sometimes endangering the lives of their inhabitants. Migrants of various origins have also been targeted in violent attacks. Racist incidents have also been recorded in football stadiums.

The Italian authorities have introduced a number of measures concerning the conditions of residence for non-citizens, of which some, in particular in the context of the "*pacchetto sicurezza*", have increased the insecurity of migrants in an irregular situation or disproportionately penalise persons or businesses who have contact with them.

Most Roma experience severe marginalisation and discrimination, whether in terms of access to housing or to other social rights such as education, employment and health. The general climate regarding Roma is strongly negative: prejudices existing against them are sometimes reflected in, or reinforced by, the attitudes and policies adopted by politicians. So-called "emergency" measures taken particularly in the context of "security pacts", some of which explicitly target Roma or "nomads", have been used in a discriminatory manner. Censuses of Roma living in settlements and their fingerprinting are particularly worrying; it also appears that the data collected have not always been gathered in accordance with the principles of confidentiality, informed consent and voluntary individual self-identification. Moreover, the majority of allegations of ill treatment committed by the police concern acts committed against Roma.

In the case of legal settlements, the dominant practice is still to relegate Roma to settlements located far from urban centres, which is tantamount to segregation, stigmatises the persons concerned and poses serious problems for the integration of Roma; as regards illegal settlements, the health conditions there are especially deplorable. The demolition of settlements and forced evictions directly targeting Roma have occurred in many towns and seem to have been stepped up since 2008, which also worsens the discrimination against Roma in other areas of life. Furthermore, many Roma are in a situation of *de facto* statelessness.

The introduction by the Italian authorities in May 2009 of the pushback ("*respingimento*") policy of returning to their country of origin any boats intercepted on the open sea between Italy and Libya appears to have deprived individuals of the possibility of claiming asylum and led to the refoulement of persons in need of protection. Other problems persist in the field of asylum, including access to legal

assistance and interpretation and the wide range of exceptions made to the principle of suspensive effect of appeals. It seems that living conditions in CDAs and CARAs are not always adequate and that no provision is made to assist asylum seekers who choose or are obliged to leave these centres. Although appreciated, the SPRAR is clearly not sufficient to cover actual needs regarding the integration of asylum seekers and refugees. Furthermore, there are continuing reports of ill-treatment of persons held in CIEs and the facilities of CIEs are reportedly unsuitable for the longer periods of detention (up to 180 days) now provided for by law.

Following the events in North Africa in early 2011, a number of problems have arisen, including apparently excessively rapid returns of some arrivals and poor reception conditions, which have also created tension amongst the local population.

Italy has on several occasions deported non-citizens from its territory – notably under domestic counter-terrorism legislation – despite interim measures indicated by the European Court of Human Rights.

Anti-Muslim prejudice and antisemitism still exist in Italian society. Muslims continue to be stigmatised in political discourse and the policy proposals of certain parties, and a few dozen antisemitic incidents are reported each year. Internet is playing an increasingly important role in the dissemination of antisemitic ideas.

Prejudice against foreigners and migrant workers also persists, affecting their access to jobs and their position in the workplace. Migrant workers have moreover been particularly affected by the economic downturn. There are also continuing reports of racial discrimination in access to private sector housing; at the same time, some municipalities are introducing tougher eligibility conditions for access to public housing, often in such a way as have a greater impact on non-citizens.

In this report, ECRI requests that the Italian authorities take further action in a number of areas; in this context, it makes a series of recommendations, including the following.

ECRI recommends that the authorities assess the effectiveness of the current criminal law provisions against incitement to hatred and strengthen them if necessary, and that they further strengthen the civil law provisions against racial discrimination. It recommends that they intensify their efforts to inform victims of the provisions in force and to train all those involved in the criminal justice system to apply them rigorously.

ECRI recommends that the Italian authorities take steps to enhance the role of UNAR, in particular by formally extending its powers so that the relevant legislation clearly covers discrimination based not only on ethnic origin and race but also on colour, language, religion, nationality and national origin; by granting it the right to bring legal proceedings; and by ensuring that its full independence is secured both in law and in fact. ECRI wishes to stress in this regard that UNAR must also be provided with all the necessary human and financial resources, in the light of its workload.*

ECRI urges the authorities to adopt firm measures to tackle the use by political parties or their representatives of xenophobic or racist discourse. It also recommends that they encourage the media to play an active role against the development of a xenophobic atmosphere and that they combat the dissemination of racist ideas via the Internet. ECRI calls on the authorities to condemn all acts of racist violence and to strengthen the measures taken to combat such acts.

ECRI makes a series of recommendations to the authorities aimed at remedying the main problems arising in the context of the “*pacchetto sicurezza*”. It also makes a series of recommendations aiming to put an end to the discrimination experienced by the Roma in various fields of life, in particular access to identity documents and access to social rights.

ECRI urges the Italian authorities to ensure that all Roma who may be evicted from their homes enjoy the full protection of the guarantees of international law in such matters. It underlines that the persons concerned must be notified of any proposed eviction and benefit from appropriate legal protection; nor must they be evicted without the possibility of being rehoused in decent accommodation, even if they may stay in the country only for limited periods of time.*

ECRI makes a series of recommendations aimed at ensuring that asylum seekers have access to procedures in full conformity with international law as well as to adequate living conditions, and at avoiding all deportations that would be in breach of Article 3 ECHR.

ECRI strongly recommends that the Italian authorities take all necessary steps to ensure that the principle of non-refoulement is fully respected. It urges them to bring their pushback ("*respingimento*") policy to an immediate and permanent end. In this connection, it emphasises the need to guarantee access to asylum procedures in full accordance with the 1951 Geneva Convention, the European Convention on Human Rights and the relevant EU directives.*

ECRI recommends that the authorities strengthen their efforts to combat antisemitism and discrimination against Muslims.

ECRI makes a series of recommendations aimed at strengthening the fight against racial discrimination against various groups within its remit, whether in the fields of education, employment, housing or health. It also recommends that they put in place an effective ethnic data collection system, in conformity with international standards on data protection.

ECRI invites the authorities to denounce publicly all manifestations of racism or racial discrimination by members of the police, and recommends that they establish an independent body to investigate all allegations of human rights violations – and in particular all allegations of racist behaviour – on the part of the police.

* The recommendations in this paragraph will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

FINDINGS AND RECOMMENDATIONS

I. Existence and Application of Legal Provisions

International legal instruments

1. In its third report, ECRI recommended that Italy ratify without delay Protocol No. 12 to the European Convention on Human Rights, which contains a general prohibition on discrimination, the European Charter for Regional or Minority Languages, the European Convention on Nationality, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the Convention on Cybercrime and its Additional Protocol, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.
2. Italy has still not ratified most of these instruments. With regard to Protocol No. 12 to the European Convention on Human Rights, the authorities have given no indication as to the prospects for future ratification. ECRI notes that everyone who comes under Italian jurisdiction already has the possibility of denouncing discrimination at international level, since Italy recognises the competence of the Committee on the Elimination of Racial Discrimination to receive and examine communications from individuals who claim that the state has violated rights set out in the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). In ECRI's view, ratifying Protocol No. 12 to the European Convention on Human Rights should thus be regarded as a further step which does not present any difficulty in principle.
3. The authorities have stated with regard to the European Charter for Regional or Minority Languages that while several bills which would have paved the way for ratification have already been submitted to Parliament, they have not been passed into law; apparently the chief remaining difficulty is determining the list of languages to be protected. As regards the European Convention on Nationality, the authorities have indicated that the existing legislation is still based on the *jus sanguinis* principle but that certain specific cases of naturalisation according to the *jus soli* principle are now provided for in order to prevent statelessness. According to the authorities, the question of extending the possibilities for acquiring citizenship is being extensively debated in Italy, making it impossible to predict with any certainty when ratification of the Convention might take place. The authorities have moreover stated that although Italian legislation already guarantees most of the rights contained in the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, Italy is not in a position to ratify this instrument because it does not in their view draw any distinctions between regular and irregular migrant workers and many of its provisions fall with the European Union's areas of competence. ECRI wishes to emphasise that, by helping persons who come under Italian jurisdiction to participate on an equal footing in Italian society, these instruments may make a significant contribution to the fight against racism,¹ racial discrimination² and related forms of intolerance. As regards the International Convention on the

¹ As in the text of ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, "racism" shall mean the belief that a ground such as "race", colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or group of persons.

² According to ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, racial discrimination is any differential treatment based on a ground such as "race", colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

Protection of the Rights of All Migrant Workers and Members of their Families, ECRI moreover notes that it includes provisions with respect to the promotion of healthy, fair, decent and legal international migration conditions and can promote the protection of persons belonging to groups coming within ECRI's mandate, contribute to strengthening the development of a rights-based approach to migration³ and ultimately result in reducing irregular migration.

4. ECRI notes with interest that on 5 June 2008 Italy ratified the Convention on Cybercrime, thus removing an obstacle to the ratification of its Additional Protocol, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.
5. *ECRI strongly recommends that Italy ratify Protocol No. 12 to the European Convention on Human Rights as soon as possible.*
6. *ECRI reiterates its recommendation that Italy ratify the European Charter for Regional or Minority Languages, the European Convention on Nationality and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.*
7. *ECRI encourages Italy to ratify as soon as possible the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.*
8. In its third report, ECRI called on Italy to extend the application of the Convention on the Participation of Foreigners in Public Life at Local Level to Chapter C of this Convention, which concerns the attribution of eligibility and voting rights to foreign residents. While a number of proposals for legislation along these lines had been introduced in the period leading up to the publication of ECRI's third report, none were subsequently enacted.
9. The authorities have indicated that this matter is currently being discussed in Italy. The Constitutional Court has recognised the legitimacy of a number of regional laws granting electoral rights to foreign citizens, and foreign deputy councillors have in fact been elected in various municipalities. Under the Constitution, however, only Italian citizens have the right to vote and the right to stand for election, except in European or administrative elections; any bill aimed at further extending these rights must take account of the need to amend the Constitution therefore. ECRI wishes to underline in this context that the possibility of exercising the right to vote in and stand for local elections would be a factor for integration into Italian society of foreign citizens residing in the country on a long-term basis.
10. *ECRI strongly encourages Italy to extend as soon as possible the application of the Convention on the Participation of Foreigners in Public Life at Local Level to Chapter C of this Convention, which concerns the attribution of eligibility and voting rights to foreign residents.*

Constitutional provisions and other basic provisions

- Provisions governing access to citizenship

11. In its third report, ECRI recommended that the Italian authorities grant easier access to Italian citizenship both for children born or raised in Italy and for long-term residents, including by introducing the necessary changes to legislation.

³ See in particular Global Commission on International Migration, Migration in an interconnected world: New directions for action (Report of the Global Commission on International Migration), Switzerland, 2005, pp. 56-58.

Although MPs from two separate political parties have since drafted and submitted to a parliamentary committee a new, joint piece of draft legislation designed to make it easier for children born in Italy or who came to Italy at a very young age to acquire citizenship, it is unlikely that this legislation will be passed in the absence of sufficient parliamentary support. As indicated above, however, the failure to change the legislation on naturalisation is also an obstacle to Italy's ratification of the European Convention on Nationality.

12. Civil society has pointed out that it remains difficult for foreigners to satisfy the conditions for acquiring Italian citizenship, not least because they have to prove that they have been continuously resident in Italy, since birth in the case of children born in Italy⁴ or for ten years in the case of adults.⁵ Such difficulties are said to particularly affect Roma from the former Yugoslavia who have been lawfully resident in Italy, in some cases for up to 30 years, but who are unable to prove that they have been continuously resident, or their children, especially in cases where the parents did not apply for residence before the child was born. It also seems that the problems highlighted by ECRI in its third report concerning the excessive length of time taken to examine applications for naturalisation and lack of transparency in the relevant decisions have not been resolved, although efforts have been made to allow applicants for naturalisation to follow the progress of their application on line. ECRI underlines that, like the possibility of exercising electoral rights, acquisition of citizenship of the country of residence is a major factor in the integration of foreign citizens living there on a permanent basis.
13. *ECRI recommends that the Italian authorities relax the legislation on naturalisation in order to make it easier for persons who are lawfully and habitually resident in the country to acquire Italian citizenship, in accordance with the provisions of the European Convention on Nationality.*
14. *ECRI reiterates its recommendation that the Italian authorities ensure that the provisions on naturalisation are applied in all cases in a non-discriminatory manner, while enhancing transparency and ensuring that naturalisation decisions are taken within a reasonable time and that excessive delays not imputable to the applicant do not adversely affect the position of the latter.*

Criminal law provisions

- Content of the relevant criminal law provisions

15. In its second report, ECRI noted all the criminal law provisions to combat racist statements and acts in force at the time (2001).⁶ As observed by ECRI in its third report, Law No. 85/2006 reduced the penalties provided for in Section 3(1)a of Law No. 205/1993 (the "Mancino Law") for offences relating to the dissemination of ideas based on racial or ethnic superiority or hatred and to racial discrimination. The maximum penalty was thus reduced from three years' to eighteen months' imprisonment or a fine of up to €6 000. In its third report, ECRI therefore recommended that the Italian authorities ensure that adequate criminal law provisions were in place to counter racism and racial discrimination. In so doing, ECRI underlined the need to provide for effective, proportionate and dissuasive sanctions against such offences.
16. It should be noted that in parallel to the introduction by Law No. 85/2006 of lesser penalties, the text of section 3(1)a and b of Law No. 205/1993 was reworded to

⁴ Section 4(2) of Law No. 91 of 5 February 1992 establishing new citizenship rules.

⁵ Section 9(1)(f) of Law No. 91 of 5 February 1992 establishing new citizenship rules.

⁶ See ECRI's second report on Italy, CRI(2002)4, § 11.

make it more restrictive.⁷ Since ECRI's third report, the Court of Cassation has had to rule on the new wording introduced in 2006. According to the Court, one of the consequences of replacing the term 'disseminates' by the term 'promotes' in the description of prohibited racist acts has been to limit the prohibition on disseminating racist ideas (only) to those cases where these ideas are spread with the aim of influencing or conditioning the behaviour or attitudes of a wide audience in order to convert them to these ideas.⁸ ECRI notes with regret this legislative step backwards, which – as the Court of Cassation has confirmed – reduces the scope of the law. It recalls that according to its General Policy Recommendation No. 7 on national legislation to combat racism and racial

⁷ Section 3(1) of Law No. 654/1975, as amended by Law No. 205/1993 (which refers to the International Convention on the Elimination of All Forms of Racial Discrimination) used to read as follows:

1. Salvo che il fatto costituisca più grave reato, anche ai fini dell'attuazione della disposizione dell'articolo 4 della convenzione, è punito:

a) con la reclusione sino a tre anni chi diffonde in qualsiasi modo idee fondate sulla superiorità o sull'odio razziale o etnico, ovvero incita a commettere o commette atti di discriminazione per motivi razziali, etnici, nazionali o religiosi;

b) con la reclusione da sei mesi a quattro anni chi, in qualsiasi modo, incita a commettere o commette violenza o atti di provocazione alla violenza per motivi razziali, etnici, nazionali o religiosi;

1. Save where the act constitutes a more serious offence, and for the purpose of implementing Article 4 of the Convention, the penalty shall be:

a) a prison sentence of up to three years for any person who in any manner disseminates ideas based on racial or ethnic superiority or hatred or commits or incites the commission of acts of discrimination on racial, ethnic, national or religious grounds;

b) a prison sentence of six months to four years for any person who in any manner commits or incites the commission of violence or acts of incitement to violence on racial, ethnic, national or religious grounds.

Following amendments introduced by Law No. 85/2006, section 3(1) now reads as follows

1. Salvo che il fatto costituisca più grave reato, anche ai fini dell'attuazione della disposizione dell'articolo 4 della convenzione, è punito:

a) con la reclusione fino ad un anno e sei mesi o con la multa fino a 6.000 euro chi propaganda idee fondate sulla superiorità o sull'odio razziale o etnico, ovvero istiga a commettere o commette atti di discriminazione per motivi razziali, etnici, nazionali o religiosi;

b) con la reclusione da sei mesi a quattro anni chi, in qualsiasi modo, istiga a commettere o commette violenza o atti di provocazione alla violenza per motivi razziali, etnici, nazionali o religiosi;

1. Save where the act constitutes a more serious offence, and for the purpose of implementing Article 4 of the Convention, the penalty shall be:

a) a prison sentence of up to one year and six months or a fine of up to 6,000 euros for any person who in any manner promotes ideas based on racial or ethnic superiority or hatred or commits or instigates the commission of acts of discrimination on racial, ethnic, national or religious grounds;

b) a prison sentence of six months to four years for any person who in any manner commits or instigates the commission of violence or acts of incitement to violence on racial, ethnic, national or religious grounds.

See also the explanatory memorandum for amendments moved by the government in 2007: Ministry of Justice, Bills: Regulations on prevention of racial discrimination – Report ('DDL - Norme in materia di repressione della discriminazione razziale – Relazione').

⁸ Court of Cassation, 13 December 2007, Bragantini and others, Judgment No. 13234/08. It should be noted that in this case the acts concerned were nevertheless punished. See below, Application of the relevant criminal law provisions.

discrimination, the law should penalise, amongst other things, the public dissemination or public distribution, with a racist aim, of written, pictorial or other material containing manifestations of incitement to violence, hatred or discrimination, insults or defamation, or threats against a person or a grouping of persons on the grounds of their race, colour, language, religion, nationality, or national or ethnic origin.⁹

17. A bill approved by the government in January 2007, which would have reinstated the texts and penalties in force prior to the 2006 amendments and widened their scope to include offences based on sexual orientation or gender identity, failed to secure the approval of Parliament. Another bill designed to criminalise Holocaust denial was likewise rejected in 2007. The authorities have pointed out, however, that the legislation currently in force in Italy goes beyond the minimum criteria adopted by the EU Council in its 2008 framework decision on combating certain forms and expressions of racism and xenophobia by means of criminal law: in particular, Italian law carries heavier penalties and punishes certain types of behaviour even if there is no threat to public order.¹⁰
18. ECRI notes that although Italian legislation covers a large number of offences that could be classed as racism or racial discrimination, in 2007 the government argued that there was a need for firm action to deal with an exponential increase in discrimination based on grounds covered by ECRI's mandate. Without detailed statistics concerning the relevant cases,¹¹ it is difficult to assess the practical impact of the 2006 amendments. ECRI nevertheless remains concerned about the narrowing of the definition of acts that constitute a criminal offence and the reductions in penalties introduced via the 2006 amendments. It underlines the importance of ensuring that it is not too difficult to meet any conditions requiring acts to be committed in "public" that might be attached to the prohibition of dissemination of racist ideas or racist acts: in ECRI's view, words pronounced during meetings of neo-Nazi organisations or words exchanged in a discussion forum on the Internet, for example, should be punishable by law.¹²
19. *ECRI recommends that the Italian authorities look closely at how the courts interpret paragraphs 3(1)a and b of Law No. 205/1993, as amended by Law No. 85/2006, in order to assess the effectiveness of the current provisions for combating the dissemination of racist ideas as well as incitement to commit and commission of discriminatory acts motivated by hatred. It recommends that they amend these provisions if necessary in order to ensure effective protection against such acts.*

- ***Application of the relevant criminal law provisions***

20. In its third report, ECRI encouraged the authorities to improve the implementation of existing criminal law provisions against racism and racial discrimination, with particular emphasis on the provisions against racially motivated violence and incitement to racial discrimination and violence. To this end, ECRI recommended that the Italian authorities provide all those involved in the criminal justice system with thorough specific knowledge of these provisions. ECRI also recommended

⁹ See paragraph 18 (f) of the key elements of national legislation appended to this recommendation.

¹⁰ Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law.

¹¹ See below, Application of the relevant criminal law provisions.

¹² Explanatory memorandum to ECRI General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, § 38.

that the Italian authorities provide greater political leadership in the fight against all manifestations of racism and racial discrimination.

21. ECRI considers that it is impossible to assess the overall effectiveness of the criminal law provisions designed to combat racist incidents.¹³ In this respect, ECRI has received information from a number of sources suggesting that, on the one hand, not many victims report racist offences and, on the other, the police and courts seldom take account of facts that may constitute aggravating circumstances in such cases.¹⁴ Convictions for promoting ('*chi propaganda*') ideas based on racial superiority or hatred¹⁵ or for inciting racial discrimination¹⁶ are also rare.
22. Furthermore, according to reports from various sources, the relevant authorities do not yet carry out systematic data collection with regard to racist incidents or offences. In the absence of such data, it is also impossible to evaluate the number of racist incidents in Italy. In this context, ECRI notes with interest that the authorities are currently working on data collection in this area. According to information provided by the authorities, this work has revealed a number of shortcomings, however: for instance, cases where the racist motivation was in fact recognised as an aggravating circumstance are not always recorded in the existing statistics.
23. *ECRI encourages the authorities to continue their efforts to improve the collection of data on the application of the criminal law provisions for combating racism and xenophobia. In this respect, ECRI underlines the importance of taking into account the possible racist dimension of an act from the time the complaint is filed and of systematically monitoring, throughout the procedure, this aspect of the case and its follow-up.*
24. *ECRI further recommends that the Italian authorities take steps to encourage victims and witnesses of racist incidents to report such acts, in accordance with its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing.*
25. The authorities have indicated that human rights education is part not only of the in-service training given to police officers of all ranks, but also of specialised training. The topics addressed in such training include the situation of vulnerable

¹³ ECRI wishes to reiterate here that under paragraph 14 of its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, a racist incident is 'any incident which is perceived to be racist by the victim or any other person'.

¹⁴ See, however, Court of Cassation, Div. 5, Judgment 22570 of 28/1/2010, registered 11/6/2010, Attorney-General v. Scocozza, rv 247495, a case in which the Court held that the use of the term 'bloody nigger' did fall into the category of aggravating circumstances, since it obviously entailed a negative value judgment regarding the victim's 'race'; see also, Court of Cassation, Div. 5, Judgment 11590 of 28/1/2010, registered 25/3/2010, Attorney-General v. Singh, rv 246892, a case of insults addressed to an Italian, in which the Court held that the relevant provisions did not apply because these insults were unrelated to a situation of inferiority that might constitute discrimination.

¹⁵ See, however, Court of Cassation, 10 July 2009, Bragantini and Others, rv. 245168, in which a number of persons, including the Mayor of Verona, were convicted of having disseminated and promoted ('propaganda') racist ideas after having publicly promoted the gathering of signatures for a petition for permanent removal of Roma from Verona.

¹⁶ See, however, the case concerning the Deputy Mayor of Treviso, convicted of incitement to racial hatred by the Venice Court of First Instance on 26 October 2009.

groups who are liable to suffer discrimination.¹⁷ The authorities have also indicated that the Judicial Service Commission regularly organises refresher courses on new legislation and recent court decisions that concern, for example, discrimination, the legal status of foreigners, multiculturalism, the penal system or protection of fundamental rights. Local bar associations also provide training for lawyers.

26. While ECRI considers these initiatives to be encouraging, it remains concerned that the number of convictions is small, despite reports of numerous cases where individuals – including prominent political figures – have made statements of an intolerant or even xenophobic or racist nature, or have committed acts of that nature.¹⁸ It would seem that there is still a need for additional training measures for everyone working in the criminal justice sphere in order to improve the application of the criminal law provisions to combat racist offences.
27. *ECRI recommends that the Italian authorities step up their efforts to educate all those involved in the criminal justice system – police, prosecutors and judges –, in both initial and in-service training, about the criminal law provisions prohibiting racist acts, so as to ensure effective application of these provisions. It also recommends that lawyers be given the opportunity to receive training in these provisions.*

Civil and administrative law provisions

- Content of anti-racial discrimination provisions

28. As observed in ECRI's third report, civil and administrative law provisions against discrimination were introduced in Italy in 1988,¹⁹ subsequently, in 2003, two legislative decrees were adopted in order to transpose the two European Council Directives 2000/43/EC²⁰ and 2000/78/EC.²¹ In its third report, ECRI welcomed the fact that a number of elements included in its General Policy Recommendation No.7 were reflected in the legal framework against discrimination, whilst noting that other aspects of this General Policy Recommendation had not been included, or were reflected less clearly in this legal framework. It underlined the importance of prohibiting by law discrimination based not only on grounds such as "race", colour, religion and ethnic origin but also on language and nationality, and the need to provide in anti-discrimination legislation for sharing the burden of proof; it also reiterated the need to place public authorities under a duty to promote equality and prevent discrimination in carrying out their functions.

¹⁷ Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, Following his visit to Italy on 13-15 January 2009, 16 April 2009, CommDH(2009)16: Italy's comments on the report of T. Hammarberg, pp. 4 ff.

¹⁸ See below, Racism in public discourse.

¹⁹ Sections 43 and 44 of Legislative Decree No. 286/1998.

²⁰ Directive 2000/43/EC of the Council of the European Union implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, transposed by Legislative Decree No. 215 of 9 July 2003 – Transposition of EU Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Official Gazette No. 186 of 12 August 2003.

²¹ Directive 2000/78/EC of the Council of the European Union establishing a general framework for equal treatment in employment and occupation, transposed by Legislative Decree No. 216 of 9 July 2003 – Transposition of EU Directive 2000/78/EC implementing the principle of equal treatment in employment and occupation, Official Gazette No. 187 of 13 August 2003.

29. A series of amendments to these legislative decrees was adopted in 2008,²² in connection with infringement proceedings instituted by the European Commission against Italy. Reversal of the burden of proof is now specifically provided for in civil and administrative law if the complainant establishes factual elements that can precisely and consistently show the presumption of the existence of discriminatory acts, agreements or behaviours. Legal protection against victimisation of the complainant has also been introduced in order to prevent any acts of retaliation against him or her and, as regards the prohibition of discrimination in the field of employment, the right to take legal action on behalf of the victim or to support his or her case has now been granted not only to trade unions but also to other organisations and associations representing the interests concerned.
30. ECRI notes with interest these amendments, which reinforce the anti-discrimination provisions in areas other than criminal law. It regrets, however, that the Italian authorities did not take this opportunity to include nationality and language among the characteristics protected by anti-discrimination legislation or to introduce a requirement for all public authorities to promote equality and prevent discrimination in carrying out their functions.
31. *ECRI recommends that the Italian authorities further strengthen the legislation against racial discrimination, having regard to the elements contained in ECRI's General Policy Recommendation No. 7, in particular as regards the need to protect individuals from discrimination based not only on grounds such as "race", colour, religion and ethnic origin but also language and nationality, and the need to place public authorities under a duty to promote equality and prevent discrimination in carrying out their functions.*
32. In its third report, ECRI recommended that the Italian authorities ensure that all organisations active in the field of combating racism and racial discrimination – and not only those registered with the Department for Equal Opportunities of the Presidency of the Council of Ministers – are able to bring cases on behalf of alleged victims of these phenomena. Since then, no changes have been made to the legislation; UNAR has, however, made efforts to increase the number of non-governmental organisations authorised to bring cases before the courts. These initiatives and their impact are examined below.²³
33. *ECRI recommends that the Italian authorities make it easier for victims of racial discrimination to obtain access to effective civil and administrative law remedies, by ensuring that all organisations active in the field of combating racism and racial discrimination are able to bring cases on behalf of alleged victims of these phenomena.*
- ***Application of anti-racial discrimination provisions***
34. In its third report, ECRI recommended that the authorities take steps to improve the implementation of the existing civil and administrative law provisions against racial discrimination. It highlighted the need for increased efforts to raise awareness among the general public, groups vulnerable to racial discrimination and the legal community of the civil and administrative legal framework in force against discrimination. Most of these activities aimed at raising awareness

²² See Sections 8-sexies and 8-septies of Law No. 101 of 6 June 2008 (Official Gazette No. 132 of 7 June 2008) which convert into law the legislative decree of 8 April 2008.

²³ See below, Anti-discrimination bodies and other institutions.

among the general public and groups vulnerable to racial discrimination are conducted by UNAR and are examined below.²⁴

35. ECRI welcomes the efforts made to alert professionals involved in the fight against racism and racial discrimination to existing provisions in the fields of civil and administrative law and to the need to prevent such acts. It notes, however, that despite these efforts, the number of racial discrimination cases brought before the civil and administrative courts remains low. ECRI underlines that the absence of formal complaints does not mean that racial discrimination does not exist²⁵ and that it may be due to factors such as victims' lack of awareness of their rights, a lack of sensitivity on the part of the competent authorities in such matters, lack of visibility of available remedies or difficulties in accessing these remedies. It notes that some instances of discrimination based on grounds such as colour, national or ethnic origin, nationality or religion have in fact been reported. According to civil society, however, the general public's awareness of the civil and administrative legislation against discrimination remains too low.
36. *ECRI recommends that the Italian authorities step up their efforts to inform victims of racial discrimination as to the possibility of bringing cases before the civil and administrative courts.*
37. *ECRI recommends that the Italian authorities step up their efforts to provide initial and in-service training for relevant members of the justice system in the civil and administrative provisions prohibiting racial discrimination, so as to ensure the effective application of these provisions. It further recommends that lawyers be given the opportunity to receive training in these provisions.*

Anti-discrimination bodies and other institutions

- UNAR (Ufficio Nazionale Antidiscriminazioni Razziali)

38. In its third report, ECRI welcomed the establishment of the National Office against Racial Discrimination (*Ufficio Nazionale Antidiscriminazioni Razziali* or UNAR). This body is responsible for a number of important aspects of the fight against discrimination based on race or ethnic origin. ECRI invited the authorities to keep the status, powers and duties of UNAR under review, in order to ensure that this Office provided victims of racial discrimination with the most effective protection possible. In particular, ECRI drew the attention of the Italian authorities to the need for such a body to be independent and to the range of powers that should be conferred on a specialised body of this kind.
39. In recent years, UNAR has significantly expanded its activities, becoming more active and more visible. Thanks to UNAR's work and joint initiatives with the relevant prefectures, a number of discriminatory municipal orders have been annulled. As regards its work with victims of discrimination, the funding and staffing of UNAR's contact centre (formerly a call centre) have doubled. UNAR

²⁴ See below, Anti-discrimination bodies and other institutions – UNAR (Ufficio Nazionale Antidiscriminazioni Razziali).

²⁵ One may for instance note the approval by the Children's Court of an international adoption order in favour of a couple that had specified that they were not prepared to accept children with dark skin or who looked different from Europeans. The case was sent to the Court of Cassation through a referral in the interests of the law. In its judgment (no. 13332 of 1 June 2010), the Court ruled that a certificate of suitability for adoption delivered by the Children's Court cannot be based on references to the ethnicity of the child to be adopted, nor contain indications as to such an ethnicity. If a couple seeking to become adoptive parents expresses such discriminatory attitudes, the latter must be evaluated by the judge in the context of his or her assessment on the merits of the couple's suitability for adopting a child internationally.

has also held several hearings at regional level in an effort to increase the number of NGOs entitled to bring court cases. As a result, over 450 NGOs have now been granted this right. When it comes to raising awareness about discrimination and promoting equal opportunities, UNAR's efforts have been directed mainly at reinforcing the annual week of action against racism, organising the Italian version of the *Dosta!* campaign to combat discrimination against the Roma, introducing an annual week against violence and implementing the *Diversità come valore* project (diversity as an asset), which is co-financed by the European Union and in which several NGOs active in the fight against racism are directly involved.²⁶ In addition, the organisation of joint initiatives designed to raise awareness about discrimination, particularly in sectors such as youth, sport and schools,²⁷ is included by UNAR in its agreements with regional players involved in the fight against racism.²⁸ Finally, in the framework of projects financed under the European Social Fund, UNAR is participating in actions that aim to establish a standardised system to monitor the number and types of complaints of discrimination and to set up a database covering all forms of discrimination at local level.

40. ECRI welcomes this positive development. It also notes with interest that according to information provided by UNAR, the latter is beginning to include in its work grounds for discrimination other than race and ethnic origin, which are the only two formally recognised by law; in 2010, for example, 10% of the cases dealt with by UNAR related to other grounds for discrimination. While this wider role is acknowledged in fact by the Department for Equal Opportunities, ECRI believes it would be better if it were placed on a clear statutory footing, not least in order to make it more effective and more visible to victims of discrimination and the associations and lawyers who work with them. Furthermore, and although the extension of the list of NGOs entitled to represent victims of discrimination before the courts is encouraging, ECRI notes with regret that UNAR itself is still not entitled to bring legal proceedings; this function is part of the range of powers and responsibilities that, in ECRI's view, ought to be assigned to independent specialised bodies to combat racism and racial discrimination at national level.²⁹ ECRI also emphasises, given that the applicable legislation in the field of combating racism and racial discrimination seems still to be relatively little known,³⁰ the importance of further strengthening awareness-raising activities in this field.
41. In terms of structure, it should be noted that UNAR still comes under the Department for Equal Opportunities of the Presidency of the Council of Ministers. For many involved in the fight against racial discrimination, this direct institutional link is a source of concern as it runs counter to the kind of independence that is necessary for the effective operation of such a body. ECRI notes that representatives of UNAR have highlighted the autonomy and impartiality that should typify the organisation, and that, in practice, UNAR has been able to criticise discriminatory measures adopted at national level and to have them

²⁶ UNAR, Relazione al Parlamento sull'effettiva applicazione del principio di parità di trattamento e sull'efficacia dei meccanismi di tutela, Anno 2009, p. 18.

²⁷ UNAR, Relazione al Parlamento sull'effettiva applicazione del principio di parità di trattamento e sull'efficacia dei meccanismi di tutela, Anno 2009, p. 24.

²⁸ See below.

²⁹ ECRI's General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, Appendix, Principle 3; ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, Appendix, § 24.

³⁰ See above, Civil and administrative law provisions.

annulled. As underlined, however, in ECRI's General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, the principle of the independence of such bodies must be observed:³¹ this is the best way of ensuring both the effectiveness of such bodies and public confidence in them. ECRI likewise wishes to emphasise in this context the need to provide specialised bodies with sufficient funds to enable them to carry out their functions and responsibilities effectively.

42. *ECRI recommends that the Italian authorities take steps to enhance the role of UNAR, in particular by formally extending its powers so that the relevant legislation clearly covers discrimination based not only on ethnic origin and race but also on colour, language, religion, nationality and national origin; by granting it the right to bring legal proceedings; and by ensuring that its full independence is secured both in law and in fact. ECRI wishes to stress in this regard that UNAR must also be provided with all the necessary human and financial resources, in the light of its workload.*
43. *ECRI also encourages the Italian authorities to increase the human and financial resources placed at the disposal of UNAR for carrying out its activities to raise awareness against discrimination and to promote equal opportunities.*
44. In its third report, ECRI urged the Italian authorities to ensure that the regional centres for monitoring racial discrimination provided for by law were set up in all regions without further delay. It further recommended that the Italian authorities ensure thorough co-ordination between the work of these centres and that of UNAR.
45. Since then, UNAR has concluded several agreements³² aimed at setting up regional centres, or developing contacts with existing centres, and ensuring close co-ordination between the various levels of responsibility. UNAR intends to continue developing these agreements in the coming years. It has also concluded an agreement with the Observatory for Protection against Acts of Discrimination (set up by the state police in 2009), to highlight any instances of discrimination and to encourage people to file complaints and also to encourage co-ordination and co-operation with all the relevant players. Thanks mainly to these initiatives, the number of discrimination cases dealt with by UNAR doubled between 2009 and 2010, from 380 to approximately 750 according to estimates at the end of October 2010.
46. *ECRI encourages all the relevant authorities to continue extending the network of regional centres for monitoring racial discrimination and emphasises that they must be provided with all the necessary human and financial resources to enable them to function effectively.*

- **Chamber of Deputies Observatory on Xenophobia and Racism**

47. In 2009, at the instigation of the Speaker of the Chamber of Deputies, an Observatory on Xenophobia and Racism was set up in response to the desire of various members of parliament to bring a parliamentary perspective to the fight against racism and xenophobia and to create a link between the various institutions already operating in this field. It is planning to set up a website in 2011, to hold hearings with various stakeholders involved in the health system and to hold an annual conference (the theme of the 2010 conference was "Myself

³¹ ECRI's General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, Appendix, Principle 5.

³² Such agreements have been signed with the regions of Emilia Romagna, Liguria, Piedmont, Puglia and Sicily, the provinces of Mantua, Messina and Pistoia and the municipality of Rome.

and others”). The Observatory is made up of members of parliament from different political parties, in keeping with the principle of parity.

48. ECRI welcomes the Chamber of Deputies’ desire to play a part in the fight against racism and xenophobia in Italy and also its intention to work in a way that is receptive to civil society. It notes, however, that as yet, there is very little public awareness of the Observatory and its role. It hopes that these points will be swiftly remedied so that the Observatory can indeed play a clear and practical role in combating racism.

II. Racism in Public Discourse

Use of racist and xenophobic discourse in politics

49. In its third report, ECRI expressed concern about politicians’ use of racist and xenophobic discourse, targeting non-EU migrants, Roma, Muslims and other groups within ECRI’s remit. It reiterated that political parties should take a stand against any forms of racism, discrimination and xenophobia. It further recommended that the authorities take steps to counter the use of racist and xenophobic discourse in politics, both by applying the existing criminal legislation and by adopting additional measures.
50. It has to be said that the situation has not improved since; if anything, indeed, the use of racist and xenophobic discourse in politics appears to be increasing. Politicians at local level but also high-profile members of the national government have targeted Blacks, Africans, Muslims, Roma, Romanians, asylum seekers and migrants in general, by making hostile, if not downright aggressive, remarks about them. Some politicians, including members of the national government, have gone so far as to suggest that foreigners should be segregated in public transport or schools, to refer to members of certain minority groups as “animals” and the arrival in Italy of asylum seekers as an “invasion”, to label all members of one particular group as specialists in crime, to launch a census of all foreigners living in the area, and to call for all Roma to be deported or incarcerated and all their encampments dismantled. In some cases, such remarks were followed by acts of violence against the minority groups in question.³³ As observed above, however, there have been very few criminal prosecutions following such statements and while the latter have in some cases been condemned by other politicians, that does not seem to have stopped them proliferating.
51. ECRI is deeply concerned about this situation, in which migrants are routinely equated with insecurity, members of minority groups are increasingly the subject of virulent rhetoric and politicians are willing to exploit a certain atmosphere of hostility (which they themselves, moreover, helped to create) towards persons belonging to minority groups. As indicated elsewhere in this report, moreover, racist or xenophobic discourse reflects or leads to discriminatory policies and measures; all of these factors fuel intolerance, racial discrimination, xenophobia and racism within the population at large and tend to give legitimacy to these phenomena.
52. While encouraged by the fact that Parliament has set up an observatory on xenophobia and racism,³⁴ and that civil society has not hesitated to condemn the current situation publicly, ECRI is firmly of the view that the latter calls for a much more vigorous response on the part of the authorities themselves. ECRI stresses that stigmatising and fomenting hostility towards persons belonging to minority groups is effectively to deny the dignity and equality of all human beings – a

³³ See below, Racist violence.

³⁴ See above, Chamber of Deputies Observatory on Xenophobia and Racism.

fundamental principle recognised by all member states of the Council of Europe and parties to the International Convention on the Elimination of All Forms of Racial Discrimination – and is not to be tolerated under any circumstances. ECRI therefore calls on the Italian authorities to do everything possible to prevent political discourse of a racist or xenophobic nature. It once again emphasises that political parties must resist the temptation to approach issues relating to members of minority groups in a negative fashion and must take a firm stand against any forms of racism, discrimination and xenophobia. In this context, ECRI draws the attention of the Italian authorities to the principles set out in the Charter of European Political Parties for a Non-Racist Society and in its own Declaration on the use of racist, antisemitic and xenophobic elements in political discourse, which can serve as references for a responsible attitude on the part of political parties in the field of political discourse.

53. *ECRI urges the Italian authorities to adopt firm measures to tackle the use by political parties or their representatives of xenophobic discourse or discourse that incites racial hatred and, in particular, legal provisions enabling public funding to be withdrawn from parties which promote racism or xenophobia. In this respect, it once again draws the attention of the authorities to the relevant provisions contained in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.*

Media

54. In its third report, ECRI encouraged the Italian authorities to impress on the media, without encroaching on their editorial independence, the need to ensure that reporting does not contribute to creating an atmosphere of hostility and rejection towards members of minority groups. ECRI recommended that the Italian authorities engage in a debate with the media and members of other relevant civil society groups on how this could best be achieved.
55. ECRI notes with regret that sensationalist articles continue to appear in the media, including in the main print media and prime-time television broadcasts. In the media, the Roma and migrants are notably associated with criminal activities and hence with a threat to public security; negative images (some of them conveyed first by politicians) of asylum seekers and Muslims have also been repeatedly disseminated. Such publications and broadcasts serve to poison an already negative climate of opinion regarding minority groups. Some observers, moreover, have made a connection between the publication of such articles and xenophobic incidents that occurred afterwards.
56. Following an incident in which certain sections of the media wrongly accused a Tunisian citizen of having killed members of his own family, the UNHCR sponsored the adoption by the National Federation of the Italian Press and the Order of Journalists of a code of conduct (the “Rome Charter”) aimed at improving the media’s handling of issues relating to asylum seekers, refugees, victims of trafficking and migrants, by making it more objective.³⁵ ECRI welcomes this initiative and hopes that it will soon have a positive impact. It regrets however the limited scope of the Charter, which covers only certain specific minority groups. It notes that there is also a code of conduct for journalists which was signed by the two main associations of Italian journalists in 1993 and which requires journalists to refrain from any discrimination based on race or religion,³⁶

³⁵ Carta di Roma, 1 January 2007, Protocollo deontologico concernente richiedenti asilo, rifugiati, vittime della tratta e migranti.

³⁶ Carta dei doveri del giornalista, sottoscritta dal Consiglio Nazionale dell’Ordine dei Giornalisti e dalla Federazione Nazionale della Stampa Italiana l’8 luglio 1993. Any breach of this Code is

it appears, however, that journalists who fail to follow this rule rarely incur penalties. In this context, ECRI is interested to note that UNAR has set up a centre for monitoring the media which aims to identify any articles containing discriminatory material and to report them systematically to the relevant parties. Several NGOs, furthermore, recently set up a network to prepare six-monthly reports on racism in the media.

57. *ECRI reiterates its recommendation that the Italian authorities impress on the media, without encroaching on their editorial independence, the need to ensure that reporting does not contribute to creating an atmosphere of hostility and rejection towards members of minority groups and that the authorities play a proactive role in preventing such an atmosphere from developing.*
58. *It further recommends that the Italian authorities encourage the media to apply systematically the provisions of the Code of Conduct for journalists regarding racial and religious discrimination and to reword these provisions if necessary so that they clearly cover all forms of discrimination based on colour, religion, language, national and ethnic origin and nationality; to provide special training for media professionals on the role of reporting in a multicultural society; and to improve the representation in media professions of persons of migrant origin or belonging to ethnic minorities.*

Internet

59. In its third report, ECRI recommended that the Italian authorities strengthen their efforts to counter the dissemination of racist, xenophobic and antisemitic propaganda on the Internet. ECRI is concerned to note that numerous sites containing messages of racial hatred and even incitement to racist violence – especially against the Roma and Romanians – are hosted by social networks. Blogs advocating racial hatred have also been reported. Civil society, moreover, has drawn attention to the frequency of racist or xenophobic comments appearing in, for example, readers' discussion forums, following articles published on the websites of newspapers and broadcast media and concerning the Roma, migrants or other groups within ECRI's remit.
60. The Italian authorities have indicated that they recognise the urgent need to combat all expressions of racism and intolerance on the Internet. A special section has been created on UNAR's website to allow Internet users to report directly any racist or discriminatory material that they may find. Where appropriate, UNAR then notifies the Postal and Communications Police, involved in combating cybercrime, or the ordinary police, so that they can institute criminal proceedings. The police also monitor websites created in Italy whose content might be punishable and, if necessary, notify the judicial authorities.
61. *ECRI strongly encourages the Italian authorities to continue their efforts to combat the dissemination of racist and xenophobic ideas via the Internet. It draws their attention to its General Policy Recommendation No. 6 on combating the dissemination of racist, xenophobic and antisemitic material via the Internet, which suggests a series of measures that the authorities can take to this end.*

III. Racist Violence

62. In its third report, ECRI encouraged the Italian authorities to pursue and intensify their efforts to monitor racist, xenophobic and antisemitic incidents in Italy. The authorities indicated that there were 142 hate crimes in 2009, including 64 motivated by racism, 31 by xenophobia and 47 by antisemitism; in 2008, the

deemed to render the journalist concerned liable to disciplinary proceedings, as provided for in Part III of Law No. 69 of 3 February 1963.

figures by type of offence were 62, 27 and 23 respectively, compared with 52, 42 and 54 in 2007. These figures are not systematically made public; interested parties can obtain them on request. They concern not only physical violence or damage to property, but also insults (which are not examined by ECRI in the present chapter). A non-governmental organisation that collects independent data reported 7 homicides and 58 other cases of violence targeting migrants or refugees in 2009; another reported 51 cases of violence against migrants or Roma for the same year.³⁷

63. ECRI notes that the official figures on racist offences do not concern all cases where the victims consider that they have suffered a hate crime but only those where the police deemed that an offence was motivated by racism, xenophobia or antisemitism; the unofficial data gathered by civil society organisations are primarily based on cases reported in the press. Given the reluctance of many victims to file a complaint,³⁸ the real number of incidents is likely to be considerably higher. ECRI underlines that, to ensure that any racist motivation of offences is fully taken into account, it is important to adopt a broad definition of a racist incident: this should not be confined to the assessment made by law enforcement officials but, in ECRI's opinion, should cover any incident which is perceived to be racist by the victim or any other person. It is also important that all racist incidents should be systematically recorded and monitored, at all stages of criminal procedure, from filing of a complaint to the follow-up action taken by police and prosecutors and including any final court decision.³⁹
64. *ECRI recommends that the Italian authorities intensify their efforts to monitor racist, xenophobic and antisemitic incidents in Italy. It recommends that they ensure that the racist, xenophobic or antisemitic dimension of all offences is effectively and systematically taken into account by the criminal justice system, at all stages in the procedure. It further recommends that they adopt a broader definition of racist incidents to include any incident which is perceived to be racist by the victim or any other person.*
65. Some particularly disturbing attacks have been launched in recent years against Roma campsites, sometimes endangering the lives of their inhabitants. Many cases of arson were reported in 2008 and 2009 in Roma settlements in the vicinity of a number of cities, in particular Milan, Naples, Pisa, Rome and Venice; dwellings were destroyed and in some cases inhabitants were forced to leave sites as a result of these attacks. In one particularly serious incident in the Ponticelli district of Naples, in May 2008, Roma campsites were attacked by hundreds of local people, some of whom were armed with metal bars, wooden sticks or Molotov cocktails. The attacks lasted several days, and the inhabitants of the campsites had to move out under the protection of law enforcement officials.⁴⁰
66. Other violent attacks have targeted migrants of various origins, including Asians, Africans or Romanians. In early 2010 in Rosarno, all the migrant workers (mainly originating from Sub-Saharan Africa) were forced to leave town following a

³⁷ See OSCE ODIHR, Hate Crimes in the OSCE Region – Incidents and Responses: Annual Reports for 2009, 2008 and 2007, Warsaw: ODIHR, 2010, 2009 and 2008 respectively.

³⁸ See above, Application of the relevant criminal law provisions.

³⁹ In this connection see ECRI's General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, section III: "As concerns the role of the police in combating racist offences and monitoring racist incidents".

⁴⁰ With regard to the incidents in Ponticelli in 2008, see in particular European Union Agency for Fundamental Rights, incident report: Violent attacks against Roma in the Ponticelli district of Naples, Italy, FRA: Vienna, 2008.

protest they staged against their working conditions and violent clashes with the local population. In 2009, in the wake of a series of attacks on Romanian citizens living in Italy – against a background of media stirring concerning alleged crimes perpetrated by Romanians – representatives of the Romanian community stated that things had reached a point where they were afraid to speak their language in the street. Although some politicians have firmly condemned certain incidents of racist violence in recent years and civil society has warned against any form of witch hunt, other senior political officials, including at ministerial level, have on the contrary insinuated that such incidents are provoked by crimes perpetrated by migrants without lawful immigration status.

67. ECRI is highly concerned that many acts of violence in recent years seem to be of a collective nature, committed by one group against another, apparently on account of the victims' skin colour or ethnic or national origin, and sometimes, it would seem, as reprisals for offending behaviour for which the victims were in no way responsible. ECRI has already expressed in other parts of this report its great concern about the stigmatisation of Roma and those who are not Italian citizens in public discourse and immigration policies and has made recommendations aimed at remedying the problems noted. It draws the authorities' attention to the links that may exist between racist discourse and violence of a racist nature and considers that there is an urgent need not only to improve the authorities' response to incidents of racist violence, but also to prevent such violence by dealing with racism in public discourse, particularly in the media and in political rhetoric. It also recalls its recommendations on the need for energetic implementation of the legislation banning all forms of racist violence or incitement to hatred.⁴¹
68. *ECRI calls on the Italian authorities to condemn unambiguously all acts of racist violence. It strongly recommends that they reinforce their efforts to prevent racist violence and, in this connection, conduct campaigns to raise awareness of the seriousness of racist offences and the fact that the perpetrators will be prosecuted and punished.*

⁴¹ See above, Racism in public discourse and Criminal law provisions.

IV. Racism in Sport

69. In its third report, noting that numerous and disturbing manifestations of racism and antisemitism had occurred in football stadiums, ECRI recommended that the Italian authorities pursue and strengthen their efforts to counter manifestations of racism and antisemitism during sports events, particularly football matches. It stressed that the approach taken by the Italian authorities to these manifestations should clearly reflect the priority given to respect for human dignity.
70. In recent years a number of racist incidents have been recorded in football stadiums in Italy – in particular verbal attacks on black players. These incidents led the authorities to take steps to combat racism in sport. ECRI notes with interest that the Italian authorities have adopted legislation aimed at preventing racially motivated acts of violence at sports events, providing for aggravated penalties in the event of such behaviour and establishing a national observatory on sports events.⁴² Apart from the possible application of criminal law penalties where appropriate, administrative measures can be taken such as suspending a match on account of a racist incident. Preventive measures are also provided for, which range from ordering stadium bans against known violent fans to playing games behind closed doors when there is a risk of serious public order incidents. Awareness-raising campaigns have also been run, in particular through the broadcasting of TV spots against racism. Three football teams also actively implement anti-racism campaigns.
71. *ECRI encourages the Italian authorities to pursue and intensify their efforts to combat racism in sport. It draws the authorities' attention to its General Policy Recommendation No. 12 on combating racism and racial discrimination in the field of sport, which recommends a number of measures that governments can take to this end.*

V. “*Pacchetto sicurezza*” and other measures targeting foreigners

72. Since ECRI's third report, the Italian authorities have introduced numerous measures concerning conditions of residence for non-citizens in Italy. Mention may here be made of the following: the *pacchetto sicurezza* adopted in May 2008;⁴³ three legislative decrees amending the incorporation into national law of the EU directives on family reunification,⁴⁴ procedures for granting and withdrawing refugee status⁴⁵ and the right of EU citizens to move and reside freely within the territory of the European Union;⁴⁶ and Law No. 94/2009 on public security. ECRI recognises that states have a legitimate interest in controlling their borders and preventing illegal immigration; however, some of the measures introduced raise concern because they are disproportionate, likely to result in violations of the rights of the persons concerned, or stigmatising.
73. ECRI notes that some of the measures introduced have led to an unacceptable increase in the insecurity of foreigners without legal status. It refers in particular to the requirement that all foreigners present a residence permit whenever they wish to register a change in civil status, and in particular a birth.⁴⁷ This measure

⁴² See in particular Legislative Decree No. 162/2005 and Law No. 41/2007 of 4 April 2007.

⁴³ Legislative Decree No. 92 of 23 May 2008 ('Emergency public-security measures'), subsequently converted into Law No. 125 of 24 July 2008.

⁴⁴ Directive 2003/86/EC.

⁴⁵ Directive 2005/85/EC.

⁴⁶ Directive 2004/38/EC.

⁴⁷ Law No. 94/2009 on public security.

may result in the children concerned being deprived of official papers and may leave them without legal status or, in some cases, stateless.

74. Other measures disproportionately penalise individuals and businesses who have contact with migrants without legal status. Thus the act of letting accommodation to such migrants is punishable by a prison sentence of between six months and three years together with seizure of the accommodation in question.⁴⁸ Furthermore, service providers are required to report to the authorities within twelve hours any non-citizen unable to present a valid residence permit when wishing to transfer money abroad; providers who fail to meet this requirement may have their licences withdrawn.⁴⁹ Such measures put excessive pressure on individuals and businesses who find themselves forced, in practice, to take the place of border controls if they are not to be severely penalised.
75. Excessively harsh penalties have also been introduced for failure to show a residence permit and/or identity papers at the request of a police officer or other official: such a failure is now punishable by a prison term of up to one year and a fine of 2 000 euros.⁵⁰
76. As regards family reunification, under the new provisions, applicants already residing legally in Italy may have to take DNA tests at their own expense.⁵¹ This (expensive) requirement can also apply in situations for which the applicants bear no responsibility whatsoever: for example, if there is no recognised authority in the country of origin or if the documents submitted by the applicant's country of origin do not enable a clear determination to be made as to whether the prerequisites for family reunification exist. ECRI here notes that family reunification facilitates the integration of individuals already living in Italy, whereas separation is likely to contribute to an adverse experience of Italy and increase the isolation of a migrant lacking the emotional and psychological support that the presence of family members can provide.
77. ECRI notes with satisfaction that some particularly questionable proposals – such as removing the prohibition on doctors' reporting to the authorities any individuals without legal status who have come to them for health care – have finally been dropped. Other measures that were introduced have subsequently been rescinded, such as defining the mere fact of being without legal status as an aggravating circumstance for the purposes of the Criminal Code, a measure that was set aside by the Constitutional Court in 2010.⁵² Many discriminatory measures introduced by mayors exercising their extended powers to pass 'emergency' measures designed to counter threats to public security⁵³ have also been set aside by the courts.
78. ECRI wishes to stress here its serious concern regarding the ever increasing tendency over the past few years to target foreigners with so-called 'security' measures. This situation is exacerbated by the xenophobic political rhetoric already described elsewhere in this report, which makes no clear distinction between legal residence of non-citizens in Italy and the prevention of illegal immigration.

⁴⁸ Legislative Decree No. 92 of 23 May 2008, subsequently converted into Law No. 125 of 24 July 2008.

⁴⁹ Law No. 94/2009 on public security.

⁵⁰ *Idem*.

⁵¹ Legislative Decree No. 160 of 3 October 2008.

⁵² Judgment 249/2010 of the Constitutional Court, 5 July 2010.

⁵³ Legislative Decree No. 92 of 23 May 2008, subsequently converted into Law No. 125 of 24 July 2008.

79. *ECRI strongly recommends that the Italian authorities abolish the requirement that all foreigners wishing to register the birth of a child present a residence permit.*
80. *ECRI recommends that the Italian authorities repeal the provision whereby the act of letting accommodation to migrants without legal status is punishable by a prison sentence of between six months and three years together with seizure of the accommodation.*
81. *ECRI recommends that the Italian authorities make clear that applicants for family reunification already residing legally in Italy cannot be required to take DNA tests at their own expense in cases where they bear no responsibility for doubt as to their identity.*

VI. Vulnerable/Target Groups

Roma

82. The authorities estimate that some 150 000 Roma and Sinti currently live in Italy. About half of them (mostly Sinti) are Italian citizens and belong to groups that have lived in Italy for centuries. Some 35 000 Roma migrated to Italy from the Balkans, mainly the countries of the former Yugoslavia, especially during the 1990s. More recent arrivals, most of whom live in the vicinity of the major cities, are estimated to number about 50 000 and mainly come from Romania.⁵⁴
83. Most Roma⁵⁵ in Italy experience severe marginalisation and discrimination in terms of access both to housing and to other social rights. The general climate regarding Roma is strongly negative: many stereotypes and prejudices exist concerning them,⁵⁶ which are sometimes reflected in, and even reinforced by, the attitudes and policies adopted by politicians.⁵⁷ In its third report, ECRI noted with regret that no or very little progress had been achieved in virtually all the fields already highlighted in its second report. It can but be noted that the situation has scarcely improved since; on the contrary, it has worsened in some respects.
84. In this connection, ECRI wishes to voice forthwith its concern about the many so-called "emergency" measures taken since its third report, particularly in the context of so-called "security pacts", some of which explicitly target Roma or "nomads", and the declarations of a "state of emergency in relation to nomad settlements" made in a number of regions. The role of special Commissioner conferred by the legislation on the Prefects of the regions concerned admittedly enables them to take positive steps in favour of those living in "nomad" campsites. However, other powers granted to the special Commissioners are worrying or have been utilised in a discriminatory manner. In this context ECRI draws particular attention to the censuses of Roma living in such settlements and

⁵⁴ Figures supplied to the Committee on the Elimination of Racial Discrimination: see CERD/C/SR.1852, 28 February 2008, § 3. According to information provided by the authorities to ECRI, the Roma population in Italy grew rapidly to about 350 000 following EU enlargement in 2007 but subsequently fell back to about 150 000.

⁵⁵ In the rest of this report, the term "Roma" is used to refer to both Roma and Sinti.

⁵⁶ According to an opinion poll conducted in 2008 and cited by the European Network Against Racism (ENAR), 70% of Italians would like to expel the Roma from Italy, despite the fact that a little more than half of them are Italian nationals and 20% are EU citizens.

⁵⁷ See above - Racism in public discourse, and below, *passim*.

their fingerprinting.⁵⁸ Although the authorities have stated that these measures were not based on an ethnic criterion and that, in July 2008, they had adopted guidelines providing that the operations entrusted to the Commissioners "*shall not concern specific groups, individuals or ethnic groups, but all people living in illegal and legal campsites, regardless of their nationality and religion. The Commissioners shall avoid any action that might be, directly or indirectly, considered discriminatory*",⁵⁹ civil society organisations have noted that all the censuses were performed in campsites that were virtually solely inhabited by Roma.⁶⁰ Moreover, there were reports of cases in which persons concerned by these censuses were misinformed as to their purpose, children were fingerprinted or searches of dwellings were conducted without the police officers having shown the residents a court order. During the same period, campsites were demolished and forced evictions took place, strengthening the impression that Roma were being deliberately targeted by the authorities; simultaneously, violent racist attacks were made against other campsites.⁶¹ ECRI has already had occasion to express its grave concern about this situation;⁶² it again warns against any form of stigmatisation of part of the population on grounds of ethnic origin.

85. *ECRI urges the Italian authorities to ensure that all measures they take with regard to Roma strictly uphold the right and the principle of non-discrimination as enshrined in the Council of Europe's standards.*
86. As ECRI noted in its second report, Law No. 482/1999 containing provisions to protect the historical and linguistic minorities permits the regions and autonomous provinces to pass legislation aimed at protecting and promoting the development of the language and culture of the Albanian, Catalan, German, Greek, Slovenian and Croat populations, as well as those speaking French, Franco-Provençal, Friulian, Ladin, Occitan and Sardinian.⁶³ Roma are still excluded from the scope of this law and – unlike all recognised minorities in Italy – are covered by no other national law affording them overall protection. For lack of such national legislation the legal protection enjoyed by Roma is less effective than that from which persons belonging to recognised minorities benefit. Indeed, as already noted by the Advisory Committee on the Framework Convention for the Protection of National Minorities, the various legislative provisions adopted at regional level are

⁵⁸ Censuses were carried out in Milan, Rome and Naples between June and October 2008 and again in Rome in February 2009; in March 2009 censuses also took place in the provinces of Verona, Venice, Treviso, Padua and Vicenza.

⁵⁹ Guidelines of 17 July 2008 for implementing the Orders of the President of the Council of Ministers Nos. 3676, 3677 and 3678 of 30 May 2008 concerning campsites of nomad communities in the regions of Lazio, Lombardy and Campania.

⁶⁰ European Roma Rights Centre, Open Society Institute and osservAzione, Memorandum to the European Commission: Violations of EC Law and the Fundamental Rights of Roma and Sinti by the Italian Government in the Implementation of the Census in "Nomad Camps", 4 May 2009.

⁶¹ Concerning the forced evictions and the dismantling of settlements, see below; with regard to the attacks on campsites, see Racist violence above.

⁶² Concerning the "emergency", see the Decree of the President of the Council of Ministers of 21 May 2008, Official Journal No. 122 of 26 May 2008 - Declaration of a state of emergency in relation to settlements of nomad communities in Campania, Lazio and Lombardy; the Orders of the President of the Council of Ministers Nos. 3676, 3677 and 3678 of 30 May 2008 introducing exceptional civil protection measures to tackle the state of emergency in relation to the nomad community settlements located respectively in the regions of Lazio, Lombardy and Campania; the regions of Piedmont and Veneto have also been covered since 1 June 2009. See also the Statement of the European Commission against Racism and Intolerance on recent events affecting Roma and immigrants in Italy, adopted on 20 June 2008 at ECRI's 46th plenary meeting.

⁶³ See ECRI's second report on Italy, § 6.

disparate and lack consistency.⁶⁴ This situation exposes the Roma to particularly serious forms of abuse.

87. *ECRI recommends that the Italian authorities adopt legislative provisions at national level aimed at affording the Roma and Sinti global protection along the same lines as the measures concerning the historical and linguistic minorities. It calls on them to follow in particular the recommendations of the Advisory Committee on the Framework Convention for the Protection of National Minorities in this respect.*
88. In its third report, ECRI recommended that the Italian authorities take immediate steps to address the lack of passports and residence permits among members of the Roma and Sinti communities. Many Roma, particularly those originating from the western Balkans, have no clear legal status although they have been living in Italy for a very long time – sometimes more than 30 years. Many of them, who are not in possession of any identity document, are at permanent risk of being deported under the immigration legislation; however, those who are actually detained with a view to their deportation cannot be expelled from the country since they have no identity documents. It is equally impossible for these persons to integrate into Italian society as their lack of official documents prevents them from finding legal work or housing, from accessing public services and *a fortiori* from obtaining Italian citizenship. They are thus in a particularly invidious situation, being *de facto* stateless. Yet, because Italy does not recognise these persons as stateless, it seems that they also do not enjoy in practice the rights set out under the Convention relating to the Rights of Stateless Persons, to which Italy is nonetheless a party.
89. Until recently, children born in Italy of parents with no identity documents obtained an Italian birth certificate. However, even where they hold such a certificate, Roma living on campsites are often unable to show that they fulfil all the conditions for subsequent granting of Italian citizenship (particularly the residence requirement) and have no choice other than to seek recognition as stateless persons first, without any guarantees as to the outcome of this procedure or of any subsequent naturalisation application.⁶⁵ Furthermore, ECRI notes with concern that the situation of children born in Italy of parents without identity papers has become even more precarious since the entry into force of Law No. 94/2009 as any foreigner wishing to register the birth of a child is now obliged to present a residence permit.
90. *ECRI urges the Italian authorities to take without delay all the measures necessary to allow Roma who are in a situation of de facto statelessness to obtain identity documents enabling them to accede at least to the same rights as stateless persons.*
91. In its third report, ECRI noted that about one third of the Roma and Sinti, whether citizens or non-citizens, lived in camps for "nomads" segregated from the rest of society and often even without access to the most basic facilities. It strongly recommended that the Italian authorities address the housing situation of the Roma population in close co-operation with the communities concerned and reminded them that it was important not to base their policies concerning Roma and Sinti on the assumption that the members of these groups lead a nomadic lifestyle.

⁶⁴ Opinion on Italy adopted on 14 September 2001, ACFC/INF/OP/I(2002)007, § 16. See also Third Opinion on Italy adopted on 15 October 2010, ACFC/OP/III(2010)008.

⁶⁵ See, in particular, OSCE, Assessment of the Human Rights situation of Roma and Sinti in Italy, 2008, pp.17 -19; concerning conditions for obtaining Italian citizenship, see also above, Citizenship legislation.

92. There are some authorised settlements, put in place by local authorities. These are generally located in peripheral urban areas, far distant from city centres, or in industrial zones.⁶⁶ Although they avoid the worst health-related problems, since they offer access to running water and electricity, these sites are often densely packed with containers, arranged in straight lines, each of which is intended to house up to four or five people. In the case of a container that is home to four people the average floor area per person is less than half that recommended by the Building Code standard; at the same time, the families concerned often have more members than the number of persons the container is officially intended to house. Although the general living conditions in the settlements are not insalubrious, this overcrowding poses clear health problems. Moreover, authorised settlements are often surrounded by a fence or even a wall that is higher than the average adult, and access is restricted solely to residents holding an identity badge; non-residents can enter the settlements only after showing an identity document to the guards on duty. ECRI notes with concern that these conditions – although they often constitute an improvement in sanitary terms compared with the situation prevailing in the illegal settlements – are tantamount to segregation, stigmatise people living on these sites, pose serious problems of integration of the Roma in Italian society and are also less favourable than the situation of persons who are not considered as “nomads” and who live in public housing.
93. In illegal settlements, which are mainly inhabited by Roma who are not Italian citizens, dwellings above all consist of makeshift shacks built by the Roma themselves on undeveloped sites, where the paths quickly turn to mud in rainy weather. These settlements generally have no running water, electricity or sanitation and are sometimes located alongside public landfills, including toxic waste dumps. Sanitary conditions are deplorable, and the state of health of all the inhabitants, in particular the children, is accordingly poor. Some sources report particularly high incidences of respiratory disease, skin infections and gastro-intestinal problems among Roma children. In addition, the lack of an electricity and gas supply obliges the inhabitants to improvise temporary means of heating in winter using wood-burning stoves, which aggravate their respiratory problems, or mere candles. This increases the risk of fire, and in recent years a number of deaths by fire have regrettably occurred.⁶⁷
94. Many illegal settlements have been demolished in recent years and their inhabitants evicted, sometimes without prior notice and in a brutal manner; during these operations the Roma population's housing and personal belongings are destroyed. In many Italian towns forced evictions directly targeting Roma⁶⁸ have taken place without prior notice or consultation, with no procedural guarantees and without the persons concerned being offered decent replacement accommodation. Even where the intention is to rehouse the occupants of illegal settlements on legal campsites or other sites, the number of places made available is often lower than the number of persons affected by the eviction measures. In all these cases, Roma are left without suitable housing and with no other choice than to move from one site to another, where the living conditions may well be worse than on the site they come from.

⁶⁶ See, among other sources, OSCE, Assessment of the Human Rights situation of Roma and Sinti in Italy, 2008, pp. 19-20.

⁶⁷ See, among other sources, OSCE, Assessment of the Human Rights situation of Roma and Sinti in Italy, 2008, pp. 19-20; CommDH (2009) 16.

⁶⁸ See, in particular, European Committee of Social Rights, Centre on Housing Rights and Evictions (COHRE) v. Italy, Collective Complaint No. 58/2009, Report to the Committee of Ministers, §§ 41-45 and 73-74.

95. ECRI remains concerned about the ongoing assumption that Roma live nomadic lifestyles, an approach which continues to pervade policies concerning them, particularly in the field of housing. The dominant practice is still to relegate the Roma to campsites located far from urban centres, and this is often the solution proposed when rehousing former inhabitants of illegal settlements. ECRI again expresses its great concern regarding the segregation with which Italy's Roma have to contend – whether they live in legal or illegal settlements, but all the more so in the latter case – and their deplorable housing conditions. It notes further that the forced evictions directly targeting Roma seem to have been stepped up since 2008, which also worsens the discrimination against them in other areas of life, as can be seen from other sections of this report. ECRI underlines that by virtue of international law,⁶⁹ a number of protection measures should be in place in cases of forced eviction. It draws the authorities' attention to the importance of ensuring that there are genuine opportunities for consultation of those affected, that adequate and reasonable notice is given, and that those in need of them have access to legal remedies and legal aid. ECRI also emphasises that evictions should not result in persons being left homeless or victims of other violations of their fundamental rights; the State must therefore ensure that alternative housing is offered, even in cases where the evicted persons may only remain in the country for limited periods.⁷⁰
96. The situation of Roma with respect to housing – which has shown no improvement in recent years, but has on the contrary worsened⁷¹ – has moreover frequently been denounced not only by ECRI,⁷² but also by other international bodies, including the Committee on the Elimination of Racial Discrimination, the Council of Europe Commissioner for Human Rights, the Advisory Committee on the Framework Convention for the Protection of National Minorities and the OSCE High Commissioner on National Minorities.⁷³ The European Committee of Social Rights for its part recently found a number of violations of the European Social Charter (revised) in these matters, some of them aggravated.⁷⁴ ECRI deplores the Italian authorities' failure to act to remedy this situation.
97. *ECRI recommends that the Italian authorities firmly combat the segregation suffered by Roma in the field of housing, notably by ensuring that the housing solutions proposed to them do not cut them off from the rest of society but on the*

⁶⁹ See in particular the International Covenant on Economic, Social and Cultural Rights, Article 11, as interpreted by the Committee on Economic, Social and Cultural Rights.

⁷⁰ In this respect ECRI refers in particular to General Comment 7 : The right to adequate housing : forced evictions, Committee on Economic, Social and Cultural Rights; see notably paragraphs 15 and 16 of this General Comment; for the definition of forced evictions, see paragraph 3.

⁷¹ European Committee of Social Rights, Centre on Housing Rights and Evictions (COHRE) v. Italy, Collective Complaint No. 58/2009, Report to the Committee of Ministers, § 58.

⁷² See in particular ECRI's second and third reports.

⁷³ See for example United Nations Committee on the Elimination of Racial Discrimination (CERD), Examination of reports submitted by States parties under Article 9 of the International Convention for the Elimination of all forms of Racial Discrimination, Concluding Observations of CERD on Italy, 16 May 2008, CERD/C/ITA/CO/15; Memorandum of Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Italy. Issues reviewed: Roma and Sinti; Immigration, 29 July 2008, CommDH(2008)18; Advisory Committee on the Framework Convention for the Protection of National Minorities, Second Opinion on Italy adopted on 24 February 2005, ACFC/INF/OP/I(2002)007; OSCE, Assessment of the Human Rights situation of Roma and Sinti in Italy, Report of a fact finding mission to Milan, Naples and Rome on 20-26 July 2008, Warsaw, The Hague, March 2009.

⁷⁴ European Committee of Social Rights, Centre on Housing Rights and Evictions (COHRE) v. Italy, Collective Complaint No. 58/2009, Report to the Committee of Ministers.

contrary, promote their integration. ECRI again stresses to the Italian authorities the importance of not basing their policies towards Roma and Sintis on the preconceived notion that they live a nomadic lifestyle.

98. *ECRI strongly recommends that the Italian authorities ensure that the right to adequate housing is fully respected in the case of the Roma coming under Italy's jurisdiction and draws attention to the urgent need to remedy the health problems reported in this connection.*
99. *ECRI urges the Italian authorities to ensure that all Roma who may be evicted from their homes enjoy the full protection of the guarantees of international law in such matters. It underlines that the persons concerned must be notified of any proposed eviction and benefit from appropriate legal protection; nor must they be evicted without the possibility of being rehoused in decent accommodation, even if they may stay in the country only for limited periods of time.*
100. In its third report, ECRI recommended that the Italian authorities ensure that all Roma children are enrolled in school and intensify their efforts to promote regular school attendance by these children. It also called on the Italian authorities to take steps to facilitate participation of Roma students in further and higher education.
101. Under the Italian Constitution and legislation, all children, regardless of their immigration status, have the right to education, which is compulsory up to the age of 16. ECRI notes with interest that many municipalities are implementing programmes aimed at facilitating access to school for Roma children, including the provision of school buses, and that the authorities have set up a system of local agreements to reduce underperformance at school. According to the information in its possession, the approach adopted by teachers and schools towards Roma children coming into contact with the school system seems to be welcoming.
102. ECRI welcomes these positive elements but notes that there are still many problems: Roma children living in illegal settlements are not systematically known to the education authorities and are therefore not enrolled in school; children concerned by forced evictions often find themselves unable to continue attending their school because no alternative housing is offered to them; the drop-out rate among children attending school remains high, particularly in post-primary education; the level of illiteracy among the Roma, particularly Roma women, is still high; as a result of all these factors, few Roma undertake a course of further or higher education, and measures do not appear to be in place to facilitate their access to this level of education. ECRI remains concerned about this situation, which leads to Roma being trapped in a situation of severe marginalisation and extreme poverty.
103. *ECRI strongly recommends that the Italian authorities ensure that all Roma children are enrolled in school and invites them to take all the necessary measures, in co-operation with the communities concerned, to promote regular school attendance by these children. ECRI encourages the authorities to pursue the measures already in place to this end and invites them to strengthen their efforts to counter school drop-outs and interruptions in the schooling of Roma children.*
104. *ECRI again invites the Italian authorities to take steps to facilitate participation of Roma students in further and higher education.*
105. In its third report, ECRI recommended that the Italian authorities take urgent action to improve the situation of Roma and Sinti in the fields of employment and health and to combat general prejudice in society.

106. The authorities have referred to a variety of efforts to foster the social inclusion of Roma. A number of initiatives were funded by central government between 2007 and 2008 in an amount of € 5 million, including through agreements reached with local and regional authorities, to support the inclusion of Roma in the labour market, integrating Roma pupils into the school system (see above) and providing housing for the Roma population; the Ministry of Health also ran a scheme aimed at distributing information on access to health care to the Roma and Sinti in Romanian and the Romany language. A national technical "task force" for the social inclusion of Roma and Sinti, notably in the employment field, has also been set up and seeks to facilitate dialogue and the exchange of information between the various parties involved in implementing initiatives in favour of the Roma financed by the EU Structural Funds; in parallel, the Ministry of Labour and Social Policy is participating in research aimed at gathering specific data on the implementation of projects in favour of the Roma financed by the EU Structural Funds. The Council of Europe's awareness raising campaign on Roma - "Dosta!" - has also been launched in Italy.
107. ECRI welcomes these efforts. It notes, however, that, in view of the disadvantages suffered by the Roma and Sinti, it is essential that they be pursued and strengthened. In health matters, as described above, the conditions in which Roma live on the campsites expose them to considerable health risks. In the field of employment, on account of their low level of education and training, Roma and Sinti cannot easily access the labour market, especially if they do not hold identity documents. Prejudices against Roma and Sinti also exacerbate the difficulties they encounter in the employment field. ECRI points out that to deal simultaneously with all the disadvantages suffered by Roma and Sinti in different areas of daily life, and to address discrimination against them on a lasting basis, it is vital to adopt a comprehensive approach to these issues under a clear policy established at national level. ECRI notes with interest that one of the four pillars of the Third National Plan of Action and Intervention for the protection of rights and development of subjects in developmental age, adopted by presidential decree on 21 January 2011, is dedicated to promotion of interculturality. In this context, a variety of actions are provided for, notably to promote inclusion at school, protect the health of Roma children and adolescents and promote diversity training for teaching and non-teaching staff in schools. ECRI hopes that this Plan will have a positive impact for Roma children and adolescents and invites the authorities to evaluate carefully the impact that it has in practice.
108. *ECRI strongly encourages the Italian authorities to pursue and intensify their efforts to combat discrimination against Roma in different fields of life such as employment and health. ECRI strongly recommends that the Italian authorities incorporate these efforts in a comprehensive national policy to address the situation of marginalisation, disadvantage and discrimination of the Roma. It also invites them to establish an effective mechanism to co-ordinate these efforts at national level with the participation of all the national, regional, provincial and local authorities concerned and of representatives of the Roma communities and of civil society.*

Migrants, refugees and asylum seekers

- Migrants with legal status

109. The number of non-citizens living in Italy has continued to grow since ECRI's third report. According to official statistics there were over 4.2 million non-citizens living in Italy as at 31 December 2009 (approximately 7% of the total population), of whom over 572 000 were born in Italy; the great majority live in the north and

centre of the country.⁷⁵ Moreover, a regularisation process was launched in 2009 to offset some unexpected consequences of Law No. 94/2009 when it came into effect,⁷⁶ since it would have placed many migrant workers – especially in the field of domestic and care services – in an unlawful situation and would therefore have jeopardised the continuity of these services. According to the figures supplied by the authorities, over 290 000 applications for regularisation were made, of which approximately 90% were accepted.

110. In its third report, ECRI made a series of recommendations to the Italian authorities aimed at preventing all direct and indirect discrimination against migrants with legal status, particularly on account of problems relating to issue of residence permits. It also made a number of recommendations aimed at improving integration of migrants with legal status, including providing for their participation in local elections.
111. ECRI notes that on 10 June 2010, the Italian Council of Ministers adopted the national ‘Identity and Encounter’ plan for integration and security. The plan provides for the introduction of a national strategy to promote social and economic integration, for example through education and training, employment, housing, access to services, and the children of second-generation immigrants. It aims to repeat the positive results achieved locally through the Fund for the Social Inclusion of Immigrants, set up in 2007. ECRI notes with interest in this context that the authorities are planning to introduce measures to strengthen the rights of migrant workers with legal status by giving them similar rights to those of Italian citizens if the business employing them closes down or suspends its operations. It observes, however, that these rights are apparently conditional on the non-citizen’s observance of an integration agreement, whereby he or she must attend Italian language and civilisation classes and gain an adequate knowledge of Italian and public institutions; this agreement would seem to operate on the penalty-point system, with failure to observe it possibly resulting in non-renewal or withdrawal of the residence permit.
112. ECRI notes that knowledge of the host country’s language and civilisation can facilitate non-citizens’ participation in society and thus be an important factor in integration. Generally speaking, it supports measures to promote integration in Italian society. It stresses, however, that integration is a two-way process implying mutual recognition between the majority population and minority groups and measures taken in this field should first and foremost be in the form of incentives. ECRI notes in this context that Italian law provides for penalties for individuals required to attend integration classes if they fail to attend regularly; it emphasises that any penalty applied must be proportionate to the objective pursued. It also draws the attention of the Italian authorities to the fact that, at the very least, exceptions should be provided in certain circumstances in order to avoid violations of other personal rights (especially the right to respect for private and family life as enshrined in Article 8 of the European Convention on Human Rights) in the event of a refusal to extend a residence permit. It stresses that these rights also apply to migrants who have not learnt the language or culture of their host country.
113. ECRI also notes with concern how the authorities are linking integration with security. While the measures taken to promote integration may send a positive message to society as a whole, ECRI stresses that this message is likely to be

⁷⁵ Statistics published by the Italian National Institute of Statistics: see <http://demo.istat.it/str2009/index.html>.

⁷⁶ Legislative Decree No. 78/2009; for Law No. 94/2009 see above, “Pacchetto Sicurezza” and other measures targeting foreigners.

overshadowed by the direct link being made between integration and security issues. This link may stigmatise migrants by giving rise to the false impression that insecurity is a problem specifically and solely associated with migrants.

114. *ECRI encourages the Italian authorities to continue their efforts to promote integration of migrants with legal status and reduce the disparity between citizens and non-citizens on the labour market. However, it recommends that they ensure that these measures do not have the corollary of stigmatising non-citizens and laying them open to other violations of their rights.*

- **Refugees and asylum seekers**

115. In its third report, ECRI recommended that the Italian authorities adopt a comprehensive law on asylum. ECRI notes that new legislation has since been introduced in this field, in particular to incorporate EU directives into Italian law;⁷⁷ it welcomes the fact that Italian law now makes provision for granting subsidiary international protection. Nevertheless, asylum provisions are still spread across various different parts of Italy's domestic legal system, rendering some aspects of the relevant rules unclear⁷⁸ and making it harder to apply them.

116. *ECRI reiterates its request to the Italian authorities to codify asylum law.*

117. When considering the situation of refugees and asylum seekers in Italy, ECRI must draw a distinction between two periods. On the one hand, between 2006 and 2010 the number of asylum claims in Italy fluctuated widely, rising from 10 348 in 2006 to 30 324 in 2008 only to fall to 17 603 in 2009.⁷⁹ The number of sea arrivals was 19 900 in 2007 and 36 000 in 2008. About 75% of individuals arriving by sea claimed asylum, and approximately 50% of them were granted refugee status or some other form of international protection.⁸⁰ On the other hand, the number of sea arrivals rose again dramatically following the events in some North African countries in early 2011.⁸¹ Thus between mid-January and late March 2011, about 19 000 Tunisians and 1 500 persons from Libya arrived on the island of Lampedusa. These two situations will be examined separately.

- Situation up to late 2010

118. In its third report, ECRI strongly recommended that the Italian authorities take urgent steps to ensure in all cases that respect for the principle of non-refoulement and the right of individuals to apply for asylum was guaranteed, including when migrants were intercepted at sea or apprehended on entering Italy illegally.

⁷⁷ See, for example, Legislative Decree No. 251/2007 of 19 November 2007 incorporating Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, Legislative Decree No. 25/2008 of 28 January 2008 incorporating Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status, and Legislative Decree No. 159/2008 of 3 October 2008 amending Legislative Decree No. 25/2008.

⁷⁸ See below for the suspensive effect of an appeal.

⁷⁹ See the annexes to the relevant UNHCR Statistical Yearbooks: 'Asylum applications and refugee status determination by country/territory of asylum', Table 9 for 2007-2009, Table 6 for 2006.

⁸⁰ See UNHCR, Briefing Notes, 'Mediterranean sea arrivals: UNHCR calls for access to protection', 9 January 2009.

⁸¹ This occurred after the ECRI contact visit in November 2010.

119. ECRI is deeply concerned about developments on these points up to late 2010, especially regarding barriers to claiming asylum. It here points in particular to the adoption by the Italian authorities in May 2009 of a policy of returning to their country of origin any boats intercepted on the open sea between Italy and Libya (*“respingimento”* or pushback policy) and the signing of an official agreement with the Libyan authorities establishing, amongst other things, joint patrols in the waters between the two countries.⁸² ECRI notes that, according to the Italian authorities, between May and August 2009 757 people were rescued outside Italy’s territorial waters and taken back to Libya, in accordance with international law. However, according to a number of sources, boats have been returned to Libya – a state which is not a party to the 1951 Geneva Convention relating to the Status of Refugees – without the persons on board having been able to indicate whether or not they wanted to claim asylum, without their country of origin having been identified, and without their having been offered the assistance of a lawyer or interpreter.⁸³ Yet interviews conducted by the UNHCR with some of the people who were returned to Libya in 2009 suggest that a number of them were seeking and would have been able to claim international protection.⁸⁴ This situation is extremely worrying, as it seems to show that not only is Italy’s pushback policy denying individuals the possibility of claiming asylum but also individuals who are in need of protection have been subject to refoulement. It also seems that the persons returned to Libya are likely to suffer ill-treatment there.⁸⁵
120. *ECRI strongly recommends that the Italian authorities take all necessary steps to ensure that the principle of non-refoulement is fully respected. It urges them to bring their pushback (“respingimento”) policy to an immediate and permanent end. In this connection, it emphasises the need to guarantee access to asylum procedures in full accordance with the 1951 Geneva Convention, the European Convention on Human Rights and the relevant EU directives.*
121. In its third report, ECRI recommended that the Italian authorities provide the Asylum Territorial Commissions with all the human and financial resources needed to ensure good-quality decisions on asylum applications within a reasonable time. ECRI notes with satisfaction that there seems to have been no criticism of the workings of these commissions. In 2009, they considered 23 944 asylum claims, granting asylum in 2 230 cases and another form of protection in 7 343 cases.⁸⁶
122. ECRI also notes with interest the setting-up of the Praesidium project, funded by the Ministry of the Interior and designed to build capacity to receive and provide services for persons arriving in particular in remote areas in order to offer these persons speedy access to information about their rights and to legal assistance and interpreters. However, some problems have been raised concerning access

⁸² The text of this agreement has never been published. For the agreement signed between Italy and Tunisia in January 2009 designed, amongst other things, to expedite the identification and return of Tunisians living in Italy; see below, Deportations under counter-terrorism provisions.

⁸³ Report to the Italian Government on the visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 to 31 July 2009, CPT/Inf(2010)14, Strasbourg, 28 April 2010, § 40.

⁸⁴ UNHCR, Briefing Notes, ‘UNHCR interviews asylum seekers pushed back to Libya’, 14 July 2009.

⁸⁵ Report to the Italian Government on the visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 to 31 July 2009, CPT/Inf(2010)14, Strasbourg, 28 April 2010, §§ 41-47.

⁸⁶ See UNHCR Statistical Yearbook 2009, Annex, Table 10.

to legal aid and interpreting in these cases. A number of sources have, moreover, told ECRI that in 2010 people were returned from Sicily to Egypt without their origin having been determined, without having had access to assistance through the Praesidium project and without having been able to make asylum applications to the proper authorities.

123. *ECRI recommends that the Italian authorities strengthen existing provisions guaranteeing access to the asylum procedure. It insists in this respect on the need to ensure that no decisions to return persons seeking international protection are taken without those persons having had access to assistance from lawyers and interpreters. It strongly recommends that the Italian authorities ensure that asylum seekers receive legal and interpreting assistance throughout the procedures concerning them.*
124. In its third report, ECRI also noted that appeals against rejections of asylum claims did not have a suspensive effect on deportations and recommended that the Italian authorities not deport asylum seekers before having ruled on their appeals. ECRI notes with interest that since then the relevant rules have been amended and suspensive effect is now the general rule. However, provision has been made for a large number of exceptions,⁸⁷ with the risk that the suspensive effect will be deprived of most of its substance. It is admittedly possible for an asylum seeker coming under one of these statutory exceptions to request a court to grant a stay of execution regarding the deportation order. However, the relevant provisions are complex and lack clear implementing rules, making it difficult to exercise an effective right of appeal. Moreover, while court proceedings offer important procedural safeguards, according to civil society the courts do not always rule on cases within the statutory time-limits. Consequently, there is a genuine danger that asylum seekers will be deported to a country where they will face the real risk of suffering treatment in breach of Article 3 of the European Convention on Human Rights.
125. *ECRI again recommends that the Italian authorities not deport asylum seekers before having ruled on their appeals. To this end, it recommends that they review the exceptions provided for in Italian law to the suspensive effect of an appeal against rejection of an asylum application. It further recommends that they introduce implementing rules for the relevant provisions as soon as possible.*
126. In its third report, ECRI recommended that the Italian authorities ensure that asylum seekers only be detained when it was absolutely necessary, for short periods of time, and following an examination of the circumstances of the individual case. It also recommended that they ensure that detained asylum seekers had access to adequate living conditions.
127. There are currently three types of reception or detention centres for asylum seekers and migrants without legal status in Italy. First, reception centres (*Centri di Accoglienza*, CDAs) house new arrivals, for the purposes of ensuring identification and providing accommodation, medical assistance and information about asylum procedures for non-citizens who have entered Italian territory or

⁸⁷ See Article 35 of Legislative Decree No. 25/2008 of 28 January 2008 as amended by Legislative Decree No. 159/2008 of 3 October 2008. Thus, as already noted by the Council of Europe Commissioner for Human Rights (CommDH(2009)16, §65c), an exception to the general rule of suspensive effect is made in the following cases: a) The asylum seeker was accommodated in an open reception centre after being arrested for avoiding or trying to avoid border controls or immediately after, or after being arrested for unlawfully residing in Italy; b) The asylum seeker is held in an Identification and Expulsion Centre; c) The asylum application is inadmissible; d) The asylum seeker left the reception or detention centre without justification; e) The asylum application is manifestly unfounded.

territorial waters without having gone through border controls. Asylum-seeker reception centres (*Centri di accoglienza richiedenti asilo*, CARAs) house asylum seekers who have received a certificate of their status after having made their applications; they can leave these centres during the day and are initially housed there for a period of between 20 and 35 days (the time period allowed for the relevant commission to examine their applications). This period may be extended up to a maximum of six months if the asylum seeker brings an appeal against the rejection of his or her application. Lastly, identification and expulsion centres (*Centri di identificazione ed espulsione*, CIEs) house non-EU citizens subject to deportation orders in order to avoid their absconding within the country during the period needed to establish their identity, prepare their travel documents and organise their return; with the entry into force of Law No. 94/2009, the maximum period for detention in CIEs has risen from 60 days to 180 days. It should be noted that a person who has applied for asylum after having been found to be without legal status and who has been transferred to a CIE must remain in that centre while his or her application is being examined.⁸⁸

128. ECRI welcomes the new system of receiving asylum seekers inasmuch as it is more flexible and seems to allow more asylum seekers to live in open-access conditions. It notes with interest that over the past few years the authorities have undertaken work to increase the capacity and improve the facilities of some reception centres, such as the one on Lampedusa. However, it seems that living conditions in CDAs and CARAs are not always adequate. Thus persons subject to different arrangements (some entitled to leave during the day and others not) are mixed together; furthermore, the centres often lack facilities to meet the occupants' needs for medical, social and legal assistance. Moreover, in October 2010, following a series of protests against conditions where they were being held, some twenty asylum seekers tried to escape from the Cagliari centre in Sardinia.
129. *ECRI again recommends that the Italian authorities detain asylum seekers only when absolutely necessary, for short periods of time, and following an examination of the circumstances of the individual case.*
130. *ECRI recommends that the Italian authorities review reception conditions in CDAs and CARAs to ensure that they meet all the needs of their occupants, both medically and socially and in terms of legal assistance.*
131. In its third report, ECRI recommended that the Italian authorities ensure that asylum seekers were not left destitute pending the examination of their claims. It also recommended that the Italian authorities establish a national integration programme for recognised refugees and make available adequate resources to this end.
132. ECRI notes that the new system of receiving asylum seekers in CDAs and CARAs seems to be an improvement, in particular inasmuch as CARAs are open centres where asylum seekers can be accommodated throughout the examination of their applications or for a period of up to 6 months. However, the information at ECRI's disposal suggests that no provision has been made to assist asylum seekers who choose to leave these centres or who have to leave them after 6 months even if their applications have not yet been settled. While ECRI welcomes the fact that asylum seekers are legally allowed to work once six months have elapsed from submission of their asylum applications,⁸⁹ it notes with

⁸⁸ For living conditions in CIEs, see below, Immigrants without legal status.

⁸⁹ Legislative Decree No. 140/2005 of 19 October 2005.

regret that access to regular employment often remains theoretical because of discrimination in the labour market.⁹⁰

133. *ECRI reiterates its recommendation that the Italian authorities ensure that asylum seekers are not left destitute pending examination of their claims.*
134. As regards integration, this still takes place solely through the SPRAR (protection system for asylum seekers and refugees). Established by Law No. 189/2002, this system consists in the provision of financial support by the Ministry of the Interior to towns and cities hosting asylum seekers and refugees on the basis of projects submitted by these towns and cities and approved following calls for tender. Three thousand places are funded every year, covering both asylum seekers and beneficiaries of international protection. While all stakeholders concur in stressing the utility of the programme, they also note that it is clearly not sufficient to cover actual needs. Nor does it offer a comprehensive approach, since, to participate in the SPRAR, each province or region must join the system individually, on the basis of its own specific projects, which means that the degree of integration will vary according to the city or region in which the programme beneficiaries are living. ECRI further notes with concern that most asylum seekers lose their right to be housed in reception centres once their applications for international protection have been accepted. The situation of persons not covered by the SPRAR once their status is recognised is thus likely to be even more insecure than during examination of their applications. Certain sources suggest that many refugees and beneficiaries of other forms of international protection therefore have no alternative but to occupy empty premises illegally or move into makeshift camps which are often overcrowded and lack electricity. Others find themselves on the street. This housing shortage fuels racism and xenophobia towards them.
135. *ECRI recommends that the Italian authorities strengthen the programme promoting integration of refugees, asylum seekers and other officially recognised beneficiaries of international protection so that all potential beneficiaries of this programme are actually covered. At the same time, it strongly encourages the Italian authorities to strengthen the national aspect of this programme in order to ensure that all its intended beneficiaries can benefit fully from the measures introduced, wherever they may be resident.*

- Specific situation arising from events in North Africa in early 2011

136. ECRI notes that, following the events in Tunisia in early 2011, 19 000 Tunisians arrived on Lampedusa between mid-January and late March 2011. According to the UNHCR, most of these Tunisians were seeking better economic opportunities rather than international protection.⁹¹ ECRI observes from the outset that access to asylum procedures must nevertheless be guaranteed for everyone seeking international protection and notes with interest that the Italian authorities initially stated their commitment to providing this access.⁹² It also notes that Italy and Tunisia signed a new agreement on 6 April whereby Tunisia undertook to strengthen its border controls for the purpose of preventing further departures and to accept rapid readmission of persons returned from Italy under simplified procedures. ECRI expresses its deep concern regarding reports that, as part of the implementation of this agreement, people were returned to Tunisia after only one or two days on Lampedusa; it stresses in this context that given the speed of

⁹⁰ See below, Discrimination in Various Fields - Employment.

⁹¹ UNHCR, Briefing Notes, 'Italy, Malta receive first boats from Libya, stretching asylum capacity', 29 March 2011.

⁹² UNHCR, News Stories, 'UNHCR helps Italy cope with high seas influx of thousands of Tunisians', 15 February 2011.

their return, on the one hand, and the shortage of people on Lampedusa to inform new arrivals of their rights, on the other, there is a real risk that people may have been returned to Tunisia without having received adequate information about the asylum procedure or having been able to contest their return – in breach of Article 13 of the European Convention on Human Rights.

137. At the same time, following the events in Libya, a member of the Italian government indicated in early 2011 that the agreement between Italy and Libya was no longer operating in practice. In late March boats also began arriving in Italy from Libya, carrying mainly Eritrean, Somali, Ethiopian and Sudanese passengers who had fled war and persecution in their own countries before fleeing, a second time, from Libya. ECRI notes in this context that, according to some sources, sub-Saharan Africans seem to be particularly at risk in Libya as they are perceived as being foreign mercenaries.⁹³ It also expresses its profound sadness and dismay at the drowning of hundreds of refugees at sea between Libya and Italy and draws attention to the principles of rescue at sea, which apply to everyone.⁹⁴
138. ECRI notes that the events in North Africa concern all European states and will undoubtedly necessitate some sharing of responsibilities.⁹⁵ It nevertheless stresses that this situation does not relieve Italy of the obligation to ensure full respect for the rights of individuals coming under its jurisdiction. It here notes with concern reports that – despite the Italian authorities' stated commitment to guaranteeing access to asylum procedures for any persons requiring it – dozens of people arriving from Egypt in mid-February were immediately returned to that country without having had the option of stating whether or not they wished to claim asylum.
139. *ECRI strongly recommends that the Italian authorities systematically respect the principle of non-refoulement and take all further steps necessary to ensure access to asylum procedures for all persons having arrived in Italy from North Africa since the beginning of 2011 and who are seeking international protection.*
140. *ECRI draws the attention of the Italian authorities to the importance of taking all necessary steps to ensure that any ship coming under their jurisdiction fully respects the principles laid down by international law with respect to rescue at sea.*
141. ECRI is deeply concerned about the living conditions of the people who arrived in Italy from North Africa in the first few months of 2011, some of whom were seeking international protection. Despite steps taken by the Italian authorities to distribute these people across various reception centres throughout Italy, over 6 000 migrants were still on Lampedusa in late March 2011, although the capacity of the reception centre on the island is 850 people. This situation creates serious health problems as well as tensions among the local population. It also

⁹³ See, for example, UNHCR, Press Releases, 'UNHCR High Commissioner for Refugees and UNHCR Goodwill Ambassador shocked by devastating boat tragedy', 6 April 2011.

⁹⁴ On 20 June 2011 the President of the Parliamentary Assembly of the Council of Europe announced that the latter would conduct an inquiry into one such incident that occurred on 8 May 2011.

⁹⁵ See also, Resolution 1805 (2011), 'The large-scale arrival of irregular migrants, asylum seekers and refugees on Europe's southern shores', adopted by the Parliamentary Assembly of the Council of Europe on 14 April 2011.

makes it difficult for Italy to cope with the arrival of refugees and asylum seekers fleeing violence in Libya.⁹⁶

142. *ECRI strongly encourages the Italian authorities to continue and step up their efforts to provide adequate reception arrangements for persons arriving on Italian shores following the events in North Africa, some of whom are seeking international protection.*

- ***Migrants without legal status***

143. In its third report, ECRI recommended that the Italian authorities ensure that living conditions in all CPTAs (now CIEs⁹⁷) meet adequate standards. It urged the Italian authorities to investigate all allegations of ill-treatment in these centres and to punish those found responsible. It also invited the authorities to increase transparency by facilitating access to these centres.

144. ECRI notes with concern that there are continuing reports of ill-treatment of persons held in CIEs. In some cases people have apparently died without receiving medical assistance. Moreover, despite some mainly structural improvements to buildings, living conditions have reportedly scarcely improved over the past few years, and CIEs – closed detention centres originally designed for maximum detention periods of between 30 and 60 days – and their facilities are reportedly unsuitable for the considerably longer periods of detention (up to 180 days) that are now provided for by the law.⁹⁸ Some reports suggest that health services and legal, social and psychological support are inadequate, contributing to unrest among detainees, manifested by self-mutilation or disputes between detainees, or even revolt. Moreover, these centres do not always allow for account to be taken of the specific needs of their most vulnerable occupants. It also seems that they often operate without proper external supervision and access remains difficult for human rights organisations, lawyers and journalists.

145. *ECRI recommends that the Italian authorities consider alterations to Identification and Expulsion Centres (CIEs) and the living conditions there and take all the necessary steps to ensure that they are suitable for periods of detention lasting up to 180 days.*

146. *ECRI urges the Italian authorities to ensure that all persons held in CIEs have access to the medical care that they need.*

147. *ECRI urges the Italian authorities to investigate all allegations of ill-treatment in these centres and punish those responsible. It again invites the authorities to increase transparency by facilitating access to these centres, including for organisations protecting the human rights of migrants and asylum seekers and for lawyers.*

- ***Deportations under counter-terrorism provisions***

148. ECRI notes with concern that since its third report, Italy has on several occasions deported non-citizens from its territory – including under domestic counter-terrorism legislation – despite interim measures indicated by the European Court

⁹⁶ UNHCR, Briefing Notes, 'Italy, Malta receive first boats from Libya, stretching asylum capacity', 29 March 2011.

⁹⁷ Pursuant to Law No. 125 of 24 July 2008.

⁹⁸ Report to the Italian Government on the visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 to 31 July 2009, CPT/Inf(2010)14, Strasbourg, 28 April 2010, § 34.

of Human Rights under Rule 39 of its Rules of Court.⁹⁹ In a number of these cases the Court found violations of Article 3 of the European Convention on Human Rights (prohibition of torture and inhuman or degrading treatment or punishment) accompanied in some cases by violation of Article 34 (an individual's right to lodge an application with the Court). In other cases it seems that persons deported without having been able to lodge an application with the Court were later subjected to ill-treatment or even torture. Some of these deportations took place after the signing in January 2009 of an agreement between Italy and Tunisia, one of the purposes of which was to expedite the identification and return of Tunisians living in Italy.¹⁰⁰

149. ECRI expresses its serious concern about this situation. It observes that the fight against terrorism cannot justify failure to comply with interim measures indicated by the European Court of Human Rights. It further notes that the Italian authorities' repeated failures over the past few years with regard to Tunisian nationals may fuel racism and xenophobia towards the latter.
150. *ECRI urges the Italian authorities to take effective steps to prevent any deportations from Italy that might be in breach of Article 3 of the European Convention on Human Rights. Inasmuch as the failures already noted have occurred in connection with the fight against terrorism, ECRI invites the Italian authorities to refer to its General Policy Recommendation No. 8 on combating racism while fighting terrorism.*

Muslim communities

151. Although there are no official statistics,¹⁰¹ the number of Muslims living in Italy is currently estimated at more than one million; the vast majority of them are migrants. In its second report, ECRI recommended that the Italian authorities take steps to counter manifestations of prejudice, discrimination and violence directed against members of Muslim communities and challenge any association made in public debate between these communities and terrorism.
152. ECRI notes with regret that anti-Muslim prejudice still exists in Italian society. Opinion polls continue to show that the Italian population is wary of Islam and one third of the population would not want a mosque to be built near their home. This prejudice is reflected in the strong objections raised to many plans to build mosques and in violent attacks on buildings housing mosques or Islamic cultural centres. Muslims also continue to be stigmatised in political discourse and the policy proposals of certain parties. For example, in addition to anti-Muslim statements and provocative behaviour by certain individual members of the Northern League, this party has made a number of proposals for legislation directly targeting Muslims. A proposal made in 2008 sought to impose disproportionate restrictions on the construction of mosques (for example by banning the building of a mosque within 600 metres of a church and by requiring that a local referendum should systematically be held on such plans), even though the current number of mosques can be seen to be insufficient. Another

⁹⁹ Ben Khemais v. Italy, Application No. 246/07, judgment of 24/2/2009, final on 6/7/2009; Trabelsi v. Italy, Application No. 50163/08, judgment of 13/4/2010, final on 13/7/2010; Toumi v. Italy, Application No. 25716/09, judgment of 5/4/2011, not yet final; Mannai v. Italy, Application No. 9961/10, statement of facts and questions to the parties, 23 June 2010.

¹⁰⁰ See also above, 'Refugees and asylum seekers - Situation up to late 2010'. This 2009 agreement, which ceased to operate with the events of early 2011 in North Africa, should not be confused with the agreement signed in April 2011, which is also referred to above: see 'Refugees and asylum seekers - Specific situation arising from events in North Africa in early 2011.

¹⁰¹ See below, Monitoring of racism and racial discrimination.

proposal made in 2010 would have had the effect of criminalising the wearing of the burqa, with penalties of as much as a one-year unsuspended prison sentence for wearing of the garment and a fine of € 30 000 for anyone compelling a woman to wear it. In this connection, ECRI notes with interest that UNAR has sought the revocation of a number of discriminatory measures adopted at municipal level concerning wearing of the headscarf, the burqa or a burqini; case law exists authorising the wearing of the headscarf on religious grounds.

153. *ECRI recommends that the Italian authorities intensify their efforts to combat and effectively prevent racism and discrimination against Muslims. It again draws their attention to its General Policy Recommendation No. 5 on combating intolerance and discrimination against Muslims, which proposes a number of legislative measures and policy initiatives that governments can take to this end.*
154. In its second report, ECRI encouraged the Italian authorities to pursue dialogue with representatives of Muslim communities in order to ensure that the members of these communities are not disadvantaged as regards access to opportunities available to the members of other religious denominations. ECRI notes that relations between the state and the various religious denominations present in Italy are governed inter alia by bi-partite agreements (*intese*) entered into by central government and the religious communities concerned, with the aim of extending to these religious groups all the privileges recognised to the Catholic Church.¹⁰² According to information supplied by the authorities in November 2010, there is however no demand from Muslim communities for the conclusion of such an agreement at present.
155. ECRI notes the creation, in September 2005, of a Council for Italian Islam,¹⁰³ a consultative body set up to promote dialogue between the authorities and Muslim communities at national level and to propose tangible measures to foster integration, which is chaired by the Minister of the Interior and has sixteen Muslim members of various origins. ECRI notes that, following the sometimes tense initial debates, this body has been relatively inactive in recent years and its current role is not clear. It nonetheless hopes that a framework for regular, constructive dialogue between the authorities and the Muslim communities will continue to exist in Italy, as this should help facilitate the settlement of a range of practical difficulties that can arise on a day-to-day basis (such as access to a place of worship) and foster integration. In this respect, ECRI again points out that integration must be conceived as a two-way process allowing minority groups to participate fully in society and fostering mutual understanding between the majority population and minority groups.
156. *ECRI encourages the Italian authorities to pursue a regular, constructive dialogue with the representatives of the various Muslim communities in Italy and, if necessary, to reinforce the structures established to permit such dialogue.*

VII. Antisemitism

157. The Italian authorities record a few dozen antisemitic incidents per year, against Jewish persons or their property.¹⁰⁴ Most of these offences reportedly still involve

¹⁰² See the information supplied by the Italian authorities to the Committee on the Elimination of Racial Discrimination, CERD/C/ITA/15, 29 March 2006, §§ 161-170; according to information supplied by the authorities in November 2010 twelve such agreements have been concluded so far, mostly with Christian Churches; six have already been approved by parliament, while six others, approved by the executive, have not yet been approved by parliament.

¹⁰³ The Consulta per l'Islam italiano, set up by the Minister of the Interior under a decree of 10 September 2005.

¹⁰⁴ For precise figures, see above, Racist violence.

verbal and written threats, verbal abuse and graffiti. Moreover, antisemitic prejudice still exists and, according to civil society organisations, is expressed more or less openly, in particular at times of increased tensions in the Middle East.

158. Civil society sources report that the Jewish communities maintain a constructive dialogue with the authorities. They accordingly do not encounter particular problems in obtaining permission to open new synagogues; however, guaranteeing such buildings' security on a day-to-day basis is reportedly more difficult. Moreover, antisemitic views remain relatively prevalent in Italy.¹⁰⁵
159. *ECRI encourages the Italian authorities to reinforce their efforts to combat antisemitism and invites them to draw inspiration from its General Policy Recommendation No. 9 on the fight against antisemitism, which proposes a number of measures that governments can take in this field.*
160. According to representatives of the Jewish communities, the forms taken by antisemitism are constantly evolving and the Internet is playing an increasingly important role in the dissemination of antisemitic ideas. First, the speed with which information and ideas circulate is constantly increasing thanks to social networks; second, antisemitic writings not sold over the counter are now available free of charge on the Internet. Although the Mancino law¹⁰⁶ in theory makes it possible to impose penalties for websites hosted in Italy that publish incitements to hatred, the sites concerned are often hosted abroad and are more difficult to counter. In this connection, ECRI draws the authorities' attention to the recommendations made above regarding reinforcement of the measures to combat racism on the Internet.

VIII. Discrimination in Various Fields

Education

161. In its third report, ECRI recommended that the Italian authorities increase their efforts to provide non-Italian school pupils with the additional support necessary for them to enjoy genuinely equal opportunities in education, in particular by improving the standard of teaching of Italian as a second language.
162. As has already been noted elsewhere in this report,¹⁰⁷ all children have a right to education in Italy, regardless of their legal status. Moreover, on 11 February 2009 a court in Milan declared invalid, on account of its discriminatory nature, a circular from Milan City Council prohibiting the children of migrants without residence permits from attending nursery school.
163. According to figures supplied to ECRI by the authorities, the number of non-citizen pupils has risen over the past few years; such pupils now constitute about 7% of the Italian school population. Temporary remedial classes are provided to encourage the learning of Italian by pupils who lack sufficient knowledge of it. ECRI notes this measure with interest whilst recalling its General Policy Recommendation No. 10,¹⁰⁸ which states that education policies must avoid placing children from minority groups in separate classes; it is important that such classes be for a limited period of time, justified by objective and reasonable

¹⁰⁵ 29% of participants in a study conducted in 2009 had a very or mostly unfavourable opinion of Jews. FRA Working paper on Antisemitism, Summary overview of the situation in the European Union 2001-2009, Update April 2010, p. 23.

¹⁰⁶ See above, Criminal law provisions.

¹⁰⁷ See above, Vulnerable/Target Groups - Roma.

¹⁰⁸ See above, Vulnerable/Target Groups - Roma.

criteria and provided only if in the best interests of the child. ECRI also stresses the need to ensure that primary and secondary teachers are trained in sufficient numbers to meet pupils' needs for language support.

164. *ECRI encourages the Italian authorities to continue their efforts to ensure that no pupils suffer any disadvantage in the school system on account of an insufficient command of Italian and recommends that the authorities be guided in this respect by its General Policy Recommendation No. 10.*
165. In its third report, ECRI recommended that the Italian authorities take measures to prevent the stigmatisation of children who did not attend Catholic religion classes in the school environment and to provide these children with adequate possibilities for alternative education.
166. Under an agreement signed between the State and the Holy See in 1984, the state is required to provide Catholic religious education in schools, but it remains optional for pupils.¹⁰⁹ Other classes, which do not have to be religious, may be offered to pupils not taking Catholic religious education, but they are not compulsory. Further to a case concerning academic credits awarded to pupils who take Catholic education, the Council of State ruled that credits would be awarded to pupils taking Catholic religious education or an alternative class but not to pupils who decided not to take these optional classes.¹¹⁰ The Council of State held that there was no discrimination against pupils choosing not to attend religious education classes since they had the option of attending other classes that may be provided by the school. Civil society representatives have nevertheless told ECRI that this option often exists only in theory: such classes seldom take place, owing to a lack of resources.
167. ECRI stresses that in a context where most pupils take Catholic religious education and where alternative classes are not always available, the lack of a mark for Catholic religious education inevitably has a specific connotation which sets apart pupils who have a mark from those who do not. Moreover, recognition of marks for these classes may have a significant adverse impact on pupils who have been unable to take alternative classes despite their wish to do so, since these pupils could be penalised either because they do not have the possibility of improving their overall mark through the optional classes of their choice or because they feel forced to take religious education against their wishes. This situation seems inconsistent with the requirements of the European Convention on Human Rights regarding freedom of conscience and prohibition of discrimination.¹¹¹
168. *ECRI recommends that the Italian authorities ensure that substitute classes for optional Catholic education are provided in response to all requests made in accordance with the applicable rules, so as to ensure that no pupils suffer indirect discrimination, particularly with regard to award of credits.*

Employment

169. In its third report, ECRI recommended that the Italian authorities take further measures to reduce the disparity between nationals and non-citizens on the

¹⁰⁹ See Judgment 203/1989 of the Constitutional Court, dated 11 and 12 April 1989.

¹¹⁰ Council of State, Judgment 2749/2010 Reg.Dec, Sixth Section, judgement of 7/5/2010.

¹¹¹ In this regard, ECRI refers in particular to *Grzelak v. Poland*, Application No. 7710/02, judgment of 15 June 2010, rendered final on 22 November 2010, in which the European Court of Human Rights found a violation of Article 14 taken in conjunction with Article 9 of the European Convention on Human Rights; see in particular §§ 95-96.

labour market and, in particular, ensure that antidiscrimination legislation applicable in the field of employment was adequate and thoroughly applied.

170. As in its previous reports, ECRI notes that undeclared work still seems to be a common phenomenon in the Italian labour market, especially in the southern regions and in agriculture, construction, domestic and care services and tourism. It continues to concern non-citizens in particular, who are therefore more exposed to the risks of exploitation and discrimination it entails. Prejudice against foreigners and migrant workers also persists, affecting their access to jobs and their position in the workplace; in its worst manifestations, it has led to violent clashes.¹¹² Migrant workers have, moreover, been particularly affected by the economic downturn, suffering a disproportionate number of redundancies. According to the information supplied by the authorities, the number of jobs held by non-citizens has nevertheless increased concurrently with a rise in their unemployment rate: this would seem partly attributable to the regularisation measures introduced in 2009 to ensure continuity of domestic and care services.
171. *ECRI recommends that the Italian authorities step up their efforts to reduce the disparity between citizens and non-citizens on the labour market, ensuring in particular that existing anti-discrimination legislation in the field of employment is properly and strictly applied. It recommends that the authorities conduct an awareness-raising campaign focusing on employers' obligations and responsibilities on the one hand and on the positive aspects of diversity in the workplace on the other.*

Housing

172. In its third report, ECRI recommended that the Italian authorities pay greater attention to problems of direct and indirect racial discrimination in housing, both in the private and in the public sector. It recommended that they apply antidiscrimination legislation thoroughly and that local best practices be applied on a national scale.
173. Under the legislative decree incorporating Directive 2000/43/EC into Italian law,¹¹³ both the public and private housing markets are covered by the prohibition of discrimination. However, ECRI notes with concern continuing reports of discrimination based on colour, religion or ethnic or national origin, particularly for access to private housing.¹¹⁴ At the same time, some municipalities are introducing tougher eligibility conditions for public housing by increasing the number of requirements to be met (for example, a lengthy period of previous residence in the municipality) or by introducing points systems (based on place of birth, nationality and/or period of residence in the municipality). These measures, which usually have a greater impact on non-citizens (which is sometimes actually their manifest aim), result in indirect discrimination. Moreover, proposals to provide social housing for Roma in some cities have sometimes met with strong opposition from the local population; the specific situation of Roma and Sinti regarding access to suitable housing is examined elsewhere in this report.¹¹⁵
174. The authorities have pointed to a number of initiatives in the regions financed by the fund for social inclusion of migrants in the field of housing. ECRI notes with interest that these initiatives have included construction of new buildings for

¹¹² See above, Racist violence.

¹¹³ Legislative Decree No. 215 of 9 July 2003. See above, Civil and administrative law provisions.

¹¹⁴ See, for example, FRA, Annual Report 2010, Vienna, 2011, Section 3.2 - Housing.

¹¹⁵ See above, Vulnerable/Target Groups - Roma.

temporary accommodation of migrants with financial or health problems, public or private action to renovate buildings able to provide accommodation, and assistance to improve access to housing and combat discrimination in this field.

175. *ECRI again recommends that the Italian authorities ensure that legislation against direct and indirect racial discrimination in the housing field is rigorously applied, both in the private and in the public sector.*
176. *It strongly encourages the Italian authorities to identify best practices at local level in order to eliminate all discrimination based on colour, religion, ethnic or national origin, language or nationality in the field of housing and to ensure that these best practices are applied on a national scale.*

Health

177. ECRI notes that under Article 32 of the Italian Constitution¹¹⁶ the right to protection of health is not limited solely to Italian citizens but is guaranteed to all. In its third report, ECRI recommended that the Italian authorities pursue and strengthen their efforts to ensure better provision of health care and better access to health care for groups coming under ECRI's remit. It notes that, owing to decentralisation, health policies are decided at regional level, while the central authorities propose strategies and aim to identify and promote the most effective regional policies.
178. As regards the groups coming under ECRI's remit, the authorities have pointed out that migrants tend to see their health deteriorate rapidly once they arrive in Italy owing to the stress of migration, problems of access to employment and a steady income, and poor housing conditions. The authorities have also emphasised the importance of removing not only linguistic but also cultural barriers to health care. ECRI notes with interest that over the past few years the authorities have been running a number of projects aimed at protecting the health of the most vulnerable, including migrants. These projects cover prevention and treatment of infectious diseases, reception of migrants by health staff, and development of indicators in order to improve overall reporting of migrants' state of health and adapt available resources in this field accordingly. Other specific projects have endeavoured to improve access to health care for Roma and Sinti by producing a leaflet in Romanian and Romany and, in some regions, by setting up mobile health services able to dispense medical care and vaccines directly in Roma settlements.
179. *ECRI encourages the authorities to continue and step up their efforts to ensure better provision of health care and better access to health care for groups coming under ECRI's remit, not only with regard to reception of patients and access to care but also by providing care appropriate to their specific situations.*

IX. Conduct of Law Enforcement Officials

180. In its third report, ECRI recommended that the Italian authorities establish an independent commission to investigate all allegations of human rights violations by the police, including acts of racism or racial discrimination. ECRI notes that such a body has still not been established. At the same time, allegations of ill-treatment of members of groups coming within ECRI's mandate by law enforcement officials continue to be reported. Although the victims belong to a variety of groups, in particular of foreign origin, the majority of the allegations concern ill-treatment of Roma. Certain sources have reported abuses perpetrated during the conduct of censuses in Roma settlements, such as searches without a

¹¹⁶ According to Article 32 of the Italian Constitution, 'The republic protects individual health as a basic right and in the public interest; it provides free medical care to the poor.'

warrant. Moreover, as mentioned above,¹¹⁷ in recent years many Roma campsites have been violently attacked; according to observers, in some cases, the police failed to intervene with a view to protecting the victims. There have also been reports of the use of sometimes violent methods by law enforcement officials when carrying out forced evictions.

181. ECRI underlines that the authorities' ability to respond effectively to allegations of ill-treatment by law enforcement officials is a key factor in maintaining the confidence of all sectors of society in the law enforcement system. Where that is not the case and where members of minority groups are the victims of such behaviour, the lack of an independent investigatory body undermines confidence in the police.
182. *ECRI invites the Italian authorities to denounce publicly and unambiguously all manifestations of racist behaviour or racial discrimination by members of the police and to ensure that public statements are made at a high level to the effect that such acts will not be tolerated and will be punished following a thorough and prompt investigation.*
183. *ECRI reiterates its recommendation that the Italian authorities establish a body independent of the police and the prosecution service to investigate allegations of human rights violations by the police, including inter alia all allegations of racial discrimination or racially motivated misconduct.*

X. Monitoring Racism and Racial Discrimination

184. According to the authorities, specific data protection measures govern the collection of data broken down by ethnic origin or by religion, and only the individuals concerned can declare that they belong to a given ethnic group. Consequently, as already noted in ECRI's third report, to monitor the situation of groups coming within ECRI's mandate in various fields of life such as education, housing or employment, the Italian authorities collect data essentially broken down by nationality. ECRI has already observed that this approach seems to reflect a situation where most members of groups coming within its mandate are non-citizens. It nonetheless also underlined that the number of such persons who are Italian citizens is bound to increase. This analysis remains valid. ECRI accordingly again points out the need to consider ways of adapting the systems for monitoring the situation of the groups coming within its mandate to these changing circumstances.
185. In this connection, ECRI refers to its findings, first, that the censuses performed in the so-called "nomad" campsites, particularly in 2008 and 2009, primarily concerned persons of Roma or Sinti origin and, secondly, that the data apparently have not always been gathered in accordance with the principles of confidentiality, informed consent and individuals' voluntary self-identification as members of a particular group.¹¹⁸
186. *ECRI reiterates its recommendation that the Italian authorities improve their system for monitoring the situation of minority groups by collecting relevant information in various fields, broken down according to categories such as ethnic or national origin, language, religion and nationality. It stresses the need to ensure that the system put in place is compliant with European standards in matters of data protection and protection of privacy. The Italian authorities should in particular ensure that data collection is always carried out in full accordance with the principles of confidentiality, informed consent and the voluntary self-*

¹¹⁷ See above, Racist violence.

¹¹⁸ See above, Vulnerable/Target Groups - Roma.

identification of persons as belonging to a particular group. The system for collecting data on racism and racial discrimination should also take into consideration the gender dimension, particularly from the point of view of possible double or multiple discrimination.

XI. Education and Awareness-Raising

187. ECRI notes that most of the efforts made to raise the awareness of the general public as to the need to combat racism and intolerance are conducted by UNAR; in other parts of this report, ECRI has already encouraged the Italian authorities to increase the means at the disposal of UNAR to carry out these activities.¹¹⁹
188. In its third report, ECRI recommended that, in the context of schooling, the Italian authorities strengthen their efforts to provide teachers with training in delivering intercultural education and that they strengthen the human rights dimension of civic education courses. ECRI notes that a new subject, "Citizenship and the Constitution", was launched in 2009, covering inter alia the respect of human rights and non-discrimination. The Ministry of Education has also held training seminars for teaching and auxiliary staff in schools. These seminars included subjects such as the inclusion of Roma children at school or how to promote integration in schools; the authorities have also stated their intention to launch, as from end 2010, a free course for teachers on integration, with the aim of increasing teachers' skills in promoting integration in their classes, whatever their field of expertise. ECRI notes the particular importance of such efforts in the context of an increasingly diverse society, and draws the authorities' attention to its General Policy Recommendation No. 10: Combating racism and racial discrimination in and through school education, which outlines a series of measures that the authorities can take to this end.
189. *ECRI strongly encourages the authorities to pursue and strengthen their efforts aiming to impress on pupils at all levels the need to respect the principles of non-discrimination and of promoting equal opportunities, and to provide teachers with full training in these fields.*
190. *ECRI also encourages the authorities to pursue their efforts to bolster the skills of teaching and auxiliary staff in schools in promoting integration and respect for diversity.*

¹¹⁹ See above, Anti-discrimination bodies and other institutions – UNAR (Ufficio Nazionale Antidiscriminazioni Razziali).

INTERIM FOLLOW-UP RECOMMENDATIONS

The three specific recommendations for which ECRI requests priority implementation from the authorities of Italy, are the following:

- ECRI recommends that the Italian authorities take steps to enhance the role of UNAR, in particular by formally extending its powers so that the relevant legislation clearly covers discrimination based not only on ethnic origin and race but also on colour, language, religion, nationality and national origin; by granting it the right to bring legal proceedings; and by ensuring that its full independence is secured both in law and in fact. ECRI wishes to stress in this regard that UNAR must also be provided with all the necessary human and financial resources, in the light of its workload.
- ECRI urges the Italian authorities to ensure that all Roma who may be evicted from their homes enjoy the full protection of the guarantees of international law in such matters. It underlines that the persons concerned must be notified of any proposed eviction and benefit from appropriate legal protection; nor must they be evicted without the possibility of being rehoused in decent accommodation, even if they may stay in the country only for limited periods of time.
- ECRI strongly recommends that the Italian authorities take all necessary steps to ensure that the principle of non-refoulement is fully respected. It urges them to bring their pushback ("*respingimento*") policy to an immediate and permanent end. In this connection, it emphasises the need to guarantee access to asylum procedures in full accordance with the 1951 Geneva Convention, the European Convention on Human Rights and the relevant EU directives.

A process of interim follow-up for these three recommendations will be conducted by ECRI no later than two years following the publication of this report.

BIBLIOGRAPHY

This bibliography lists the main published sources used during the examination of the situation in Italy. It should not be considered as an exhaustive list of all sources of information available to ECRI during the preparation of the report.

European Commission against Racism and Intolerance (ECRI)

1. Third Report on Italy, 16 May 2006, CRI(2006)19
2. Second Report on Italy, 23 April 2002, CRI(2002)4
3. Report on Italy, 15 June 1998, CRI(98)48
4. General Policy Recommendation No. 1: Combating racism, xenophobia, antisemitism and intolerance, October 1996, CRI(96)43
5. General Policy Recommendation No. 2: Specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, June 1997, CRI(97)36
6. General Policy Recommendation No. 3: Combating racism and intolerance against Roma/Gypsies, March 1998, CRI(98)29
7. General Policy Recommendation No. 4: National surveys on the experience and perception of discrimination and racism from the point of view of potential victims, March 1998, CRI(98)30
8. General Policy Recommendation No. 5: Combating intolerance and discrimination against Muslims, April 2000, CRI(2000)21
9. General Policy Recommendation No. 6: Combating the dissemination of racist, xenophobic and antisemitic material via the Internet, December 2000, CRI(2001)1
10. General Policy Recommendation No. 7: National legislation to combat racism and racial discrimination, December 2002, CRI(2003)8
11. General Policy Recommendation No. 8: Combating racism while fighting terrorism, June 2004, CRI(2004)26
12. ECRI General Policy Recommendation No. 9: The fight against antisemitism, September 2004, CRI(2004)37
13. General Policy Recommendation No. 10: Combating racism and racial discrimination in and through school education, March 2007, CRI(2007)6
14. General Policy Recommendation No. 11: Combating racism and racial discrimination in policing, October 2007, CRI(2007)39
15. General Policy Recommendation No. 12: Combating racism and racial discrimination in the field of sport, March 2009, CRI(2009)5
16. Statement on recent events affecting Roma and immigrants in Italy, adopted on 20 June 2008 at ECRI's 46th plenary meeting

Other sources

17. Constitutional Court, Judgment No. 249/2010, 5 July 2010
18. Constitutional Court, Judgment No. 250/2010, 5 July 2010
19. Court of Cassation, Sez. 5, n° 11590 du 28/1/2010, dep. 25/3/2010, P.G. in proc. Singh, rv 246892
20. Court of Cassation, Sez. 5, n° 22570 du 28/1/2010, dep. 11/6/2010, P.G. in proc. Scocozza, rv 247495
21. Court of Cassation, 10 July 2009, Bragantini ed altri, rv. 245168
22. Decree of the President of the Council of Ministers of 21 May 2008, Official Gazette No. 122 of 26 May 2008, Declaration of the state of emergency in relation to settlements of nomad communities in Campania, Lazio and Lombardia
23. Guidelines to Implement the President of the Council of Minister's Decrees 3676, 3677, 3678 of 30 May 2008 concerning the encampments of nomadic communities in the regions of Campania, Lazio and Lombardy of 17 July 2008

24. Ministry of Foreign Affairs, The Italian Foreign Ministry responds to the statements made by Navi Pillay, the United Nations High Commissioner for Human Rights, Press Release, Rome, 15 September 2009
25. Ministry of the Interior, Censimento dei campi nomadi: Gli interventi adottati per superare lo stato di emergenza, Sala Stampa, Speciali, http://www.interno.it/mininterno/export/sites/default/it/sezioni/sala_stampa/speciali/
26. National Office against Racial Discrimination (L'Ufficio per la promozione della parità di trattamento e la rimozione delle discriminazioni fondate sulla razza o sull'origine etnica (UNAR)), Relazione al Parlamento sull'effettiva applicazione del principio di parità di trattamento e sull'efficacia dei meccanismi di tutela, Anno 2009
27. Carta di Roma, Protocollo deontologico concernente richiedenti asilo, rifugiati, vittime della tratta e migranti, 1 January 2007
28. European Court of Human Rights, Case of Lautsi v. Italy (Application No. 30814/06), Judgment of 18 March 2011, Grand Chamber
29. European Court of Human Rights, Case of Trabelsi v. Italy (Application No. 50163/08), Judgment of 13 April 2010, final on 13 July 2010
30. European Court of Human Rights, Case of Ben Khemais v. Italy (Application No. 246/07), Judgment of 24 February 2009, final on 6 June 2009
31. European Court of Human Rights, Case of Ali Toumi v. Italy (Application No. 25716/09), Statement of Facts and Questions to the Parties, 14 August 2009
32. European Court of Human Rights, Case of Mannai v. Italy (Application No. 9961/10), Statement of Facts and Questions to the Parties, 23 June 2010
33. Parliamentary Assembly of the Council of Europe, Herta Däubler-Gmelin and Christos Pourgourides: blatant disregard yet again, by Italy, of binding interim measures ordered by the ECHR, Press Release No. 615(2009), 6 August 2009
34. Parliamentary Assembly of the Council of Europe, Berenyi J., Report of the Committee on Legal Affairs and Human Rights, The situation of Roma in Europe and relevant activities of the Council of Europe, 3 September 2008, AS/Jur (2008) 29 rev
35. Statement by Thorbjorn Jagland, Secretary General of the Council of Europe, Concerns over repeated Italian expulsions, Press Release 403(2010) of 19 May 2010
36. Council of Europe, Press Release, Council of Europe Secretary General Terry Davis on the proposal to fingerprint Roma in Italy, 27 June 2008, 484(2008)
37. Committee of Ministers of the Council of Europe, Interim Resolution, CM/ResDH(2010)83, Execution of the Judgments of the European Court of Human Rights Ben Khemais against Italy (Application No. 246/07, Judgment of 24 February 2009, final on 6 June 2009), adopted by the Committee of Ministers on 3 June 2010, at the 1086th meeting of the Ministers' Deputies
38. Report of Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Italy, 16 April 2009, CommDH(2009)16
39. Memorandum by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Italy. Issues reviewed: Roma and Sinti; Immigration, 29 July 2008, CommDH(2008)18
40. Letter from the Council of Europe Commissioner for Human Rights to Mr Franco Frattini, Minister of Foreign Affairs of Italy (2 July 2010), CommDH(2010)23
41. Letter from the Council of Europe Commissioner for Human Rights to Mr Roberto Maroni, Minister of Interior of Italy (2 July 2010), CommDH(2010)24
42. Letter from the Council of Europe Commissioner for Human Rights to Mr. Roberto Maroni, Minister of the Interior of the Republic of Italy, concerning migrants' rights (25 August 2009), CommDH(2009)40
43. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Rapport au Gouvernement de l'Italie relatif à la visite effectuée en Italie du 16 au 23 juin 2006, 5 July 2007, CPT/Inf(2007)26
44. Response of the Italian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Italy from 16 June to 23 June 2006, CPT/Inf (2007) 27, Strasbourg, 5 July 2007

45. Report to the Italian Government on the visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 to 31 July 2009, CPT/Inf (2010) 14, Strasbourg, 28 April 2010
46. Response of the Italian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Italy from 27 to 31 July 2009, CPT/Inf (2010) 15, 28 April 2010
47. European Committee of Social Rights, Decision on the merits, Centre on Housing Rights and Evictions (COHRE) v. Italy, Collective complaint No. 58/2009, 25 June 2010
48. European Committee of Social Rights, Conclusions 2008, Italy
49. Advisory Committee on the Framework Convention for the Protection of National Minorities, Third Opinion on Italy adopted on 15 October 2010, ACFC//OP/III(2010)008
50. Advisory Committee on the Framework Convention for the Protection of National Minorities, Second Opinion on Italy adopted on 24 February 2005, ACFC/INF/OP/II(2005)003
51. United Nations Committee on the Elimination of Racial Discrimination (CERD, UN), Consideration of reports submitted by States parties under Article 9 of the Convention, Concluding observations of the Committee on the Elimination of Racial Discrimination, Italy, 16 May 2008, CERD/C/ITA/CO/15
52. Fifteenth periodic report submitted by Italy under Article 9 of the Convention on the Elimination of Racial Discrimination, 29 March 2006, CERD/C/ITA/15
53. United Nations Human Rights Council, Report of the Working Group on the Universal Periodic Review, Italy, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/14/4/Add.1, 31 May 2010
54. United Nations Human Rights Council, Report of the Working Group on Arbitrary Detention: addendum: mission to Italy, 26 January 2009, A/HRC/10/21/Add.5
55. United Nations, General Assembly, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr Doudou Diène, on the manifestations of defamation of religions and in particular on the serious implications of Islamophobia on the enjoyment of all rights, 2 September 2008, A/HRC/9/12
56. UN Press Release, UN independent experts concerned about stigmatization of the Roma community in Italy, The Special rapporteur on Racism, the Independent expert on minority issues and the Special rapporteur on human rights of Migrants, 15 July 2008
57. Navi Pillay, United Nations High Commissioner for Human Rights, Migrants at sea are not toxic cargo, 15 September 2009
58. United Nations High Commissioner for Refugees (UNHCR), UNHCR interviews asylum seekers pushed back to Libya, Press Release, 14 July 2009
59. UNHCR, Follow-up from UNHCR on Italy's pushbacks, Press Release, 12 May 2009
60. UNHCR, UNHCR deeply concerned over returns from Italy to Libya, Press Release, 7 May 2009
61. UNHCR, UNHCR concerned over humanitarian situation in Lampedusa, Italy, Press Release, 23 January 2009
62. European Union Agency for Fundamental Rights (FRA), Annual Report 2010: Vienna, 2011
63. FRA, Incident Report: Violent Attacks against Roma in the Ponticelli District of Naples, Italy, FRA: Vienna, 2008
64. FRA Working paper on Antisemitism, Summary overview of the situation in the European Union 2001-2009, Update April 2010
65. European commission, Commission closes legal cases after Italy and Austria adopt new race equality laws, Press Release, Brussels, 8 October 2009, IP/09/1464
66. Declaration of the Vice-President of the European Commission Jacques Barrot on the "Italian Security Package", 23/09/2008, http://ec.europa.eu/archives/commission_2004-2009/barrot/news/archives_2008_en.htm,

67. European Parliament Resolution on Census of the Roma on the basis of ethnicity in Italy (P6_TA-PROV(2008)0361), adopted at the session of 7 to 10 July 2008
68. Organisation for Security and Co-operation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR), Hate Crimes in the OSCE Region – Incidents and Responses: Annual Report for 2009, Warsaw: ODIHR, 2010
69. OSCE, Assessment of the Human Rights situation of Roma and Sinti in Italy, Report of a fact finding mission to Milan, Naples and Rome on 20-26 July 2008, Warsaw, The Hague, March 2009
70. Amnesty International, Report on Italy, 2009
71. Caritas, Annual Report on Immigration in Italy. See <http://www.caritas.it>
72. Centre on Housing Rights and Evictions (COHRE), European Roma Rights Centre, Osservazione, Sugar Drom, Written comments concerning Italy for consideration by CERD, January 2008
73. Global Commission on International Migration, Migration in an interconnected world: New directions for action (Report of the Global Commission on International Migration), Switzerland, 2005
74. European Network Against Racism (ENAR), Stop to anti-Roma violence in Italy, 19 May 2008
75. European Network of Legal Experts in the Non-Discrimination Field, Report on measures to combat discrimination, Country Report 2008, Italy, Simoni A., State of affairs up to 31 December 2008
76. European Network of Legal Experts in the Non-Discrimination Field, Report on measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report Update 2007, Italy, Simoni A., State of affairs up to February 29, 2008
77. European Roma Rights Centre (ERRC), Open Society Institute and osservAzione, Memorandum to the European Commission: Violations of EC Law and the Fundamental Rights of Roma and Sinti by the Italian Government in the Implementation of the Census in "Nomad Camps", 4 May 2009
78. EveryOne Group, Italy: Law 94/2009 is a serious violation of Human Rights, Rome, 14 October 2009
79. Human Rights Watch, Everyday Intolerance: Racist and Xenophobic Violence in Italy, March 2011
80. Human Rights Watch, Italy/Libya: Pushed back, pushed around. Italy's forced return of boat migrants and asylum seekers, Libya's mistreatment of migrants and asylum seekers, September 2009
81. Institute of Race Relations (IRR), Italy: emergency laws, summary expulsions and a climate of hate, European Race Bulletin, N° 63, spring 2008
82. Médecins sans Frontières, Al di là del muro: Viaggio nei centri per migranti in Italia, January 2010
83. Naletto, Grazia. (ed.), Rapporto sul razzismo in Italia, Manifestolibri, Rome 2009
84. European Anti-Discrimination Law Review, No. 6/7-2008
85. European Anti-Discrimination Law Review, No. 8/2009
86. E. Rozzi, The Situation of EU and non-EU Separated Children in Italy, E-migrinter n° 2 2008
87. Save the Children-Italy, Opportunities and Challenges for Social Intervention Aimed at Migrant Minors, Rome, 2008
88. Scicluna H., "The Life and Death of Roma and Sinti in Italy: A Modern Tragedy", Roma Rights n° 2, 2008
89. Stephen Roth Institute for the Study of Antisemitism and Racism, Antisemitism Worldwide – Italy, 2009
90. US Department of State, Bureau of Democracy, Human Rights and Labor, 2008 Human Rights Report – Italy, 25 February 2009
91. US Department of State, Bureau of Democracy, Human Rights and Labor, International Religious Freedom report 2009 – Italy, 26 October 2009