

21/02/2023

RAP/RCha/ITA/22(2023)

EUROPEAN SOCIAL CHARTER

22th National Report on the implementation of the European
Social Charter

submitted by

THE GOVERNMENT OF ITALY

Follow-up to Collective Complaints No. 27/2004, 58/2009,
87/2012, 91/2013, 133/2016, 140/2016, 144/2017, 146/2017.

Report registered by the Secretariat on
21 February 2023

REPORT FOR FINDINGS 2023

Information on the follow-ups to the ECSR decisions relating to the following collective complaints against Italy

Collective complaint No. 27/2004 European Roma Rights Centre v. Italy, decision on the merits of 07 December 2005, Resolution ResChS(2006)4.

- A) **Violation of Article E taken in conjunction with Article 31§1 of the Charter.**
- B) **Violation of Article E taken in conjunction with Article 31§2 of the Charter.**
- C) **Violation of Article E taken in conjunction with Articles 31§1 and 31§3 of the Charter.**

Collective complaint No. 58/2009 Centre on Housing Rights and Evictions (COHRE) v. Italy, decision on the merits of 25 June 2010, Resolution CM/ResChS(2010)8.

- A) **Violation of Article E taken in conjunction with the provisions Article 31§1 of the Charter.**
- B) **Violation of Article E taken in conjunction with the provisions Article 31§2 of the Charter.**
- C) **Violation of Article E taken in conjunction with the provisions of Article 31§3 of the Charter.**
- D) **Violation of Article E taken in conjunction with the provisions Article 30 of the Charter.**
- E) **Violation of Article E taken in conjunction with the provisions Article 16 of the Charter.**
- F) **Violation of Article E taken in conjunction with the provisions Article 19§1 of the Charter.**
- G) **Violation of Article E taken in conjunction with the provisions of Article 19§4 c) of the Charter.**

Response

In the assessments expressed on the recent follow-ups provided by the Italian Government in the latest reports (2019 and 2020) relating to the complaints under review - with specific reference to the living conditions of the Roma, Sinti and Caminanti populations on national territory - the Committee continues to believe that the situation in Italy is not entirely compliant with the revised European Social Charter, despite the additional, detailed information supplied *on the policies implemented, the concrete measures adopted and the results of the social inclusion activities performed in recent years and, in general, on the implementation of the National Strategy for the Inclusion of Roma, Sinti and Caminanti for 2012-2020.*

The ECSR in fact believes that all interventions implemented to date by the Italian Government, which continue to be acknowledged, are mainly “*experimental*” or “*emergency*” measures, and do not offer a long-term solution to the segregation of the Roma, Sinti and Caminanti population, without a consistent, coordinated national approach to inclusion tools and policies.

In this respect, the Committee is informed, as evidence of the attention and constant commitment shown by the Italian Government in regard to the perennial issues relating to the Roma, Sinti and Caminanti population, that a significant new initiative has been adopted, following on from the National Strategy for the Inclusion of Roma, Sinti and Caminanti for 2012-2020, which may constitute an effective tool by which to control the critical phenomena.

In May 2022, in implementation of the Recommendation of the Council of the European Union of 12 March 2021, Italy adopted the **National Roma and Sinti equality, inclusion and participation Strategy (2021-2030)**, setting out *measures for the non-discrimination and social and socio-economic inclusion of Roma and Sinti*, annexed to this report in English and to which reference is made for a careful reading of the contents set forth therein.

The title of the strategic document explicitly recalls what is indicated by the specified *Recommendation of the Council of the EU*.

The choice has been made to make specific reference to Roma and Sinti while not precluding however the possibility of extending the activities set out therein to include the Caminanti group

(who were included in the title of the previous 2012-2020 Strategic document); under this scope, the National Office against Racial Discrimination (UNAR), which is the National Contact Point, will be developing a specific activity aiming to establish a direct relationship with associations representing the Caminanti community and with national and local institutions involved by their presence.

To follow up on the process launched in all Member States with the publication of the “*Post-2020 EU Framework on Roma Equality and Inclusion Strategies*”, the UNAR launched a consultation with the stakeholders interested in contributing to the definition of the new post-2020 National Strategy, the phases of which are explained on page 3 of the document, to which reference is made for details.

The new Strategy consists of a series of interconnected sections.

Chapter one, “A new framework”, is dedicated to identifying the most critical issues that emerged in the previous strategic framework, defining the principles and national priorities of the Strategy and presenting the current conditions of Italy’s Roma and Sinti communities.

Chapter two focuses on the new “Governance and Participation” processes outlined in the Strategy, paying particular attention to the role of the National Platform and the Community Forum.

Chapter three, “Thematic Areas”, describes the six main axes on which the new National Strategy is built (*Antigypsyism, Education, Employment, Housing, Health and Cultural Promotion*). The goals set out in the EU Council Recommendation of 12 March 2021 on Roma and Sinti Equality, Inclusion and Participation, an overview to highlight strengths and weaknesses, as well as measures related to the issues addressed, accompanied by relevant indicators, were presented in each axis.

Chapter four is dedicated to transversal “intervention processes”, such as empowerment and participation, on the legal recognition of minority status. Two specific sections are dedicated to monitoring and evaluation respectively, and to the central issue of economic sustainability and sources of funding for the Strategy.

A dynamic appendix containing a selection of the main national projects that have been and are being implemented, as envisaged in the previous RSC Strategy for 2012-2020, and a focus on process and result indicators are annexed to this Strategy. These elements will be constantly updated by the National Contact Point, also through a web platform dedicated to the new National Strategy.

The document also includes *thematic focuses* contained in insight boxes that present further details on specific topics - also with personal contributions from scholars and academics - *good practices* and *regulatory elements*.

Reference is therefore also made to the individual chapters of the strategic document, to be considered an integral part of this report, for analysis and further details on the topics under review.

In light of the path taken over the past ten years, the general goals envisaged by the previous RSC Strategy for 2012-2020 can be summed up in the following five points:

1. **removing** the so-called “**Roma issue**” from **institutional consideration** as an **emergency**, as this is politically and institutionally simplistic and subject to media exploitation;
2. considering the opportunity to **schedule medium and long-term integration operations, no longer accepting “exceptional measures”**;
3. **making the inclusion of Roma and Sinti communities part of a cultural development process that affects the whole of society**, contributing to the **dissemination** of Roma and Sinti **culture** and to the knowledge of their **history**, which has often been **painful** and marked by discrimination and violence;
4. giving the Strategy an **institutional and symbolic value**, investigating certain specific topics (e.g.: *Porrajmos*) and including them in the institutional calendar and school curriculum;

5. dealing with the issue on an **inter-ministerial and inter-institutional basis**, starting with the four critical indicators (*education, employment, housing and health*) suggested by the European Commission's communication.

The implementation and achievement of the general goals mentioned above have been the subject of constant interest on the part of the European institutions and other international bodies, as well as civil society.

Over the years, there have been thematic visits, reports and analyses of various kinds (academic, civil society, European bodies) on the assessment and monitoring of the goals attained.

With respect to the first point highlighted, concerning the emergency framework on which the entire strategy was based, **progress and advancement in Roma and Sinti policies have been noted in several areas.**

In the Report of the European Commission against Racism and Intolerance (ECRI) of the Council of Europe published in 2016 as part of the fifth monitoring cycle on Italy, firstly, legislative measures bringing important improvements in legislation against racism and racial discrimination, including the ratification of *Protocol No. 12 to the European Convention on Human Rights and the Additional Protocol to the Convention on Cybercrime*, were welcomed. The report also positively highlighted the fact that an increasing number of incidents inciting hatred had resulted in legal proceedings.

Secondly, the Report assigned importance to the Italian initiative of launching, for the first time, a study entrusted to the National Institute of Statistics (ISTAT) and the National Association of Italian Municipalities (ANCI) on the housing conditions of the Roma and Sinti communities.

In the number of results attained in part or in full, especially with reference to the first and second points mentioned above, attention should be drawn to **the effective termination of the emergency practice of building new mono-ethnic settlements** as the only answer to more general issues of housing and inclusion.

The significant allocation of economic resources from European programming, thanks to the inclusion of a specific goal in the national operational programmes, a result on which the UNAR has focused its attention and operational efforts on several occasions, has led to the substantial overcoming of short-lived interventions in favour of medium and long-term projects.

The commitment of European institutions in recent years has given great impetus to launching and strengthening social inclusion policies to overcome the marginalised and precarious socio-economic and housing conditions in which the Roma and Sinti communities find themselves at EU level.

Following an important resolution of the European Parliament in 2008, which called on the European Commission to develop a framework strategy for Roma inclusion and a European Action Plan, two EU instruments have enabled Member States to take steps towards this goal: Communication No. 173/2011 "*A European Framework for National Roma Integration Strategies up to 2020*" and the first EU Council Recommendation *on the social inclusion of Roma of December 2013*.

In Italy, Communication No. 173 represented a first strong legitimisation of inclusive policies, and supported the development of the first National Strategy for the inclusion of Roma, Sinti and Caminanti communities 2012-2020.

Despite the absence of a binding legal framework, the European approach has guaranteed and supported the Italian effort over the last decade, ensuring an inter-institutional and multi-level governance of integration processes and for the development of interventions in the four key areas: *employment, education, access to housing and health*.

The European Commission's 2021-2030 Ten-Year Plan in support of Roma and Sinti communities is a further and more mature driver for the inclusion processes initiated by the Member States, and a reference point for the relaunch of actions to be promoted at national level.

The Plan consists of Communication No. 620/2020 "A Union of Equality: An EU strategic framework for Roma equality, inclusion and participation" and the Council Recommendation of 07/10/2020, which establish a list of measures to be adopted by the Member States in order to attain the goals of Roma and Sinti inclusion in the EU.

For more information, see page 9 of the Strategy, paragraph 1.2 "The new EU commitment, principles and national priorities".

The condition of Roma and Sinti in Italy and the subject of data collection.

In Italy, the limited availability of scientifically reliable socio-demographic and economic statistical information on the Roma and Sinti population is clearly one of the main causes that contribute to making it difficult to accurately identify the problems affecting the living conditions of this heterogeneous group of people.

In turn, the lack of a precise quantification of the presences and of the main characteristics that help draw a picture of the complex situation of the Roma and Sinti population, negatively affects the possibility of developing effective and targeted public policies and of making the best use of available resources to finance paths of social inclusion and/or cultural promotion.

Moreover, without the help of official statistical data, it is hard to set goals, to determine instruments capable of pursuing them, and to assess the impact of the public interventions implemented.

As far as Italy is concerned, most of the information available to date on the living conditions and socio-demographic characteristics of Roma and Sinti communities originates from scientific surveys conducted by universities and research institutions, or from information held by local authorities and third sector bodies that pursue projects aimed specifically at this group of people.

The data collected through *ad hoc* surveys and the information in the possession of Third Sector organisations and bodies, while often presenting a high degree of detail, are mostly unable to provide a complete and generalisable picture of the living conditions of Roma and Sinti communities in Italy, mainly due to the fact that the data refers to specific territorial aggregates, which rarely go beyond a regional level (the data usually refers to individual cities or settlements) and to the fact that it is collected using different methodologies and definitions which do not allow comparison.

Following the adoption of the first RSC Strategy for 2012-2020, three major research activities were carried out in order to fill the information gap on the Roma and Sinti populations mentioned above. Their results were published between 2017 and 2021.

For more details on the results of these surveys, reference is made to the Strategy and specifically to paragraph 1.4.1. entitled "The main interventions developed at national level to bridge the information gap", from page 15 to page 17, as well as to insight box no. 1 on page 17 and 18.

Despite the important steps forward made thanks to the completion of the above-mentioned surveys, to date, the lack of reliable and scientifically based information, systematically collected on the living conditions of the Roma and Sinti population, continues to represent a critical issue in terms of knowledge of the phenomenon and on the more fully operational level of the development of effective interventions aimed at removing the causes that determine forms of social exclusion and disadvantages for a significant proportion of this population in Italy.

It should be noted that the absence of specific surveys on the Roma, Sinti and Caminanti population is not specific to Italy, but is shared by most European countries.

Both at European level and in individual countries, there are only estimates of the number of Roma people present.

The absence or the lack of data is due largely to the complexity of the categorical definition of "who" can be considered Roma or Sinti and, in part, to the spread of antigypsyism.

The way in which the Roma and Sinti population is identified, together with the limits imposed by legislation on the protection of personal data, including some particular categories of data, such as *ethnicity*, have led almost all countries that produce official data on the Roma and Sinti population to make use of the self-definition given by those concerned. While this choice makes it possible to overcome the issue of definitional complexity, it has not always proved adequate for the collection of reliable data due to the spread of antigypsyism and related phenomena.

It should, in fact, be stressed that, where data is gathered on the ethnicity of Roma or Sinti people, it tends to underestimate, sometimes significantly, the actual number present. This is largely due to widespread prejudice that makes many people reluctant to disclose their membership of such a discriminated minority.

For more information, see the strategic document, paragraph 1.4.2 “Italy and possible research paths to follow for data collection”, from page 18 to page 23.

GOVERNANCE OF THE SOCIAL INCLUSION OF ROMA AND SINTI.

As National Contact Point (NCP) for the National Strategy for the Inclusion of Roma, Sinti and Caminanti for 2012-2020, the UNAR has gained full awareness of the limits and critical issues that emerged in the concrete implementation of the Strategy.

Moreover, also in connection with the specific finding raised by the Committee in respect of the role played by the UNAR, considered somewhat ineffective and not entirely impartial, the following should be pointed out.

Precisely the experience in the governance of the National Strategy for the Inclusion of Roma and Sinti for 2012-2020 has allowed the National Contact Point to understand, through a careful monitoring of the processes and results achieved, both the strengths and weaknesses of the coordination procedures at the national, regional and municipal levels.

In its ten-year course, the governance of the RSC Strategy for 2012-2020, in fact, proceeded at different speeds, highlighting the efficiency of some of its components and the evident weaknesses of others.

In particular, the implementation of individual regional and local strategies, in line with the national strategy, encountered numerous obstacles.

- 1) The difficulties encountered by the National Contact Point, in its condition of central office and European equality body, in maintaining a constant and adequate capacity of coordination, monitoring and exchange with institutional stakeholders, especially at local and territorial level. As pointed out in several contexts, from the academic sphere to the area of civil society, at the end of the strategic path, only ten Italian Regions had adhered to the idea of implementing a Regional Strategy by setting up dedicated concertation tables which revealed their scarce effectiveness over time, both in terms of public policy definition and in terms of involvement of civil society stakeholders, especially due to the discontinuity of their operations.
- 2) The complexity and, at times, the specificity of the issues related to the RSC Strategy for 2012-2020, combined with the lack of legal recognition of the Roma and Sinti minority, highlighted the discontinuous nature of the commitment of the competent administrations in implementing measures and active policies within an explicit but not exclusive approach towards Roma and Sinti groups.
- 3) The difficulty in making the actions of local authorities consistent and binding with the principles of the RSC Strategy for 2012-2020. This is significant in two ways. On one hand, there is the issue of institutional jurisdiction over certain specific areas: for example, access to the labour market and vocational training, which is a specific regional responsibility, or housing policies, made transversal by the need for management of the housing transition from camps by the

municipalities in which they are located, and the harmonisation of regulations on access to social housing, which is again a regional responsibility. With respect to the general framework, the second way refers to the phenomenon of *antigypsyism*, which finds extensive space for intervention in the strategic document in line with the European model: this particular form of discrimination - even in its expressions of an institutional nature - had a constant negative influence on the effective implementation of the RSC Strategy for 2012-2020 through the persistence, alongside projects perfectly in line with the strategic principles, of measures still considered as being of an emergency nature.

The UNAR has gained full awareness of these obstacles and weaknesses, as well as of the strengths, thereby **taking a more mature, aware approach in addressing the governance of the new 2021-2030 Strategy**, planning a series of multi-year projects and initiatives involving social housing and operative plans and measures for social and socio-economic inclusion, concretely aiming to overcome the specified critical issues, with a strengthened inter-institutional dialogue. Below is a summary.

1. An **inter-institutional coordination Group**, coordinated by the National Contact Point, with the participation of representatives from the central Administrations, the ANCI (National Association of Italian Municipalities), the Conference of the Regions and Autonomous Provinces and a representation of the Roma and Sinti communities expressed by the Forum, which envisages the development of strategic-political guidelines and exchanges of information on a quarterly basis, aimed at monitoring the degree of national and territorial adhesion to the principles of the Strategy, the operability of its implementation status and the efficiency/effectiveness of the measures and programmes put in place. The Group is an integral part of the 2021-2030 National Strategy and is currently still being defined.
2. The **new model of interaction and inter-institutional dialogue** between national institutions and regional and municipal authorities. The model **is already operative** and has been strengthened with the establishment of a network of regions and metropolitan cities and municipalities, taking a multi-level, multi-stakeholder approach. The model has been activated through projects already mentioned in previous reports (**PAR** Regional Action Plans and **PAL** Local Action Plans): these two projects span multiple years and envisage the participation of a great many local organisations, benefiting from dialogue between themselves and with the national level. **It is a step to be strengthened over the years, but which has resulted in permanent structures of dialogue with the territories**, with the associations and direct beneficiaries of the interventions, but also on a national level, in a bid to overcome the formal establishment of tables, in the favour of national and local networks aiming to support the implementation of national, regional and local policies and to support these policies with guidelines, forms of dialogue with beneficiaries and monitoring tools. Despite not being binding, these networks guarantee access to European investment funds and, therefore, are highly considered at the various territorial intervention levels. The specific goal of this network is **the creation and implementation of Regional Action Plans, directly involving the Roma and Sinti communities** (expressed by the Roma and Sinti Forum) and **access to adequate funding measures**, as well as the coordination of regional resources and municipal interventions. At present, ten Italian regions have adhered to the idea of implementing a Regional Strategy by setting up dedicated concertation tables, but the number is expected to increase. The importance of these regional initiatives is also seen in the regulatory provisions adopted. In three Regions, for example, i.e. Emilia Romagna, Abruzzo and Calabria, a new regional law has been approved in line with the RSC Strategy for 2012-2020.

3. A strengthening of the efficiency and effectiveness of the Municipal level measures, through the establishment of a **Network of metropolitan cities and municipalities on Roma and Sinti matters**, coordinated by the National Contract Point, through adherence to specific memoranda of understanding with local organisations and actively involving the ANCI (National Association of Italian Municipalities). The specific goal of this network is the creation and implementation of Local Action Plans, **directly involving the Roma and Sinti communities (as expressed by the Forum) and accessing appropriate funding measures**. The launch of shared administrative procedures is promoted, which can also support the definition of routes of inclusion, services and projects for the Roma and Sinti communities. To this end, under the scope of the PAL, UNAR has begun a form of collaboration with the municipal authorities.
4. The formal connection between the **National Network of Municipalities and Regions on the matters of Roma and Sinti and the network of anti-discrimination centres** set up at central level (UNAR and OSCAD [Observatory for security against discriminatory acts of the Department of Public Security of the Ministry of Interior] Contact Center), and at local and regional level, existing or in the process of implementation, with the aim of strengthening the identification, opposition and removal of all forms of discrimination and facilitating dialogue and territorial mediation.
5. The **strengthening of the role of the UNAR as National Contact Point for the European Commission** (NCP) in terms of human resources (also through a progressive involvement of Roma and Sinti professionals and experts) and instruments, and the autonomous management of the financial resources assigned, in order to enhance its ability to coordinate the National Strategy at national and European level. With reference to the latter, the strategic role of the National Contact Point within EU bodies (Roma Contact Point, FRA Working Party, Euroma Network), European bodies (ADI-ROM of the Council of Europe, OSCE-ODIHR) and international bodies (United Nations) is highlighted.
In synergy with the public organisations and economic-production sector, as well as with third sector representatives and those of the social private sector, it will be implementing all the actions coming under its purview, as necessary to support the promotion of policies and the implementation of national, regional and local measures to achieve the goals of the new Strategy, according to the guidelines, the principles and the procedures identified by the Strategy and by means of the financial resources allocated to this end.
6. **A monitoring and assessment system**, already envisaged by the European framework. As specified in the 2021-2030 National Strategy, the monitoring system will be activated starting 2023, in implementation of the provisions of the National Operational Programme (NOP) on Inclusion and defined by the Partnership Agreement for the programming of structural funds for 2021-2027. The system will assess the efficiency and effectiveness of the individual programs to be promoted for the inclusion of Roma and Sinti. Monitoring will compare the implementation status of the actions with the predefined aims, objectives and actions, regularly monitoring achievement of the predetermined intermediate objectives. Public Administrations and private social bodies involved in implementing the Strategy measures shall provide statistical surveys of the outputs and outcomes of the promoted projects and/or the official statistical sources available to measure the thematic areas of the Strategy on a quarterly basis, to the Monitoring and Evaluation Unit (M&E) of the National Contact Point. The evaluation team will need to systematically and objectively monitor the relevance, impact and success or otherwise of the Strategy and its programmes.
7. **Strengthening the role and operation of the National Platform and the Roma Forum in terms of access and participation**, with the definition of stringent and effective criteria on functions - also in terms of representation and representativeness. To this end, it should be

stressed that the empowerment of Roma and Sinti civil society (by means of the National Platform and the Forum of Roma and Sinti Communities) has been addressed systematically by the work of the NCP since 2017 and, five years later, **their strengthening is shown by the participating associations themselves, which are also involved in the creation and animation of Regional and Municipal Tables as tools for dialogue and active participation and the active fight against antigypsyism and guidelines to policies and measures of social, socio-housing and educational inclusion.**

8. The establishment of dedicated multi-stakeholder working groups, including representatives of the Forum of Roma and Sinti Communities and of the National Platform, with the aim of investigating specific issues of priority and significant interest for the implementation of the Strategy.

With regards to the critical issues raised by the Committee in connection with the situation of exclusion and poor social participation of the RSC community - noted with particular reference to complaint No. 58/2009 - in addition to that reported above on the proposals and initiatives aiming to foster dialogue between (national and local) institutions and the RSC community, the following should be noted.

It is first important to stress, once again, the important role played in this context by the **National Roma, Sinti and Caminanti Platform and the Forum of Roma and Sinti Communities**, as operational tools of dialogue between the UNAR, civil society, the central administrations and the local administrations involved in the National Strategy.

The two-year period 2017-2018, in particular, witnessed important progress **in terms of the involvement and active participation of the communities**, in particular the Roma and Sinti, in the consultative and decision-making processes envisaged by the RSC Strategy for 2012-2020, through the Platform and Forum mentioned and the direct involvement of community representatives in institutional tables, international meetings and in the Monitoring Committees envisaged by the National Operational Programmes.

The Platform and Forum of the communities were created with the aim of **bridging the gap in the mechanisms of dialogue between institutions and civil society and allowed the formalisation of the confrontation between members and delegates on specific thematic areas with central and local administrations.**

For the period 2021-2030, also in consideration of the experience gained, the proposals of the Platform's members and the growing interest in this participatory instrument, the main aim is to consolidate the Platform.

As already emerged in the proposals, there is a need **to define and promote active and qualified participation of the Roma and Sinti communities in the various consultative and decision-making processes.**

Here is a list of **some implementation proposals** concerning the National Platform and the Community Forum, to be developed in different phases, with the aim of **guaranteeing systematic support to the National Contact Point and other Administrations for the commitment to dialogue, advocacy and cooperation with national and local authorities**, to promote the capacity building of civil society and third sector bodies:

1. *Update of the administrative procedures of the Platform and the Forum, in terms of access and participation, with the definition of stringent and effective criteria on the functions - also in terms of representation and representativeness.*
2. *Ensure the operation of the Platform and the Forum with national and European resources, with the integration of funds and the search for specific resources.*

3. *Promotion of the participation of young Roma and Sinti - involved by the associations in empowerment and training courses - in thematic subgroups, activating effective collaboration and an active role in the decision-making process.*
4. *Involvement and participation of a Roma and Sinti representation, selected by the Forum and the Platform, in the Monitoring Committees of the NOPs and ROPs, in order to monitor the decision-making processes and the state of implementation of the measures undertaken with structural and European investment funds, aimed at improving the educational, socio-economic, health and housing conditions of Roma and Sinti communities and preventing the risks of discrimination against them.*
5. *Active and qualified participation in the monitoring of national strategies - in relation to the European initiative Roma Civil Monitoring - applying a bottom-up methodology based on knowledge and experience in the territories to influence decision-making processes and adapt them to the needs of communities.*
6. *Promotion of transnational collaboration and cooperation and exchange with other European organisations and participative models.*

THE HOUSING AXIS AMIDST CRITICAL ISSUES AND NEW PERSPECTIVES.

With reference to the specific topic of the right to housing, the particular interest with which this is addressed in the 2021-2030 New National Strategy, should be highlighted, also in view of the attention paid to it by civil society and the European institutions.

Indeed, in this strategic document, the axis of housing is considered to be a **key element** and no longer secondary in the process of overcoming social deprivation and harmonious integration into society, in order to combat extreme poverty.

Within the scope of the RSC Strategy for 2012-2020, the priority of "*definitively overcoming emergency logics and large mono-ethnic settlements and respecting local opportunities, family unity and a strategy based on equitable displacement*" was indicated, introducing the concept - which emerged and is still proposed by the Sinti and Roma - of the need for a "**wide range of housing solutions**", aiming to combat the segregation, isolation and marginalisation of people, while also emphasising the direct participation of the beneficiaries of the interventions at all stages, using mediators/facilitators and Roma and Sinti professionals.

As regards the first specific goal with reference to the housing axis of the RSC Strategy for 2012-2020, "*to encourage integrated policies of inter-institutional cooperation for housing supply to RSC*", it can be noted that the UNAR, by virtue of its function of accountability to the European Commission, has promoted an action of institutional coordination aimed at ensuring:

- the **correct use of resources** from EU funds and programmes (Inclusion NOP; Metro NOP; Regional OPs);
- monitoring of **non-discriminatory access to social housing**;
- **monitoring of the activities proposed** at local level, with **the active involvement of those directly concerned**.

On these fronts, which made direct involvement of local government indispensable, since 2018 the UNAR has promoted the "PAL" (Local Action Plans), **which placed the housing issue at the heart of their interventions**.

Through local Tables of dialogue and coordination promoted by municipal administrations like Rome, Cagliari, Milan, Genoa, Naples, Bari, Messina and Catania, the synergy of policies and interventions with participation in social, political, economic and civic life was promoted. In addition, the UNAR in cooperation with the Conference of Regions and Autonomous Provinces, promoted the launch of the PAR (Regional Action Plans), which envisage the provision, in synergy with that carried

out at municipal level, of direct technical support to the regions for planning, and more effective access to the financial resources available to implement social and housing inclusion measures for Roma and Sinti at greater risk of social vulnerability.

Also within the RSC Strategy for 2012-2020, the second specific goal envisaged "**promoting housing solutions that meet the specific needs and requirements of RSC families**", proposing a wide range of options (*social housing in ordinary public housing, support for renting or buying ordinary private housing, self-building and self-recovery paths accompanied by social inclusion projects, renting of publicly-owned farmhouses*).

It should be noted, however, that the weakness of governance and inter-institutional cooperation, as mentioned above, has led to a lack of local adhesion to both the principles and the goals mentioned above. This dichotomy can be seen in the coexistence of positive experiences but also in arbitrary and impromptu actions, such as the repetition of evictions, assisted repatriation practices and "temporary" relocation in facilities that do not meet people's needs (especially those of the most fragile families), as repeatedly highlighted by international organisations.

Within this complex and uneven framework, lies the effort to map the real housing situation of Roma and Sinti in Italy, which is necessary for the preparation of policy makers and fundamental for the promotion of coherent interventions.

The ANCI-Cittalia national survey on camps - promoted at the beginning of the previous RSC Strategy for 2012-2020 - and published in 2015, which has already been mentioned, estimated the presence in the camps of fewer than 30 thousand people, downsizing the framework reference and highlighting the emergence of a bracket of Roma and Sinti population that was particularly vulnerable. This aspect was again treated through a new survey curated by ISTAT, carried out between 2019 and 2020, aimed at updating the data relating to the camps estimated to be 373, in 126 municipalities, with a further downsized presence, amounting to about 15 thousand people.

This last survey also analysed the downtrend of the presences within the camps, made evident by the data just mentioned, making it possible to assume a positive causal link with the impulse provided by the RSC Strategy for 2012-2020 to the process of housing transition from some types of camps to different forms of accommodation. The main results so far show that 42 municipalities claim to have activated housing transition projects between 2012 and 2019, with a total of 96 projects analysed.

In 52.8% of the projects, actions aimed at facilitating access to social housing and inclusion in the housing emergency lists were implemented, while in 42.7% of the projects, the provision of housing found on the real estate market was envisaged.

Recent data confirms the trend towards progressive reduction of the presence in the camps mentioned above, also taking into account a variety of reasons (certainly not all attributable to housing transition projects), referring to new migratory routes to return to the country of origin or to other countries in the European area, but also to dispersion and splitting up into smaller camps, occupation of buildings (some of which dilapidated) that worsen or leave a situation of housing emergency that has existed for decades, ultimately unchanged. Alongside the detection of housing inclusion projects, which have been growing steadily since 2016, **it is also appropriate**, as highlighted in the foreword to the strategic document, **to note the tendency not to build new camps and a substantial reduction in the practice of evictions implemented without compliance with standards and the provision of suitable alternative tools, in the same reference period.**

There would appear to be a reduction in evictions in any case, which come to 51% compared with 2019 and 72% compared with 2016.

These are dynamic phenomena that require further specific investigation.

Further indications on the quality of the housing transitions undertaken will be provided in the second part of the ISTAT survey - currently underway - which will make data and information available to help assess the gap in terms of social inclusion and discrimination between Roma and

Sinti beneficiaries of transition projects and those still living in camps. Such data and information are fundamental for the Public Administration and all stakeholders involved.

The general goal of the new "housing" axis is **to increase effective equality of access to adequate and non-segregating housing and essential services**, which can be achieved through specific targets linked to indicators.

The goals indicate the need to continue the research and survey process in order to have an up-to-date picture of the housing situation and to assess the intermediate steps and the impact of the measures to be implemented.

Some measures can be implemented centrally by the National Contact Point (surveys and research, capacity building of local entities, inter-institutional support), others, in line with the governance system envisaged by this Strategy, are directly linked to the public political competences of the local entities.

In any case, for specific details and more information, refer to the Strategy, paragraph 3.4.2 entitled "Measures to be implemented and indicators", from page 58 to 60, and to insight boxes 8 and 9 (page 60 *et seq.*), which highlights, in continuity with the RSC Strategy for 2012-2020, that the creation of micro family areas is a desirable solution - as explicitly indicated by the associations of the National Platform and the Forum of Roma and Sinti Communities - to meet the need to maintain housing systems suitable for the coexistence of the extended family and the maintenance of traditional economic activities, such as travelling shows.

HATE SPEECH, ANTIGYPSYISM AND POLITICAL PROPAGANDA.

With specific regard to the critical issues raised in respect of the forms of discrimination perpetrated against the RSC population, misleading, racist and xenophobic propaganda and hate speech and the related measures implemented in this respect, the following is clarified to supplement what has already been said.

The phenomenon of discrimination against Roma and Sinti people transversally affects all areas of daily life, from transport to the right to housing, access to the world of work, healthcare, the right to study, both in real life (off-line) and in virtual life (on-line). Consequently, it seems possible to affirm that antigypsyism represents a crucial and transversal obstacle to the real implementation of any strategic framework aimed at Roma and Sinti inclusion. For this reason, with reference to the axes of inclusion highlighted by the new Strategy, mention is made of a series of specific problems on which in-depth study is provided in the measures contained in each area of jurisdiction.

- The rate of antigypsyism in the public sphere - with particular reference to social media - and in political debate is a significant factor and worthy of particular consideration. Recent studies also highlight "the strong complexity of contemporary antigypsyism, which is always characterised by a varied combination of multiple categorisation processes". It is precisely the character of complexity that makes this specific form of racism one of "the hardest to decodify".
- The phenomenon of intersectional discrimination: it is important to acknowledge the specific needs or vulnerabilities of certain groups, including women, young people, children, LGBTI+ people, the elderly, people with disabilities, third-country nationals or stateless persons and Roma with non-Italian citizenship.
- Discrimination in access to housing is particularly relevant, as also highlighted by the IHRA (International Holocaust Remembrance Alliance) document, which places specific emphasis on the correlation between antigypsyism, the right to housing and housing segregation, including among discriminatory behaviour the "approval or encouragement of mechanisms that directly exclude Sinti and Roma people on the basis of racial discrimination, such as (...) policies that lead to community

segregation” as well as the “implementation of policies without a legal basis or the establishment of conditions allowing arbitrary or discriminatory evictions of Roma and Sinti communities and individuals”.

● Episodes of violence, conflict and protest. The ISTAT survey on housing transitions showed that problems of coexistence with neighbours characterised 31 projects, while episodes of protest by citizens occurred in 20 projects. The issues that triggered such episodes include the general conditions of degradation that characterise some camps, the issue of waste that has not been disposed of or has been burnt, and the entry of Roma and Sinti families into housing after they have been assigned social housing.

In light of the information given, in the strategic document, the fight against antigypsyism is the transversal pillar of the four axes outlined in the specific chapters of the new 2021-2030 National Strategy. With reference to the intervention processes, the Ministry of the Interior in the consultative phase expressed its willingness to collaborate by making the network of Prefectures available for the coordination and promotion of activities and projects aimed at supporting communities and fighting discrimination.

The set of actions set out below, could, however, constitute an autonomous strategic plan, the need for which is expressly recognised.

1) Strengthen the role of the UNAR Contact Center:

A. *in the collection of reports of direct and indirect discrimination* against Roma and Sinti people, both on-line and off-line, also to counter the phenomenon of under-recording;

B. *in monitoring hate speech*;

C. *in victim support activities*, with particular reference to certain groups most at risk of multiple and intersectional discrimination such as women, children, LGBTI+ people, people with disabilities, stateless people;

D. *in legal support activities*, in close cooperation with the associations of the Community Forum and the list of associations (Art. 5 of Legislative Decree No. 215 of 9 July 2003).

2) Promote continuous and recognised training activities for categories of public officials and others (healthcare workers, doctors, nurses, social workers, police, court staff, school staff and media professionals), aimed at the knowledge of Roma and Sinti cultures, language and history, including remembrance of persecution.

3) Launch of a specific survey on the level of antigypsyism in society (including a representative sample), also with reference to the various axes mentioned in this strategic document.

4) Promote actions to support and facilitate discussion and debate in order to strengthen the proposals, experiences and awareness acquired by those directly involved in the processes aimed at the recognition of national minority status and Nazi-fascist extermination.

5) Promote information campaigns, communication and positive narratives, through:

A. An institutional campaign against antigypsyism;

B. Empowerment activities targeting young people and women, supporting peer-to-peer meetings and exchanges, intercultural learning and non-formal education (in cooperation with other bodies, such as the National Agency for Youth and the Youth Department of the Council of Europe, with which a multi-annual cooperation has been established).

6) Envisage communication materials to convey and disseminate the contents of the new Strategy, notably among specific and particularly vulnerable targets, e.g. through maps of available services, infographics and/or multilingual posters (also in the *Romanes* language).

In reference to point 5, the proposal, to be developed during the 2021-2030 Strategy, aims **to strengthen the activities of the UNAR and institutional and non-institutional stakeholders** on the issue of fighting racism and xenophobia, recognising antigypsyism as one of the main obstacles to the full inclusion of communities.

In order to achieve important results, the project will have to make use of experts and consultants with in-depth knowledge of the value and language system of the Roma and Sinti communities: associations, youth organisations and networks of facilitators will be able to guarantee the territorial capillarity of the interventions, the levels of participation and the impact of the project actions on the communities.

See, for more information and data on Roma and Sinti, chapter 3 “THEMATIC AREAS” Paragraph 3.1 *Antigypsyism and the fight against discrimination*, divided up into sub-paragraphs 3.1.1; 3.1.2, and insight box no. 3, which explains the proposal for a **national communication campaign against antigypsyism**, to be developed during the 2021-2030 Strategy (cf. pages 29 to 36 of the strategic document).

As regards the initiatives and measures concretely adopted on the housing rights of the RSC population, on the basis of that reported, in this respect, by the Ministry of the Interior, see the information given in Report V for Italy, in implementation of the *Framework Agreement for the Protection of National Minorities* (now at monitoring cycle V), sent to the Council of Europe in 2019 and published on the corresponding website.

This Report contains the data recorded up to 2019, subsequently integrated with the results of a further update carried out in November 2021, through the Prefectures, during the visit to Italy of the Advisory Committee of the Council of Europe, from 15 to 19 November 2021.

In any case, the results of these latter surveys conducted on national territory, which show the situations that remain poor today, on the one hand, but also show the multiple good practices and numerous projects carried out and being defined, with the specific aim of effectively overcoming the issues and achieving real inclusion of the RSC communities, are provided.

LOMBARDY

Milan

Milan City Council has signed a Municipal/Prefecture Agreement: 2013-2014 Roma Sinti Caminanti Project aimed at: housing inclusion, the promotion of employment policies and the requalification of occupied areas.

Detailed information has been provided on the regular attendance by RSC children of mandatory schooling and the fight against truancy by the councils of: Fagnano Olona, Cairate, Solbiate Olona, Cassano Magnago, Lonate Pozzolo, Saronno, Tradate, Gorla Minore, Cislago, Gerenzano and Monza Brianza.

Within the municipality of Milan, families were relocated, who were in the settlements of Via Bonfadini n. 38, in the Italian/Romanian Sinti communities. In May 2021, Milan City Council offered the families living there alternative accommodation, but only one of the families accepted. Others occupied unused buildings and disused sites nearby. The Italian families sought hospitality on their own.

In the metropolitan area, three sites were authorised, situated in Arluno, in via SS. Gervasio e Protasio, “permanent” settlement and a community of Italians lives in Cinisello Balsamo, in Via Brodolini.

Under the scope of the Inclusion NOP, Milan City Council launched various local action plans aiming to improve the health situation and inclusion in schools; the NOP is coordinated by the Istituto degli Innocenti, the Ministry of Employment and Social Policy and the Ministry of Education.

Bergamo

The city of Bergamo is not involved by the phenomenon, insofar as the Roma communities present are perfectly included and stable following the removal of the settlement of Via Rosselli 100, completed in 2006. A similar situation of inclusion is seen in the province, with the presence of small, perfectly integrated RSC communities.

Como

The latest surveys have seen the presence of small nomad settlements within the province, on privately owned lands in:

Limido Comasco, Comate Varesino where they live in containers with electricity only but in good hygiene conditions, and Albavilla, where they live in caravans, again on private land.

No situations of discomfort and/or unsanitary conditions are recorded and all these families are, in any case, monitored by social services.

Lodi

Sinti communities are perfectly included and benefit from social housing solutions. Children are in school and no critical issues are noted, with the exception of one family unit, which refuses all help and assistance.

Varese

No particular discomfort or degraded situations are known.

Pavia

Sinti communities are present, who are perfectly integrated and of Italian nationality, mainly residing on privately-owned land.

FRIULI VENEZIA GIULIA

There are authorised settlements with almost all members having Italian citizenship and no critical issues noted. They continue to pursue traditional crafts and have good school inclusion levels.

PIEDMONT

Alessandria

This has been included amongst the priority intervention areas established by resolution of the Piedmont Regional Authority of 10/02/2014, establishing the "Regional Table for the Social Integration and Inclusion of RSC".

Asti

The following projects have been prepared: Fiori di Campo and Fiori di Campo 2, to fight truancy by Roma children.

Alessandria and Vercelli have provided specific information about data on compulsory school attendance by RSC children. Vercelli also reported that many resident RSC adults are monitored by the local social services and receive benefits.

Novara

There are two authorised settlements that have been part of the urban and social context for years now. Elsewhere in the territory, there are neither authorised settlements nor spontaneous ones.

Turin

The work carried out in the last two years, thanks to the Memorandum of Understanding stipulated between Turin City Council, the Prefecture, the Diocese and the Piedmont Regional Authority, has successfully closed both the settlement in an authorised parking area in Germagnano, home to 13 family units, all of whom have been relocated, and the spontaneous settlement in Germagnano Ponte - Amiata, of 104 family units. In this latter case, 75 people without residence signed an Agreement to leave the settlement, receiving economic incentive to do so (1000 euros per family).

There have also been numerous returns to Romania or migrations to Spain and Germany.

The five illegal Balkan Roma families in the settlement have been offered inclusion paths envisaged by the municipal regulation.

Finally, the territory continues to be monitored and, amongst others, we note the project proposed by the city to the Ministry of the Interior, through the Prefecture of Turin, entitled "*Iniziativa di superamento Campi Nomadi e percorsi di inclusione*" (Initiatives for closing nomad settlements and inclusion paths), as well as the housing and employment inclusion projects of the Liberitutti cooperative company.

Cuneo

Sinti communities are present for which intervention policies are being activated on the four chapters of the National Strategy.

LIGURIA

Genoa

It has prepared: municipal socio-educational projects for the school inclusion of children and out-of-school inclusion paths; initiatives for encouraging prevention services (consultancies, raising awareness on alcohol, addiction and drugs) pursued jointly by the council and the Local Health Authority (ASL); local social services have begun monitoring families with children and the elderly. A Memorandum of Understanding has also been signed between the Ministry of Employment and the Council in implementation of Law no. 285/1997 to promote the rights of children and adolescents. The Protocol renews every three years. In 2017/2020, it involved 81 schools and Roma and Sinti students aged 6 to 14. Pre-schooling projects are also envisaged for children aged 3 to 5. An additional project between the Ministry of Employment and the council, entitled "*Dal campo nomadi alla casa*" (From the nomad settlement to the home) was financed by the Ministry of Employment after the 2014 flooding and intended, through certain facilitations (e.g. payment of charges for two years, etc.) to move the family units to **social housing** solutions.

La Spezia

Some resident Sinti families have been assigned "temporary accommodation" whilst awaiting the allocation of social housing according to local rankings. Others have been assigned "**social housing**".

VENETO

Padua

Specific school, educational and integration activities have been envisaged, for RSC children. The various local families mainly live in social flats (which they access on a par with other citizens) in municipal or owned areas. Close attention is paid to vulnerable subjects with the temporary concession of housing and various activities are carried out aiming to improve access to social-healthcare services.

Thirty housing structures have been developed in the municipal area, thanks to the project "*Dal campo nomadi alla città*" (From the nomad settlement to the city), financed by the Council and the Ministry of Employment.

In **Treviso**, a great many of the family units live in **public residential housing** (ERP), made available to families to close the settlements.

In **Castelfranco Veneto**, specific support activities are envisaged: schooling, helping the elderly, disabled and those requiring long-term care (with the collaboration of healthcare facilities), training and assistance with employment.

In **Montebelluna**, three municipal social inclusion projects have been launched for the most numerous communities, mainly aimed at assuring the social inclusion of the children.

In the province of Venice, in the municipalities of **Cavarzere** and **Santa Maria di Sala**, resident RSC families live in social or owned houses with good inclusion in the territory and positive contact with local social services.

Rovigo

There are Sinti and Roma communities present without any particular critical issues and who are perfectly integrated.

FRIULI VENEZIA GIULIA

Trieste

It has developed the project "*Habitat microaree*" (Micro area habitats) in application of the National Strategy directives and developed by: Council, Health Authority and ATER (**social housing**).

Udine

It has launched municipal projects to combat truancy (cultural mediation, after-school, educators in the settlements and work training for under-21s).

It then prepared the European Roma-net project (NGO, ONLUS, Council, Local Health Authorities, Children's Office, Ministry of Justice) aimed at achieving integration in various ways and housing inclusion, with a reduction of the presence of settlements, without having to clear them.

Finally, municipal areas have been established (formerly known as zone 0 for their intended purpose), in implementation of the Regional Law of 14 March 1988, which allowed RSC to purchase agricultural land not suitable for construction (used with mobile homes without foundations), in which to take up residence.

By way of an update, note that there are only very few Roma communities in the province of Udine and all members are integrated with Italian citizenship. They carry out traditional crafts with good inclusion of children in schools and tend to become increasingly "permanent".

Pordenone

The various family units live in suitable houses, some in public housing with an adequate level of social inclusion.

EMILIA-ROMAGNA

Bologna

It has incorporated the National Strategy through the dismantling of nomad settlements and promotion of self-financed living solutions (Regional Law No. 11/2015) and adhering to the "*Progetto nazionale per inclusione e integrazione dei bambini Rom, Sinti e Caminanti*" (National project for the inclusion and integration of Roma, Sinti and Caminanti children) within the NOP "Inclusion" 2014/2020.

It has also approved the "*Programma comunale per l'individuazione di microaree familiari rom e sinti*" (Municipal programme for the identification of Roma and Sinti family micro areas) to close the settlements, finding alternative solutions (temporary accommodation for vulnerable people - **ERP housing**, sourcing on the private market).

Budrio council has envisaged specific services for RSC children monitored by social services, in a bid to help avoid truancy.

In **San Lazzaro di Savena**, an integrated territorial team has been established, which meets once a month, seeking solutions by which to close the settlements. The integrated territorial team has promoted access to conventional housing for six family units. Socio-healthcare and school paths are also envisaged for each family unit.

In **Correggio**, a social inclusion project has been organised, in collaboration with the local social services and volunteer associations, aiming at promoting school attendance amongst children and assisting adults with finding work, raising awareness of social benefits and assuring an uptake by socio-healthcare services.

In **Guastalla**, where excellent integration of RSC in the territory is reported, a project has been prepared to develop a settlement equipped with all technologies (purifier, gas, aqueduct, electricity), co-financed by the council and the Emilia Romagna Regional Authority, developed in

2005 on the basis of the indications of the Opera Nomadi organisation. A monthly administrative fee is envisaged of 10 euros to be paid by each family unit.

Ferrara Council has used the funds made available by Regional Law No. 11/2015 to finance the closure of large settlements and foster the use of micro areas, designing and maintaining the Lanciodrom Project (which started in 2002 but continues to operate today) on four intervention axes (work, education, accommodation, health) of the National Strategy.

Faenza

It developed a project between the Council and Regional Authority to close the settlements and assure inclusion in schools. All RSC families reside in social housing or properties owned by the church. Since 2017, a project has been operative, co-financed by the Emilia Romagna Regional Authority, to assure living and working inclusion and educational interventions, called the "*Protocollo tra l'Unione Romagna Faentina e Consorzio Equo di Torino*" (Protocol between the Romagna Faentina Union and the Equo Consortium of Turin) to manage waste and scrap. Within, it envisages the regularisation of persons willing to embark on employment paths (three paths have been launched). Children regularly attend school (three use school transport).

Rimini

It has approved a programme in the municipal council aiming to close the existing settlement, with the assignment of equipped micro areas to six Italian Sinti families and conventional housing to four families.

Ravenna

The Roma adults present on the territory are self-employed, the children attend compulsory schooling and are monitored by social services to avoid truancy. From 2005 to 2011, the families were assigned ERP housing.

Forlì Cesena

The overall situation is one of full integration and with families awaiting the assignment of social housing.

Forlimpopoli highlights the presence of Sinti in equipped mobile structures without any particular critical issues and that were authorised in 2016 to work as fairground operators.

TUSCANY

We should first mention the interventions planned and carried out at a regional level, both before and after 2014, but which are still being implemented:

- In the period considered, 160 families (approximately 780 people) throughout the region had obtained assignment of **ERP social housing** using the ranking system.
- The implementation of the 2007-2010 Regional Social Integrated Plan continued in execution of the "*Progetto per le azioni rivolte alle persone Rom e Sinte*" (Project for actions for Roma and Sinti) to close the settlements by offering ordinary accommodation solutions.
- Both the application of the provisions of the Regional Law of Tuscany No. 2/2000 "*Interventions for Roma and Sinti*" aimed at closing the settlements with equipped residential areas, recovery of buildings, use of social housing and the execution of the contents of the 2012-2015 Regional Integrated Social and Healthcare Plan as subsequently amended.

In general, numerous extraordinary programmes are currently being trialled, to obtain housing on the free market.

Lucca

In the municipality of Lucca and province, various social housing units have been assigned in implementation of Regional Law No. 96/1996, which enables access to ordinary tenders for the assignment of public residential buildings. In particular, in the municipal territory of Lucca, there is:

- the project "*Prima la casa*" (Home first), approved by Resolution of the Region of Tuscany No. 2798/2015, with the assignment of seven social housing solutions;

- the restructuring of two property units in the old town for families leaving the settlements (Regional resolutions passed in 2018).

Major interventions are reported by local social services to protect children (educational services and support with schooling).

Florence

The last authorised settlement (“Poderaccio”) was closed in 2020 and a social inclusion project was launched some time ago to foster both the transition to housing and complete inclusion. Temporary housing was in public homes not managed by the ERP, placing in communities and the purchase of private homes.

Massa Carrara Council has launched specific inclusion interventions. Together with the Michelucci Foundation of Florence, a project has been launched for alternative housing solutions, which has led to the assignment of **social housing** or the purchase of land, where caravans and campervans etc. were positioned.

In October 2018, the council presented the Regional Authority with a new project for the inclusion at school of children aged 6 to 16.

Livorno

There are small Roma units, many of whom live in **social housing**.

Prato

The territory has Sinti communities, which are mainly integrated.

MARCHE

Fano

The various RSC family units living in this municipality (in the province of Pesaro-Urbino) are in owned properties or **social housing**.

ABRUZZO/MOLISE

Teramo

A multi-year project has been established with the Caritas of Teramo Atri “*Gli uomini si liberano insieme*” (Men are freed together) to improve integration through: an awareness-raising working table, specific educational support in the school and at home; and the activation of traineeships.

LAZIO

Rome

On 18 November 2016, it approved an “Inclusion project” with the involvement of UNAR, the Lazio Regional Authority and Anci, following a European call for tenders.

The “City table of inclusion” was approved by municipal resolution No. 117 passed on 16/12/2016, which includes the “Table for RSC inclusion at school and health” together with Local Health Authorities and the INMP (National Institute for Health, Migration and Poverty - NIHMP) with the aim of implementing socio-healthcare prevention measures.

In a parallel fashion, the 2014-2020 metropolitan cities NOP project was activated, with the opening of calls for tenders to close the settlements “La Barbuta” and “Monachina”.

By Resolution No. 105 passed on 16 May 2017, the Council launched the “*Piano di indirizzo di Roma capitale per l’inclusione della popolazione RSC*” (Rome capital guidance plan for the inclusion of the RSC population - PIRSC), in order to ultimately close the settlements. To this end, socio-economic support was envisaged to address the “housing transition” and the tool of the “Social Responsibility Pact” was conceived, signed between the Council and the people interested in leaving the settlements. The **assignment of ERP housing** was also envisaged and implemented, including on a temporary basis.

Finally, it is worthy of note that from the approval of the Plan (in 2017) and up until today, the phenomenon has reduced by - 41.1%.

CAMPANIA

Naples

There is a Roma community in **Giugliano Campania**. In February 2020, the settlement and the community living there was targeted by a project run by Campania Regional Authority, with an allocation of 864,000.00 euros. This project is executive but has not yet been launched.

The Prefecture of Naples has launched an Inter-Institutional Table between Campania Regional Authority, the Metropolitan City, the Archbishop's diocese of Naples, Afragola and Casoria, for the implementation of a Memorandum of Understanding being implemented and to manage financing allocated to this end.

Caivano (NA), four settlements have been recorded and various initiatives are underway for the Roma communities, which are already monitored by social services, including a Covid-19 vaccination campaign.

Salerno

Various local projects are underway, aiming at: protecting the health-hygiene conditions of the settlements, assuring inclusion at school and work, and granting access to public services and healthcare. It is in any case pointed out that most of the Roma living in this territory are "permanent".

APULIA

The Apulia Regional Authority has adhered to the *Progetto nazionale per inclusione e integrazione dei bambini Rom, Sinti e Caminanti - 2014-2020* "Inclusion" NOP promoted by the Ministry of Employment and Social Policy under the scope of the actions envisaged by the 2014-2020 "Inclusion" NOP and pursued in collaboration with the Ministry of Education, Universities and Research, the Ministry of Health and the Istituto degli Innocenti. The project is run in the main metropolitan cities across Italy, which play an active part in pursuing the initiative: Bari, Bologna, Catania, Florence, Genoa, Messina, Milan, Naples, Palermo, Reggio Calabria, Rome, Turin and Venice. The NOP pursues the *Progetto sperimentale per l'inclusione e l'integrazione dei bambini rom, sinti e caminanti (RSC)* (Experimental Project for the inclusion and integration of RSC children) launched in 2013 together with thirteen cities. For the new projects under the scope of the "Inclusion" NOP, 81 schools are expected to be involved, for a total of 266 classes and 600 target RSC students.

Objectives:

- improvement of inclusion in school and successful training of RSC children;
- combating truancy by RSC children;
- improvement of access to socio-healthcare services by RSC children and their families;
- creation of a collaboration network between the cities adhering to the project.

In order to facilitate the sensitisation of the territory in the favour of protection from discrimination, compatibly with the prerogatives attributed by national legislation and in order to achieve the effective integration of the whole of the migrant population present in the territory in its various compositions, the Apulia Regional Authority has adopted the 2021/2023 Migrant Policies Regional Plan.

In line with the regional strategies regarding immigration, this Plan aims to remove the causes of poverty and the risk of exclusion for immigrant families and individuals exposed to the risk of exclusion. The main lines of intervention of the 2021/2023 Migrant Policies Regional Plan are: employment and training policies, health policies, accommodation policies and integration policies.

Bari

In 2017, it approved a local action plan for the social inclusion of RSC.

The municipal territory is also home to the implementation of an Experimental National Project (between the Council, the Ministry of Employment, the Ministry of Education and Istituto degli Innocenti in Florence) against truancy.

Lecce

The Roma community is present both in Lecce and in Galatone, all with valid residency permits. Generally, the housing and caravans are equipped with regular services and health permits. As they meet requirements, the children and teenagers benefit from Italian citizenship. They have monitored projects for “leaving the settlements” and are mainly at school, particularly those of compulsory schooling age.

CALABRIA

Calabria has approved Regional Law No. 41 of 25 November 2019, aimed at assuring the inclusion of the RSC communities “*Integrazione e promozione della minoranza romani*” (Integration and promotion of Roma minorities), which improves on the previous No. 19 dated 19 April 1995.

SARDINIA

Cagliari

A project has been developed, which allows for the launch of a valid social inclusion plan, the PonMetroRSC project organised using European funds (Emergency Solidarity Provision) and partly municipal funds, under the scope of the 2014-2020 Metropolitan Cities Operative Programme, which Cagliari has joined. The services develop along various lines of intervention and activities in collaboration with the Third Sector.

Sassari

It applies an assisted voluntary return project and re-insertion programmes using funds supplied by the Ministry of the Interior and the collaboration of the IOM (International Organization for Migration);

Olbia council reports that 90% of children attend first and middle school and 5%, secondary school. School bus services, social assistance, sports and cultural services are assured.

A protocol has been signed with the Local Health Authority for sanitary controls (vaccinations and infection prevention) and the “Romani” social and work inclusion project is operative, financed with the ROP of Sardinia (ten nomads inserted into ten jobs).

The closure of the settlement present in the territory is planned, with the search for alternative interim and definitive solutions (renovation of country homes in ruins, mobile homes on owned lands, etc.). In 2018, two families left the settlement (settling on owned land with a mobile home). Another nine families will soon follow suit (seven will be settling on own land in mobile homes and two in houses).

In **Alghero**, RSC children are monitored by the local social services. School attendance is assured.

From January 2015 to February 2017, eleven housing insertion or settlement alternative solution projects were activated, financed by the Sardinia Regional Authority. Awareness is also being raised, assuring reciprocal understanding in new accommodation contexts.

In **Porto Torres**, RSC children are monitored by the local social services. School attendance is assured and a school bus service operates.

The current settlement is expected to be closed thanks to a project and finance offered by the Sardinia Regional Authority to source alternative accommodation solutions (in this context, representatives of the nomad communities are also expected to take part).

In Oristano, a great many RSC families benefit from income support. The children attend school on a regular basis. An education intervention has been activated for one disabled child.

Various families are supported by social services with the assignment of ERP (**social housing**).

SICILY

Catania

There is a large community of Caminanti in the municipality of Adrano, who are perfectly integrated and live in houses, which are mainly owned.

Finally, with reference to the specific measures and activities aimed at fostering the inclusion and integration of RSC children, in addition to that specified above in connection with the individual local contexts, below are the updates and useful information, supplementing what has been provided above.

National Project for the inclusion and integration of Roma, Sinti and Caminanti children.

The national project for the inclusion and integration of Roma, Sinti and Caminanti (RSC) children, promoted by the Ministry of Employment and Social Policy under the scope of the actions of the 2014-2020 "Inclusion" NOP and developed in collaboration with the Ministry of Education, Universities and Research, the Ministry of Health and the Istituto degli Innocenti, has reached the end of the first operative three years on the Inclusion NOP (2017-2020) and continues for the second three-year period (2021-2023) with funding for thirteen projects in the amount of 1.8 million euros, as well as technical assistance for an additional 570 thousand euros.

The path of the Experimental project for the inclusion and integration of Roma, Sinti and Caminanti children was launched as a national experiment promoted by the Ministry of Employment and Social Policy in 2013, involving thirteen metropolitan cities across Italy (Bari, Bologna, Catania, Florence, Genoa, Messina, Milan, Naples, Palermo, Reggio Calabria, Rome, Turin and Venice). The project's main aims are: to improve inclusion at school and successful training of RSC children, to fight truancy and to strengthen professional training to facilitate inclusion in employment.

The insertion of the Project under the scope of the Inclusion NOP, starting from the three-year period 2017-2020, has entailed an important, significant extension of the territories, target and people involved.

During the first year of the experimental project, a total of 23 schools, 42 classes, **150** RSC students and a total of around 800 students (Roma and other) were involved, in 2020, at the end of the first three years of the Inclusion NOP, approximately 330 classes were involved, almost **600** RSC students and a total of more than 7000 students. In 2022, during the second three-year period of the Inclusion NOP, 119 schools were involved, 416 classes, approximately **700** RSC students and more than 8000 students in total.

At present, the positive results of the project include, albeit with variations depending on the territories involved, **a trending increase on a national level of both attendance and passing of RSC students**, as well as a significant increase of new territories and schools added during the project years.

During the first three years of the Inclusion NOP (2017-2020), an improvement was seen in school attendance, particularly in secondary schools.

In primary schools, attendance remained around 70% during the years, with a slight increase from the first to the last year - whilst in secondary schools, a higher margin of improvement was seen, going from 51% attendance in the first year of the Project, to 57% in the last year. In all, the change in the attendance seen by target students during the first year and the third of the Project is 4% (62% in the first year and 66% in the third).

As regards school results, during the three years, the situation remained basically stable in primary school (essentially in line with the national ordinary data), whilst secondary school recorded

a clear improvement during the last year of the Project, thanks to a reduction in the abandonment of school, almost reaching the percentages of primary school. The percentage of those who passed in primary school rose from 96% to 97%, while in middle school it went from 75% to 93%.

The continuation of the RSC project on the Inclusion NOP for a second three-year period (2021-2023) confirms the main methodology guidelines and action of the 2017-2020 NOP RSC Project, in a bid to consolidate the work for a more welcoming school, the promotion of paths to foster family access to services and the establishment of a multi-sector support network for the inclusion of RSC children. At the same time, the aim is to analyse certain work axes, including the promotion of paths to engage and increase participation by Roma communities and families in local projects, basic training and the involvement of socio-healthcare operators, the involvement of nursery schools in certain project activities and guidance and information for RSC children and families, in order to foster the continuation of studies into secondary school or professional training.

Special attention is also reserved to strengthening the actions intended to assure access to healthcare services, through the promotion of targeted training of healthcare professionals as well as the investigation of paths aiming to optimise the role and involvement of Roma mothers and/or young women and the production of culturally-oriented tools for promoting health.

It is also important to point out that the project activities were not blocked following the Covid-19 epidemic health crisis; by contrast, the territories managed to plan actions and arrange for measures to fight the danger of truancy, using remote training tools and dialogue methods, to limit the risk of infection.

At the same time, this also applied with reference to activities relating to the protection of health, particularly in consideration of conditions of deprivation and deterioration, in which many RSC settlements find themselves. One of the priority focusses of the Project is the raising of awareness of families with respect to health-hygiene measures that can reduce the risk of infection and the transmission of clear information on preventive conduct to be adopted.

The ultimate addressees of the project are generally RSC children aged between 6 and 14 and their families. RSC children aged 3 to 5 are also targeted, through pre-schooling activities and/or children who have completed middle school and head onto professional training or are at risk of abandoning school.

In light of all of the foregoing and that set forth in greater detail in the attached strategic document, it is hoped that this Committee will better acknowledge the progress made by Italy and rule positively on what the Government has done to date, which has shown specific attention and considerable effort in addressing the problems raised in the complaints under review connected with the living conditions of the RSC community.

Moreover, in consideration of the new Strategy adopted recently, clearly a suitable length of time must be left to allow for its implementation, in order to verify the effective achievement of the goals set out therein.

Collective complaints No. 87/2012 (International Planned Parenthood Federation – European Network v. Italy) and No. 91/2013 (Confederazione Generale Italiana del Lavoro v. Italy).

Collective complaint No. **87/2012**, registered on 09 August 2012, was raised in connection with Article 11 (“*The right to protection of health*”), read alone or in conjunction with Article E (“*Non-discrimination*”) of the revised European Social Charter. The complainant association claims that access to voluntary termination of pregnancy (VTP) service is not guaranteed to all women concerned due to the large number of doctors, nurses and paramedics who are conscientious objectors.

Complaint No. **91/2013**, registered on 17 January 2013, alleges violation of Articles 11 (“*The right to protection of health*”), 1§2 (“*The right to work*” - *protection of the worker against all forms of discrimination at work*), 26§2 (“*The right to dignity at work*” - *protection of workers from reprehensible or distinctly negative and offensive actions and conduct in the workplace or in relation to work*) and Article E (“*Non-discrimination*”) of the Charter. More specifically, CGIL notes direct and indirect discrimination against gynaecologists, anaesthetists and paramedics who are not conscientious objectors, working in departments where VTP are performed, due to the excessive workload, the division of tasks and poor career prospects.

Response

It is noted that up-to date, no changes have been made to Law No. 194 of 22 May 1978, containing “*Rules for the social protection of maternity and on the voluntary termination of pregnancy*”. This provision not only assures access to VTP service for all women so requesting, in accordance with the law, but it also guarantees healthcare staff that their right to submit conscientious objection will be respected (Article 9).

As shown in the previous reports on the follow-up to the complaints in question, authorised care homes and hospital facilities are required to perform the requested termination of pregnancy procedures as envisaged by Articles 5, 7 and 8 of Law No. 194/78, while Regions, in coherence with the institutional structure defined by the 2001 reform of Title V of the Constitution, must control and guarantee the correct application of the law.

According to the data contained in the “*Report by the Minister of Health on the implementation of the law setting out rules for the social protection of maternity and on the voluntary termination of pregnancy (Law 194/78)*”, presented to Parliament on 08 June 2022, in 2019 a total of 73,207 VTP were notified (-4.1% compared to 2018), thereby confirming the continuously declining number of VTP performed since 1983. The constant reduction in VTP procedures in Italy, is undoubtedly a positive sign of an increased circulation of information in relation to responsible procreation.

As regard 2020, due to the COVID-19 pandemic, the Report only provides preliminary data considering that the services and the staff engaged in performing voluntary termination of pregnancy procedures were involved in the emergency too. As provisional data for 2020, a total of 67,638 VTP procedures were performed, -7.6% compared to 2019 final data. The abortion rate calculated on data related to the female population supplied by ISTAT was 5.5 VTP procedures per 1,000 women aged between 15 and 49 years old, with a reduction of 5% compared to 2019 (5.8 per 1,000) and 67.7% compared to 1982.

It should be highlighted that from the beginning of the pandemic, the Ministry of Health identified voluntary termination of pregnancy procedures among the gynaecology services that could not be postponed and, in its Circular of 30 March 2020, containing the *Guidelines for the restructuring of deferrable scheduled activities*

during the COVID-19 emergency, provided for instructions to Regions and hospitalisation facilities in order to assure the regular provision of the service.

An assessment of the waiting time between the issue of the certificate by appointed healthcare staff and the performing of the procedure (as possible indicator of the services' efficiency) shows that the percentage of VTP procedures performed within 14 days of issue of the documents has slightly increased: 72.6% in 2019 compared to 70.2% in 2018. On the contrast, the percentage of VTP procedures performed after a waiting time of more than three weeks has progressively reduced: 9.9% in 2019 compared to 10.8% in 2018.

Regions reported that in 2019, 67% of gynaecologists, 43.5% of anaesthetists and 37.6% of non-medical personnel had submitted conscientious objection. Data is slightly lower than that of 2018 and it shows considerable regional variations in all three categories.

To better assess the availability of the service and the workload of non-objecting staff, the Ministry of Health used specific parameters for *ad hoc* monitoring. More specifically, parameter 2, concerning the average weekly workload of a non-objecting gynaecologist, was recorded by individual hospitalisation facility, in order to identify any critical issues that may not emerge at regional or sub-regional level.

PARAMETER 1: Offer of the VTP service in terms of available facilities

Analysing the data collected thanks to the monitoring performed by the Ministry of Health and comparing that with the data recorded by the Istituto Superiore di Sanità [Italian Institute of Health (ISS)] and ISTAT, it reveals that, at national level, there were a total of 564 facilities with obstetrics and/or gynaecology wards in 2019 (558 in 2018). In the same year, 356 facilities out of 564, i.e. 63.1% of the total (64.9% in 2018 and 64.5% in 2017) performed VTP procedures.

Table 1, on the *Offer of the VTP service in terms of available facilities*, compares, in absolute values, the total facilities with gynaecology and/or obstetrics wards and the VTP points for all Regions in 2019. As in previous years, the data confirms that in only two cases (Autonomous Province of Bolzano and Campania) VTP points were below than 30% the hospital facilities surveyed. In eight Regions, the percentage of VTP points exceeded 70%. In the remaining Regions and Autonomous Provinces, the data ranged between 30% and 70%.

TABLE 1. Offer of the VTP service in terms of available facilities - 2019

Region	Facilities* with obstetrics and/or gynaecology wards	Facilities in which VTP procedures are performed	Percentage of facilities in which VTP procedures are performed	Facilities performing VTP procedures per 100,000 childbearing women aged 15-49
Piedmont	33	26	78.8%	3.1
Valle d'Aosta	1	1	100%	4.0
Lombardy	74	56	75.7%	2.7
A.P. of Bolzano	7	2	28.5%	1.8
A.P. of Trento	5	3	60.0%	2.7
Veneto	36	31	86.1%	3.1
Friuli V. Giulia	14	9	64.3%	3.9
Liguria	15	13	86.7%	4.6
Emilia-Romagna	53	34	64.2%	3.8
Tuscany	31	27	87.1%	3.7
Umbria	12	11	91.7%	6.3
Marche	14	12	85.7%	3.9
Lazio	39	23	59.0%	1.9
Abruzzo	15	8	53.3%	3.0
Molise	3	1	33.3%	1.6
Campania	72	19	26.4%	1.5
Apulia	33	21	63.3%	2.5
Basilicata	7	4	57.1%	3.5
Calabria	18	9	50.0%	2.2
Sicily	60	32	53.3%	3.0
Sardinia	22	14	63.6%	4.3
ITALY	564	356	63.1%	2.9

* The following facilities have been excluded: private university polyclinics, private scientific hospitalisation and treatment institutes (IRCCS), IRCCS foundations, hospitals classified or comparable in accordance with Article 1, last paragraph, of Law 132/1968 (civilly recognised ecclesiastical entities that provide hospital care), non-accredited private care homes, institutes qualified in accordance with the local healthcare authorities, research entities and accredited private facilities not specifically authorised by Regions to perform VTP procedures.

Source: Ministry of Health - "Report by the Minister of Health on the implementation of the law containing rules for the social protection of maternity and the voluntary termination of pregnancy (Law 194/78) – 2019 DEFINITIVE DATA and 2020 PRELIMINARY DATA", presented to Parliament on 08 June 2022.

PARAMETER 2: Offer of VTP service and operators' right to conscientious objection: weekly average number of VTP procedures performed by each non-objecting gynaecologist

The report by the Ministry of Health showed that in 2019 the average weekly workload of each non-objecting gynaecologist was characterized by a slight difference compared to previous years (table 2).

Considering 44 working weeks per year, the number of VTP procedures per non-objecting gynaecologist was, on average, equal at 1.1 per week nationwide, a slight decrease compared to previous years.

At regional level, the lowest value was recorded in Valle d'Aosta, with an average of 0.5 VTP procedures per week per non-objecting gynaecologist. The highest value was recorded in Molise, with a weekly average of 6.6 VTP procedures.

TABLE 2. Weekly average workload for VTP procedures for each non-objecting gynaecologist - 2015-2018 (considering 44 working weeks per year) and maximum values for each individual VTP facility - 2016-2019 and maximum value for each individual VTP facility - 2019

Region	Weekly workload for VTP procedures for each non-objecting gynaecologist				
	YEAR 2016	YEAR 2017	YEAR 2018	YEAR 2019	Maximum value for each individual VTP facility
Piedmont	1.3	1.1	1.1	1.1	2.2
Valle d'Aosta	0.3	0.2	0.3	0.5	0.5
Lombardy	N.R.	1.2	1.1	1.1	6.5
A.P. of Bolzano	1.2	2.3	2.4	1.5	2.8
A.P. of Trento	0.8	0.7	0.9	0.8	2.9
Veneto	1.2	1.2	1.2	1.1	4.7
Friuli-Venezia Giulia	0.6	0.5	0.5	0.5	1.0
Liguria	1.3	1.0	1.0	0.8	3.5
Emilia-Romagna	0.7	0.7	0.8	0.7	6.0
Tuscany	1.0	0.9	0.8	0.8	2.4
Umbria	1.1	1.1	0.8	0.8	1.3
Marche	0.8	0.9	0.8	0.9	2.5
Lazio	2.6	2.4	2.0	2.1	8.0
Abruzzo	2.4	2.1	1.7	1.9	11.9
Molise	9.0	8.6	3.8	6.6	6.6
Campania	1.4(**)	3.6	N.R.	2.6	12.3
Apulia	3.0	2.7	2.0	2.6	14.6
Basilicata	2.5	3.1	1.5	1.3	2.3
Calabria	1.9	1.7	1.6	1.4	7.6
Sicily	1.7	1.9	1.2	1.9	17.7
Sardinia	0.6	0.5	0.4	0.6	1.3
TOTAL	1.6	1.2	1.2	1.1	

(**) partial data received

Data sources: Ministry of Health - *Ad hoc monitoring of conscientious objection by the Ministry of Health in cooperation with the Regional Reference Authorities of the Technical Table for the complete application of Law No. 194/78*; number of VTP procedures performed by each individual hospital collected by the ISTAT web platform "Gino++" - 2019.

The ratio between non-objecting gynaecologists and VTP procedures performed, therefore, has remained fairly stable at national level in recent years.

In 2019, the analysis of the weekly workload attributable to each non-objecting gynaecologist for individual hospital facility showed that in four Regions there were facilities with a workload higher than nine VTP procedures per week (11.9 in Abruzzo; 10.9 in Campania; 12.3 in Apulia and 17.7 in Sicily).

It is pointed out that some facilities have declared performing VTP procedures despite unavailable non-objecting gynaecologists in the workforce, highlighting the Regions' capacity to assure the service by mobilising non-objecting staff available in other facilities. In this way, Law No. 194 of 1978 is applied and Article 9 states that: *"In any case, hospitals and authorised care homes must assure the performance of the procedures envisaged by Article 7 and the termination of pregnancy procedures requested as envisaged by Articles 5, 7 and 8. The Region controls and guarantees implementation including staff mobility"*.

Monitoring of family planning centres

In 2019, according to the monitoring of the Ministry of Health, 69.2% of family planning centres had carried out activities relating to VTP procedures.

The Regions were asked to provide for the following data relating to all family planning centres that were available in its territory:

- the number of women who had been interviewed pursuant to Law No. 194/78;
- the number of certificates issued;
- the number of women who had performed post-VTP controls (to prevent repeated VTP procedures).

As in previous years, the collected data reveals a higher number of VTP interviews than the number of certificates issued (44,553 interviews vs 31,505 certificates issued). This aspect could effectively support the woman “*removing the causes that would lead her to terminate her pregnancy and, in particular, when the termination is due to social, economic or family conditions that impact the mother’s health*” (Art. 5, Law No. 194/78).

The number of post-VTP controls is also lower than the certificates issued. This data is partly due to the fact that in many family planning centres, the post-VTP interviews are recorded in the information flows as a generic check-up. Consequently, some regions provided for partial data.

Regarding the protection of medical and healthcare staff who are not conscientious objectors against harassment and direct and indirect discrimination in the workplace, the content of 2019 report on complaint 91/2013 is confirmed, as no changes have occurred in national legislation.

To satisfy the specific requests by the European Committee of Social Rights in 2021 Findings, please note the following.

Specify if and how Regions organise healthcare services to grant access to VTP to all women, as requested.

To assure an effective collaboration among central institutions, Regions and the healthcare professionals, the Ministry of Health has set up a *Permanent Working Table for the complete application of Law No. 194 of 1978*.

Thanks to the Istituto Superiore di Sanità and ISTAT coordination, the *Table* monitors any critical issues regarding the exercise of the right to conscientious objection by healthcare staff through specific indicators, which are fully explained in the Annual Report to Parliament.

It is pointed out that the concentration of healthcare services, including VTP, in certain facilities may be the result of planning by the regional authorities, aimed at rationalising the assistance networks in their territory. In any case, a detailed monitoring such as the Annual Report to Parliament represents an essential support to effectively verify the offer of the service and the workloads of non-objecting gynaecologists and encourage Regions in the optimal planning of services.

It should be recalled that Regions, in their full and complete organisational autonomy, envisaged by the changes made to Title V of the Constitution in 2001, must assure the performance of the procedures contained in the Law No. 194/78, also considering the possible submission of conscientious objection by operators.

Finally, it should be recalled that in Italy, VTP is entirely at the responsibility of the National Health Service (SSN) and the few private clinics authorised to provide this service, operate in agreement with it. As the voluntary termination of pregnancy procedure is free of charge, there is no discrimination on financial grounds.

The number or the percentage of VTP procedures not performed, both at the individual hospital facility and at a regional level, due to the unavailability of doctors and healthcare operators to provide for such service

Actually, no data is available on VTP procedures not performed. However, to assess a potential shortage of services in certain areas of the country, data on the mobility of women performing voluntary termination of pregnancy procedures, may be useful.

As specified in the Report, in most cases VTP procedures carried out in each Region involved women resident there: in 2019, this aspect concerned 92.7% of the total. It was higher than 2018 (92.3%) and previous years (92.1% in 2017 and 91.4% in 2016). A total of 86.7% of VTP procedures carried out in 2019 involved women residing in the provinces in which the procedures were performed (a slightly lower data than 2018 and 2017). In 2019, higher percentages than 20% of intra-regional mobility were recorded in Calabria, Molise, Campania, Sardinia, Abruzzo and Marche. As in previous years, a percentage of immigration coming from other Regions higher or as well as 10%, has been recorded in some Regions (Valle d'Aosta in the North, Umbria in the Centre, Molise and Basilicata in the South).

It should be recalled that some transfers may be due to the proximity of services (for example, women living on the edge of two Regions) or may be fictitious migrations (such as students coming from the South who live in cities located in the Central-North while studying). The other limitation in using data by residence Region is related to the difficulty in quickly obtaining complete information from all Regions.

Finally, it should be noted the increasing number of women living abroad, mainly originating from countries with a strong migratory pressure, seeking VTP in Italy, where they are resident. In the Centre and in the North of Italy, where there is a greater presence of immigrated population, a higher frequency of VTP procedure performed by women residing abroad, has been recorded.

The number of clandestine abortions

As specified in the Report on voluntary termination of pregnancy, containing 2020 VTP data: *“The phenomenon of clandestine abortions has been studied since 1983, when the Istituto Superiore di Sanità issued its first estimates based on internationally used mathematical models. Considering the limits of the mathematical model, linked to changes in the composition of the country’s population (a decrease in women in childbearing age and an increase of foreign population) and in reproductive behaviour (desire for fewer children, conception at a later age and lack of data on the dissemination of contraceptive methods), the 2012 analysis estimated a number of clandestine abortions for Italian women ranged between 12,000 and 15,000. In addition to, for the very first time, an estimate was elaborated for foreign women, which ranged between 3,000 and 5,000 clandestine abortions. It should be remembered that in this case, the critical aspects from a methodological point of view are even more significant. In recent years, the estimates show that the phenomenon has stabilised for Italian women, for whom an estimated 15,000 clandestine abortions were performed in 2005, with a significant reduction compared to the 1980s-1990s (an estimated 100,000 cases in 1983, 72,000 in 1990 and 43,500 in 1995). In 2016, in collaboration with the ISS, ISTAT performed new estimates of the phenomenon of clandestine abortions by a mathematical model that employed more up-to-date information on the structure of the childbearing age population, fertility trends and contraception use.*

Regarding this last aspect, the impact of the larger use of emergency contraception was also considered. In 2015 and 2016 its rise in sales was due to the rules established by the Italian Medicines Agency (AIFA). This feature meant that the new estimates showed unstable values, even if they were fallen in a narrow range between 10,000 and 13,000 clandestine abortions. A further data supporting the low entity of the phenomenon arises from the analyses performed on complications due to suspected cases of clandestine abortions, using the SDO¹ flow and miscarriage trends. Details of these estimates are available in the 2016 Minister of Health Report”.

Thanks to the funds allocated by the National Centre for Disease Prevention and Control (CCM) in relation to 2022, the Project “*Interventions to improve the quality of data, the offer and appropriateness of execution procedures and the dissemination of information on voluntary termination of pregnancy*” has been financed. Among its goals, in order to establish if the reduction in VTP procedures recorded in the country is effectively related to an increase in clandestine abortions, the phenomenon will be re-estimated by using internationally-validated methods and, furthermore, a possible link between the prevalence in contraception use, including emergency contraception, and the birth trends, miscarriages and VTP will be pursued.

The number of pharmacists and family planning centres operators who are conscientious objectors and the impact that such objection can cause to effective access to the VTP service

Article 9, paragraph 3, of Law No. 194/1978 states that: “*Conscientious objection exonerates **healthcare** and auxiliary **staff** from carrying out the procedures and activities specifically and necessarily intended to terminate pregnancy, omissis*”. Although it is accepted that pharmacists fall into the category of *healthcare staff*, no national rule grants them a generalised right to submit conscientious objection. Consequently, no data is available on conscientious objection in relation to pharmacists.

To better collect data on conscientious objection, the Ministry of Health acknowledges the importance of monitoring this phenomenon in family planning centres too. For this reason, the need to record such data has been largely agreed with the Regions of the *Permanent Working Table for the complete application of the Law No. 194 of 1978*.

Therefore, Regions were asked to provide for data on the conscientious objection of staff working in family planning centres that perform VTP, in accordance with the update to the “*Guidelines to the voluntary termination of pregnancy using mifepristone and prostaglandin*” of 12 August 2020, so that this data will be included in the next Report to Parliament in relation to 2021 VTP monitoring.

¹ Hospital discharge reports

XXII REVISED EUROPEAN SOCIAL CHARTER REPORT
Collective complaint No. 133/2016 - University Women of Europe (UWE) v. Italy.

On 24 August 2016, University Women of Europe (UWE) presented a collective complaint (No. 133/2016) to the European Committee of Social Rights (ECSR), claiming violation by the Italian government of Articles 4§3 and 20 of the European Social Charter.

More specifically, Art. 4§3 envisages the equality of male and female workers for work of equal value; Art. 20 states the right to equal opportunities and treatment in matter of employment and occupation without discrimination on the ground of sex.

The European Committee of Social Rights considered Italy's responses to this complaint (DD(2020)289 and DD(2020)514) to be insufficient. It declared that it could not be established that job classification systems were applied and used effectively in practice to prevent gender pay discrimination. Furthermore, according to its opinion, Italian pay transparency legislation (Art. 46 of Legislative Decree No. 198/2006) could not be applied in practice as an enabling tool for workers or social partners to take appropriate action, such as to challenge pay discrimination before the courts.

The ECSR also noted that even if Italy has been committed since a long time to put in place measures and positive actions aimed at promoting greater participation of women in the labour market, thus promoting equality, the female participation rate is remained low. There was a sharp difference in the employment rate between women and men, which particularly affected women in the South. The ECSR also observed that women were concentrated in the informal economy and in low-paid sectors, which increases vertical and horizontal occupational gender segregation and the gender pay gap.

Regarding the report by the European Committee of Social Rights and the subsequent one by the Italian Government, referring to the Declaration on equal pay and equal opportunities for women and men in the labour market addressed to all the Council of Europe Member States (Decl(17/03/2021)1), the Committee of Ministers, on 17 March 2021, during its 1399th meeting, adopted **Recommendation CM/RecChS(2021)10** which asked Italy to:

- strengthen measures aimed at implementing pay transparency legislation in practice as an enabling tool for workers or social partners to take appropriate actions, such as to challenge pay discrimination before the courts;
- review and strengthen existing positive actions aimed at promoting greater participation of women in the labour market and reducing occupational segregation;
- consider adopting new measures to increase participation of women in the formal labour market and to collect additional data about it.

The following is given by way of response to the foregoing.

As known, work is an essential lever by which women may achieve financial independence and indirectly combat gender violence, which often takes place in contexts where a lack of autonomy reflects imbalanced gender relations.

Italy recently adopted many interventions to strengthen the position of the woman in the labour market.

The recent **Law No. 162 of 05 November 2021** amended the code of equal opportunities for men and women (Legislative Decree No. 198 of 11 April 2006), introducing other provisions on equality in the workplace.

To strengthen measures aimed at assuring salary transparency, a particular importance is assumed by Art. 3 of the aforementioned Law. It states new regulations for the two-yearly report on the situation of male and female staff, envisaged by Art. 46 of Legislative Decree No. 198/2006. This provision has been implemented by the Decree adopted on 29 March 2022 by the Minister of Labour and Social Policies, together with the Minister for Equal Opportunities and Family. In line with the previous Ministerial Decree (MD) of 03 May 2018 – it permits the presentation of the report exclusively through telematic tools, by a

specifically dedicated ministerial platform, in order to standardise and analyse the information acquired by companies.

The main innovations of the new regulations are as follows:

1. Extension of the overall of companies required to submit the report.

Previously, this provision was just required to companies with more than 100 employees; starting 2022, it was also extended to those with **more than 50 employees**, which must therefore submit the report by 14 October 2022, on the ground of the data related to the previous two years (2020-2021). To make this obligation effective, Article 47, paragraph 2 of Decree-Law No. 77/2021 (*Governance of the National Recovery and Resilience Plan and initial measures to strengthen and simplify administrative structures*) envisaged that non-compliant companies are excluded from public tenders funded entirely or partly by resources coming from the National Recovery and Resilience Plan or Complementary National Plan. Moreover, pursuant to Art. 47, paragraph 3 of the aforementioned Decree-Law, **even the smaller companies, with at least more than 15 employees**, are required to submit to the contractor a report on the gender situation after awarding contract. The report should contain information which, although simplified, reflects its essential contents. In this respect, it is noted that the MD of 29 March 2022 (Article 1, paragraph 3) also allows companies with at least 15 employees to use the platform to submit the report on a voluntary basis. By this way, companies should be provided for a guided model to submit the report, extending, at the same time, the data available for the elaboration of gender statistics.

2. Extension of the set of information required to companies.

The new report must provide an overview of the situation in terms of recruitment, training, professional promotion, levels, progression in category or career qualification, other mobility cases, the intervention of the redundancy fund, dismissals, early retirements and retirements and the remuneration effectively paid. The essential data that each company must include in the two-year report is the following:

- the number of employees, broken down by gender (including pregnant women) and the indication of the type of contract of employment and contractual level;
- the differences among the initial workers remuneration broken down by gender;
- the amount of comprehensive remuneration and the accessory salary components, indemnities, bonuses and all other benefits or grants that may be recognised to each worker;
- information about the selection processes at the hiring stage, the recruitment processes, the procedures to access professional qualification and managerial training, the tools and measures made available to promote a better life-work balance, the presence of corporate policies assuring an inclusive, respectful workplace and the criteria adopted for career progression.

3. Extension of the list of subjects directly accessing the reports by the ministerial platform.

The provincial equality councillors or those of the metropolitan cities where companies are located, join to the regional equality councillors (MD of 29 March 2022, Article 2, paragraph 6). As before, however, the company trade union representatives and the unitary workplace trade union representatives do not access the application: companies must send them an electronic copy of the report previously uploaded to the ministerial platform. In addition to whom directly concerned, this regulatory change has ensured that all subjects entitled to take legal action against discriminatory conduct access the two-year reports through which the aforementioned discriminatory conduct can be detected (see Articles 37, 38 and 40 of Legislative Decree No. 198/2006).

Moreover, to the purpose of judicial protection, the new provision also states that **individual workers** can access the reports only through the equality councillors or the company trade union representatives and the unitary workplace trade union representatives (MD of 29 March 2022, Article 2, paragraph 8). In the context of anti-discrimination proceedings, this aspect aims at ensuring the application of the provision that establishes the reversal of the burden of proof for whom

complaining discrimination (Art. 40 Legislative Decree No. 198/2006), to be proven through purely statistical data such as that provided by the report.

4. The councillors process the results of the reports and transmit them to the subjects already envisaged by the law previously in force (**National Equality Councillor, Ministry of Labour and Social Policies and Department of Equal Opportunities**), as well as the **National Labour Inspectorate, the National Institute of Statistics and the National Committee for Economic and Employment** (MD of 29 March 2022, Art. 2, paragraph 5). This provision aims at ensuring:
 - the effectiveness of the sanction system, for which the National Labour Inspectorate is responsible for;
 - the availability of data to process more accurate statistics on gender pay gap, through the National Institute of Statistics;
 - useful information for any legislative initiatives by the National Committee for Economic and Employment.

5. **Stricter sanction mechanisms** have also been envisaged, in particular:
 - a) in the event of failure to submit the report, the National Labour Inspectorate asks companies to produce it within a maximum of 60 days. If the breach continues for more than 12 months, contribution benefits must be suspended. Therefore, there is no discretion with respect to the application of the sanction which, previously, was provided for only "*in the most serious cases*" while now, it depends exclusively from the passage of time.

 - b) the National Labour Inspectorate is required to verify the contents and the truthfulness of the reports and to sanction companies that have made untruthful or incomplete declarations (the administrative fine ranges between 1,000 and 5,000 euros);

 - c) the Ministry of Labour and Social Policies must make available the list of companies required to submit the report and once a year, it must publish a list indicating those that have submitted it and those that have failed to comply.

Article 4 of Law No. 162/2021 introduced Art. 46 *bis* into the Code of Equal Opportunities. It establishes the certification of gender equality, as a system that can encourage employers to reduce the gender gap, assuring equal opportunities for qualification within the company, equal pay and suitable gender corporate policies and maternity protection.

In implementation of Art. 46 *bis*, on 29 April 2022, the Minister for Equal Opportunities and Family introduced a decree defining the minimum parameters required to companies to achieve gender equality certification. In particular, these parameters refer to the remuneration paid, opportunities for career progression and work-life balance. The same decree defined the ways by which the territorial and regional equality councillors and company trade union representatives shall be involved in the control and verification of the compliance of the aforementioned parameters.

Moreover, Article 5 of Law No. 162/2021 provided for the introduction of contribution exonerations for companies that have acquired gender certification. To this end, 50 million euros for 2022 have been allocated, which the 2022 Budget Law (Law No. 234 of 30 December 2021) has provided for subsequent years. On 20 October 2022, the Minister of Labour and Social Policies, in agreement with the Minister of the Economy and Finance and the Minister for Equal Opportunities and Family adopted the decree implementing such provision. This provision defines the way by which the contribution relief shall be recognised to private employers in possession of gender certification, setting the amount at maximum 1 percent of the annual contributions due and up to a maximum of 50,000 euros per year for each company and 50 million euros per year in total.

Finally, the same decree envisages a collaboration with the National Institute for Public Policy Analysis for initiatives aimed at supporting women participation in the labour market. In this regard, a

convention aimed at providing an accurate analysis of the information deriving from the two-year reports is envisaged, to conceive suitable measures to focus on and reduce the gender pay gap.

As regards interventions aimed at **increasing female employment**, the following measures have been adopted:

- ❖ The **National Recovery and Resilience Plan**, structured into six specific Missions, considers gender equality as one of the three transversal priorities, to the realization of which, therefore, all missions contribute. Within the individual Missions, some measures appear to be particularly promising in order to reduce the gender gap and promote female employment, such as, for example, the interventions aimed at:
 - **strengthening services to reduce care burdens**, that disproportionately affect women, enabling them to access quality and full-time employment (strengthening of nurseries, early-childhood services and the diffusion of full-time schooling, through canteens and sport activities, envisaged by Mission 4 - *Education and Research*; the promotion of social infrastructures, such as social-welfare services for children, teenagers, the elderly and the disabled, as per Mission 5 - *Inclusion and Cohesion*);
 - **promoting the overcoming of vertical segregation** (glass ceiling), through new recruitment mechanisms to be adopted under the scope of the public administration reform, which could facilitate the gender balance in public sector senior positions;
 - **acting on the horizontal segregation** by the promotion of STEM (Science, Technology, Engineering and Mathematics), languages and digital technologies, to foster a greater female presence in technical and scientific areas, which traditionally grant access to better quality and well-paid jobs;
 - **reducing illegal employment** by the adoption of a **National Plan to Fight against Undeclared Work**, particularly focused on the production areas with the greatest rates of illegal employment, including those marked by a prevalent female presence (e.g. domestic and caretaking work).
- ❖ To ensure that the implementation of the National Recovery and Resilience Plan has an effective impact in favour of female employment, the aforementioned **Article 47 of Decree-Law No. 77/2021 also introduced the principle of “Gender Procurement”**. According to this provision, the successful tenderers of contracts related to the implementation of the National Recovery and Resilience Plan should hire at least 30% of women and young people for the activities covered by these contracts. Moreover, contractors should include specific clauses in tender contracts, envisaging the following necessary or incentive criteria for the award:
 - the respect for gender equality;
 - the hiring of additional quotas of women and young adults;
 - the use of specific life-work balance tools and innovative ways of organising their employees’ work.
- ❖ The **Legislative Decree No. 105 of 30 June 2022**, transposing the Directive EU/2019/1158 on **work-life balance**, intervened on leaves (paternity, parental and caregivers leaves) to promote its use by fathers, to assure a more equitable balance of care-taking responsibilities in favour of women, so that they can choose more demanding, and better paid jobs.
- ❖ As evidence of the Italian government’s commitment to fight against gender inequality, on international level too, it should be noted that in February 2020 Italy joined the **Equal Pay International Coalition (EPIC)**. Italy’s adherence to the Coalition took place following a careful examination, by the international control bodies of the overcoming of certain conditions strictly envisaged for the countries that presented the application for participation, namely:

- the ratification of the ILO Equal Remuneration Convention, 1951 (No. 100);
- the adoption of a legislation in line with the ILO Convention No. 100;
- the ratification of the United Nations Convention on the Elimination of All Forms of Discrimination against Women, 1979 (Article 11d);
- the adhesion to the 2013 OECD Recommendation of the Council on Gender Equality in Education, Employment and Entrepreneurship and to the 2015 OECD Recommendation of the Council on Gender Equality in Public Life, together with the commitment to monitor compliance with legislation on equal pay, through labour inspections or other effective measures;
- the collection of data broken down by gender on salaries and the implementation of policies or practices encouraging pay transparency; the commitment to ensure that if minimum salaries are established by sector or job, the same minimum salaries also cover the sectors and jobs in which women prevail.

EPIC is an initiative driven by various stakeholders committed in reducing the gender pay gap and make equal pay for work of equal value a reality across all countries and economic sectors. EPIC, launched in 2017 by the United Nations General Assembly, operates at regional and national level and it is led by the International Labour Organisation (ILO), the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) and the Organisation for Economic Co-operation and Development (OECD). EPIC's main goal is "to adopt concrete measures to achieve **equal pay** and Goal 5 of the **2030 Agenda for Sustainable Development** on of gender equality and the empowerment of all women and girls". To this end, EPIC, governments, employers, workers and trade unions, the private sector, civil society, and the academic world, are committed to take concrete measures to speed up the elimination of the gender pay gap and achieve equal pay. This principle is sanctioned by **Article 37 of the Italian Constitution**, according to which "female worker has the same rights and, for equal work, the same wages as male worker".

EPIC operates worldwide, regionally, and nationally and it strives to:

- > promote the universal ratification of the ILO Equal Remuneration Convention, 1951 (No. 100) and improve its implementation;
- > improve national legislation on equal pay and its application;
- > process statistical data and monitor both gender pay gap trends and policies to reduce this gap;
- > promote knowledge-sharing by exchanges of good practices among parties, skills development, and technical support services;
- > support governments, companies, employer organisations and trade unions in progressing towards equal pay;
- > promote policies and measures to reduce pay gap, taking into account the gender perspective.

Moreover, Italy is one of the countries that has ratified the ILO Equal Remuneration Convention, 1951 (No. 100). By this ratification, the national legislation in force during the early 1960s, which envisaged for certain economic sectors and professions, lower remuneration coefficients for female workers than male workers, has been revised.

- ❖ Finally, to provide for full information, it is noted that the national Committee for the implementation of principles of equal treatment and equal opportunities between male and female workers (**National Equality Committee**) - which stood down in July 2022 and currently in phase of reconstitution - had started a debate on the topic of gender violence in the workplace. On this point, within a specific working group, some organisations responsible for fighting harassment, presented experiences in order to optimise the role played by social partners as required by **ILO Convention on Violence and Harassment, 2019 (No. 190), ratified on 29 October 2021**. Italy's ratification of this Convention marked a significant milestone in promoting the right to a world of work free from violence and harassment, for which the Convention envisages concrete action in order to reinforce these principles.

COUNCIL OF EUROPE. **COLLECTIVE COMPLAINT NO. 140/2016** REGISTERED WITH THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS BY CGIL (CONFEDERAZIONE GENERALE ITALIANA DEL LAVORO) V. ITALY RELATING TO THE ACKNOWLEDGEMENT OF TRADE UNION RIGHTS FOR *GUARDIA DI FINANZA* STAFF. "**REPORT XXII ON THE APPLICATION OF THE EUROPEAN SOCIAL CHARTER**".

INTRODUCTION: HISTORY OF THE CASE

On 15 November 2016, the Italian General Confederation of Labour (*Confederazione Generale Italiana del Lavoro*, CGIL) registered a Collective complaint (**Case No. 140/2016**) to the European Committee of Social Rights (ECSR) alleging a violation of Articles 5 and 6 of the European Social Charter by the Italian Government in relation to the circumstances of employees of the Italian Tax Police (*Guardia di Finanza*).

Under the scope of this case, CGIL asked the ECSR to declare violation of the specified Articles of the European Social Charter (ESC) by the Italian Government insofar as, specifically:

- members of the *Guardia di Finanza* are allegedly prohibited from establishing or joining professional and military or other trade unions (**violation of Art.5**);
- no joint consultations are allowed between the members of the *Guardia di Finanza* and the Ministry for the Economy and Finance, as employer (**violation of Art.6(1)**).
- no voluntary negotiations are promoted between the military members of the *Guardia di Finanza* and the Ministry for the Economy and Finance to regulate working conditions through collective agreements (**violation of Art.6(2)**).
- members of the *Guardia di Finanza* are allegedly prohibited from exercising the right to strike (**violation of Art.6(4)**).

Upon completion of the procedure, the ECSR drafted its report whereby, in partly agreeing with the reasons of the complainants, it considered that Italian legislation governing military staff (both where considered as police officers and military status) violated Articles 5 and 6(2)(4) of the *revised European Social Charter*, despite the loss of effect of the prohibition to form trade unions or join other trade unions sanctioned by the Constitutional Court by the known judgement No. 120/2018.

In this regard, on 11 September 2019, the Committee of Ministers of the Council of Europe delivered Resolution CM/ResChS(2019)6 whereby, taking into consideration the observations submitted by the Italian Government in respect of such ECSR Report, it asked that the measures taken to bring the situation into conformity with the relevant provisions of the Charter be reported in the next report on application of the ESC.

Therefore, in its Report XX on the incorporation of the ESC, the Italian Government reported the progressive adjustment of national legislation to bring it into conformity with the provisions of such Charter, presenting, in particular, the contents of the bill of law, which established “*Rules governing the exercise of the freedom to join and form trade unions of members of the military and police forces and delegation to the Government for legislative coordination*”, whereby it

allegedly set forth the lawful limitations (“conditions and limits”) to joining and forming trade unions for military personnel, which the Council, **in compliance with the parameters established** as underlying its decision (including Article 5 of the ESC), deemed “*necessary from a national perspective, to exclude the possibility of a regulatory gap, which would prevent the acknowledgement of the right to form and join trade unions*”.

In acknowledging the report given by the Italian Government, however, the Committee considered that at least partly, the violation of Articles 5 and 6(2)(4) of the ESC continued to exist, asking that reference be made once again, in the following Report (XXII) on the parliamentary progress made on such bill of law and to provide more information on the contested aspects considered non-compliant with the ESC.

In **recalling and reiterating in full**, in these circumstances too, what had already been extensively explained in the **observations** specifically set forth in the brief dated 19 April 2019, **as also duly acknowledged by the Committee of Ministers of the Council of Europe**, it is now necessary to provide **additional, detailed, timely information** in response to the requests.

The **elements** detailed below will, once again, be **extremely useful in** clearly **demonstrating the correct application** and absolute **respect, by Italy, of the rules established** internationally **by Articles 5 and 6 (points 2 and 4) of the ESC**, and even more so after the articulated measures, very much desired over the years by the national legislator, aiming to launch a **unitary, innovative provision** on military associations and trade unions; indeed, recently, such efforts have resulted in the **approval of an “epochal” scope law, Law No. 46 of 28 April 2022**, provision published in Official Journal of the Italian Republic No. 110 of 12 May 2022 and, consequently, which **came into force on 27 May 2022**.

This is the law that, in compliance with the provisions of Art. 5 of the ESC, introduces “*the principle governing the application to the members of the armed forces [of these organisational] guarantees*” and determines “*the extent to which they [shall] apply to persons in this category*”, conditions that are necessary in order to safeguard the neutrality and impartiality of the armed forces, in compliance with Articles 52, 97 and 98 of the Italian Constitution, whose importance for the national legal system is such as to set them as “counter-limits” to the international obligations with which domestic law must conform in accordance with Art. 117 of the Constitution. They are, in fact, necessary, essential instrumental conditions, just like internal cohesion and operative readiness, by which to assure the effectiveness of the action of the military force set up to protect a “primary” (constitutional) value, namely the defence of the country and its citizens (in complete compliance with the principle laid down by Article G of the *European Social Charter*).

More specifically, the provision approved, with which the Legislator sought to achieve a reasonable balancing of juxtaposed interests, all of constitutional relevance, envisages:

- a. the possibility for military personnel to form professional trade union associations and to join such freely, in compliance with the limits and conditions legitimately applied **(Art.1)**;
- b. the principles with which the associations must conform, including, in particular, the democratic nature of the organisation (to be achieved through the elective nature of offices), neutrality, the absence of the pursuit of profit and purposes incompatible with the obligations arising from their oath **(Art.2)**.
- c. the transcription of the associations in a specific register held by the Ministry of Defence (for associations referring to the armed forces, including the *Carabinieri* corps) and by the Ministry of Economy and Finance (for the reference associations of the *Guardia di Finanza*), after verification that the legal requirements are met by means of a procedure also regulated by the law, including as regards timing **(Art.3)**.
- d. certain limits to the activity of military trade union associations, essential in order to guarantee the institutional function and compliance with the principles confirmed by the Constitutional Court (and indeed the law) as necessary to the purpose **(Art.4)**, including the regulation of the forms of financing **(Art.7)**.
- e. the collective protection of the rights and interests of personnel in the matters of competence of military trade union associations, duly listed by the provision **(Art.5)**, the definition of the peripheral dialogue level with the military administration **(Art.6)** and acknowledgement of the right of assembly, with the possibility of doing so during service hours, for up to 10 individual hours per year **(Art.10)**.
- f. the rules relating to association roles, also necessary to safeguard the specific needs of the military forces **(Art.8)**.
- g. the criteria for identifying representative associations **(Art.13)**, which have:
 - powers of negotiation, given that those associations will make up the trade union delegation acting as counterpart to that of the public employer in defining the contents of the contract of employment of military personnel **(Art.11)**.
 - rights of prior information about the contents of circulars and directives to be issued in relation to the matters of their competence **(Art.12)**.facilitation of the exercise of trade union activities, through the provision, in the favour of military personnel holding managerial roles, of paid union transfers and permits **(Art.9)**, as well as of specific forms of protection **(Art.14)**.
- h. forms of publicity of association activity (resolutions, etc.), acknowledgement of the possibility, for union managers, to make declarations to the press, exclusively on the matters of competence, and the inclusion, in the teaching subjects at all levels of military training, of “*elements of labour law and trade union law in a military context*” **(Art.15)**.

- i. some delegations to the Government for decreeing descending details (**Articles 9 and 16**).
- j. the submission to the administrative court of military union disputes, potentially preceded by a conciliation attempt brought before Commissions specifically established at a central and peripheral level (**Articles 17 and 18**).
- k. the abrogation of Military Representation only at the end of a transitional period that is necessary to offset any interruption in the protection of the rights and interests of military personnel, allowing for the concrete start of the new system of military union associations and envisaging the switch from the old system to the new one when the “negotiating delegation” is formed for the first contracts (**Art.19**).

Matters relating to the **military system, training, operations**, the **logistics-operative sector**, the **hierarchical-functional relationship** and use of personnel in service are in any case **excluded** from the competence of the APCSM (professional military trade union type associations).

Associations have the faculty to:

- **present** the competent Ministries with **observations** and **proposals** on the **application of laws and regulations**, reporting the initiatives for any **changes** as may be considered appropriate.
- be **heard** by the **Parliamentary Commissions**.
- ask to be **received** by the **competent Ministries** and **senior bodies** of the reference administrations.

THE REGULATORY IMPACT ON THE VIOLATIONS RECORDED BY THE COMMITTEE. THE TRADE UNION RIGHTS OF MILITARY PERSONNEL (**ART.5 OF THE EUROPEAN SOCIAL CHARTER**).

After examining Report XX, the Committee noted the continued violation of Art. 5 of the ESC and asked for detailed insights into the procedure for registration of military trade union associations today envisaged by Art. 3 of Law No. 46 of 2022 and in respect of the prohibition of joining non-military trade union associations.

a. Registration with the Ministry register of military trade union associations

In the 2019 report on complaint No. 140/2016, the ECSR informed the Italian Government that it believes that the provision for the prior Ministerial consent to the establishment of associations or clubs between military personnel, at the time envisaged for all types of unions (regardless of nature) and considered by the Council as necessary *a fortiori* for military trade unions, deprives such personnel of the freedom to “*establish organisations [...] to protect their social and economic interests*”. The new law on military trade union associations has therefore envisaged **the express derogation from the obligation to obtain prior ministerial consent to the establishment of trade union associations only**, which are today accordingly able to be freely established. However, in complete compliance with the principle

laid down by Articles 5 and G of the *revised European Social Charter*, the exercise of the pertinent activity is subject to registration with a register specifically established by the Ministry of Defence or the Ministry for the Economy and Finance (limited to associations for *Guardia di Finanza* personnel only).

This legitimising condition, moreover, is backed by the constitutional Charter, where, under Art. 39 envisages, generally, for all trade union organisations, the possibility of establishing an obligation to registration, on the condition that their internal organisation is established on a democratic basis. And if this is true for civil trade unions, for military trade unions it becomes essential: the imposition with primary legislation of a legitimising condition (consisting of registration with the special register) must also entail forms of control that the relevant requirements are met, in order to satisfy such condition.

The new legislation, therefore, in making registration compulsory, has duly regulated the administrative procedure established to this end, including potential legal remedies in the event of a negative outcome.

Art.3 of Law No. 46 of 2022 in fact establishes that:

- within 5 days of being established, professional military trade unions shall deposit their statutes with the reference Ministry (Ministry of Defence or Ministry for the Economy and Finance);
- the competent Ministry will have 60 days within which verify (objectively, without discretion) that the legal requirements are met;
- if the legal requirements are met, the Ministry shall rule on the registration of the association, which from that point on shall be fully entitled to perform trade union activities in the manners envisaged by the law;
- if any statutory provisions should be noted that are in conflict with the law, the Ministry shall promptly notify the applicant association, which shall have 15 days within which to submit any relevant formal, written observations. The Ministry shall then have a further 30 days within which to issue its final ruling;
- as it is an administrative measure, the association can seek the ordinary remedies envisaged by the national legal system (petitioning the administrative court, which, by virtue of Art. 17 of Law No. 46 of 2022, will rule with the abbreviated trial procedure pursuant to Art. 119 of Legislative Decree No. 104 of 2010, or extraordinary petitioning of the President of the Republic in accordance with Articles 8 *et seq.* of Presidential Decree No. 1199 of 1971) to appeal against the Minister's final ruling.

In this regard, the danger of "*arbitrary refusal of registration*" is extremely remote, considering the fact that the control assigned to the Ministry is intended, where successfully passed, to allow for registration and is linked to the provisions of the law (which, as seen, is extremely detailed), without any room left for discretion.

b. The prohibition on military personnel to join non-military trade unions

In its report on complaint No. 140/2016, the ECSR considered the prohibition on military personnel to join non-military trade unions was “*disproportionate since it deprives them of an effective means to assert their economic and social interests, which is not therefore necessary in a democratic society*”, further declaring that in this way, the offer of representativeness for such personnel was excessively limited and not fitting.

In this respect, it should not be forgotten, first and foremost, that trade union associations (including military ones!) are private in nature, insofar as they protect and promote the *specific* interests of their members. The compactness of the armed forces - which first and foremost results in the non-negotiability of the attributions of command and related responsibilities - is the operative consequence of the need, there again essential for a democratic society, for the party with the legal monopoly over the force and means of coercion of citizens to **always, in any case and circumstance, remain neutral with respect to political dialectics and the party’s interests**, namely economic and commercial, or those potentially supported by trade union associations also open to non-military personnel.

In addition, in pointing out how this provision directly meets with the principle of neutrality of military organisations, it should be clarified that Law No. 46 of 2022 (Art. 1(1), which novates Art. 1475(2) of the Military Code) allows for the establishment of military trade union associations that are not necessarily limited to a single armed force or military police force, but rather, which are also open to joint forces (and which potentially also allows both Armed Forces and *Guardia di Finanza* personnel to join), thereby indefinitely extending the choice of associations personnel can choose to join, to protect their collective interests and rights.

Moreover, it must be considered that the provision for a “closed” union system, again dictated by the necessary respect of the principle of neutrality in specific contexts, is not new to the national legal system, as it has existed for some time now in other civil contexts (e.g. the *Polizia di Stato*, which is the civil general police force, for which Art. 82 of Law No. 121 of 1981 establishes “*Members of the Polizia di Stato are entitled to join trade unions. They cannot join trade unions other than those established for police personnel, nor represent other workers*”).

Nor can the fact be ignored that the potential joining of non-military trade unions would constitute a sort of *escamotage* by which to avoid the lawful limitations to military trade union associations, imposed in compliance with the principles of Art. 5 of the ESC.

In this respect, it should also be noted that the absolute specificity of the military system in particular and the specificity of the defence - security - public safety sector in general (this latter being expressly recognised by Art. 19 of Law No. 183 of 2010) also results in the specificity of the contents of the contracts of employment of such personnel, regulated in a completely different way to what would be termed “contracted” public employment.

For defence-security sector personnel, in fact, the procedure involved in negotiating a renewal of contract is expressly regulated by Legislative Decree No. 195, by way of example,

for defence-security sector personnel, the renewal of the contents of the contract of employment:

- concerns only the matters indicated positively by Articles 3, 4 and 5 of the specified Legislative Decree No. 195 of 1995;
- takes place through a trade union agreement reached between the delegation of the public party (made up of the Ministers indicated at Art.2 of said Legislative Decree No. 195 of 1995) and that of the trade union (made up of the unions representing the police forces and, today, the representative military trade union associations);
- becomes executive following the incorporation of the trade union agreement reached into Decrees of the President of the Republic.

By contrast, for “contracted” public employment, renewal of the contract of employment:

- takes place upon completion of the negotiations in which the Ministers concerned do not participate on the public employer side, but rather the Italian Agency for the contractual representation of the Public Administration (ARAN);
- covers all aspects relating to the contract of employment, with the exception of a few residual subjects specifically listed (Art. 40 of the specified Legislative Decree No. 165 of 2001);
- results in a trade union agreement that constitutes the reference national collective agreement not incorporated into regulatory deeds.

Therefore, clearly any involvement in negotiations for the renewal of the contract of employment of defence/security sector personnel of an extraneous trade union organisation would not assure greater negotiating power precisely due to the specificity and nature of the sector in question.

That set forth thus far, therefore, shows, without doubt, complete compliance with the principles laid down by Art. 5 of the ESC, including in respect of the prohibition on military personnel to join external trade unions.

THE REGULATORY IMPACT ON THE VIOLATIONS RECORDED BY THE COMMITTEE. THE RIGHT TO BARGAIN COLLECTIVELY (ART.6 OF THE *EUROPEAN SOCIAL CHARTER*)

In its report on complaint No. 140/2016, the ECSR claimed that there was violation of Art. 6(2) of the ESC insofar as, according to the legislation in force at the time, the contents of the contract of employment of the *Guardia di Finanza* personnel (and of military personnel in general) was not determined as a result of a collective bargaining procedure but rather was agreed by the Ministers involved (the public employer) with the participation, in representation of personnel, of representatives of the Central Military Representation Council and then incorporated by a Decree of the President of the Republic.

On this basis, the ECSR considered that there was no effective negotiation of the contents of the contract of employment, a situation that was made even less effective by the absolute prohibition of the exercise of the right to strike for military personnel, intended as a tool by

which to strengthen the negotiating power of the workers' representatives, with consequent alleged unjustified violation also of Art. 6(4) of the ESC.

a. The negotiating power recognised to military trade union associations

With the coming into force of Law No. 46 of 2022, the representative military trade union associations were in fact **acknowledged** as having **full power of negotiation** in determining the contents of the contract of employment of military personnel, ensuing from collective bargaining (to be incorporated into two separate Decrees of the President of the Republic, one for the armed forces and one for the military police force) between the public employer delegation (consisting of the reference Ministers) and the trade union delegation (as mentioned, representatives of the recognised, nationally representative military trade unions), according to procedures borrowed from the regulations currently in force for civil police forces (Art. 11 of Law No. 46 of 2022, which recalls Legislative Decree No. 195 of 1995, for non-managerial personnel and Art. 46 of Legislative Decree No. 95 of 2017, for managerial personnel).

Moreover, the Committee requested clarification as to the recognition of negotiating power to military trade unions, or its conferral to the military representatives whilst awaiting approval of Law No. 46 of 2022.

In this respect and in once again reiterating that the contents of Art. 11 of such legislative provision have made the national legal system compliant with the provisions of Art. 6(2) of the ESC, it should be clarified that what the Committee had requested would not have been possible without specific regulatory provisions, as the matter is entirely regulated by primary law (the specified Legislative Decrees No. 195 of 1995 and No. 95 of 2017), as confirmed, back in 2018, by the Council of State too (opinion No. 2756 given on 23 November 2018).

b. The prohibition on the exercise of the right to strike for military personnel

As mentioned, the ECSR considered the absolute prohibition of the right to strike of the *Guardia di Finanza* personnel as disproportional, insofar as it is a tool that is intrinsically linked to collective bargaining and, therefore, to be granted at least in the minimum form envisaged for public employment (consisting of the guarantee of what are termed “minimum essential services”), or through alternative institutes such as *“an effective procedure of negotiation or conciliation”*.

In this regard, it must be stressed that this assessment is entirely incomprehensible, as there is **an absolute incompatibility** between the possibility, for the military personnel (including members of the *Guardia di Finanza*) to abstain autonomously from work and the duties and obligations deriving from the status of military personnel, confirmed by oath and whereby the personnel carry out the military duties of defending the country and its citizens, protecting the constitutionally-guaranteed assets.

The absolute exclusion of this right, in fact, fully satisfies the institutional need to safeguard the specific characteristics of the military organisation and the fact cannot be ignored that the national system excludes the right to strike for the civil police force too (Art. 84 of Law

No. 121 of 1981 for *Polizia di Stato* and Art. 19 of Law No. 395 of 1990, for *Polizia Penitenziaria* (Prison Officers), without any complaints ever having been made as to the limitation of their bargaining power).

This provision, moreover, is also in line with the previous approach taken by the ECSR, which considered the prohibition on the exercise of the right to strike for military personnel to be legitimate, as long as prescribed by law, insofar as necessary to maintain the institutional duties of defending the democratic order and, in particular, to maintain national security and public order and the morals and freedoms of others (see complaint No. 112/2014 “**EUROMIL vs Ireland**”, paragraph 117: “... *therefore and having regard to the specific nature of the tasks carried out by members of the armed forces, the special circumstances of members of the armed forces who operate under a system of military discipline, the potential that any industrial action could disrupt operations in a way that threatens national security, the committee considers that there is a justification for the imposition of the absolute prohibition on the right to strike set out in section 8 of the 1990 industrial relations act. The statutory provision is proportionate to the legitimate aim pursued and, accordingly, can be regarded as necessary in a democratic society*”).

Therefore, in order to preserve the operative readiness of the military organisation (of which, it is stressed, the *Guardia di Finanza* personnel are members), the prohibition of the exercise of the right to strike, already set forth in the **Military Code (Art. 1475(4) of Legislative Decree No. 66 of 2010)**, has also been confirmed by the repeatedly mentioned Law No. 46 of 2022 (Art. 4(1), letter b), under the scope of the prohibitions applying to military trade unions, on the basis of that expressly confirmed *in primis* by the Constitutional Court (called to rule by the Council of State with the known **judgement No. 120 of 13 June 2013**), which, in establishing the limits of military trade union action, clarified that it should “*in any case be recalled that there is a prohibition of the exercise of the right to strike. This is without doubt a major impact on an essential right, affirmed with the immediate implementation of Art. 40 of the Constitution and always recognised and protected by this Court, **but justified by the need to guarantee the exercise of other freedoms that are no less essential and to protect constitutional interests***”.

There is therefore no doubt that the alleged violation of Art. 6(4) is not grounded insofar as it comes under the scope of the matters sanctioned by Article G of the ESC to the extent that it is prescribed by law and “*necessary, in a democratic society, for the protection of the rights and freedoms of others*” and “*for the protection of the public order, national security, public health, or morals and to protect the country*”.

It should also be pointed out that the prohibition on striking of the armed and police forces comes under the context of the articulated **system of guarantee created in Italy as a bastion and safeguard of the essential rights of all citizens**, aiming to assure and protect the **essential interests of the national community**.

The consideration is clear on which basis, in an effectively democratic society, suitable protection of public and national order and safety must be guaranteed. In this respect, the **national defence and public safety segment cannot, nor indeed should, be assessed similarly to any other public service**, given their unique specificity.

It is by no coincidence that the Constitutional Court established to guarantee constitutional rights - by its **judgement No. 449** given on 17 December **1999** - highlighted the special nature, in the context of public employment, of the Italian **armed forces** and its members (classed as having military status), which **“differ from other government structures”** insofar as they must act in compliance with the need to guarantee the specific **“needs of organisation, internal cohesion and maximum operation”**.

Indeed, if in other public sectors, the regulation governing the calling and conduct of **strikes** (assuring a minimum service level) allows citizens to organise themselves in any case to go about their activities, **in the public safety sector**, to put it simply, such a possibility **would result, ex se**, in the radical **elimination** or, in any case, a significant weakening of the **effectiveness of the measure to deter and repress crime**, thus guaranteeing anyone intending to commit a crime the awareness of running a lesser risk of being identified and punished. Not to mention the lesser possibility of preventing more serious crimes, such as those against human life.

In comparative terms, moreover, **all the main European legal orders** limit the right to strike in the defence and security segment similarly to Italian legislation.

This principle derives from the very reason for which the armed and police forces exist: the concrete method of exercising the freedom to join trade unions must be carefully balanced with the essential tasks of protecting public safety and order and national defence.

In light of all of the foregoing, it is believed that the **absolute legitimacy, proportionality and necessity of the current legislation in force in Italy on the absolute prohibition of striking for military personnel** and members of the **police forces**, as per Art.1475(4) of the Military Code has been indisputably shown, as it is an essential, fundamental principle of guarantee, protecting the whole of the country system.

Collective complaints: 1) No. 144/2017 - Confederazione Generale Sindacale (CGS) v. Italy; **2) No. 146/2017** Associazione Professionale e Sindacale (ANIEF) v. Italy.

The above complaints were registered on 07 March 2017 by Confederazione Generale Sindacale (CGS) and on 16 March 2017 by Associazione Professionale e Sindacale (ANIEF) against the Italian Government for violation of Article 1, paragraph 2 of the European Social Charter (*the right of the worker to earn his living in an occupation freely entered upon*).

More specifically, with reference to school staff, they relate to the absence of effective guarantees against abuses deriving from undue use of fixed-term contracts, together with the legal uncertainty, due to the repeated changes in legislation and case-law and the limited possibilities of obtaining permanent contracts, regardless of effective competence and work experience.

Response

With reference to the above complaints and specifically in relation to the reiteration of fixed-term contracts for teaching and administrative, technical, and auxiliary staff (hereinafter referred as “ATA”) as well as the limited possibilities of obtaining a permanent position through ordinary and/or extraordinary selections, able to value the professional experience accrued by teaching staff, the following is noted.

As regards the failure in organising regular ordinary selections aimed at granting a permanent position to teaching staff, Article 59, paragraph 10 of Decree-Law No. 73 of 25 May 2021, converted, with amendments, by Law No. 106 of 23 July 2021, states that ordinary selections for teaching staff in kindergarten, primary, and secondary schools for common and support positions are called once a year.

In application of this provision, Directorial Decrees Nos. 498 and 499 of 21 April 2020, respectively regulating the ordinary selection for kindergarten and primary school, as well as for lower and upper secondary schools, were amended to further simplify the procedure and allow ordinary selections to be held once a year.

Moreover, there is no discrimination in recognising years of fixed-term service. Specific extraordinary selections have been held in order to value the professional experience accrued in public schools and contrast both the problem of insecure employment and the severe lack of staff in public schools, also with a view to reduce fixed-term contracts.

In this respect, Decree-Law No. 126 of 29 October 2019, converted by Law No. 159 of 20 December 2019, stated that an extraordinary selection - called by Directorial Decree No. 510 of 23 April 2020 – has been organised. It expressly aims to “*deal with the phenomenon of fixed-term contracts in public schools and foster the granting of permanent positions to the relevant temporary staff*”. The procedure pursuant to Article 59, paragraph 9 *bis* of Decree-Law No. 73 of 25 May 2021, converted by Law No. 106 of 23 July 2021, enacted by Departmental Decree No. 1081 of 06 May 2022, heads in the same direction. In fact, both the above extraordinary selections are intended to value the experience and professionalism accrued by teaching staff during their fixed-term contracts, as they are reserved exclusively to whom have worked in public schools for at least three years. The same *ratio* also characterises the procedure pursuant to Article 59, paragraph from 4 to 8 of Decree-Law No. 73 of 25 May 2021, regulated by Ministerial Decree No. 242 of 30 July 2021. It has ruled, only for school year 2021/2022, that the vacant and available common and support positions remaining after the recruitment procedure are assigned by fixed-term contract to teachers included in the first band of the provincial ranking lists for supply positions. This procedure aims at ensuring permanent contracts, following a positive assessment of an initial training period and the successful passing of a disciplinary test. The aforementioned procedure has been repeated for school year 2022/2023, limited to support positions, pursuant to Article 5 *ter* of Decree-Law No. 228 of 30 December 2021, converted, with amendments, by Law No. 15 of 25 February 2022, implemented by Ministerial Decree No. 188 of 21 July 2022.

The aim of ordinarily valuing the professional experience accrued by teachers through fixed-term contracts to access selections is also pursued by Art. 44 of Decree-Law No. 36 of 30 April 2022, converted, with amendments, by Law No. 79 of 29 June 2022, which amended Art. 5, paragraph 4 of Legislative Decree No. 59 of 13 April 2017. It provides for the regulation governing the requirements for taking part in ordinary selection for lower and upper secondary schools. Such provision states that, in derogation from the requirements to access selections, *“in any case, participation is permitted to candidates who, without prejudice to possession of the necessary academic title depending on the type of selection, have carried out, by the deadline for submission of applications, at least three years’ service in public schools, even if not continuously, of which at least one year’s service must have been carried out in the specific type of position for which the selection is held, within the previous five years”*.

As regards ATA staff, the permanent recruitment of all professional profiles (with the sole exception for the Manager of general and administrative services) is focused on the prevalent evaluation of the service performed. In fact, the access to the permanent provincial ranking lists based on titles, mainly aimed at recruiting for permanent positions, pursuant to Article 554 of Legislative Decree No. 297/94, assumes the carrying out of at least 24 months of service in the corresponding professional profile.

With reference to the profile of the Manager of general and administrative services, in addition to the ordinary selection, a specific procedure is to be called, reserved for candidates who, in possession of the required academic title, have carried out at least three years’ service as Manager of general and administrative services.

In consideration of the foregoing, no violations of such legislation are noted, and it is considered that the Italian legislation ensures suitable instruments to protect the rights of school staff.