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## **EUROPEAN SOCIAL CHARTER**

19<sup>th</sup> National Report on the implementation of  
the European Social Charter

submitted by

**THE GOVERNMENT OF ITALY**

Follow-up to collective complaints:

No. 27/2004, No. 58/2009, No. 87/2012, No. 91/2013,  
No. 105/2014,

Report registered by the Secretariat on

10 March 2020

**CYCLE 2019**



**Information on the follow-up to the European Committee of Social Rights (ECSR) decisions relating to the following collective complaints against Italy**

*Collective complaint no. 27/2004 European Rome Rights Centre v. Italy, decision on the merits of 7 December 2005.*

*Collective complaint no. 58/2009 Centre on Housing Rights and Evictions (COHRE) v. Italy, decision on the merits of 25 June 2010.*

The complaints in question concern the rights of the Roma and Sinti in Italy, and, in particular, their living conditions in camps and the ways in which evictions are carried out.

Collective complaint no. **27/2004** was registered on 28 June 2004 and relates to art. 31 (Right to housing), alone or in conjunction with article E of the revised European Social Charter (Non-discrimination), on the following specific issues:

- a) Insufficiency and inadequacy of the Roma camps;*
- b) Forced evictions from sites and homes committed in violent ways;*
- c) Shortage of fixed constructions in acceptable conditions.*

Collective complaint no. **58/2009** Centre on Housing Rights and Evictions (COHRE) v. Italy was registered on 29 May 2009 and relates to the violation of articles 31§1, 31§2, 31§3, 30, 16, 19§1, 19§4.c and 19§8, alone or conjunction with article E of the revised European Social Charter, because:

- a) there was an inadequate situation regarding the living conditions of Roma and Sinti in camps or similar settlements in Italy;*
- b) the practice of evictions of Roma and Sinti took place with acts of violence;*
- c) Roma and Sinti were segregated in camps;*
- d) the discriminatory treatment regarding the right to vote or other forms of citizen participation represented a cause of marginalization and social exclusion for Roma and Sinti;*
- e) Roma and Sinti families could not access adequate housing;*
- Roma and Sinti families were not protected by undue interference in their family life.*
- f) rhetoric or xenophobic political discourse were used against Roma and Sinti and led to stigmatisation;*
- g) Roma and Sinti expulsion.*

**Response**

In relation to the complaints under examination, concerning in particular living conditions of the Roma and Sinti population on the national territory, the Committee confirmed its findings, despite of the detailed information provided in recent years by the Italian Government on the implementation of the National inclusion strategy for Roma, Sinti and Camminanti.

In fact, on one hand, the ECSR took note of all the initiatives and good practices adopted in the country, especially at local level, however, on the other, has not recognize that recent progresses made in this area have actually led to a general improvement in living conditions of the Roma, Sinti and Camminanti communities compared to the past.

#### **A) Living conditions in camps, segregation, families' access to social housing.**

As a demonstration of the active and constant Government's commitment on this item, we illustrate the further initiatives implemented by the National Office against Racial Discrimination (UNAR), the National Contact Point for Italy responsible for coordinating the actions envisaged by the Strategy, to update and supplement information provided in the previous report on these complaints (year 2017).

These initiatives were specifically adopted in the field of *social housing*, in compliance with the principles on housing rights and social protection of vulnerable subjects, as well as on the most recent measures and operational plans, implemented in compliance with the National inclusion strategy for Roma, Sinti and Camminanti (2012-2020).

We observe that the UNAR, as beneficiary of the PON Inclusion fund, has a specific financial fund for interventions related to the implementation of National inclusion strategy for Roma, Sinti and Camminanti, within the framework of the European programme for the period 2014-2020.

In connection with the information contained in 2017 report and in order to monitor interventions activated at local level and mainly aimed to overcome settlements, in 2018 the UNAR started a two-years project destined to a qualitative-quantitative survey related to the definition of the number and methods by which - after the National Strategy launch - people belonging to the Roma, Sinti and Camminanti communities abandoned the so-called settlements for choosing other forms of housing. The project is run by the National Institute of Statistics (ISTAT) and it is currently underway.

The project, financed by the PON Inclusion funds, is supported by the Statistical Working Group and the presence of a representative of the National Platform for Roma, Sinti and Camminanti.

Thanks to this survey, a statistical and knowledge gap will be filled on the difficult housing conditions experienced by the Roma communities, providing timely data to central and local administrations to overcome them.

- **"Housing Transitions" Project details (UNAR-ISTAT). (2018/2020; Amount: 200,000 euros - Specific objective 11.1, PON Inclusion 2014-2020).**

#### **1. National Contact Point coordination with local administrations on the housing issue of Roma, Sinti and Camminanti**

In coordination with the Territorial Agency for Cohesion and metropolitan cities, respectively the Management Authority and the intermediate body of the PON Metro, the UNAR has promoted a correct use of the available resources in favour of housing policies for the Roma, Sinti and Camminanti communities since 2016, both through the PON Metro and in synergy with the PON Inclusion interventions and Regional Operational Plans, thanks to a **periodic convening of an Inter-institutional table on the Roma, Sinti and Camminanti housing issue.**

On **8 April 2016**, the International Roma and Sinti Day, the UNAR, as National Contact Point for the implementation of the Strategy, convened the first meeting of the Inter-institutional Table, consisting of central Administrations - Ministry of Interior, Ministry of Labour and Social Policies, Ministry of Education, Ministry of Health, Ministry of Transport and Infrastructure – the National Association of Italian Municipalities (ANCI), ISTAT and representatives of the metropolitan cities of Milan, Naples and Rome.

This operational meeting, oriented to real results, was organized to define a framework of relevant actions, with particular attention to those aimed to overcome the so-called "Roma camps", in accordance with the Strategy indications.

The main issues discussed at the table include:

- *Strengthening of the UNAR role with regard to its coordination of the Strategy activities (connected with four axes: education, work, health and housing);*
- *Recognition of the effective overcoming of the so-called "Roma camps" system, as a priority objective for each action and measure;*
- *Commitment to ensure a complementary approach in the use of national, regional and local funds, bearing in mind the indications contained in the European Operational Programs (PON Inclusion, PON metro, PON education).*

During the meeting, the research "**First National Survey on the spontaneous and authorized settlements of the Roma, Sinti and Camminanti populations present in Italy**", developed by the UNAR with the ANCI and the ISTAT, was presented.

On 14 February 2017, the second meeting of the Inter-institutional table related to the Roma, Sinti and Camminanti housing was held in Naples. The main Italian metropolitan cities participate to this meeting with the aim of giving a new impetus to local policies for the Roma settlements in large urban areas mostly affected by the Roma, Sinti and Camminanti presence.

On 27 November 2018, during the third meeting of the Inter-institutional table, the UNAR extended the participation to regional administrations, with the aim of improving the coordination of socio-economic and housing inclusion activities envisaged by the National inclusion strategy for Roma, Sinti and Camminanti.

At this meeting, the UNAR, as beneficiary of the PON Inclusion for action 9.5.4, presented a project, called P.A.L. (Local Action Plans), now active, to be financed by European funds, which provides a support service to the municipal administrations involved in the establishment and activation of city tables in the metropolitan cities that have been involved in the proposal.

During the meeting, a greater coordination need between regional and municipal levels emerged, in order to optimize the available interventions and resources.

➤ **P.A.L. (Local Action Plans) Project Details (2018/2020; Amount: 550,988 euros).**

To facilitate the complex governance process of the National Inclusion Strategy, with a focus on the local level, the public project called “PAL” (Local Action Plans), promoted by the UNAR in order to realize “Pilot interventions for the creation of local tables and networks of citizens and local administrations”, was launched in 2018 within the PON Inclusion.

The project is run by a consortium of 4 NGOs chosen through a public procedure. Its aim is to set up and activate local dialogue and coordination tables based on the concerned municipal administrations (Rome, Cagliari, Milan, Genoa, Naples, Bari, Messina and Catania) in order to promote policies and interventions synergy in favour of the Roma, Sinti and Camminanti communities, while promoting their participation in social, political, economic and civic life.

A further meeting on the progress of the Local Action Plans implementation took place at the Presidency of the Council of Ministers on 4 July 2019, with data provided by Municipalities on the state of housing policies in favour of the Roma, Sinti and Camminanti communities.

To achieve a greater coordination between central and local level, the UNAR also presented a project called P.A.R. (Regional Action Plans) to the Conference of Regions and Autonomous Provinces on 2 July 2019. It will be soon implemented.

In synergy with the PAL project achieved goals at municipal level, this initiative provides a direct technical support to Regions in order to plan and easily access to the available financial resources in ordinary and European funds, direct and indirect, as well as a better regional operational coordination of the social and economic inclusion interventions of the Roma, Sinti and Camminanti communities and of people who are subjected to a greatest risk of social vulnerability.

➤ **P.A.R. (Regional Action Plans) Project Details. (2019/2021; Amount: 1,215,500 euros).**

On the governance model by the P.A.L. project, the UNAR has undertaken the necessary procedures to provide a similar support and coordination tool to regional authorities too. The project, called P.A.R. (Regional Action Plans) and financed by the Pon Inclusion funds, will be launched in the next three-year period 2019-2022 and it will affect the Regions which are interested in using this tool to establish and activate Regional Dialogue Tables, foreseen by the Roma, Sinti and Camminanti Strategy.

## **2. FOCUS on the National Operational Plan for Metropolitan Cities 2014 - 2020 (Pon Metro)**

The National Multi-Fund Program (ERDF and ESF) Metropolitan Cities 2014 - 2020 (PON Metro) aims to improve the quality of services offered to resident citizens and city users, through the involvement of the municipalities of 14 metropolitan cities: Milan, Turin, Venice, Bologna, Genoa, Florence, Rome, Naples, Bari, Reggio Calabria, Messina, Palermo, Catania, Cagliari.

The PON has a financial endowment of **858 million Euros**, of which approximately 90 million Euros are destined to the South Metropolitan Cities and approximately 40 million Euros to the Northern-Centre Metropolitan Cities and Sardinia.

The PON represents approximately 35% of the total resources which are dedicated to urban development at national level.

Concerning Axes 3 and 4, which support the social inclusion policies of the aforementioned cities, three thematic objectives should be noted:

- E.R. (expected result). 9.4: Reduction of the number of families subjected to a social and economic fragility and in conditions of housing deprivation; Action 3.1.1: Integrated actions to contrast housing poverty;
- E.R. 9.5: Reduction of extreme marginalization and inclusion interventions in favour of homeless and Roma, Sinti and Camminanti; Action 3.2.1: Housing Accompanying projects towards marginalized communities; Action 3.2.2: Inclusion services towards homeless or assimilated people (foreigners in extreme housing emergency);
- E.R. 9.6: Increase of legality in areas subjected to high social exclusion and improvement in urban areas subjected to a low rate of legality; Action 3.3.1: Support to activate new services in degraded areas.

The interventions destined to the Roma, Sinti and Camminanti communities housing inclusion are centred on action 3.2.1 of the Expected Result 9.5. "Housing accompanying projects towards marginalized communities".

The action is based on an integrated approach that focuses on *housing* using different types of intervention in direct interaction with a planned project on education, health, regularization of the Roma legal status, employment and active inclusion.

It really provides a housing accompanying project which is going to be implemented by the concerned Municipalities, and which is based on:

- 1) analysis of the needs at individual household level in order to correctly identify the support required to grant housing inclusion;*
- 2) arrangement of a personalized agreement for housing inclusion;*
- 3) search for a housing solution mainly through the identification of a house in the private market;*
- 4) payment of a rent contribution as part of the accompanying project;*
- 5) implementation of accompanying services both related to the family / individual belonging to the Roma population and to the community in order to encourage a wider inclusion process.*

The allocated resources in the Action 3.2.1. equal to € 9,203,039, are divided, as follows, among: Genoa (€ 230,385, planned interventions), Venice (€ 530.00 in progress), Rome (€ 3,800,000 in progress), Cagliari (€ 946,958 in progress), Naples (700,000 in progress), Reggio Calabria (€ 842,994, planned interventions), Catania (€ 1,500,000 not funded yet and waiting for an amount reduction) and Palermo (€ 814,160, planned interventions).

### **3. *Other national projects related to metropolitan areas mainly affected by the presence of Roma, Sinti and Camminanti***

➤ **“Culture and memory” project with Formez P.A. (2018-2020; Amount: 300,000 euros).**

Considering that the memory of Porrajmos<sup>1</sup> represents a fundamental stage for social and cultural recognition of this minority, as well as to reduce the high rate of anti-Gypsyism that characterizes our society, a "path of remembrance" has been launched, which traces the most significant moments and places related to Porrajmos in Italy (places of detention and sorting of the Roma, Sinti and Camminanti communities activated during the Second World War) and in Europe (especially Auschwitz).

Implemented through an agreement with Formez PA, the project provides for specific **training, awareness and social animation activities throughout the national territory.**

All activities carried out by the UNAR was fully recognized and appreciated by the European Commission too. In 2015, it published the third evaluation report on the member States' national strategies recognizing the importance of some progresses achieved in relation to the programmed 2014-2020 funding cycle, as well as the positive effects of applying the National Strategy in defining priorities. European funds (€ 14 million in total) have been specially allocated and destined to the implementation of the Strategy by a dedicated Thematic Objective (TO), which is mainly addressed to *"increase the level of education, health conditions, social and working participation of the Roma, Sinti and Camminanti populations, in connection with the national Roma inclusion strategy.*

Comparing regional realities and intermediate bodies, this objective was also included in the National Plans of the PON Inclusion and the PON Metro (Metropolitan cities), as well as among actions of some Regional Operational Plans.

At national level, there are further good practices, detected by a more recent monitoring, launched by the Ministry of the Interior under agreement with various prefectures, in addition to the initiatives reported in detailed 2017 and 2018<sup>2</sup> reports (the latest, attached).

**Genoa:** There is a Memorandum of Understanding between the Ministry of Labour and the Municipality in implementation of Law No. 285/1997 to promote children and adolescents' rights. In 2017/2020 it will involve 81 schools and Roma and Sinti pupils between 6 and 14 years of age. Pre-schooling projects for children between 3 and 5 years are also planned. A project between the Ministry of Labour and the Municipality called "From the nomad camp to the house" funded by the Ministry, after the 2014 flood, is aimed at facilitating (payment of the rent for 2 years, etc.) the transfer of households to housing units.

**Udine:** A European *Roma - Net Project* (NGO, non-profit organization, Municipality, Local Health Authority, Minors Office, Ministry of Justice) is activated to grant integration and housing inclusion with a decrease in attendance in camps without evictions. "Areas ex zone 0" (so called for their urban use) were set up, in implementation of the Regional Law of 14 March 1988 which allowed Roma, Sinti and Camminanti to purchase non-buildable agricultural land (used with mobile homes without foundations) where legal residence could be acquired.

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<sup>1</sup> In Romani language this word indicates persecutions and extermination of around 500,000 Roma and Sinti during the Nazi-Fascist period.

<sup>2</sup> 18<sup>th</sup> Italian Government Report, article 31, par. 3, where specific *Measures to improve the Roma housing conditions, including the possibility of effective access to social housing, have been illustrated.*



**Vercelli:** Settlements in the urban context and in good condition (brick houses with water and light / caravan).

**Massa Carrara:** In collaboration with the Michelucci Foundation in Florence, a project for alternative housing solutions was launched. It led to social housing assignment or the purchase of land in the Battilana hamlet where campers and caravans were settled. In October 2018, a new municipal project for the school inclusion of children aged 6 to 16 was presented to the Region.

**Avellino:** Families are housed in social housing without any problem.

**Pordenone:** Families are housed in suitable housing, some of them in social housing, with an adequate level of social inclusion.

**Bolzano:** We can find Roma, Sinti and Camminanti communities' settlements in micro areas equipped with essential services.

**Ravenna:** Various families were assigned social housing between 2005 and 2011 after the eviction of the only camp in the municipality (in 2004).

In the Municipality of Faenza, the local Roma, Sinti and Camminanti communities are assigned social housing (Public Residential Construction), after the eviction of the only camp in the Municipality.

A co-funded project financed by Emilia Romagna destined to housing, work placements and educational plans has been activated since 2017, as well as a Protocol between the Romagna Faentina Union and the Consorzio Equo of Turin for the management of waste and scraps.

**Reggio Emilia:** There are settlements authorized by the Municipality with caravans and prefabricated buildings. This area is provided with adequate sanitary and electrical services. It is possible to access the social housing rankings.

There is a social inclusion project in collaboration with the municipality social services and the local voluntary associations in order to: promote minors school attendance, help adults in finding a job, inform them on social allowances and access to social and health services.

**Bologna:** The national strategy has been implemented through the dismantling of nomad camps and the promotion of self-financed housing solutions (Regional Law no. 14/2015). The Municipality has joined the "National project Roma, Sinti and Camminanti children's inclusion and integration" within the PON "Inclusion" 2014/2020. A "municipal program for the identification of Roma and Sinti familiar micro areas" has been launched to overcome camps through alternative solutions (transition housing - towards vulnerable subjects – social housing, research in the private market). An integrated territorial team meets monthly in order to reach this aim. Socio-health and school possibilities are available for each family.

**Padua:** Families mainly live in social housing flats (to which they can access as well as the other citizens) on municipal or property areas. Vulnerable subjects can be protected through a temporary granting of housing in the event of evictions. Initiatives aimed at improving access to social and health services are underway. 30 housing units were built in the municipal area thanks to the *"From the nomad camp to the city"* project co-financed by the Municipality and the Ministry of Labour.

**Teramo:** There are no Roma camps and the numerous people of the Roma, Sinti and Camminanti community (about 1500 people traditionally resident for a long time in the provincial territory) benefit from social housing. There is a multi-year project by the Caritas of Teramo Atri "*Men free themselves together*" to improve integration through: a cognitive worktable; educational support at school and at home; activation of traineeships.

In general, it should be remembered that each Municipality – which is the local authority responsible for the allocation of social housing - addresses its housing policies to the entire municipal population, without distinction of ethnicity, nationality or religion so to grant the same conditions for social housing to the Roma, Sinti and Camminanti community.

In this regard, we observe that some Roma, Sinti and Camminanti families renounced to access social housing although they were given the possibility to live in a social house.

In any case, on the information provided by the ANCI, actually there are no pending disputes regarding the allocation of housing in favour of Roma, Sinti and Camminanti.

However, it is considered useful to report an interesting decision on the integration of the Roma, Sinti and Camminanti communities, issued by the Court of Rome on 30 May 2015, based on the appeal by some associations for the civil rights protection.

It was decided - also taking into account the overcoming of the nomadic condition, now limited to about 2% of the Roma, Sinti and Camminanti populations - that the presence of Roma camps is discriminatory because they represent a large housing solution aimed at a specific ethnic group and without the typical characters of a positive action:

*“Any large housing solution exclusively destined to people belonging to the same ethnic group must be considered discriminatory, even more, if it is realized (as in the case of the settlement located in La Barbuta), in order to restrict the effective coexistence with the local population, the access to school and social-health services with a real equality condition and if it is located into an area where people’s health is seriously at risk”.*

The decision therefore highlights the nature of mono-ethnic settlements and makes them illegitimate regardless of hygiene, health, geographical and housing conditions, and also beyond or against the will of the interested parties, making Roma housing solutions be included within the more general context of the rules for the protection of the right to housing.

## **B) Evictions applied to Roma and Sinti and protection measures from acts of violence.**

With regard to the findings of the Committee, in points 503 and 504 of the conclusions, relating to the criteria used in the execution of the evictions, as well as the measures adopted to protect people involved in acts of violence, we recall the provisions contained in some documents, recently adopted by the Ministry of the Interior.

In the first Circular of 1 September 2018, describing the guidelines to be applied when executing the evictions of arbitrarily occupied buildings, it is expressly requested that, in the course of

these operations, the Prefect identifies **a scale of priority that takes into account the protection of families in situations of economic and social hardship.**

For this purpose, priorities are identified by paying attention to real situations of fragility, protecting minors and other vulnerable subjects and checking for any conditions of irregular access and permanence on the national territory.

These priorities are found in the second Circular of 15 July 2019, specifically addressed to the settlements of Roma, Sinti and Camminanti communities and adopted, above all, to prevent situations of danger due to public order and safety, particularly relevant in connection with health, considering the state of degradation in which some settlements are often found.

In this document Prefects are asked to carry out a mapping of the "spontaneous" settlements, with the following aims:

**- to facilitate the identification of support interventions considering the presence of subjects in vulnerable conditions (activating positive dynamics of relocation of the interested parties at the same time);**

**- to verify if any foreigner present in the settlements is being in a condition of regular entry and permanence on the national territory, evaluating the individual situations,** in compliance with the provisions of the Consolidated Law on Immigration.

The multiple examined profiles involve the skills of the government different levels, primarily of regional and local administrations, called to grant the access to social, health, care and school services to whom are entitled to them.

The purpose is to define shared strategies, also involving the concerned associations and non-institutional stakeholders, aimed at overcoming any situation of degradation, individually identified, and restoring the legality conditions, in the event of any illegitimacy, also in organized structures, analysed case by case.

**C) Roma, Sinti and Camminanti community participation in decision-making and local processes.**

With regard to what is highlighted in point 508 of the ECSR conclusions, in which the Government is invited to increase the involvement of the Roma, Sinti and Camminanti communities in decision-making processes, at national and local level, in order to facilitate the integration process, we observe that various initiatives are taking place in the country in this direction for some time.

First of all, at national level, it is necessary to remember the establishment by the UNAR of an important operational tool for dialogue among Roma, Sinti and Camminanti, sector associations and central and local public administrations, involved in the Strategy, in accordance with the requirements by the European Commission, to facilitate the participation process of the Roma, Sinti and Camminanti communities in each Member State.

The examined tool is represented by the **National Roma Sinti and Camminanti Platform**, nationally and internationally openly launched, on the International Roma and Sinti Day, celebrated on 8 April 2016.

We provide the following relevant updates.

The National Roma, Sinti, Camminanti Platform - national tool of the European Roma Platform, promoted by the European Commission - is an operational dialogue tool among the UNAR, the Roma, Sinti and Camminanti sector associations, the central and local public administrations involved in the National Strategy of Inclusion of Roma, Sinti and Camminanti.

According to an expression of interest, it was established in 2017 with the admission of 79 associations from all over the national territory, with the following objectives:

- *to facilitate and formalize the dialogue and the cooperation between institutions and the Roma, Sinti and Camminanti sector associations, as well as among the various associations within them, in order to boost the Strategy;*
- *to provide training support on issues of recognized interest, also in order to develop useful project proposals in the context of the programming national and European funds;*
- *to promote the establishment of networks, federations and the Roma, Sinti and Camminanti Communities Forum, which will constitute the central core of the Platform (the Forum is provided by the Strategy "with interface, relationship and consultation functions with the National Contact Point, the national Tables, about the implementation of the Strategy as well as its periodic review and evaluation").*

The Forum is made up of 25 NGOs that, in the expression of interest, have self-declared to be mainly composed of Roma, Sinti and Camminanti people and to convey a common position on some relevant issues (e.g. knowledge of the history of Roma/Sinti in the field of public education, the definition of anti-Gypsyism, the proposal of correct denominations, focus on housing issues/overcoming camps, etc.) to be discussed with the competent institutions.

The Platform started with a side-event promoted by the UNAR, in collaboration with the European Commission and the Council of Europe (Rome, end of 2016). The event was attended by 25 young representatives of the Roma, Sinti and Camminanti community who distinguished for an independent and significant study and/or work background. The activities, developed in 2017, included the realization of 3 plenary meetings, 1 meeting dedicated to the Roma, Sinti and Camminanti Forum and a side-event of a training session on anti-Gypsyism and online hate speech promoted by the UNAR in collaboration with the Council of Europe.

During a plenary meeting on 19 September 2017, by a vote involving 60 NGOs, the delegates of the National Roma, Sinti and Camminanti Platform were formally designated. It was agreed to set up some thematic study groups to accompany the work of the delegates, appointed by the Platform within the Tables and Working Groups. The purpose of this process is specifically to bring out the proposals and the critical issues to discuss with the competent administrations at the Supervisory Tables and Committees, to define priorities, also in the context of the school and social integration of the Roma, Sinti and Camminanti minors.

Representatives of the Roma, Sinti and Camminanti associations designated by the other members and together with the UNAR representatives, have already taken part in the meetings of the National Roma Contact Points and the European Roma Platform. As for the PON Inclusion Monitoring Committee (CdS), a delegate designated by the Platform - chaired by the Director General of the

National Office against Racial Discrimination - took part in the last Monitoring Committee on 23 April 2018.

Likewise, the PON Rural Network managing authority requested the participation of the Roma and Sinti associations members. The involvement of the delegates designated to participate in the national Tables (work, health, education, housing) envisaged by the Strategy is in the start-up phase, while at local level (municipal and regional) there are different methods of involvement and dialogue with Roma, Sinti and Camminanti people.

In almost all Municipalities, in line with the National Strategy, tables and venues for discussion and consultation are widely established and active in territories, in some cases even ratified by specific protocols, among public actors (social services, police, prefectures), third sector and families in order to reduce housing problems due to the overcoming of the camps and, more generally, for the well-being and social inclusion of the Roma, Sinti and Camminanti community.

Among the most important initiatives, adopted at local level, it is necessary to mention a special Office, established in 2017 by the Municipality of Rome and called "**Special Roma, Sinti and Camminanti Office**", directly reporting to the Mayor with the following objectives:

- strategic implementation coordination of the interventions of the "**Plan of Roma Capitale for the Roma, Sinti and Camminanti (RSC) populations inclusion**", as well as all activities, including interdisciplinary ones, however connected and functional to the pursuit of the objectives of social inclusion of these populations.

In addition, we remind that in 2016 the Municipality of Rome approved the "Citizen inclusion table" within which the "Table for school inclusion and health of Roma, Sinti and Camminanti" was included, together with the Local Health Authorities RM1, RM2, RM3 and the National Institute for the Promotion of the Migrants Health and the Fight against Poverty Diseases, with the aim of social-health prevention, which has allowed the realization of an important vaccination campaign.

On 4 September 2019, the municipal administration of Naples met the project staff of the Action "Pilot interventions for the creation of tables and networks of stakeholders involved in various capacities with the Roma, Sinti and Camminanti communities, in order to encourage the participation of Roma in social, economic and civic politics", promoted by the UNAR.

The project involves eight metropolitan cities - Bari, Catania, Cagliari, Genoa, Messina, Milan, Naples, Rome - invited to draw up eight distinct Local Action Plans in the following 12 months, which include specific management models aimed at the participation of Roma, Sinti and Camminanti to social, political, economic and civic life.

Other examples of good practices implemented at local/territorial level, in order to encourage the participation of the Roma, Sinti and Camminanti communities, with positive practical outcomes, are underway in the province of Vicenza, where many projects relating to the involvement of the Roma, Sinti and Camminanti members in voluntary activities are in progress. In the province of Reggio Emilia, in the Municipality of Guastalla, where a full integration of Roma, Sinti and Camminanti was realized in the territory, a project for the construction of a camp, equipped with all technologies

(purifier, gas, aqueduct, electricity) was implemented, co-funded by the Municipality and the Emilia Romagna Region, created on the basis of the indications of the Opera Nomadi.

As regards, in particular, the inclusion measures of the Roma, Sinti and Camminanti minors, we observe that all the Municipalities with the presence of Roma, Sinti and Camminanti on their territory, implement support interventions for the minors schooling and, more generally, socio-educational interventions to support the social inclusion and autonomy of the Roma, Sinti and Camminanti population, eventually providing personalized projects.

In recent years the UNAR and the MIUR have held some bilateral meetings in order to plan initiatives within the Strategy, the cases discussion and the critical issues concerning the Roma, Sinti and Camminanti minors, the shared tools between NGOs and communities and the financial opportunities to promote the school inclusion of the Roma, Sinti and Camminanti members.

These meetings were held at an institutional discussion table, within the framework of the *National Observatory for the integration of foreign students and for Interculture*.

The MIUR has also published in recent months some calls (both financed by the PON School and national or regional funds) addressed to schools at risk of dispersion, which are reported to NGOs to encourage their participation and the creation of networks with educational institutions.

With specific reference to the **National project for the inclusion and the integration of the Roma, Sinti and Camminanti children** (hereafter called "RSC project"), already mentioned in the previous government report in 2017, we provide the following updates.

The Ministry of Labour and Social Policies has promoted and implemented, in collaboration with the MIUR and the technical support of the Istituto degli Innocenti, the aforementioned Project, which is part of an institutionally shared framework, constituted by the National Inclusion Strategy for Roma, Sinti and Camminanti and, in particular, by the *Fourth National Biennial Actions and Interventions Plan for the Rights Protection and the Development of Subjects in Growing Age* (hereafter Action Plan).

The general aims of the RSC Project are to encourage the inclusion processes of the Roma, Sinti and Camminanti children and adolescents, promote the diffusion of job good practices and know-how and build a collaborative network between the cities that participate in the experimentation.

The project aims to work through activities involving the Roma, Sinti and Camminanti children and adolescents' two main areas of life: **school and housing**.

The issue of inclusion of the Roma, Sinti and Camminanti populations, as previously reported, is considered among the priorities of the PON (National Operational Program) "Inclusion" 2014-2020, which intends to support the definition of common intervention models against poverty. It also promotes innovative models of social intervention and integration of communities and people who are at risk of marginalization through action systems and pilot projects. The experimental project continues, in close synergy with the MIUR and with the Ministry of Health, thanks to the financing of the PON inclusion funds.

In the period 2018 - 2020, based on the experimental project for the inclusion and the integration of the Roma, Sinti and Camminanti children, started in 2013 together with 13 reserved cities (pursuant to law no. 285/97) a project is carried out in collaboration with the MIUR, the Ministry of Health and Istituto degli Innocenti. It was developed in the main Italian metropolitan cities, actively participating in the implementation of this initiative: Bari, Bologna, Catania, Florence, Genoa, Messina, Milan, Naples, Palermo, Reggio Calabria, Rome, Turin and Venice.

Within the framework of the PON "Inclusion", the new project planning target is based on 81 schools, 266 classes and 600 Roma, Sinti and Camminanti pupils.

The project is realized by a scheduled time in order to allow cities to consolidate the interventions and proceed to a gradual implementation and autonomy. During the first year the following activities were carried out: the local governance consolidation by the activation of the inter-institutional table and a multidisciplinary team (EM) within three months of the formal launch of the project; the adoption of the inclusion local plan for the Roma, Sinti and Camminanti communities.

The school inclusion/integration aims are pursued through the creation of on-site skills involving a teachers group in a training course for trainers that should be programmed in the second and third year of activity in order to find sustainability forms in the long term at the end of the third year.

The final beneficiaries of the project are in general: the Roma, Sinti and Camminanti children and adolescents between 6 and 14 years of age and their families; the Roma, Sinti and Camminanti children from 3 to 5 years of age, through activities aimed at pre-schooling; adolescents who have completed the lower secondary school cycle; adolescents on vocational training or who are at risk of dropping out school; the Roma, Sinti and Camminanti families; all the non-Roma, Sinti and Camminanti children and adolescents enrolled in classes and schools involved in the project; head teachers, teaching staff and ATA staff (administrative, technical and auxiliary); the social and socio-health sector managers and operators, and more generally, the inclusion local network.

The project aims are:

- *the improvement of school inclusion and the educational success of the Roma, Sinti and Camminanti minors;*
- *the contrast of the Roma, Sinti and Camminanti minors early school leaving;*
- *the improvement of the access to social and health services of the Roma, Sinti and Camminanti minors and their families;*
- *the consolidation of a multisector and multilevel territorial sustainable governance;*
- *the creation of a collaborative network among cities participating in the project.*

The three-year project involves an activity focused on three areas: **school, housing and the local services network.**

The school activity is aimed to promote a more inclusive school and contrast the early school leaving. It is not addressed only to the Roma, Sinti and Camminanti children, but to all children who

are present in the project class, to teachers, to the head teacher and the auxiliary staff. The idea is that an inclusive school, is a welcoming and better school for everyone (children and staff) and not only for the Roma, Sinti and Camminanti students.

In order to integrate the school support aims with the promotion of the child's overall well-being related to his/her family, these activities must be carried out in housing contexts. Some efforts can be made to **encourage the access to local services for the involved families; family's active participation; the promotion of the health protection.**

Cooperation among the social, socio-health, educational sector, the third sector and the participation of the Roma, Sinti and Camminanti community are fundamental requirements to realize actions and strategies able to contrast marginality and social exclusion.

The project is based on a collaboration among multiple stakeholders and a global approach to inclusion, especially taking into account the Roma, Sinti and Camminanti children and adolescents' social, relational, physical, psychological and emotional well-being.

The policies implementation, especially at local level, is strategic as it allows to prevent global interventions, in favour of individuals and families, in various areas of daily life, strengthening the social cohesion of a territory.

#### **D) Issue relating to the discriminatory phenomenon and xenophobic racist propaganda against Roma, Sinti and Camminanti (*hate speech*).**

Regarding the critical points highlighted in paragraphs 513-516 of the Committee's conclusions, raised in relation to xenophobic racist propaganda and the so-called hate speech offenses, as well as the related measures taken in this regard, we would like to make the following observations.

The hate speech topic is object of attention of the whole international community, considered as a prodromal phenomenon to the perpetration of the real hate crimes (i.e. crimes characterized by the discriminatory aspect of the violent gesture).

In this context, the so-called *hate speeches*, must be considered as hate crimes. They refer to all *word manifestations* of extreme aversion towards a person or a social group, based on specific characteristics such as: race, ethnicity, religion, sexual orientation, gender identity or other physical or mental conditions.

In the eyes of the substantive law, it should be firstly highlighted that the national regulatory framework governing the hate crimes prevention and control is already solid and consistent with the international instruments that protect individuals from all forms of discrimination.

In this regard, it should be remembered that the Observatory for Security Against Discriminatory Acts (OSCAD), as already mentioned in previous reports, operates in Italy. It is an inter-agency body established in September 2010 by decree of the Chief of Police. Its aim is to actively respond to the safety request of people belonging to "vulnerable categories", organizing and giving



further impetus to the activities carried out by the State Police and the Carabinieri Corps in the **prevention and contrast of acts of discrimination and hate crimes**.

The main objectives of OSCAD are:

- to facilitate the discriminatory acts reporting representing an offense, in order to overcome the under-reporting phenomenon (lack of complaints) and, therefore, encourage the discover of discriminatory offenses. Among the adopted measures to let know the Observatory and the procedures for reporting hate crimes, we observe that on the Ministry of the Interior, the State Police and the Carabinieri Corps websites, some dedicated pages provide information connected with the OSCAD organization and activities. We observe that on the Ministry of Interior home page<sup>3</sup>, in the part reserved to the organizational structure, there is the "Observers" link, by which it is possible to view the OSCAD page.
- *to activate an effective monitoring of discrimination phenomena;*
- *to contribute to the definition of suitable prevention and contrast measures;*
- *to raise awareness/training/constantly update the police force operators.*

To reach its aims, the Observatory specifically performs the following activities:

- *to receive reports that institutions, associations or private citizens, even anonymously, send to the dedicated email address<sup>4</sup>; send the received reports, as well as those known by media to the competent State Police offices or the Carabinieri Corps, asking for further information and/or targeted interventions;*
- *to receive reports from the local bodies of Police and Carabinieri Corps;*
- *to follow the evolution of the complaints directly submitted to the police force;*
- *to supply a specific IT system for monitoring the received reports and the activities consequently carried out.*

One of the OSCAD's priority mission is the collection and analysis of the discriminatory offenses' reports sent to the indicated e-mail address. It is activated in order to contrast the so-called *under-reporting*, which, as well as the *under-recording* phenomenon (the non-recognition of the crime discriminatory component by the police operators, starting from the receipt of the report and the inclusion of the case in the system), characterizes the examined crime.

In recent years the reported cases are increased in the whole by a greater awareness of this type of protection.

OSCAD plays an important role in training too. It collaborates in the State Police personnel training, at all levels, providing seminars on discrimination and hate crimes topics.

The prevention and contrast of discriminatory crimes are among the subjects on the agenda in the professional training and update courses (for the years 2012 and 2017).

The hate crimes topic is also included in one of the priority objectives of the magistrates training as mentioned in the *Programmatic guidelines for the Superior school of Magistrates*, as the judicial activity should be able to give adequate answers to the change and balance the various assets and interests involved.

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<sup>3</sup> [http://www.interno.gov.it/it/ministero/osservatori/osservatorio-sicurezza-contro-atti-discriminatori-oscad\\_](http://www.interno.gov.it/it/ministero/osservatori/osservatorio-sicurezza-contro-atti-discriminatori-oscad_)

<sup>4</sup> [oscad@dcpc.interno.it](mailto:oscad@dcpc.interno.it).

At international level, the OSCAD collaboration is particularly intense with the Office for Democratic Institutions and Human Rights (ODIHR), the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe.

With reference to the most relevant aspects of the examined issues, we observe that OSCAD organised an international meeting on anti-discrimination - held in Rome, on 10 and 11 September 2015 - in collaboration with the Council of Europe, with a specific **focus on Roma and Sinti issues**. More than 30 (17 of which coming from Council of Europe area countries as well as representatives of the Ministry of Interior and the UNAR) police and carabinieri officers and experts took part.

In this context, we must mention the establishment at the Ministry of Justice of a working group called "*Permanent Council for the fight against hate crimes and speeches*", by the Ministerial Decree of 14 December 2017, which indicates the related tasks.

The Council mainly carries out consultative activities regarding initiatives and interventions concerning the Ministry of Justice and related to the contrast of hate crimes and speeches at national, European and international level. It can also present reports and proposals drawn up on the basis of monitoring and analysis of the phenomena of discrimination in all areas, with particular regard to the content of hate online, with respect to the schemes submitted to its examination, in order to offer elements of evaluation of their impact in contrasting discriminatory conduct.

Collective complaint no. 87/2012 International Planned Parenthood Federation-European Network (IPPF-EN) vs Italy

Registered on 9 August 2012, the collective complaint no. 87/2012 was raised in relation to article 11 (The right to protection of health), read alone or in conjunction with article E (Non-discrimination) of the revised European Social Charter, for not protecting women's right to access voluntary termination of pregnancy procedures (IVG) due to the high number of objecting doctors, nurses and paramedics.

Response

We remind that in Italy the conscientious objection to the voluntary termination of pregnancy is regulated by article 9 of law no. 194 of 22 May 1978 (Rules for the social protection of maternity and the voluntary termination of pregnancy) and by article 43 of the Code of Conduct of the medical profession.

We underline that, as indicated in article 9, "the conscientious objection exonerates the healthcare and auxiliary personnel from carrying out procedures and activities specifically and necessarily aimed at determining the termination of pregnancy, and not from the previous and consequent assistance to the abortion. In any case, hospitals and authorized nursing homes are required to ensure that the procedures provided for in article 7 are carried out and that the termination of pregnancy required according to articles 5, 7 and 8 are carried out (procedures to perform the abortion). The region monitors and guarantees the implementation also through staff mobility."

Finally, "the conscientious objection cannot be invoked by healthcare and auxiliary personnel when their personal intervention is essential to save the woman's life in imminent danger, given the particularity of the circumstances. The conscientious objection is understood to be revoked, with immediate effect, if the person who raised it takes part in the procedures or operations for termination of pregnancy provided for by this law, except for the cases referred to in the previous paragraph".

According to what established by the judgment of the Sixth Criminal Section of the Court of Cassation no. 14979 of 2 April 2013, the objecting doctor is required to assist the patient in the phases preceding and following the delivery. The objector cannot omit to assist the woman before or after the causative facts of the abortion, as the protection of woman's life and health must be ensured, even during the pregnancy termination procedure.

Article 43 of the Code of conduct of the medical profession, on voluntary termination of pregnancy, establishes that "the conscientious objection of the medical practitioner is expressed within the

framework and the limits of the current legislation and does not exempt him from obligations and duties concerning woman's assistance and care".

Therefore, the law protects the right of objection within the strict limit of medical activities aimed at the termination of pregnancy, after which the objector cannot refuse to assist the woman.

The Epidemiological Surveillance System of Voluntary Termination of Pregnancy has activated since 1980, involving the Ministry of Health, the Istituto Superiore di Sanità (ISS), the National Statistics Institute (ISTAT), Regions, the Autonomous Provinces of Trento and Bolzano and the network of hospitals and territorial assistance. The phenomenon of Voluntary Termination of Pregnancy is monitored by a system that has become consolidated over time. During all these years, the Surveillance System has allowed to follow the evolution of voluntary abortion and provide data and related analyses for the Annual Report of the Minister of Health to the Parliament, in order to respond to specific questions and indications for in-depth research. The acquired competences have allowed the development of strategies and operational models for the prevention and promotion of health and the improvement of the effectiveness and efficiency of the involved services.

This system has been identified among relevant national and regional ones, envisaged by the Decree of the President of the Council of Ministers of 3 March 2017 containing "Identification of surveillance systems and registers of mortality, tumours and other pathologies". The Istituto Superiore di Sanità (ISS) is the main national body where the system is established. Regions must provide regional contact centres in connection with the ISS.

The Minister of Health annually submits a report to the Parliament, pursuant to article 16 of law no. 194/1978. The Minister's latest Report containing the final data for 2017 was sent to the Parliament on 31 December 2018. The Report contains a specific chapter dedicated to the conscientious objection and the activity of family planning services for Voluntary Termination of Pregnancy, based on information provided by Regions at the level of each regional health unit.

Furthermore, to identify any critical issues and monitor the full implementation of Law no. 194/1978, the Minister of Health pro tempore has activated a permanent "Technical Table" since 2013 with the Regional Administrations representatives in order to control the activities both disenrolled by each hospital and family planning services. In order to verify the adequate implementation of the law at local level and identify any critical issue that may not emerge from the overall regional level, some monitoring indicators have been identified together with all regional representatives.

Established by Law no. 405 of 29 July 1975 (Establishment of family planning services), the Family Planning Services are the main reference structures for women who wish to undergo Voluntary Termination of Pregnancy.

The Family Planning Services are considered an efficient reference system for women as they represent a regional network of services organized at national level, through the local health units which are responsible for the financial and management organization. These services are aimed to prevent and promote health thanks to the integration of social and health activities.

Article 2 of Law no. 194/1978 provides that: “The family planning services are established by law no. 405 of 29 July 1975, without prejudice to the provisions of the same law, assist the pregnant woman: a) informing her of her rights according to the national and regional legislation, and on social health and welfare services concretely offered by the health structures operating in the territory; b) informing her on the appropriate procedures to obtain compliance with labour’s rules in order to protect the pregnant woman; c) directly implementing or proposing to the competent local authority or to social services operating in the territory special interventions, when pregnancy or maternity are problematic and cannot be resolved by normal interventions referred to in letter a; d) helping to overcome the causes that could lead the woman to terminate the pregnancy.

Furthermore, article 4 of the same law states that: “For the voluntary termination of pregnancy within the first ninety days, the woman can contact a public family planning service or a socio-health structure authorized by the region or a doctor of her choice if she accuses circumstances by which the continuation of pregnancy, childbirth or motherhood could entail a serious danger to her physical or mental health, in relation to her state of health or her economic, social or family conditions, or to the circumstances in which the conception took place, or the forecast of anomalies or malformations of the foetus.

When a woman contacts a doctor of her choice, he prescribes the necessary health checks, in respect of her dignity and freedom; evaluates with her and the baby’s father, if she allows it, in respect of her dignity and confidentiality and of the person who is indicated as the baby’s father, also on the basis of the outcome of the above checks, the circumstances inducing her to ask for the termination of the pregnancy; let her know her rights and social interventions she may resort to, as well as family planning services and social-health structures”.

Within the framework of the initiatives aimed at re-evaluating the important role of the Family planning services, in 2018 the Ministry of Health launched a specific project aimed to update the mapping of their locations and the activity they carry out, in collaboration with the ISS and within the program of the National Centre for Disease Prevention and Control (CCM).

In addition, we underline that the Decree of the President of the Council of Ministers of 12 January 2017 containing “Definition and updating of the essential levels of assistance, referred to in Article 1, paragraph 7, of Legislative Decree no. 502 of 30 December 1992, established in article 59 (Outpatient specialist assistance for pregnant women and the protection of maternity) that outpatient specialist services for the protection of maternity offered by public and private accredited health structures are free of charge, including family planning services. Periodic obstetric-gynaecological visits are also free of charge.

Some data, taken from the last Annual Report on Voluntary Termination of Pregnancy which support the assessment of the complaint, are reported below.

A decrease in Voluntary Termination of Pregnancy for women in all age groups has been recorded also for 2017 (80,733 cases of Voluntary Termination of Pregnancy registered by the Surveillance System in 2017, a decrease of 5% compared to 2016). The continuous decrease in Voluntary Termination of Pregnancy in Italy is certainly a positive signal of a better information concerning responsible procreation and services' activity.

The decrease in Voluntary Termination of Pregnancy has been positively influenced by the largest use of the emergency contraception, Levonorgestrel (Norlevo) - morning after pill - and Ulipistral acetate (ellaOne) - 5 days later pill - which no longer need medical prescription for women aged 18 and over.

After a relevant increase in the past, Voluntary Termination of Pregnancy among foreign women are stable and in recent years show a decreasing trend: they were 30.3% of the whole Voluntary Terminations of Pregnancy in 2017.

The waiting time evaluation between the issue of the certification by the healthcare personnel and the abortion (considered as a possible indicator of service efficiency) shows that the percentage of Voluntary Termination of Pregnancy carried out within 14 days from the release of the documents has slightly increased: it was 68.8% in 2017, 66.3% in 2016, 65.3% in 2015 and 59.6% in 2011. Otherwise the percentage of Voluntary Terminations of Pregnancy carried out after 3 weeks of waiting time is decreased: 10.9% in 2017 compared to 12.4% in 2016, 13.2% in 2015 and 2014 and 15.7% in 2011.

In connection with the Voluntary Termination of Pregnancy, three parameters have been evaluated to monitor the full implementation of article 9 (conscientious objection) of Law no. 194/1978. Parameters take into account both the available structures in the territory – number of structures and percentage of the female population in childbearing age – and the availability of dedicated healthcare personnel, considering the weekly workload for each non-objecting gynaecologist.

Parameter 1: Voluntary Termination of Pregnancy service offer in relation to the number of available structures

At the national level in 2017, the total number of hospitals with a department of obstetrics and gynaecology was equal to 591, while the number of structures offering Voluntary Termination of Pregnancy was 381, 64.5% of the total. A slight increase in the percentage of available structures has been recorded. As well as in previous years, data confirm that only in two Regions (Autonomous Province of Bolzano and Campania) the hospitals carrying out Voluntary Termination of Pregnancy represent less than 30% of the hospitals with a department of obstetrics and gynaecology.

Parameter 2: Voluntary Termination of Pregnancy service offer in relation to the female population in childbearing age and maternity wards

To verify the level of implementation of Law no. 194/78 within the national framework of the organization of the National Health-care System related to pregnancy, it is useful to connect the data on abortion structures to the female population in childbearing age and maternity wards. In 2017, 591 hospitals with a department of obstetrics and gynaecology were nationally surveyed: 434 were public or private accredited maternity wards, equal to 73.4% of the total (as in 2016). The last year situation is therefore emphasized: while the number of the Voluntary Termination of Pregnancy is equal to 17.6% compared to the number of births, the number of Voluntary Termination of Pregnancy structures is equal to 87.8% of maternity wards. Therefore, considering both the absolute value of abortion structures and the normalized value of the female population in childbearing age, the number of abortion structures is more than appropriate compared to the number of abortions performed, even more if compared with maternity wards.

Data referring to the Voluntary Termination of Pregnancy for 2017 show a further improvement in the service coverage compared to those for 2014 contained in the previous "simplified" report of the Italian government.

Data collection of family planning services for Voluntary Termination of Pregnancy was carried out also for 2017, concerning 85% of the family planning services. As in previous years, collected data concerning the number of women who carried out the interview required by Law no. 194/1978, the number of issued certificates, the number of women who carried out checks after the Voluntary Termination of Pregnancy procedure (in view to prevent repeated Voluntary Terminations of Pregnancy) have been required. As in the past, the number of Voluntary Termination of Pregnancy interviews was greater than the number of certificates issued (48,769 interviews vs 34,800 certificates issued). This could indicate the effective action to help the woman "to remove the causes that could lead her to terminate her pregnancy" (article 5 of Law no. 1994/78).

In conclusion, the observed decrease in the abortion rates and in the percentage of repeated abortions seems to indicate that all the efforts made in recent years, especially by family planning services, to prevent unwanted pregnancies and Voluntary Termination of Pregnancy are useful, even among the immigrant population. The Italian government intends to strengthen and enhance these proximity services to support women and/or couples in their conscious choice, in the possible reconsideration of the reasons behind the choice, to help them in the Voluntary Termination of Pregnancy procedure and to avoid future unwanted pregnancies and the Voluntary Termination of Pregnancy procedure.

The high percentage of women who undergo the procedure during a gestation period  $\leq 10$  weeks (82% of Voluntary Termination of Pregnancy cases), combined with the very low incidence of complications (5.6 complications per 1,000 abortions), indicate that the Voluntary Termination of Pregnancy has not been a danger to women's health.

In Italy the level of conscientious objection is partially balanced with the staff mobility, agreements with specialists in obstetrics and gynaecology and the introduction of pharmacological abortion. All these factors, in addition to women's support and prevention policy through family planning services

and regulations on Voluntary Termination of Pregnancy, are useful elements to protect health and guarantee women's rights regarding voluntary termination of pregnancy.



## Collective complaint no. 91/2013 Confederazione Generale Italiana del Lavoro v. Italy.

Registered on 17 January 2013, the complaint no. 91/2013 relates the violation of article 11 ("*The right to protection of health*"), 1§2 ("*The right to work*" - *protection of the worker from all forms of discrimination at work*), 26§2 ("*The right to dignity at work*" - *protection of workers against reprehensible or distinctly negative or offensive behaviour and actions in the workplace or in relation to work*) and Part V, article E ("*Non-discrimination*") of the Charter. Specifically, CGIL recognizes direct and indirect discrimination against non-objecting gynaecologists within the departments in which voluntary termination of pregnancy are carried out due to the excessive workload, the division of the assignments and the poor career opportunities.

### Response

The Italian government is committed to the full implementation of law no. 194 of 22 May 1978 containing "*Rules for the social protection of maternity and on voluntary termination of pregnancy*". This law ensures all women access to the procedure of Voluntary Termination of Pregnancy (IVG) upon request within the deadline set out by the law and healthcare personnel the right to conscientious objection in accordance with article 9 of the same law<sup>5</sup>.

It seems appropriate to remember that since 1980 Italy has activated the **Epidemiological Monitoring System of Voluntary Termination of Pregnancy** which involves the Ministry of Health, the Istituto Superiore di Sanità (ISS), the National Statistics Institute (ISTAT), Regions, the Autonomous Provinces of Trento and Bolzano and the network of hospital and territorial assistance. The phenomenon of Voluntary Termination of Pregnancy is monitored by a system that has become consolidated over time and allows to follow the evolution of Voluntary Termination of Pregnancy, provides data and related analyses for the Annual Report of the Minister of Health to the Parliament, answering specific questions and giving indications for in-depth research. A chapter of the Report is elaborated on the basis of information provided by Regions for each healthcare unit and is dedicated to conscientious objection and to the activity of the family counselling centres for Voluntary Termination of Pregnancy. The final Report for 2017 was sent to the Parliament on 31 December 2018, while at present the data for 2018 are not yet available.

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<sup>5</sup> "*Healthcare and auxiliary personnel are not required to take part in the procedures referred to in articles 5 and 7 and in procedures for the termination of pregnancy when they raise conscientious objection with prior declaration. The objector's declaration must be communicated to the provincial doctor and in the case of employees of hospitals or nursing homes to the medical director, within one month from the entry into force of this law or from the achievement of the qualification or by the hiring in a facility required to provide services for the termination of pregnancy or by the signature of an agreement with a social security institution that entails the execution of these services.*

*The objection choice can always be revoked or can also be presented outside the deadline mentioned to in the previous paragraph, but in this case, the declaration takes effect one month after its presentation to the provincial doctor.*

*The conscientious objection exonerates the healthcare and auxiliary personnel from carrying out the procedures and activities specifically and necessarily aimed at determining the termination of pregnancy, and not from the previous and consequent assistance to the procedure. In any case, hospitals and authorized nursing homes are required to ensure that the procedures provided for in article 7 are carried out and that the termination of pregnancy required according to articles 5, 7 and 8 is carried out. The region monitors and guarantees the implementation through staff mobility.*

*Healthcare and auxiliary personnel cannot invoke conscientious objection when their personal intervention is essential to save the woman's life in imminent danger, given the particularity of the circumstances.*

*The conscientious objection is understood to be revoked, with immediate effect, if the person who raised it takes part in the procedures or operations for termination of pregnancy provided for by this law, except for the cases referred to in the previous paragraph."*

About the right to conscientious objection, we would like to observe that law no. 194/1978 protects it within the strict limit of medical activities aimed at the termination of pregnancy, after which the objector cannot refuse to assist the woman. It should also be noted that article 43 of the Code of Conduct of the medical profession establishes that "*the conscientious objection of the medical practitioner is expressed in the framework and within the limits of the current legislation and does not exempt the medical practitioner from the obligations and duties concerning assistance and care of the woman*".

Case law has repeatedly confirmed this interpretation of the rule. For example, the judgment of the Sixth Criminal Section of the Court of Cassation no. 14979 on 2 April 2013 which reiterates that the conscientious objector is required, however, to assist the patient in the phases preceding and following the termination of pregnancy. The objector cannot omit to assist the woman before or after the causative facts of the abortion, as the protection of life and health must be ensured even during the pregnancy termination procedure.

Pursuant to current legislation, accredited hospitals and nursing homes are required to carry out the pregnancy termination procedure required according to the methods provided for in articles 5, 7 and 8 of law no. 194/78 while Regions must control and guarantee the correct application of the law, in accordance with the institutional structure defined by the reform of Title V of the Constitution, which took place in 2001.

In order to identify any critical issues regarding the impact that the exercise of the right to conscientious objection can have compared to the possibility of women to access Voluntary Termination of Pregnancy, the Ministry of Health calculates a specific monitoring indicator: the weekly average workload for the Voluntary Termination of Pregnancy for non-objecting gynaecologist, counted over 44 working weeks per year.

The national data for 2017 shows a workload of 1.2 Voluntary Termination of Pregnancy per non-objecting gynaecologist per week (with a 25% decrease compared to 2014) with a certain variability at a territorial level: in fact, it goes from a minimum of 0.2 cases in Valle d'Aosta to a maximum of 8.6 cases in Molise.

Deepening the analysis with the sub-regional data, only two local situations with values higher than 9 Voluntary Terminations of Pregnancy per non-objecting gynaecologist per week are highlighted: one in Sicily, with 18.2 Voluntary Terminations of Pregnancy per week (the regional figure stands at 2.4 Voluntary Terminations of Pregnancy per week. See Table 2) and one in Campania, with a workload of 13.6 Voluntary Terminations of Pregnancy per week (compared to the regional figure of 3.5 Voluntary Terminations of Pregnancy. See Table 2). It should also be noted that 13 units have carried out procedures of Voluntary Termination of Pregnancy despite there is no non-objecting gynaecologist in their staff, demonstrating the regional organizational capacity to ensure the procedure through temporary mobility of non-objecting staff present in other units, as required by Article 9 of the law no. 194/1978.

Furthermore, in 2017 the regions were also asked if there were non-objecting gynaecologists not assigned to the Voluntary Termination of Pregnancy procedures. From the data communicated by the regions it emerged that at national level 9.8% of non-objecting gynaecologists in 2017, equal to 146 gynaecologists, are assigned to other procedures than Voluntary Termination of Pregnancy; that is, they do not carry out Voluntary Termination of Pregnancy procedures, although they do not claim the right to conscientious objection. This data concerns 146 units over eight regions: Piedmont, Lombardy, Veneto, Marche, Campania, Puglia, Sicily and Sardinia.

**TABLE 1. Average weekly workload for Voluntary Terminations of Pregnancy per non-objecting gynaecologist - years 2014-17 (considering 44 working weeks per year) - Data calculated through a specific monitoring conducted by the Ministry of Health**

Region	Average weekly workload for Voluntary Terminations of Pregnancy per non-objecting gynaecologist			
	year 2014 – specific monitoring per local healthcare structure	year 2015 – specific monitoring per unit	year 2016 – specific monitoring per unit	year 2017 – specific monitoring per unit
Piedmont	1.7	1.3	1.3	1.1
Valle d'Aosta	0.4	0.3	0.3	0.2
Lombardy	1.7	2.7	n/a	1.2
Autonomous Province of Bolzano	1.3	1.1	1.2	2.3
Autonomous Province of Trento	0.9	0.8	0.8	0.7
Veneto	1.5	1.2	1.2	1.2
Friuli Venezia Giulia	0.7	0.6	0.6	0.5
Liguria	1.3	1.2	1.3	1.0
Emilia-Romagna	1.0	0.8	0.7	0.7
Tuscany	1.0	1.0	1.0	0.9
Umbria	1.2	1.0	1.1	1.1
Marche	0.9	0.8	0.8	0.9
Lazio	3.2	3.8	2.6	2.4
Abruzzo	3.0	2.4	2.4	2.1
Molise	4.7	8.1	9.0	8.6
Campania	2.3 (**)	0.0 (**)	1.4 (**)	3.6
Puglia	3.5	3.0	3.0	2.7
Basilicata	2.9	2.5	2.5	3.1
Calabria	2.2	1.9	1.9	1.7
Sicily	3.8	2.1	1.7	1.9
Sardinia	0.5	0.6	0.6	0.5
<b>TOTAL</b>	<b>1.6</b>	<b>1.3</b>	<b>1.6</b>	<b>1.2</b>

(\*\*)data received partially

Source: Ministry of Health - 2017

**TABLE 2. Average weekly workload for Voluntary Terminations of Pregnancy per non-objecting gynaecologist by region calculated from the detailed data for each facility (average and maximum values). Year 2017**

Region	Regional average value	Maximum value for each IVG unit
PIEDMONT	1.2	4.9
V.D'AOSTA	0.2	0.2
LOMBARDY	1.3	4.7
AUTONOMOUS PROVINCE OF BOLZANO	2.2	2.8
AUTONOMOUS PROVINCE OF TRENTO	0.9	2.3
VENETO	1.5	6.0
FRIULI VENEZIA GIULIA	0.8	2.5
LIGURIA	1.5	4.0
EMILIA ROMAGNA	1.0	8.4
TUSCANY	0.9	2.8
UMBRIA	0.9	1.8
MARCHE	1.5	6.3
LAZIO	2.3	7.7
ABRUZZO	1.7	3.5
MOLISE	8.6	8.6
CAMPANIA	3.5	13.6
PUGLIA	3.3	7.5
BASILICATA	1.7	2.6
CALABRIA	1.9	5.2
SICILY	2.4	18.2
SARDINIA	0.6	2.6

Source: Ministry of Health - 2017

As illustrated above, the concentration of healthcare procedures provided, including Voluntary Terminations of Pregnancy, in some facilities may be the result of the planning of the regional administrations, aimed at rationalizing the assistance networks in their territory. Detailed monitoring such as that proposed in the Annual Report to the Parliament on Voluntary Termination of Pregnancy

proves to be a fundamental tool for verifying the effective offer of the procedure and the workload of non-objecting gynaecologists and, consequently, for supporting the Regions in planning their services.

As regards the protection of non-objecting gynaecologists against harassment and direct and indirect discrimination in the workplace, we would like to make the following observations.

Legislative decree no. 216 of 9 July 2003 has transposed the directive 2000/78/EC concerning equal treatment in terms of employment and working conditions. The decree contains provisions relating to the implementation of equal treatment regardless of religion, **personal beliefs**, disability, age and sexual orientation, in addition to the measures necessary so that these factors are not a cause of discrimination. Article 2, paragraph 3, of Legislative Decree No. 216/2003 defines harassment as "those unwanted behaviours, carried out due to one of the reasons listed above, having the purpose or effect of violating the dignity of a person and to create an intimidating, hostile, degrading, humiliating or offensive climate" and defines them as discrimination.

The principle of equal treatment is applicable to both public and private sectors and is also susceptible of judicial protection even in the case where direct or indirect discrimination concerns employment and working conditions, including career advancement, remuneration, conditions of dismissal or access all types of professional orientation and training, as well as professional development and requalification, including traineeships. Therefore, anyone who intends to take legal action for the recognition of the existence of a reason of discrimination indicated above and does not consider using the conciliation procedures provided for by the national collective labour contracts, can promote an attempt of conciliation also through the trade union association to which s/he adheres or confers mandate. In order to demonstrate the existence of discriminatory behaviour to her/his own detriment, the appellant can bring to trial factual elements in serious, precise and concordant terms, which the judge will assess. With the judgement that accepts the appeal, the judge compensates the damage, including non-pecuniary damage, if required, and orders the cessation of the conduct or discriminatory act, if it still exists, as well as the removal of the effects.

It should also be noted that article 26 of Legislative Decree no. 198/2006 (Code of equal opportunities), paragraphs 1 and 2, provides for and defines **harassment** and **sexual harassment**, both considered as forms of discrimination, taking up the concepts provided for in Directive 2002/73/EC.

Furthermore, Budget Law no. 205/2017 at art. 1, paragraph 218, introduces an amendment to article 26 of Legislative Decree no. 198/2006, adding paragraph 3-bis, which recites as follows:

*"The female or male worker who acts in court for the declaration of discrimination for harassment or sexual harassment put in place in violation of the prohibitions set out in this chapter cannot be sanctioned, demoted, fired, transferred or subjected to another organizational measure having negative direct or indirect effects on the conditions of harassment and violence, including sexual harassment in the workplace.*

*The retaliation or discriminatory dismissal of the complainant is void. The change of duties pursuant to article 2103 of the civil code, as well as any other retaliatory or discriminatory measure adopted against the complainant are also null and void. The protections referred to in this paragraph are not guaranteed in cases where the criminal liability of the complainant for the crimes of slander or defamation or the groundlessness of the complaint is ascertained, even with a first instance sentence."*

Finally, we would like to observe that the employer, pursuant to article 2087 of the Civil Code<sup>6</sup>, is required to protect the physical integrity and moral personality of the workers as well as to assess and

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<sup>6</sup> "In the running of the business, the entrepreneur is required to take measures which are necessary to protect the physical integrity and moral

prevent the potential risks of harassment and violence in the workplace as well as to ensure that it does not occur, as required by Legislative Decree no. 81/2008 ("*Consolidated Law on health and safety at work*").

In conclusion, it can be said that the Italian legislation contains adequate tools to protect workers against any form of discrimination and harassment.

**COUNCIL OF EUROPE. 19<sup>th</sup> REPORT - REVISED EUROPEAN SOCIAL CHARTER. COLLECTIVE COMPLAINT No. 102-2013 - Associazione Nazionale dei Giudici di Pace (ANGdP) v. Italy**

In response to the requests made by the European Committee of Social Rights (ECSR) in its findings in 2018 regarding the protection granted to the Justices of the Peace (serving lay judges) - in addition to what was already indicated in the simplified report of 2017 - we would like to make the following observations.

**HEALTH PROTECTION**

Preliminarily it should be noted - as already illustrated in the Simplified Report of 2017 - that for the purposes of social security and welfare protection, Justices of the Peace (except those who are members of the national bar association) are registered in the Separate Management Scheme of the National Social Welfare Institute (INPS) and that the rules for self-employed workers are applied for the payment of their insurance (art. 25 of Legislative Decree no.116 of 3 July 2017).

On the basis of this assumption, the social security protection recognized to lay judges in case of illness is, as well as the other categories of workers, enrolled in the Separate Management Scheme, namely:

- hospitalisation allowance (art. 51, paragraph 1, law no. 488/1999 and decree of the Ministry of Labour and Social Security of 12/01/2001), in case of hospitalisation in health structure;
- sickness allowance (art. 1, paragraph 788, law no. 296/2006), for illness lasting at least four days.
- sickness allowance (art. 8, paragraph 10, law no. 81/2017), for periods of certified illness in consequence of therapeutic treatments for oncological diseases or worsening serious chronic-degenerative pathologies or entailing, in any case, a temporary incapacity for work by 100%.

Allowances can be paid to workers enrolled in the Separate Management Scheme if they are not retired and they are not enrolled in any other compulsory social security schemes. They are required to pay an increased rate of 0.72% in order to finance the protection of maternity/paternity and parental leave, family allowances, hospitalisation and illness.

It is required:

- a 3 months minimum contribution at full rate must be paid to the National Separate Insurance and Pension Scheme in the 12 months prior to the beginning of the hospitalisation;
- a maximum income (in the calendar year before the event, the individual income declared for contributions must not exceed 70% of the contribution ceiling, as referred to in art. 2, paragraph 18, of law no. 335/1995, that is valid for the same year).

Allowances are differentiated in relation with the months of paid contribution and in case of they are hospitalisations or illnesses.

In the event of hospitalisation, the daily allowance is equal to the following rates, calculated annually on the amount obtained by dividing the contribution ceiling by 365 valid for the year of the beginning of hospitalisation (art. 2, paragraph 18, of law no. 335/1995):

- 8% of the amount, if in the twelve months prior to the beginning of the hospitalisation, from three to four monthly contributions have been paid;
- 12% of the amount, if in the twelve months prior to the beginning of the hospitalisation, from five to eight monthly contributions have been paid;

- 16% of the amount, if in the twelve months prior to the beginning of the hospitalisation, from nine to twelve monthly contributions have been paid.

The allowance is paid for all hospitalisation days, for a maximum of 180 days during the calendar year.

When an illness exists, the amount of the allowance is equal to 50% of what is due in case of hospitalisation, therefore taking into account the amount obtained by dividing the contribution ceiling by 365 valid for the year of the beginning of the illness (art. 2, paragraph 18, of law no. 335/1995):

- 4% of the amount, if in the twelve months prior to the beginning of the event, from three to four monthly contributions have been paid;
- 6% of the amount, if in the twelve months prior to the beginning of the event, from five to eight monthly contributions have been paid;
- 8% of the amount, if in the twelve months prior to the beginning of the event, from nine to twelve monthly contributions have been paid.

Illness is compensated for a maximum number of days equal to one sixth of the overall duration of the employment relationship and, in any case, not less than twenty days during the calendar year, except for illnesses lasting less than four days.

Sickness allowance referred to in art. 8, paragraph 10, of law no. 81/2017, based on the documentation produced by workers, is recognized after the assessment produced by the relevant medical examiner's office, and it follows the same rules as well as the hospitalisation.

## **MATERNITY AND PATERNITY PROTECTION**

Regarding maternity protection, lay judges who are not members of the national bar association are recognized the same protections provided for those who are registered in the National Separate Insurance and Pension Scheme pursuant to art. 2, paragraph 24, of law no. 335/1995.

### **MATERNITY**

In case of **maternity**, working mothers are entitled to receive an allowance equal to 80% of the Average Daily Income (RMG), equal to 1/365 of the income (valid for Insurance and Pension Scheme) received during the previous 12 months with regard to the beginning of the maternity period, as long as it does not exceed the expected ceiling.

The allowance is paid by the National Social Welfare Institute (INPS) only if in the 12 months prior to the beginning of the maternity period, at least 3 monthly contributions have been paid, with an increased rate of 0.72%.

The allowance is recognized for 2 months prior to the expected date of delivery and for 3 months after the childbirth, or, in case of national or international adoption/custody, for a period of 5 months from the child's entry into the family or in Italy (in case of international adoption).

In case of flexibility, the allowance is recognized for 1 month before the expected date of delivery and for 4 months after the childbirth.

In case of pregnancy at risk, the Local Health Authority can provide an earlier suspension from work, for one or more periods, until the beginning of maternity leave. In case of heavy or prejudicial tasks in relation to the state of pregnancy, the Territorial Labour Inspectorate can order the interdiction from work starting from 3 months before the expected date of delivery and up to seven months after the childbirth.

In case of a premature birth (i.e. before the beginning of the maternity leave), the allowance covers a five-month period of maternity leave (calculated on the basis of the expected date of birth)



and, in addition, all the days between the actual date of delivery and the beginning of the maternity period.

It is possible to suspend and postpone the maternity leave period (or its residual part) in case of hospitalisation of the new-born.

## **PATERNITY**

Workers enrolled in the Separate Management Scheme of the INPS are entitled to **paternity leave** only in case of death, serious illness, abandonment or exclusive custody of the child to the father. The paternity period starts from the occurrence of one of these events and for the residual maternity period that would have been due to the working mother or for the three months following the birth.

The conditions provided for maternity leave are also applied to the father as regards the contributions needed to benefit of paternity allowance and its amount.

## **PARENTAL LEAVE**

An allowance for **parental leave** is granted for each child born or adopted for a maximum period (continuous or split) of six months, within six years of age of the child. The parental leave periods for both parents, even if used in another insurance or pension scheme, cannot exceed the limit of six months in total.

In the event of adoption and pre-adoptive custody, both nationally and internationally, an allowance for parental leave is recognized for a maximum of six months, within six years from the entry into the family of the adopted/in-custody child.

The allowance is calculated, for each day of the parental leave period, for an amount equal to 30% of 1/365 of the income resulting from a project work or a similar one received in the 12 months taking into account to assess the required contribution.

To apply for parental leave, the following requirements are required:

- registration in the Separate Management Scheme of the INPS and not being simultaneously retired or member of another form of compulsory insurance and pension fund;
- a valid employment contract when the parental leave takes place;
- at least three months of paid contribution at an increased rate of 0.72% in the 12 months before the beginning of the parental leave period, or - only in case of parental leave periods within the first year of age of the child or from the entry into the family of the child –at least three months of paid contribution at a higher rate in the 12 months taking into account to obtain the maternity/paternity allowance;
- abstention from work.

## **OTHER MEASURES**

When the contribution requirements for maternity allowance of the Separate Management Scheme members are missing, lay judges can claim alternatively one of the following maternity protections:

**A) Maternity allowance for atypical and discontinuous workers (so-called State maternity allowance).** The general requirements to claim the allowance are the legal residence in Italy and the Italian citizenship or the citizenship of a European Union state. For non-EU citizens, the EC residence permit for long-term residents is required.

The following requirements are necessary for the mother:

- if worker, she must possess at least three months of maternity contribution in the period between 18 and 9 months before the childbirth or the entry of the child into the family, in case of national adoption or pre-adoptive custody, or in Italy in the event of international adoption;
- if she has worked for at least three months and has lost her right to social security or welfare benefits, the period between the loss of her right and the date of the childbirth or the entry of the child into the family (in case of adoption or custody) must not exceed either the period of the allowance or 9 months;
- if during the pregnancy period, she has withdrawn from work, even voluntarily, three months of paid contribution are required from 18 to 9 months before the delivery.

The following requirements are necessary for the father:

- in case of child abandonment by the mother or exclusive custody, at the time of abandonment or of exclusive custody, he must possess the same contribution requirements necessary for the mother;
- in case of pre-adoptive custody, in the event of separation of the spouses during the custody procedure, at the time of the custody, he must possess the same contribution requirements necessary for the mother;
- if he is an adopting father, in case of adoption without custody during the separation of the spouses, at the time of the adoption, he must possess the same contribution requirements necessary for the mother;
- if he is an unmarried adoptive father, in case of adoption pronounced only towards the father, at the time of the adoption, he must possess the same contribution requirements necessary for the mother;
- if he has recognized the new-born or he is the adopting or pre-adoption custody woman's spouse – if the natural mother or the adoptive or custody mother dies - at the time of the application form the following requirements are necessary: the regular stay and legal residence in Italy of the father or spouse of the deceased woman; the presence of the child into his family; the authority over the child; the non-custody of the child to a third party and that the deceased woman has not already benefited of the allowance. In the latter case, both three months of contributions between 18 and 9 previous months and the loss of the right to social security or welfare benefits for no more than nine months are not required, as the right to the allowance derives from the mother or deceased woman.

The application form must be submitted within six months of the childbirth or his/her entry into the family in case of adoption or custody, or in Italy in case of international adoption.

The amount of the allowance is revalued each year on the basis of the National Institute of Statistics (ISTAT) consumer price index. ISTAT annually publishes it in the average medium salaries report; in 2019 the full amount of the allowance is equal to 2,132.39 euros.

**B) Basic maternity allowance (so-called Municipalities Maternity allowance),** allowance provided by the municipalities and paid by the INPS.

In the event of childbirth, adoption or pre-adoptive custody, Italian, EU or foreign nationals in possession of a residence permit can benefit of the allowance (it is necessary to contact the municipality of residence to grant the benefit). The allowance is granted within certain income limits. Applicants must not possess any social security coverage, or they must possess it within a certain amount that is fixed every year. Furthermore, they must not already benefit of any other INPS maternity allowance pursuant to law 23 December 1999, no. 488.

The application form must be submitted to the municipality of residence, which is responsible for verifying the legal requirements to grant the benefit (articles 17 and following of the Prime Minister's decree of 21 December 2000), within six months of the childbirth or the entry of the adopted or in pre-adoptive custody child into the family.

The allowance cannot be combined with any other social security allowances, unless applicants are entitled to receive the differential rate by the municipality.

The amount of the allowance is revalued each year on the basis of the ISTAT consumer price index. ISTAT annually publishes it in the average medium salaries report; in 2019 it is equal to 346.39 euros per month for 1,731.95 euros in total.

In light of the measures granted by the Italian legal system in the event of illness and maternity concerning Justices of the Peace – to whom a legal protection is granted – we can highlight that, at a first analysis, paragraphs 1 and 2 of article 25 of Legislative Decree 116/2017 could appear discriminatory in the part in which they provide that the office is suspended without the right to a compensation in the event of illness, accident and pregnancy/maternity. However, the following third paragraph provides that *"for the purposes of social security and welfare protection, lay judges and honorary deputy prosecutors are registered in the Separate Management Scheme referred to in article 2, paragraph 26, of law no. 335 of 8 August 1995"*, and, as such, they benefit from the protections provided for illness and maternity events by the Separate Management Scheme.

Therefore, there is no discrimination or unequal treatment for lay judges with respect to the other members of Separate Management Scheme.

Even the different economic treatment and the different protections recognized to ordinary judges compared to lay judges do not represent a discrimination between the two categories of judges, but reflect the differences that, in general, exist in all sectors of activity between employees and self-employed workers registered in the Separate Management Scheme.

These differences - as already argued in the previous Simplified Report of 2017 - are proportionate and justified by the diversity of their employment contracts (full-time and exclusive for ordinary judges; part-time and without an obligation of exclusivity for lay judges), also taking into account the modalities of access to relative positions (public competition based on exam for the ordinary judges, selection based only on qualifications for lay judges).

## **Collective complaint no. 105/2014 "La voce dei Giusti" vs Italy**

Registered on 22 April 2014, the complaint no. **105/2014** was raised in relation to the violation of the provisions contained in some parts of the revised European Social Charter (Part I, paragraph 10 "*Everyone has the right to appropriate facilities for vocational training*"; Part II, article 10 "*The right to vocational training*"; Part V, article E "*Non-discrimination*" in relation to article 10). The complaint concerns teachers in the third category teachers on aptitude lists who suffered indirect discrimination with regard to access to specialist training in support teaching, although they have already held support teaching positions.

### **Response**

The Italian Government disputes **the terms of admission** of the complaint considering that the complainant organisation, created to protect interests and rights of teachers, in particular of the third category, does not seem to satisfy the requirement of representativeness, which pursuant to article 1 of the Additional Protocol of the European Social Charter, constitutes the essential condition to address collective complaints to the Secretary General of the European Social Charter.

Regarding to the **merits** of the this complaint, we would like to make the following observations.

The Italian Government considers the national legislation on vocational teachers training, including the complainant category, complies with the provisions of the revised European Social Charter relating to articles 10 and E.

Article 3 of Ministerial decree no. 249<sup>7</sup> of 10 September 2010 outlines the scheme of the training courses for all teaching qualifications. The acquisition of the didactic skills destined to inclusion of pupils with disabilities, according to the provisions of the law no. 104 of 5 February 1992 "*Framework law for assistance, social integration and the rights of disabled people*", is an integral part of the training courses.

Article 13 of the aforementioned decree establishes that support teaching qualification courses can be only achieved by university training courses including the acquisition of a minimum of 60 training credits and at least 300 hours of traineeship and must be organized in different ways for nursery, primary, lower and upper secondary school. Courses which can be accessed by qualified teachers and are authorized by the Ministry of Education, Universities and Research (MIU), are limited in places and are subjected to an entry university test.

Article 4, paragraph 1-ter of Ministerial decree no. 81 of 25 March 2013, which modified the decree no. 249/2010, has authorized non-permanent teachers without qualification, including technical-practical teachers, having accrued three years' service between 1999 and 2012 in public and private schools or in vocational training centres, to enrol in specific qualification training courses. Experience gained in teaching support services is also taken into account for this purpose.

This procedure was destined to fill the lack of ordinary qualification courses between the 9<sup>th</sup> cycle of the Specialization School for Secondary Education (SSIS), activated in the academic year 2007/2008, and the first TFA cycle (Active traineeship), started in the academic year 2012/2013. A second TFA cycle in favour of the claiming category was activated by ministerial decree no. 312/2014.

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<sup>7</sup> "*Regulation concerning: 'Definition of the discipline of requirements and modalities of the initial teachers training of nursery, primary school, lower and upper secondary school, pursuant to article 2, paragraph 416, of law no. 244 of 24 December 2007'*"

According to legislative decree no. 66 of 2017<sup>8</sup>, access to support teaching qualification for nursery and primary schools is reserved to qualified teachers in order to answer to the educational needs of pupils with disabilities through highly qualified teachers. The Italian Government underlines that the requirements provided by decree no. 249/2010 as amended by decree no. 81/2013 remain unchanged for the qualification of the claiming category.

Legislative Decree no. 259 of 9 May 2017 has provided the revision and updating of the typology of the competition classes to access to the permanent teaching positions in lower and upper secondary schools. Teachers having valid qualifications to access to the competition classes pursuant to the decree of the President of the Republic no. 19 of 14 February 2016<sup>9</sup>, can participate in entry tests for the active traineeship courses pursuant to decree no. 249/2010. They can ask to be included in the school employment lists according to new competition classes, as defined in tables A and B attached to the Presidential Decree no. 19/2016.

Initial training and access system in permanent teaching positions in lower and upper secondary schools (including technical-practical teachers) is now regulated by legislative decree no. 59 of 13 April 2017<sup>10</sup>, reformulated by Law no. 145/2018.

Ministerial decree no. 92/2019, "*Provisions concerning the specialization procedures on support teaching pursuant to the decree of the Ministry of Education, Universities and Research no. 249/2010 and subsequently amended*" regulates the activation of the specialization courses in support teaching for all educational levels and its admission requirements. The decree states that teachers intending to achieve specific qualification in support teaching to pupils with disabilities must possess one of the following qualifications.

- a. Support teaching specialization courses for nursery and primary school:
  - teaching qualification achieved by a degree in primary education or a similar qualification obtained abroad and recognized in Italy according to current legislation;
  - teaching diploma, including diploma in educational psychology with qualification value and diploma in language and literature, obtained in magistral institutes or similar qualification obtained abroad and recognized in Italy according to current legislation, both achieved within the school year 2001/2002;
- b. Support teaching specialization courses for lower and upper secondary school:
  - teaching requirements set out in paragraph 1 or 2 of article 5 of Legislative Decree no. 59/2017, with different procedures for lower and upper secondary schools, as well as similar qualifications obtained abroad and recognized in Italy according to current legislation.

Directorate General for school systems and the evaluation of the national education system of the Ministry of Education, Universities and Research can admit, under reserve, attendees who having recognized in Italy their qualification obtained abroad, have submitted the application to participate at the specific selection procedure by the deadline.

According to decree no. 92/2019, attendees who intend to access the selection procedures for lower and upper secondary school must possess the qualification for the specific competition class. They must have carried out, in previous eight school years, at least three years' experience, even if non-consecutive, as ordinary or support teacher in educational and vocational institutions.

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<sup>8</sup> "Rules for the promotion of school inclusion of students with disabilities, in accordance with article 1, paragraphs 180 and 181, letter c), of the law no. 107 of 13 July 2015"

<sup>9</sup> "Regulation containing provisions for the rationalization and unification of the competition classes and teaching positions, according to article 64, paragraph 4, letter a), of law decree no. 112 of 25th June 2008, converted with modifications by law no. 133 of 6 August 2008"

<sup>10</sup> "Reorganization, adaptation and simplification of the initial training system and access system in permanent teaching positions in secondary school to make it functional to the social and cultural enhancement of the profession, according to article 1, paragraphs 180 and 181, letter b) of the law no. 107 of 13 July 2015"

Please find below the access requirements set out in article 5, paragraphs 1 and 2 of decree no. 59/2017.

1. With regard to teaching positions: the specific qualification for the competition class or jointly the possession of
  - a) master's degree or single cycle degree, or second level diploma in higher artistic, musical and choreutic training, or equivalent title in connection with competition classes in force on the date of the competition;
  - b) 24 university training credits, hereinafter referred to as CFU/CFA, acquired in curricular, additional or extra-curricular form in the anthro-psycho-pedagogical subjects and didactic methodologies and technologies (six credits in three of the following areas at least: pedagogy, special pedagogy and teaching inclusion; psychology; anthropology; didactic methodologies and technologies);
2. With regard to technical-practical teaching positions: the specific qualification for the competition class or jointly the possession of
  - a) degree, or first level diploma in higher artistic, musical and choreutic training, or equivalent title consistent with the competition classes in force on the date of the competition;
  - b) 24 university training credits, acquired in curricular, additional or extra-curricular form in the anthro-psycho-pedagogical subjects and didactic methodologies and technologies (six credits in three of the following areas at least: pedagogy, special pedagogy and teaching inclusion; psychology; anthropology; didactic methodologies and technologies).

The provisions of paragraph 2 for technical-practical teacher positions are required to participate to support teaching specialization courses banned after 2024/2025. Until then, the requirements set out in the current legislation on competition classes remain unchanged.

The same requirements referred to Article 5, paragraphs 1 and 2, allow the participation in the competition procedures. The overcoming of all competition tests banned after the entry into force of the Law constitutes teaching qualification for the relative competition classes for lower and upper secondary school, if minimum marks have been achieved.

As stated in the observations of the Italian Government on the admissibility and merits of the complaint and according to the recent regulatory interventions allowing non-permanent teachers to access in the procedures to achieve the qualification, no elements of discrimination are found against the complainant category, pursuant to articles 10 and E of the revised European Social Charter.

# APPENDICES

## **ARTICLE 31**

### **DROIT AU LOGEMENT**

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**Mesures spécifiques visant à améliorer les conditions de logement des Roms, notamment la possibilité d'un accès effectif au logement social.**

En ce qui concerne les observations du Comité selon lesquelles il n'aurait pas été démontré que des ressources avaient été réellement investies pour faciliter l'accès des Roms et des Sintis au logement (social), veuillez préalablement voir ce qui a été illustré à cet égard dans la communication du représentant gouvernemental à l'occasion de la 126<sup>e</sup> session du Comité gouvernemental de la Charte Sociale Européenne, ainsi que les interventions décrites dans la Stratégie Nationale (**Objectif spécifique 4.1 : « Promouvoir les politiques intégrées de coopération interinstitutionnelle dans le domaine de l'offre de logements pour les personnes RSC, pages 84-85).**

En outre, par souci d'exhaustivité, il convient de noter qu'un suivi national, lancé depuis quelques années par le Ministère de l'Intérieur en collaboration avec les Préfectures, a mis en évidence un certain nombre d'initiatives menées par les autorités locales sur le territoire, afin de promouvoir l'intégration des communautés RSC, ces initiatives visent principalement :

- *l'attribution directe aux ménages roms de logements sociaux appartenant aux mêmes organismes ;*
- *des interventions pour la restructuration des aires de stationnement ou pour la construction de nouvelles aires et pour soutenir des projets « d'auto-rénovation » ou « d'auto-construction » d'immeubles.*

En général, il s'agit d'expériences et de bonnes pratiques mises en œuvre par les administrations locales pour surmonter l'approche « d'urgence », en faveur d'une approche à moyen et long terme qui vise les politiques et les stratégies intégrées. Veuillez trouver ci-dessous quelques interventions réalisées par les Régions et les Municipalités avec les fonds spécialement alloués et qui méritent une attention particulière.

Par suite d'une dotation de 5.691.000,00 d'euros en 2012, la Municipalité de **Milan** a signé un accord spécifique avec la Préfecture en 2013 pour la réalisation conjointe des actions envisagées dans le projet « Rom, Sinti et Caminanti 2013-2014 ».

Parmi les objectifs prioritaires du projet, il convient de noter la suppression des campements par le biais de parcours d'inclusion au logement, de projets d'auto-construction, régis par des accords et des contrats conclus avec les organisations du troisième secteur. En particulier, le plan d'action susmentionné concernait les points suivants :

- *l'achèvement de la restructuration du campement de Martirano ;*
- *l'entretien extraordinaire, la rénovation des centres d'urgence sociale de la protection civile et de la gestion de l'accueil ;*
- *la recherche de solutions nouvelles pour le logement afin de déclencher un processus inclusif ;*
- *la rénovation des appartements mis à disposition par le troisième secteur ;*
- *l'accompagnement de l'insertion par le logement avec placement en appartements, villages, pensions, etc. mis à disposition par le troisième secteur ;*
- *les interventions de politiques actives pour l'emploi (formation, orientation, recherche d'emploi, stages, aides à l'emploi, etc.) et soutien à l'inclusion scolaire ;*
- *la mise en sécurité et requalification des aires soumises à occupation.*

Pour mettre en œuvre ces interventions, on a fourni des programmes appropriés d'assistance alternative, visant à éviter la dispersion de familles entières avec tous les problèmes consécutifs à caractère humanitaire, social voire public.

Il convient également de noter qu'en cas d'expulsion, une attention particulière a été accordée à l'assistance des familles et des mineurs roms.



Depuis la dernière enquête, tous les campements (n° 5) présents dans la région de Milan sont équipés de services sanitaires et de sécurité nécessaires, avec des modules de logement d'environ 60 m<sup>2</sup> ou des emplacements accueillant des maisons mobiles équipées et de bonne qualité, ainsi que des espaces/locaux de socialisation et partage. Les campements autorisés sont gérés par une Association Temporaire d'Entreprises. Les opérateurs se rendent chaque semaine dans les campements et s'emploient à orienter les familles qui y résident vers un chemin d'autonomie et d'inclusion, d'accompagnement à l'éducation des mineurs et à la gestion ordinaire des campements.

Il existe sur le territoire des structures d'accueil, gérées en convention avec les coopératives sociales et les organisations du troisième secteur, destinées à l'hospitalité temporaire des ménages en crise de logement, pour un total de 63 familles, soit 261 personnes.

Dans le cadre du PON « Inclusion », la Municipalité de Milan met en œuvre un projet qui comprend des actions visant à soutenir les objectifs 9.5. et 9.5.1, concernant respectivement la lutte contre la marginalisation en faveur de politiques inclusives des RSC et les actions visant à lutter contre l'abandon scolaire et le développement de la scolarisation. Le projet est mis en place dans le cadre d'intervention prévu par la Stratégie Nationale pour l'inclusion des RSC 2012-2020.

Depuis 2012 jusqu'à aujourd'hui, la municipalité de Milan a offert des solutions de logement à 960 personnes, ce qui a permis de résoudre le problème de la présence des campements dans 9 agglomérations.

Actuellement, sur le territoire de la ville métropolitaine de Milan il existe 22 agglomérations de nomades, dont 3 autorisées, 2 sans autorisation et 17 situées sur un terrain privé et équipé de tous les services de base avec des conditions sanitaires suffisantes et l'inclusion des familles qui y résident.

La Municipalité de **La Spezia** estime à une centaine la présence de personnes appartenant aux communautés RSC. Certains d'entre eux, appartenant à l'ethnie sinti, bénéficient d'un « logement social de transition » et attendent l'attribution d'un logement social pour lequel ils sont classés. Dans la capitale de la province, certaines familles sintis sont bénéficiaires de logements sociaux.

Dans les **Abruzzes**, la communauté rom est enracinée dans le temps et l'espace et on estime à environ 4.000 le nombre de roms présents sur le territoire, dont 30% de mineurs, ce qui équivaut à une présence de plus de 1.500 personnes uniquement dans la province de **Teramo**, où il n'existe aucun campement sur le territoire, car ils font partie du tissu social et bénéficient principalement du logement social.

La **municipalité de Lecce** a mené une série d'activités visant à améliorer les conditions de vie dans le campement « Panareo », en mettant l'accent sur l'accès à l'école et l'inclusion des communautés RSC. Le niveau d'inclusion est tellement élevé que beaucoup de personnes ont la nationalité italienne. L'ampleur de l'intervention publique a en effet été très importante et a favorisé un dialogue constant entre les institutions, la société civile et les communautés intéressées.

Dans la municipalité de **Cosenza**, le campement abusif des roms situé près des rives de la rivière Crati présentait des conditions particulièrement critiques.

Pour ces raisons, dans l'optique de suppression des campements, la Municipalité a procédé en juin 2015 à l'évacuation par le biais d'interventions de médiation auprès des personnes concernées (359 Roms), qui ont temporairement été accueillies sans incident dans un camp de tentes spécialement construit et équipé de toilettes et cuisines.

Au bout d'un trimestre, le Conseil municipal de Cosenza a alloué et fourni aux intéressés un financement destiné au déménagement dans un autre lieu du territoire national ou à l'étranger.

En 2017 un logement a été attribué à 148 personnes par délibération municipale, et ensuite le bidonville abritant ces communautés a été démoli.

En **Toscane**, ce problème avait déjà été abordé à partir du Plan social intégré régional 2007-2010, dans le cadre de l'action spécifique « Projet d'actions visant les Roms et les Sintis », qui identifiait en priorité le processus de suppression des campements par le biais de solutions de logement ordinaire, en collaboration avec les municipalités de la Toscane et avec la participation des organisations de bénévolat.

En 2012-2015, cette nécessité a été réaffirmée par le Plan sanitaire et social intégré régional, qui impliquait les administrations locales avec une plus grande impulsion.

La loi régionale n° 2/2000 « Interventions pour les Roms et les Sintis » a fourni plusieurs solutions alternatives pour la suppression des campements, telles que les aires aménagées pour le séjour, les interventions pour la rénovation de logements dans les bâtiments publics et privés, l'utilisation de logements sociaux.

Des villages de typologies différentes ont été construits pour les petits et moyens groupes, par exemple six logements à Florence, des maisons mobiles pour un petit groupe de Sintis à Prato, dix-sept maisons à Pise-Coltano, et autres. Des villages temporaires en bois ont également été construits, comme dans le cas de Poderaccio à Florence. Des programmes extraordinaires ont également été expérimentés visant à la fermeture des campements, dans l'effort de trouver des logements sur le marché libre pour environ 90 familles Roms intéressées.

En 2014, ce processus complexe d'intégration sociale a permis l'accès au logement public à plus de soixante-quinze familles à Florence et à environ cent soixante familles dans toute la Région, pour un total de sept cent quatre-vingt personnes ayant obtenu l'attribution d'un logement social, par le biais des classements.

En ce qui concerne les évacuations, le campement de Roms « l'Olmattello » à Florence a été fermé en 2012 pour la première fois, suite à un processus de suppression du campement entamé en 2009, quand l'aire abritait environ 140 personnes. L'intervention de la Municipalité a permis d'éviter le recours à la force et de lancer des parcours d'accueil pour les personnes concernées. Les familles roms, impliquées dans la suppression des campements et suivies par les coopératives sociales, étaient au nombre de 13 pour un total de 54 personnes, dont 23 enfants. Pour chaque famille, un parcours autonome spécifique a été activé.

Il existe actuellement dans la **Municipalité de Florence** une agglomération régulièrement équipée par l'Administration municipale, qui vise d'ici 2019 la suppression des campements de nomades reconnus ou spontanés et la lutte à la dégradation et à l'illégalité des campements, dans le contexte de Stratégie Nationale. La nouvelle agglomération est organisée en modules de logement préfabriqués attribués en concession aux ménages, moyennant le paiement de redevances de concession et les frais de consommation.

Dans certains campements de la région de la **Campanie**, en particulier de la Municipalité de Giugliano, l'existence de situations très problématiques a encouragé la municipalité à signer un accord avec la Région visant à créer un espace municipal, un village écologique, composé de 44 modules de logement, en fournissant les services et les équipements, ainsi que les projets spécifiques d'inclusion. À cette fin, le Ministère de l'Intérieur a identifié une disponibilité financière totale de 700.000,00 euros, tandis que la Région a identifié une disponibilité de 900.000,00 euros.

La **Municipalité de Naples** a signé une convention avec la Préfecture de Naples afin de poursuivre et d'achever la construction d'un centre d'accueil situé à Naples, Via delle Industrie, qui accueillera 450 personnes pour un montant total de 10.400.000,00 d'euros, dont 7.522.858,55 d'euros pour les travaux en adjudication.

Par la décision du Conseil n° 718/2017, la Municipalité de **Bari** a approuvé un « Plan d'action locale - Orientations pour l'inclusion sociale des Roms, Sintis et Caminanti » - divisé en 3 axes : emploi, éducation, santé – et a mis en place le Projet Expérimental National pour l'inclusion des enfants roms, sintis et caminanti, promu par le Ministère du Travail et des Politiques sociales, avec le soutien du MIUR et de l'Istituto degli Innocenti à Florence. Visant à lutter contre l'abandon scolaire, ce projet est en cours d'expérimentation dans 2 campements de nomades du territoire municipal.

Par la loi régionale n° 14 du 30 juillet 2015 concernant « La discipline en faveur de l'insertion professionnelle et de l'inclusion sociale des personnes en situation de fragilité et de vulnérabilité, par le biais de l'intégration des services publics de l'emploi, sociaux et de santé », la région de l'**Émilie-Romagne** a mis en œuvre la Stratégie européenne pour l'intégration des Roms et des Sintis, en prévoyant le démantèlement des campements de nomades en faveur de solutions de logement autofinancées, qui comprennent des logements de marché, des logements sociaux ou des micro-aires

familiales non subventionnées par l'argent public dans le but de préserver les différentes cultures et les exigences d'ordre social.

La province de **Ferrare** présente un panorama varié de solutions de logement qui prend en compte, toutefois, l'unité des ménages. Sur la base d'une enquête, dans les municipalités de Ferrare et d'Argenta, on trouverait deux aires de stationnement autorisées sur un terrain appartenant à la municipalité, pouvant accueillir respectivement 49 et 15 personnes dans des caravanes et des roulottes situées dans des emplacements spéciaux. Dans les autres cas, les familles vivent dans de petites communautés sédentaires, dans des logements sociaux publics ou dans des bâtiments ruraux, également en propriété, situés dans des micro-aires dans lesquelles il existe encore des roulottes, que les Sintis continuent d'utiliser pour certaines activités (par exemple faire la cuisine).

La municipalité de Ferrare conjointement aux autres municipalités de la capitale régionale a été impliquée dans des projets spécifiques de « sortie du campement » dans le cadre d'un programme de mise en œuvre de la Stratégie Nationale régie par la loi régionale n° 11/2015 qui prévoyait des allocations pour encourager la fermeture de grands campements et la transition vers les micro-aires. À partir d'un projet lancé en 2011, on fait en sorte que toutes les solutions de logement présentes et futures soient partagées avec les communautés impliquées, afin d'éviter un échec des processus d'inclusion et de favoriser un esprit de collaboration.

En ce qui concerne les conditions de vie dans le campement « La Barbuta », la Municipalité de **Rome** a été condamnée par une ordonnance du tribunal de Rome du 4 juin 2015. Cette ordonnance mettait effectivement en évidence le caractère discriminatoire de l'attribution inadaptée d'hébergements équipés dans le village en question.

Par conséquent, le problème concernant le campement susmentionné reste toujours à l'attention des organes directeurs compétents.

Le 18 novembre 2016, la municipalité de Rome a approuvé un « Projet d'inclusion des Roms », qui prévoit le démantèlement de six campements de Roms situés dans la capitale, par le biais d'un plan de mise en œuvre engageant la municipalité à partir de 2017.

Le Plan de travail prévoit la participation de l'UNAR, de la région du Latium, de l'ANCI, le lancement d'un appel d'offres européen et l'établissement d'un réseau d'organisations.

En décembre 2016, on a approuvé une Table citoyenne d'inclusion, et ensuite une délibération (mai 2017) visant à approuver un plan d'orientation pour Rome Capitale, toujours concernant la suppression des campements et basé sur les quatre domaines d'intervention prévus par la Stratégie Nationale d'Inclusion des RSC : logement, santé, école, emploi.

La délibération n° 146 du 28/06/2017, contenant des modifications au susmentionné « Plan d'orientation de Rome pour l'inclusion des populations roms, sintis et caminanti », contenant la prolongation des mesures expérimentales pour l'inclusion sociale des habitants du village équipé « Camping River » (évacué le 26 juillet dernier en raison de problèmes d'urgence sociale et sanitaire), et la délibération ultérieure n° 70 du 17 avril 2018, contenant des mesures additionnelles à la délibération n° 146 du 28 juin 2017, visant à introduire des simplifications pour la sortie du campement « Camping River », les deux délibérations peuvent être résumées comme suit :

- *prolongation à trois ans de la durée des mesures de soutien prévues à titre expérimental pour les habitants du campement susmentionné, qui signeront le Pacte de Responsabilité solidaire avant le 30 juin 2018 ;*

- *proposition spécifique de plans individuels ou de soutien aux ménages par le directeur du Bureau spécial des Roms, Sintis et Caminanti, établi au sein de la Municipalité. Les interventions envisagées dans la délibération concerneront des mesures de soutien et d'inclusion en matière de logement, de mesures visant à encourager l'inscription dans le registre de la population résidente et la régularisation des documents ;*

- *des mesures visant à permettre le retour volontaire assisté, associées aux projets d'intégration sociale et/ou de logement dans les pays d'origine ;*

La Municipalité a également lancé un projet visant à supprimer le village équipé de Castel Romano, à mettre en œuvre de novembre 2017 à décembre 2021.

Dans le cadre du projet PON Ville Métropolitaine 2014-2020, la municipalité a lancé deux appels d'offres en vue du lancement du projet « Inclusion sociale en faveur des populations roms, sintis et caminanti, visant à supprimer les campements « La Barbuta » et « La Monachina ».

En réponse à la question spécifique formulée par le Comité sur les suites données au rapport présenté en 2011 par la « Commission extraordinaire pour la protection et la promotion des droits de l'homme du Sénat », on met en évidence ce qui suit.

La Commission a maintenu un engagement intense et constant, visant concrètement une dense activité de promotion des droits de la population des RSC, axée sur la mise en œuvre de la Stratégie Nationale pour l'inclusion.

À cette fin, à la suite d'une délibération adoptée le 18 décembre 2013, la Commission a engagé le Gouvernement à :

- *adopter des mesures urgentes et efficaces dans le domaine des politiques plus générales de l'inclusion sociale visant à améliorer les conditions de vie des Roms et des Sintis, en respectant les engagements internationaux souscrits par l'Italie ;*
- *inclure, parmi les objectifs du nouveau cycle des Fonds structurels européens 2014-2020, les lignes d'intervention de la Stratégie nationale pour l'inclusion des Roms et des Sintis afin de garantir des ressources financières suffisantes pour sa mise en œuvre effective.*

Par la suite, la Commission a approuvé le 10 mars 2015 une autre délibération sur la mise en œuvre de la Stratégie nationale et la suppression définitive des « campements de nomades » en Italie.

Au cours du mandat actuel, la Commission essaie d'assurer une continuité par un travail constant en faveur de la protection des droits des Roms, Sintis et Caminanti, tant au niveau parlementaire que dans le cadre des activités culturelles et de sensibilisation du grand public, par le biais de séminaires, rencontres et cinéforum sur ce thème.

Relativement à l'observation concernant spécifiquement les solutions d'hébergement à offrir aux Sintis en alternative à leurs roulottes situées sur des terrains occupés illicitement (conformément à la nouvelle réglementation en matière d'urbanisme), il convient de noter que, à la lumière également des requêtes spécifiques de la Fédération « Rom e Sinti Insieme », les deux alternatives possibles sont les terrains privés (en propriété) et les micro-aïres (voir pages de 81 à 84 de la Stratégie ci-jointe).

Les terrains privés permettent aux RSC de vivre avec leur famille élargie, tout en choisissant leurs voisins.

À cet égard, le cas de la région de Lombardie est intéressant car les familles qui ont acheté des terrains privés sur lesquels s'installer, ont choisi jusqu'à présent des terrains agricoles, dont les coûts sont plus accessibles, mais la réglementation récente en matière d'urbanisme prévoit que même les roulottes et les maisons mobiles sont des biens immobiliers à tous égards. Par conséquent, un permis de construire est nécessaire, car ils ne peuvent s'installer que sur des terrains à bâtir.

La micro-aire est une solution alternative aux terrains privés, où des maisons unifamiliales sont construites pour accueillir cinq ou six familles au maximum.

Cette solution intermédiaire éliminerait les situations de dégradation extrême des campements de nomades en fournissant des espaces de vie plus confortables et plus habitables, en évitant les problèmes liés à la cohabitation forcée, en favorisant également le maintien et la transmission des identités et des valeurs de chaque communauté.

En réponse à la question concernant les affaires judiciaires, où une décision de rejet d'octroi des aides au logement a été rendue, il convient de signaler, à cet égard, l'arrêt « historique » de la Cour Constitutionnelle qui a consacré le principe fondamental de l'égalité entre les citoyens italiens et les étrangers.

Cet arrêt a déclaré l'« **inconstitutionnalité** » des **conditions d'accès fixées pour les citoyens ressortissants de pays tiers** relativement aux **aides au logement accordées aux indigents pour le paiement des loyers** (dénommées « bonus affitti »).

À l'origine de l'affaire, il existe un recours d'une citoyenne salvadorienne et de certaines associations, dont l'ASGI (Association d'études juridiques sur l'immigration), qui avaient contesté un avis public de sélection de la Région de Lombardie, dans lequel en application de la réglementation nationale concernant le fonds de soutien au paiement des loyers on prévoyait, parmi les conditions requises aux étrangers pour en bénéficier, une période de 10 ans de résidence dans l'État ou 5 dans la région.

Dans l'arrêt n° 166 du 20 juillet 2018, la Cour constitutionnelle a estimé que la question de la légitimité constitutionnelle, posée en référence à l'art. 11, alinéa 13 du décret-loi n° 112/2008 contenant « *Dispositions urgentes en matière de développement économique, de simplification, de compétitivité, de stabilisation des finances publiques et de péréquation fiscale* », était fondée, puisqu'il était manifestement contraire à l'art. 3 de la Constitution, dans la partie où sont définies les conditions nécessaires pour l'accès au Fonds pour le soutien des citoyens en grande difficulté économique.

Le Cour Constitutionnelle a jugé qu'il était **manifestement déraisonnable et arbitraire** de fixer une condition de dix ans de résidence sur le territoire national ou de cinq ans sur le territoire régional pour l'accès des étrangers ressortissants de pays tiers aux aides au logement pour le paiement du loyer. Une violation de l'article 3 de la constitution est avérée suite également au non-respect des obligations européennes.

Par conséquent, avec l'arrêt en question, la Cour Constitutionnelle a déclaré l'illégitimité constitutionnelle de l'art. 11, alinéa 13 du décret-loi n° 112 du 25.6.08 qui avait introduit la condition de 10 ans de résidence dans l'État ou de 5 ans dans la région pour l'accès des étrangers au fonds en faveur des familles pauvres pour le soutien à la location.

Selon la jurisprudence de cette Cour, consolidée depuis l'arrêt n° 432 de 2005, le législateur peut légitimement circonscrire le parterre des bénéficiaires aux prestations sociales en raison de la limitation des ressources allouées à leur financement (arrêt n° 133 de 2013), sans violer les principes de non-discrimination et de caractère raisonnable.