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Foreword

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

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in 4-5 year cycles, covering 9-10 countries per year. The reports of the first round were completed at the end of 1998 and those of the second round at the end of the year 2002. Work on the third round reports started in January 2003.

The third round reports focus on "implementation". They examine if ECRI's main recommendations from previous reports have been followed and implemented, and if so, with what degree of success and effectiveness. The third round reports deal also with "specific issues", chosen according to the different situations in the various countries, and examined in more depth in each report.

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

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

The following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 16 December 2005 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.

Executive summary

Since the publication of ECRI's second report on Italy on 23 April 2002, progress has been made in a number of the fields highlighted in that report. As part of the changes introduced since then to antidiscrimination legislation, the Italian authorities have established a specialised body to combat racial discrimination, which assists victims and raise awareness of this phenomenon among the general public. Antidiscrimination legislation has been applied in some cases in the fields of employment and housing. Monitoring of school pupils' attainment broken down by nationality has been introduced to assess imbalances. School education on the Holocaust and against antisemitism as well as awareness-raising initiatives on these issues have been strengthened. Efforts to protect and assist victims of trafficking have continued and yielded positive results. Furthermore, a special procedure carried out in 2003 has resulted in approximately 650 000 non-EU workers acquiring legal status in Italy.

However, a number of recommendations made in ECRI's second report have not been implemented, or have only been partially implemented. The use of racist and xenophobic discourse in politics has intensified and targets in particular non-EU citizens, Roma, Sinti and Muslims. Members of these groups have continued to experience prejudice and discrimination across a wide range of areas. Immigration legislation has made the situation of many non-EU citizens more precarious, and its implementation, notably in respect of immigrants without legal status, has resulted in the exposure of these persons to a higher risk of human rights violations. In the absence of a national policy to improve the situation of Roma and Sinti and combat the prejudice and discrimination they face, many members of these groups continue to live in a situation of marginalization and practical segregation from the rest of Italian society. Members of Muslim communities have also experienced a deterioration in their situation, notably due to the generalisations and the associations made in public debate and the media between the members of these communities and terrorism. The vulnerability of the members of these and other groups to racism and racial discrimination has been increased by the lack of political support for protection of individuals against incitement to racial violence and discrimination.

In this report, ECRI recommends that the Italian authorities take further action in a number of areas. These areas include: the need to fine-tune the legal framework against racism and racial discrimination, including through ratification of Protocol No. 12 to the European Convention of Human Rights; the need to ensure the thorough implementation of the existing criminal and civil provisions against racism and racial discrimination, and notably penal legislation against incitement to racial hatred and racially-motivated offences; the need to ensure thorough respect for the human rights of immigrants, including those intercepted at sea or apprehended on entering Italy illegally. In this report, ECRI also recommends that the Italian authorities take measures against the use of racist and xenophobic discourse in politics. It recommends that they improve their systems for monitoring racist, xenophobic and antisemitic incidents. Furthermore, ECRI recommends specific measures to counter racial discrimination and promote equal opportunities for minority groups, notably non-EU citizens, Roma, Sinti and Muslims.

I. FOLLOW-UP TO ECRI'S SECOND REPORT ON ITALY

International legal instruments

1. In its second report, ECRI recommended that Italy ratify Protocol No. 12 to the European Convention on Human Rights (ECHR), the European Charter for Regional or Minority Languages and the European Convention on Nationality. It also recommended that Italy extend the application of the Convention on the Participation of Foreigners in Public Life at Local Level to Chapter C of this convention, which concerns the attribution of eligibility and voting rights to foreign residents. ECRI notes that Italy has not yet ratified Protocol No. 12 to the ECHR. It notes that a law concerning the ratification of the European Charter for Regional or Minority Languages is currently being examined by the Parliament. The application of the Convention on the Participation of Foreigners in Public Life at Local Level has not been extended to Chapter C of this convention, although a number of proposals for legislation in this sense have been introduced since ECRI's second report¹.
2. ECRI notes that Italy has not yet ratified the Convention on Cybercrime and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. The Italian authorities have reported that work in view of the possible ratification of these two instruments is underway. There do not appear to be plans to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

Recommendations:

3. ECRI recommends that the Italian authorities ratify Protocol No. 12 to the ECHR without delay. It also recommends that they ratify the European Charter for Regional or Minority Languages, the European Convention on Nationality, the Additional Protocol to the Convention on Cybercrime and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. ECRI reiterates its call on the Italian authorities to extend the application of the Convention on the Participation of Foreigners in Public Life at Local Level to Chapter C of this convention.

Constitutional provisions and other basic provisions

- **Citizenship legislation**

4. In its second report, ECRI considered that there was a need for Italian citizenship legislation to grant easier access to Italian citizenship both for children born or raised in Italy and for long-term residents. Since then, a number of proposals for legislation aimed essentially at extending the application of the principle of *jus soli* and reducing the length of residence required of applicants to obtain citizenship, have been introduced. However, none of these proposals has been adopted.
5. In its second report, ECRI recommended that the Italian authorities increase transparency and reduce the discretionary element in processing applications for naturalisation, including by standardizing and simplifying the relevant procedures. Since then, however, ECRI has continued to receive reports according to which decisions on applications for naturalisation, notably on the basis of residence, are excessively restrictive and discretionary and often characterised by a lack of transparency as to the reasons for rejection. In addition, although ECRI notes

¹ On eligibility and voting rights of non-EU residents, see below "Reception and status of non-citizens – Immigrants with legal status".

that the Italian authorities have taken measures to speed up the examination of applications and that the law fixes a maximum term of 730 days to this end, it still often takes considerably longer for applicants to receive a response. In this connection, ECRI notes in particular reports of applications concerning minors over 14 years of age, who have reached adulthood before their application has been processed and have therefore been required to re-apply according to more stringent naturalisation procedures.

Recommendations:

6. ECRI recommends that the Italian authorities grant easier access to Italian citizenship both for children born or raised in Italy and for long-term residents, including by introducing the necessary changes to citizenship legislation.
7. ECRI recommends that the Italian authorities ensure that the provisions on naturalisation are applied in all cases in a non-discriminatory manner. To this end, it recommends in particular that the Italian authorities enhance transparency in their naturalisation decisions. ECRI urges the Italian authorities to take steps to ensure that naturalisation decisions are taken within a reasonable time and that excessive delays not imputable to the applicant do not negatively affect the position of the latter.

Criminal law provisions

8. In its second report, ECRI recommended that the Italian authorities take steps to improve the implementation of the criminal law provisions in force against racism and racial discrimination², particularly those that establish racial motivation as an aggravating circumstance for all offences and those concerning incitement to discrimination and violence for racial, ethnic, national or religious reasons.
9. Although comprehensive data on the implementation of these provisions that would cover all levels of the criminal justice system are not readily available³, there have been cases where these provisions have been applied since ECRI's second report. The Italian authorities report, for instance, that final sentences for racially-aggravated offences have been handed down in three cases in 2001, four cases in 2002, two cases in 2003 and that there have been no such sentences in 2004. As for incitement to racial discrimination and violence, the Italian authorities report that these provisions have been applied either in cases concerning racist graffiti, whose authors remained unknown, or with respect to opinions expressed by journalists in newspapers, which were finally found, however, not to constitute an offence. ECRI has been made aware of only one case (which concerned six exponents of the Northern League⁴), where sentences have been handed down for incitement to racial discrimination and violence since its second report.

² Section 3(1) a of Law N° 654/1975 as amended by Law N° 205/1993 prohibits the dissemination of ideas based on racial or ethnic superiority or hatred, and incitement to commit or the commission of discriminatory acts for racial, ethnic, national or religious reasons. Section 3(1) b of the same amended law punishes incitement to commit or the commission of violent acts on racial, ethnic, national or religious grounds. Section 3(2) of the same amended law prohibits the establishment of, the participation in or assistance to organisations, associations, movements or groups aiming to incite to racial discrimination or hatred. Section 2 of Law N° 205/1993 prohibits the display or manifestation of emblems or symbols of organisations, associations, movements inciting to discrimination or violence for racial, ethnic, national or religious reasons, notably when it takes place at public meeting or sport events. Section 3 of the Law N° 205/1993 provides for a general aggravating circumstance for all offences committed with a view to discrimination on racial, ethnic, national or religious ground or in order to help organisations with such purposes. This Law also provides that any racially-aggravated offence is prosecuted *ex officio*.

³ See below "Monitoring the situation".

⁴ Section II, "Use of racist and xenophobic discourse in politics".

10. Non-governmental organisations report that these figures do not reflect the true extent of manifestations of racism and racial discrimination in Italy. This includes manifestations of racially-motivated violence, a phenomenon which is recognised as not being prevalent in Italy, but which civil society organisations also consider to be under-reported⁵.
11. ECRI notes that although the police, the prosecuting authorities and the judges have not, since ECRI's second report, received comprehensive training focusing specifically on the legal provisions in force against racism and racial discrimination, as recommended by ECRI in that report, judges have received training in human rights and multicultural issues.
12. In its second report, ECRI also recommended that the Italian authorities raise the awareness of all actors involved in the criminal justice system of the need to actively counter racially-motivated offences and incitement to racial discrimination and violence. However, ECRI notes with concern that since its second report, lack of support for protection against incitement to racial hatred – and sometimes outright hostility towards providing such protection - has publicly and repeatedly been expressed at high political level. In particular, ECRI notes that the decision resulting in the condemnation of exponents of the Northern League mentioned above has been publicly and strongly condemned by some politicians. Furthermore, ECRI notes with regret that, since that decision, legislation against incitement to racial discrimination and violence has been made more lenient⁶.

Recommendations:

13. ECRI recommends that the Italian authorities ensure that adequate criminal law provisions are in place to counter racism and racial discrimination. In particular, ECRI recommends that the Italian authorities review the provisions in force against incitement to racial violence and discrimination and bring them into line with ECRI's General Policy Recommendation No.7 on national legislation to combat racism and racial discrimination⁷, which prescribes that effective, proportionate and dissuasive sanctions should be provided for against such offences.
14. ECRI strongly encourages the Italian authorities to improve the implementation of existing criminal law provisions against racism and racial discrimination, with particular emphasis on the provisions against racially-motivated violence and incitement to racial discrimination and violence. To this end, ECRI recommends in particular that the Italian authorities provide all those involved in the criminal justice system, from lawyers to the police, prosecuting authorities and the courts, with thorough specific knowledge of these provisions. ECRI also recommends that the Italian authorities provide the political leadership necessary to make all those involved in the criminal justice system fully aware of the need to actively and thoroughly counter all manifestations of racism and racial discrimination.

⁵ See below, "Racist, xenophobic and antisemitic incidents"

⁶ The maximum length of imprisonment for breach of the relevant provisions has been reduced from three years to eighteen months and the possibility for the judge to replace imprisonment with a fine has been introduced.

⁷ CRI (2003) 8: ECRI General Policy Recommendation N°7 on national legislation to combat racism and racial discrimination, European Commission against Racism and Intolerance, Council of Europe, February 2003. See, in particular, paragraph 23 (and paragraph 49 of the Explanatory Memorandum)

Civil and administrative law provisions

15. Although civil and administrative law provisions against discrimination had been introduced in Italy in 1998⁸, in its second report ECRI recommended that Italy adopt more comprehensive civil and administrative antidiscrimination provisions against discrimination on grounds such as race, colour, language, nationality and national or ethnic origin. ECRI is pleased to note that, in 2003, two legislative decrees were adopted in order to transpose the two European Council Directives 2000/43 and 2000/78⁹: legislative decree No. 215/2003¹⁰ and legislative decree No. 216/2003¹¹.
16. ECRI welcomes the fact that a number of elements included in its General Policy Recommendation No.7¹² are reflected in the legal framework against discrimination resulting from the combination of the 1998 and 2003 provisions. However, other aspects of this General Policy Recommendation have not been included, or are reflected less clearly in this legal framework due to a lack of co-ordination between the 1998 and 2003 provisions. For example, discrimination on grounds of nationality is covered by the 1998 legislation but not by that of 2003. Although provisions establishing a shared burden of proof between the alleged victim and discriminator were introduced in 2003 for cases of racial discrimination, this has been done in a way that considerably reduces their effectiveness¹³. Public authorities have not been placed under a statutory duty to promote equality and prevent discrimination in carrying out their functions, an element which ECRI believes could help to bring about positive changes in public administration in these fields. Finally, ECRI welcomes the newly-introduced possibility for associations to bring cases on behalf of identified or unidentified victims of discrimination. However, some civil society organisations have expressed concern that the obligation made to such associations to register with the Department for Equal Opportunities in order to use this possibility may restrict the effectiveness of this provision in practice.
17. As concerns implementation, in its second report ECRI noted that the 1998 antidiscrimination provisions had been very rarely applied. ECRI notes that, since then these provisions have been applied in a number of housing and employment cases¹⁴, some of which have had considerable public resonance. It has been pointed out, however, that most cases have concerned discriminatory regulations and formal policies and that discriminatory actions and practices by individuals have yet to be tried before the courts. As regards the 2003 antidiscrimination provisions, ECRI notes that there have been no court cases applying these

⁸ Articles 43 and 44 of Legislative Decree No. 286/1998

⁹ Directive 2000/43/EC of the Council of the European Union implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Directive 2000/78/EC of the Council of the European Union establishing a general framework for equal treatment in employment and occupation.

¹⁰ Legislative decree of No. 215 of 9th July 2003. – Transposition of EU Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Official Gazette Nr.186 of 12th August 2003.

¹¹ Legislative decree of No. 216 of 9th July 2003 – Transposition of EU Directive 2000/78/EC implementing the principle of equal treatment in employment and working conditions, Official Gazette Nr.187 of 13th August 2003

¹² See above “Criminal law provisions”

¹³ According to legislative decree No. 215, if the person who considers him/herself wronged by discrimination presents elements of fact suitable to establish “serious, exact and consistent elements” about the existence of a direct or indirect discrimination, also on the basis of statistical data, the judge can evaluate such elements on the basis of the rule of the civil code allowing a “prudent appreciation” of presumptions.

¹⁴ See below “Access to public services – Housing” and “Employment”.

provisions as yet. Although the National Office against Racial Discrimination (UNAR)¹⁵ has received a number of complaints alleging breach of these provisions, such cases have so far been resolved informally through mediation and alleged victims have not sought the assistance of the UNAR to bring a civil suite. It has been pointed out that the absence of formal complaints may also be linked to lack of awareness among the general public of the legal framework in force against racial discrimination. In this respect, ECRI notes that legal awareness raising activities are among UNAR's priority fields of action.

Recommendations:

18. ECRI encourages the Italian authorities in their efforts to ensure that civil and administrative law provisions provide adequate protection against discrimination. It also recommends that the Italian authorities keep the existing provisions against racial discrimination under review. In this respect, it draws the attention of the Italian authorities to its General Policy Recommendation No.7, in particular as concerns: the need to protect individuals from discrimination on grounds such as "race", colour, language, religion, nationality and national and ethnic origin; the need for fair and effective burden of proof provisions in racial discrimination cases¹⁶; the need to place public authorities under a duty to promote equality and prevent discrimination in carrying out their functions¹⁷. ECRI also recommends that the Italian authorities ensure that all organisations active in the field of combating racism and racial discrimination are able to bring cases on behalf of alleged victims of these phenomena.
19. ECRI urges the Italian authorities to take steps to improve the implementation of the existing civil and administrative law provisions against racial discrimination. It recommends that such steps include strengthened efforts to raise awareness among the general public, groups vulnerable to racial discrimination and the legal community of the civil and administrative legal framework in force against discrimination.

Administration of justice

20. In its second report, ECRI recommended that the Italian authorities carry out research into the disproportionately high representation of non-citizens among the prison population of Italy. Official figures referring to the end of September 2005 indicated that approximately one third of all adult detainees were non-citizens, most of whom were detained for crimes against property or connected with drug trafficking and, to a lesser extent, for crimes connected with their irregular presence on Italian territory. The Italian authorities have stressed that poverty, marginalisation but also lack of awareness of the criminal law provisions in force play a role in determining this situation. They have also stressed that virtually all non-citizens in detention are persons who are in Italy without legal status. In this respect, however, it has been reported to ECRI that official communication to the media and the general public has not highlighted the virtual absence of non-citizens with legal status among the prison population.

- *Legal aid*

21. In its second report, ECRI recommended that the Italian authorities improve non-citizens' access to translation and interpretation services and legal counsel.

¹⁵ See below, "Specialised bodies and other institutions".

¹⁶ ECRI General Policy Recommendation N°7, paragraph 11 (and paragraphs 29-30 of the Explanatory Memorandum).

¹⁷ ECRI General Policy Recommendation N°7, paragraph 8 (and paragraph 27 of the Explanatory Memorandum).

Noting that in practice most non-citizens without legal status did not access the system of free legal aid, ECRI also recommended that the Italian authorities take measures to address this situation. Although the right to translation and interpretation for all persons in judicial proceedings is protected by the law, ECRI has continued to receive reports according to which these rights are not always guaranteed in practice and, notably, that professional interpretation is not always available to non-Italian speakers. As concerns free legal aid, the Italian authorities report that legislation introduced in 2001¹⁸ grants non-citizens and stateless persons the same rights as Italian citizens in access to free legal aid in criminal and civil proceedings¹⁹. The Italian authorities also report that non-citizens account for 13% of all adults and 27% of all minors who are granted free legal aid.

Recommendations:

22. ECRI recommends that the Italian authorities keep the situation as concerns the disproportionate representation of non-citizens in Italian prisons under review and ensure that it is not the result of possible direct or indirect discrimination.
23. ECRI recommends that the Italian authorities ensure that all non-citizens, including those without legal status, access in practice the translation and interpretation services to which they are entitled. It recommends that the Italian authorities ensure that all non-citizens who do not have sufficient means, including from among persons without legal status, have access to good quality free legal aid in practice.

Specialised bodies and other institutions

24. In its second report, ECRI recommended that Italy establish a specialised body to effectively and independently monitor the situation of racism and racial discrimination and assist with the implementation of antidiscrimination legislation. ECRI notes that legislative decree No. 215/2003²⁰ provides for the establishment of a National Office against Racial Discrimination (*Ufficio Nazionale Antidiscriminazioni Razziali* or UNAR). Established as part of the Department for Equal Opportunities of the Presidency of the Council of Ministers, UNAR has been entrusted with several functions, including: to provide assistance to victims of discrimination, including by investigating their complaints and assisting them in judicial and administrative proceedings; to raise general awareness of racism and racial discrimination, notably through training activities and research; and to report to Parliament and the Committee of Ministers on the implementation of the principle of equal treatment irrespective of racial or ethnic origin. ECRI welcomes the establishment of UNAR as an important step towards ensuring better protection of persons living in Italy against racial discrimination. However, as highlighted in its General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level²¹, and General Policy Recommendation No. 7, ECRI stresses the need for these

¹⁸ Law No. 134 of 29 March 2001.

¹⁹ In particular, Article 9 of the Law establishes the right for the person granted free legal aid to appoint expert witnesses and private investigators for the purpose of exercising in an effective way his/her right to defence. Article 20 provides that each Bar Council must provide information relating to the costs of the judicial proceedings, the requirements and obligations that must be met to be entitled to free legal aid, as well as the modalities and obligations for the assignment of a defence counsel.

²⁰ See above, "Civil and administrative law provisions".

²¹ CRI (97) 36: ECRI General Policy Recommendation n° 2: Specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, European Commission against Racism and Intolerance, Council of Europe, June 1997.

specialised bodies to be fully independent in order to guarantee their effectiveness.

25. ECRI is pleased to note that, as part of the efforts to provide assistance to victims, UNAR has established a multi-lingual Contact Centre, to which individuals can report cases of racial discrimination. ECRI notes that in the first nine months of operation, from December 2004 to September 2005, the Centre has received over 2500 calls, only 300 of which, however, fell within the ambit of UNAR's remit. The Italian authorities have indicated that most of these complaints concerned employment, housing, access to public services and relations with the police and that none of them has resulted in the opening of judicial or administrative proceedings so far²². While they welcome the establishment of the Contact Centre, civil society organisations have informed ECRI that effective remedial action against situations of discrimination reported to it seems to have so far been limited.
26. As already noted in ECRI's second report, legislative decree No. 286/1998²³ provides for the establishment of regional centres for monitoring racial discrimination and providing legal assistance and information to the victims of this phenomenon. In its second report, ECRI urged the Italian authorities to ensure that these centres are established in the regions. ECRI notes, however, that to date only a few regional observatories have been set up. Furthermore, no co-ordination has been established by legislative decree No. 215/2003 between UNAR and the regional centres. However, UNAR has reported to ECRI that it favours the establishment of these centres in the regions and that work is underway to ensure uniformity and standardization in their activities.

Recommendations:

27. ECRI invites the Italian authorities to keep the status, powers and duties of UNAR under review, in order to ensure that this Office provide victims of racial discrimination with the most effective protection possible. To this end, ECRI draws the attention of the Italian authorities to its General Policy Recommendations No. 2 and No. 7, which provide detailed guidelines on the establishment, functions and working methods of these bodies. In particular, ECRI draws the attention of the Italian authorities to the need for such a body to be independent and to the guidelines it formulated on how to guarantee such independence²⁴. ECRI also draws the attention of the Italian authorities to the guidelines it has provided on the powers that should be attributed to such a specialised body²⁵.
28. ECRI urges the Italian authorities to ensure that the regional centres for monitoring racial discrimination provided for by law are set up in all regions without further delay. It recommends that the Italian authorities ensure thorough co-ordination between the work of these centres and that of UNAR.

Education and awareness-raising

29. A number of initiatives have been taken at local and national level since ECRI's second report to raise the awareness of racism and racial discrimination among both the general public and specific groups. These activities have included

²² See above, "Civil and administrative law provisions".

²³ See above, "Civil and administrative law provisions".

²⁴ ECRI General Policy Recommendation N°2, Principle 5.

²⁵ ECRI General Policy Recommendation N°7, paragraph 24 (and paragraphs 50-55 of the Explanatory Memorandum) and ECRI General Policy Recommendation N°2, Principle 3.

events, research and training carried out under the auspices of UNAR or at the initiative of other public authorities. Useful research has also been developed in the framework of the three-year project “Security for the Development of Southern Italy”, funded by the European Union. In addition to promoting cultural mediation services²⁶, this project is aimed at monitoring the situation of immigrants and examining reception and integration processes regarding these persons in six regions in southern Italy. In general terms, however, it has been reported to ECRI that only rarely has existing research been used in practice to inform policy in areas where persons experience racial discrimination.

30. In its second report, ECRI recommended that the Italian authorities strengthen their efforts to train teachers to deliver intercultural education to their students. In this respect, the Italian authorities have reported that, in accordance with the education reform carried out in 2003²⁷, primary school students must be equipped with competence in living together and that teachers are being trained to this end. In its second report, ECRI also recommended that the Italian authorities introduce compulsory teaching in human rights, notably in secondary education. ECRI notes that human rights are not taught as a separate subject, but form part of the civic education programme, a compulsory subject which students study at certain grades.

Recommendations:

31. ECRI recommends that the Italian authorities pursue and strengthen their efforts to raise the awareness of issues of racism and racial discrimination among both the general public and specific groups. It recommends that the Italian authorities ensure that existing research be used in practice to inform policy in areas where persons experience racial discrimination.
32. ECRI recommends that the Italian authorities strengthen their efforts to provide teachers with thorough training in delivering intercultural education to students and that they do so for teachers at all levels of education. ECRI recommends that the Italian authorities strengthen the human rights dimension of civic education courses. In the long term, however, it recommends that the Italian authorities consider making human rights, including non-discrimination, a compulsory subject at both primary and secondary level.

Reception and status of non-citizens

33. Since ECRI’s second report, the number of non-citizens legally residing in Italy has increased from 1 500 000 to approximately 2 200 000, or 4% of the total population²⁸. In addition, according to estimates, around 500 000 persons currently live in Italy without legal status. Since ECRI’s second report, significant changes have been introduced to immigration legislation, notably through Law No. 189/2001 (the so called Bossi-Fini Law), which deals with different aspects of asylum and immigration, including border control, residence permits and deportations. The Italian authorities have stressed that the new immigration legislation aims essentially at countering irregular immigration and favouring the integration of persons legally residing in Italy. However, non-governmental organisations active in the field of combating racial discrimination and promoting the rights of immigrants have reported to ECRI that, since the entry into force of the Bossi-Fini Law, all categories of non-citizens in Italy have experienced a

²⁶ See below, “Access to public services – Other services”.

²⁷ Law No. 53 of 28 March 2003.

²⁸ For information on the process of legalisation of the status of irregular immigrants, see below, “Employment”.

deterioration in their situation, including as concerns respect of human rights and the principle of non-discrimination. ECRI addresses the situation of immigrants with legal status in this Section. The situation of asylum seekers, refugees and immigrants without legal status is addressed in Section II of this report.

- ***Immigrants with legal status***

34. Since ECRI's last report, the possibility for non-citizens to obtain a residence permit enabling them to come to Italy to look for work (the so called "sponsor" scheme) has been discontinued. The Bossi-Fini Law introduced the so called "stay-for-work" permit. Since then, immigrants can only obtain a permit to come to work in Italy if they have an employment contract. In addition, for a permit to be granted, employers must provide housing and make a deposit for the repatriation of the employee. In the case of unemployment, the time allowed for the worker to find new employment, and thereby avoid deportation, has been halved from one year to six months. The Italian authorities have stressed that these provisions are instrumental to ensuring that immigrants have work and accommodation. However, non-governmental organisations claim that these provisions establish an excessively strong link between work and residence and have rendered the status of immigrants more precarious. They also stress that the new obligations placed on the employers have acted as a disincentive to employing non-citizens and that only those employers who cannot find alternatives have continued to do so.
35. Since ECRI's second report, Italy has continued to apply a quota system to regulate immigration into the country. Thus, an overall quota of new work permits is established annually based on the needs of the labour market. Within this overall quota, the Italian authorities reserve specific quotas for nationals of those countries with whom Italy has signed co-operation agreements, notably in the field of immigration control. The Italian authorities have stressed that this system has proved an effective tool in favouring regular immigration and countering irregular immigration from certain countries. Some civil society organisations have expressed the opinion that this system is discriminatory in that it excessively restricts, without reasonable justification, the possibility for nationals of certain countries to obtain work permits. In this respect, the authorities have reported to ECRI that the national quotas reserved for nationals of specific countries do not exceed 25% of the overall quota. However, ECRI also notes reports according to which, in recent years, it has been easier for persons from Eastern European countries to obtain work permits than for persons from other geographical areas, such as North Africa, from where immigrants had traditionally been arriving in considerable numbers.
36. ECRI notes that the Bossi-Fini law has generally shortened the duration of residence permits - which therefore now need to be renewed more frequently - and at the same time subjected the granting of such permits to stricter criteria. ECRI has received consistent reports according to which, in a context where procedures before the administration are generally long for everyone, these new conditions have resulted in particularly serious difficulties for non-citizens. For instance, it is reportedly not unusual for non-citizens to obtain their permits after expiration of their validity. The authorities have stressed that one of the implementing decrees of the Bossi-Fini Law has established single counters (*sportello unico*) specifically for non-citizens within the Prefectures, *inter alia* in order to speed up administrative procedures concerning them. However, non-citizens are still reported to be faced with unacceptably long delays, which in turn affect their access to certain services.
37. In its second report, ECRI recommended that the Italian authorities grant eligibility and voting rights to non-EU long-term residents in local elections. ECRI

notes that, in the absence of national legislation providing for these rights, a number of municipalities and regions have changed their statutes so as to grant these rights to non-EU local residents. ECRI notes that the Italian authorities have opposed these initiatives arguing that a national law is necessary to this end.

38. More generally, ECRI expresses concern at the fact that, in spite of certain regional efforts, there is no comprehensive integration policy in Italy at the national level. Civil society organisations have underlined that there is currently no consistent or credible legal, policy or institutional framework at the central level that can provide coherence and sustainability to local efforts to promote integration between majority and minority communities, and notably citizen and non-citizen communities. They have stressed that such a legal and institutional framework only exists for aspects of immigration relating to security and control, as illustrated by the levels of priority given to these questions by the Bossi-Fini Law. However, ECRI also notes that the establishment of a coherent national integration policy is also hampered by the increasing devolution of competences to regional authorities which Italy has effected in recent years, and particularly since ECRI's last report. ECRI notes that, as a result of this situation, the differences in approaches and levels of attention devoted to integration in the different regions are widening to the detriment of the establishment of a genuinely integrated society in Italy. In this connection, ECRI notes with regret that the Commission for integration, a body which ECRI recommended be strengthened and supported in its second report, has since then been discontinued.

Recommendations:

39. ECRI recommends that the Italian authorities ensure that the provisions which regulate the granting of residence permits do not result in increasingly precarious situations for immigrants.
40. ECRI encourages the Italian authorities to keep the quota system and the practice of issuing work permits under review in order to avoid that such policies and practices result in direct or indirect discrimination against individuals on grounds covered by ECRI's mandate.
41. ECRI urges the Italian authorities to take steps to ensure that non-citizens obtain residence permits in reasonable time and that access to services is not affected by any delays in the granting of such permits.
42. ECRI recommends that the Italian authorities ensure that non-EU long-term residents enjoy eligibility and voting rights in local elections.
43. ECRI strongly recommends that the Italian authorities establish a comprehensive legal, policy and institutional framework at the central level that can provide coherence and sustainability to local efforts to promote integration between majority and minority communities, and notably citizen and non-citizen communities.

Access to public services

- *Education*

44. In its second report, ECRI noted that the number of non-Italian children in primary schools had sharply increased and recommended that the Italian authorities make further efforts to provide these children with adequate teaching of Italian as a second language. Since then, the number of non-Italian pupils in schools, both primary and secondary, has continued to increase. The Italian authorities have

reported that they target additional resources to schools which have particular needs, including schools with a considerable percentage of non-Italian children, and that they provide children who are not fluent in Italian with specific linguistic support. However, non-governmental organisations have reported to ECRI that these efforts are far from meeting the actual needs and that there are still very few adequately trained teachers of Italian as a second language. These organisations also regret that, since ECRI's second report, they have been increasingly unable to provide support, including language services, to non-Italian children due to decreasing public funding for their activities.

45. ECRI welcomes the fact that, since ECRI's second report, the Italian authorities have introduced monitoring of educational achievement of pupils, broken down by nationality. Such monitoring indicates that the gap in achievement between Italian and non-Italian pupils, which exists at all levels of education, widens as pupils pursue further education and is very significant in upper secondary education, where more than 25% of non-Italian pupils fail their school year. This research also indicates that, in proportion, more (i.e. 40% of the total) non-Italian pupils enrol in technical and vocational schools than Italian children.
46. Education in the Catholic religion is part of the curriculum of primary and secondary schools. However, children whose parents do not wish them to attend these classes are exempted by means of a declaration made at the beginning of the school year. It is reported to ECRI, however, that children who do not participate in Catholic religion lessons sometimes experience stigmatisation and prejudice by their peers, teachers or pupils' parents. The Italian authorities report that the vast majority of pupils, including many non-Catholic pupils, follow Catholic religion lessons. For exempted children, alternative education may be organised on request. However, in practice, in most cases they do not attend school during Catholic religion classes.

Recommendations:

47. ECRI recommends that the Italian authorities increase their efforts to provide non-Italian school pupils with the additional support necessary for them to enjoy genuinely equal opportunities in education. In particular, it recommends that the provision of good quality teaching of Italian as a second language be improved. ECRI recommends that the Italian authorities target their efforts in these fields at all levels of education, including secondary education, and that they provide adequate financial support to civil society organisations active in the field of promoting equal opportunities for all students.
48. ECRI recommends that the Italian authorities take measures to address and prevent the stigmatisation of children who do not attend Catholic religion classes in the school environment and to provide these children with adequate possibilities for alternative education.

- *Housing*

49. In its second report, ECRI encouraged the Italian authorities to address problems of direct and indirect discrimination in housing affecting minority groups in Italy, through both a better implementation of the antidiscrimination provisions in force and awareness-raising measures. ECRI notes that, since its second report, antidiscrimination legislation has been applied in a number of cases of direct discrimination against non-citizens both in the public and in the private sector²⁹. As concerns the public sector, it has been reported to ECRI, however, that policies at municipal and regional level have in many cases restricted immigrants'

²⁹ See above, "Civil and administrative law provisions".

access to housing since ECRI's second report. The role of indirect discrimination in this context has also been stressed. As regards the private sector, discrimination notably against non-EU citizens is still reported to be widespread, as illustrated by the proliferation of advertisements for housing that is reserved for Italians only or that explicitly exclude persons of certain nationalities. The Italian authorities report that as part of an EU-funded project, research on local best practice in granting immigrants access to housing has been carried out and discussed at an international seminar and that best practice identified in this field will now be promoted throughout Italy.

Recommendations:

50. ECRI recommends that the Italian authorities pay greater attention to problems of direct and indirect discrimination in housing facing minority groups in Italy, both in the private and in the public sector. It recommends that they ensure that the antidiscrimination legislation in force is thoroughly applied to counter discrimination in housing and that best practice in the field of facilitating immigrants' access to housing identified at local level is extended and applied on a national scale.

- **Other services**

51. ECRI notes that, since its second report, responsibility for health care provision has been decentralised. Although the State determines the essential levels of health care provisions that must be attained and establishes the general health priorities in the National Health Plan, it has become more difficult for national policy to earmark resources for projects aimed at addressing minority groups' specific health needs. ECRI is pleased to note, however, that the National Health Plan 2003-2005 identifies some priority lines of action to improve immigrants' health, including measures to increase flexibility in health care provision and make it more suitable to and understanding of the specific needs of this part of the Italian population.
52. The Italian authorities have stressed that the role of cultural mediator services is crucial to efforts to improve immigrants' access to health care provision and that measures are in place to further extend these services. More generally, the Italian authorities have stressed that cultural mediation services have been promoted since ECRI's second report in order to improve access to all public services by minority groups, including through the programme "Security for the Development of Southern Italy"³⁰.
53. ECRI has received reports according to which members of minority groups, and notably non-citizens, experience discrimination in accessing services from the private sector such as bank credit or car insurance.

Recommendations:

54. ECRI recommends that the Italian authorities pursue and strengthen their efforts to ensure better provision of health care and better access to health care for minority groups.
55. ECRI recommends that the Italian authorities investigate and address racial discrimination in access to financial or insurance services.

³⁰ See above, "Education and awareness-raising".

Employment

56. In its second report, ECRI noted that many non-citizens were employed in the underground economy. The Italian labour market, especially in the southern regions, is still reported to be characterised by a considerable incidence of irregular work. Non-citizens are particularly affected by this phenomenon and therefore comparatively more exposed to the risks of exploitation and discrimination it entails. However, ECRI notes that, since its second report, the Italian authorities have carried out a legalisation procedure, whereby those who irregularly employed non-EU citizens were required to regularise their employees' position. As a result of this procedure, some 650 000 persons - representing around 90% of the total number of applications - acquired legal status. ECRI welcomes these developments, although it notes reports according to which many employers opted to dismiss the employees instead of legalising their situation, while others made the employees pay for the penalties that accompanied the legalisation procedure.
57. In its second report, ECRI recommended that the Italian authorities address discrimination in employment through a number of measures, including a better implementation of existing antidiscrimination legislation. ECRI notes that there have been cases of the application of antidiscrimination legislation in employment. It understands, however, that, although the antidiscrimination provisions in force allow for cases of discrimination by private individuals to be brought before a tribunal, such cases have so far only concerned the position of non-citizens *vis-à-vis* public employment laws or regulations. ECRI notes that this situation may reflect the difficulties encountered in claiming protection against discriminatory actions and practices by individuals in the private sector, resulting from the absence of properly functioning burden of proof provisions in racial discrimination cases³¹. ECRI also notes that discriminatory job advertisements excluding non-citizens have continued.
58. Other measures that ECRI recommended be taken in its second report included research to monitor the extent of racial discrimination in employment and awareness-raising activities. ECRI notes that, since then, research carried out in collaboration with the International Labour Office using testing standards and methodology has highlighted that discrimination both in access to and within the workplace remain a serious problem in Italy. ECRI also notes that UNAR is planning initiatives to raise awareness among trade unions and employers' associations of non-discrimination issues and the position of non-EU citizens in the labour market.

Recommendations:

59. ECRI recommends that the Italian authorities take further measures to reduce the disparity between citizens and non-citizens on the labour market. It recommends in particular that they pay greater attention to problems of discrimination in employment facing minority groups. In this respect, it recommends that they ensure that antidiscrimination legislation applicable in the field of employment is adequate and thoroughly applied.

Racist, xenophobic and antisemitic incidents

60. The Italian authorities have reported that racist, xenophobic and antisemitic incidents are relatively rare in Italy and have been characterised by a generally decreasing trend in recent years. Thus, for instance, data collected by the Ministry of Interior - and reported by the Committee against Discrimination and

³¹ See above, "Civil and administrative law provisions".

Antisemitism established within this Ministry in 2004 - indicate that 67 such incidents have occurred in 2002, 83 in 2003, 45 in 2004 and 23 in the first six months of 2005. The authorities stress that the vast majority of such incidents consist of petty criminal behaviour, such as threats and graffiti, and only very rarely in more serious misconduct, such as damage to property or physical violence. Most incidents are also reported to take place in the North and Centre of the country – respectively 53% and 40% of the total number of incidents in 2004, with the remaining 7% having taken place in the South. The Italian authorities also report that, in spite of these relatively small figures, a considerable number of persons have been arrested or reported to the police (21 persons arrested and 65 reported in 2003, 17 persons arrested and 19 reported in 2004) in connection with these incidents.

61. While civil society organisations generally agree that serious offences motivated by racism, xenophobia and antisemitism are not prevalent in Italy, they have also consistently highlighted that these offences, including violence motivated by racism or xenophobia, are under-reported. In particular, they stress that the racist or xenophobic dimension of offences is often neglected by the criminal justice system, and notably the police, and that such offences are therefore, as a rule, dealt with as ordinary offences. This appears to be the case particularly when racism or xenophobia are not the only identifiable motives for the offence.
62. In its second report, ECRI also noted that racist, xenophobic and antisemitic material was available on local websites. The Italian authorities have informed ECRI that since its last report they have closed down a number of such websites, notably with antisemitic content. However, they have also highlighted that most websites are located abroad and that they are therefore intensifying international co-operation to counter this phenomenon.
63. In its second report, ECRI expressed concern at manifestations of racism and antisemitism in football stadiums in Italy and urged the Italian authorities to react firmly against all such manifestations. ECRI notes that, since its second report, numerous and disturbing manifestations of racism and antisemitism have occurred in football stadiums. It notes that the Italian authorities have taken action to prevent such manifestations, for instance through awareness raising initiatives or the setting up of special units within the police who work with supporters' organisations to prevent criminal behaviour. ECRI also notes that some repressive measures have been taken by the Ministry of the Interior and the football authorities, including the possibility of suspending the matches or imposing fines on sports associations.

Recommendations:

64. ECRI strongly encourages the Italian authorities to pursue and intensify their efforts to monitor racist, xenophobic and antisemitic incidents in Italy. It recommends that they ensure that the racist, xenophobic or antisemitic dimension of all offences be dealt with as such by the criminal justice system. To this end, ECRI recommends in particular that the Italian authorities improve the systems in place for police recording of racist, xenophobic and antisemitic incidents.
65. ECRI recommends that the Italian authorities strengthen their efforts to counter the dissemination of racist, xenophobic and antisemitic propaganda on the Internet.
66. ECRI recommends that the Italian authorities pursue and strengthen their efforts to counter manifestations of racism and antisemitism in sport events, and particularly football matches. It stresses that the approach taken by the Italian

authorities to these manifestations should clearly reflect the priority given to respect for human dignity.

Vulnerable groups

- ***Immigrants and asylum seekers***

67. See section II below

- ***Roma communities***

68. See section II below

- ***Muslim communities***

69. Since ECRI's second report, the members of Muslim communities in Italy are reported to have been increasingly exposed to prejudice and discrimination. In particular since the events of 11 September 2001, pre-existing prejudice concerning the members of these communities has been fuelled by the frequent generalisations and the associations made in public debate and the media between Muslims and fundamentalism or terrorism. As mentioned below³², since ECRI's second report, Muslims have become increasingly the targets of racist and xenophobic political discourse. Among the general population, manifestations of anti-Muslim sentiment have often taken the form of verbal harassment, although racially-motivated damage to property and physical violence have also been reported. Muslims are also reported to be disproportionately subject to stop and search procedures by the police. ECRI also notes that a number of opinion polls seem to indicate that the perception of Islam and Muslims as a threat to security and to the preservation of culture and traditions is rather widespread among the Italian population. The Italian authorities have underlined the importance that, since ECRI's last report, has been given to initiatives to promote inter-religious dialogue and understanding at national and local level.

70. ECRI notes that the Italian authorities have entered into agreements (so-called *Intese*) with a number of minority religious denominations. Such agreements grant the members of these religious groups certain advantages, for instance as concerns the possibility to devote a portion of the taxes to that denomination, the organisation of religious teaching in schools, the provision of spiritual assistance in collective institutions or the recognition of religious festivities. The Italian authorities have stressed that, although attempts have been made at concluding such an agreement with representatives of Muslim communities, it has not yet been possible to do so.

Recommendations:

71. ECRI recommends that the Italian authorities take steps to counter manifestations of prejudice, discrimination and violence directed against members of Muslim communities. It recommends in particular that the Italian authorities take all opportunities to challenge associations between these communities and terrorism in public debate. To these ends, ECRI draws the attention of the Italian authorities to its General Policy Recommendations No. 5

³² Use of racist and xenophobic discourse in politics.

on combating intolerance and discrimination against Muslims³³ and No. 8 on combating racism while fighting terrorism³⁴.

72. ECRI encourages the Italian authorities to pursue dialogue with representatives of Muslim communities in order to ensure that the members of these communities are not disadvantaged in accessing opportunities that are available to the members of other religious denominations.

- ***Victims of trafficking***

73. In its second report, ECRI encouraged the Italian authorities to pursue their efforts to protect victims of trafficking, including through the issuing of the special residence permits provided for by Article 18 of legislative decree No. 286/98 for these victims. ECRI is pleased to note that these efforts have continued. The Italian authorities have reported that, from 2000 to 2004, 4 287 women have been granted such permits, which give access to social and assistance services as well as enrolment in the national employment agency. Furthermore, ECRI notes that funds have been made available for social protection projects - 371 such projects have been funded from 1999 to 2005 - addressed to women and children who are victims of trafficking. ECRI also notes that, since its last report, conduct penalised under anti-trafficking legislation has been extended in accordance with international standards, and that penalties for breach of this legislation have been made more severe.

Recommendations:

74. ECRI encourages the Italian authorities to pursue their efforts to protect victims of trafficking, including by issuing special residence permits and funding social protection projects.

Antisemitism

75. Since ECRI's second report, most antisemitic incidents in Italy have reportedly continued to consist of verbal and written threats, verbal abuse and graffiti. Although a few cases of violence against Jewish persons or property have occurred, the Italian authorities and civil society organisations concur to say that antisemitic violence is not a prevalent phenomenon in Italy. According to the data collected by the Ministry of Interior³⁵, antisemitic incidents decreased by two thirds from 2003 to 2004. However, these incidents are reported to register peaks in connection with events in the Middle East. ECRI also notes that opinion polls seem to indicate that antisemitic prejudice and stereotypes are still active in Italian society.
76. In its second report, ECRI encouraged the Italian authorities to pursue initiatives in the field of education about the Holocaust and against antisemitism. ECRI is pleased to note that, since then, the Italian authorities have taken a number of initiatives aimed at raising awareness among primary and secondary school students of the dangers of antisemitism. Some of these initiatives have taken place in the framework of the commemorations for the 27 January, which was instituted in 2000 as the Day of Memory.

³³ CRI (2000) 21: ECRI General Policy Recommendation n° 5: Combating intolerance and discrimination against Muslims, European Commission against Racism and Intolerance, Council of Europe, April 2000.

³⁴ CRI (2004) 26: ECRI General Policy Recommendation n° 8: Combating racism while fighting terrorism, European Commission against Racism and Intolerance, Council of Europe, March 2004.

³⁵ See above "Racist, xenophobic and antisemitic incidents".

Recommendations:

77. ECRI recommends that the Italian authorities monitor the situation as concerns manifestations of antisemitism in Italy. It recommends that they pursue and strengthen their efforts to educate students about the Holocaust and to raise awareness among students and the general public of the dangers of antisemitism.

Media

78. Since ECRI's second report, some sections of the media have continued to portray issues related to immigration in a stereotypical and sensational way. Especially since the events of 11 September 2001, some newspapers are also reported to have often associated Muslims and Islam as a whole with terrorist activities. Furthermore, since ECRI's second report, mainstream printed media has published anti-Muslim material whose conformity with legislation against incitement to racial discrimination and violence has been tried in Court ³⁶. The Italian authorities have reported, however, that both the electronic and printed media have shown keen interest and provided thorough co-operation in promoting public awareness campaigns on issues of relevance to ECRI's mandate.

Recommendations:

79. ECRI encourages the Italian authorities to impress on the media, without encroaching on their editorial independence, the need to ensure that reporting does not contribute to creating an atmosphere of hostility and rejection towards members of any minority groups, including non-EU citizens, Roma, Sinti and Muslims. ECRI recommends that the Italian authorities engage in a debate with the media and members of other relevant civil society groups on how this could best be achieved.

Conduct of law enforcement officials

80. In its second report, ECRI recommended that Italy establish an independent commission to investigate all allegations of human rights violations by the police, including acts of racism or racial discrimination. ECRI notes that no such body has been established.

Recommendations:

81. ECRI reiterates its call on the Italian authorities to establish an independent commission to investigate all allegations of human rights violations by the police, including acts of racism or racial discrimination.

Monitoring the situation

82. ECRI notes that, in order to monitor the situation of minority groups in different fields of life, including education, housing or employment, the Italian authorities at present collect essentially data broken down by nationality. The Italian authorities have pointed out that collection of data broken down by grounds such as ethnic origin or religion is subject to specific data protection safeguards and that the debate on the use of this type of data as a tool for combating racial discrimination is only just starting in Italy. ECRI understands that monitoring by nationality reflects a situation where most members of minority groups are non-citizens. It stresses however, that there are members of minority groups who are Italian citizens and that their number is bound to increase rapidly. There is therefore a

³⁶ See above, "Criminal law provisions".

need to consider ways of adapting the systems for monitoring the situation of minority groups to these changing circumstances.

83. The Italian authorities do not systematically collect data concerning the implementation of existing criminal, civil and administrative law provisions against racism and racial discrimination. ECRI has been informed, however, that the Ministry of Justice and UNAR are collaborating in order to improve collection of this type of data as concerns the criminal justice system.

Recommendations:

84. ECRI recommends that the Italian authorities improve their systems for monitoring the situation of minority groups by collecting relevant information broken down according to categories such as ethnic origin, language, religion and nationality in different areas of policy and to ensure that this is done in all cases with due respect for the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group. These systems should also take into consideration the gender dimension, particularly from the point of view of possible double or multiple discrimination.
85. ECRI recommends that the Italian authorities collect readily available and accurate data on the implementation of the criminal, civil and administrative law provisions in force against racism and racial discrimination. This data should cover the number and nature of the complaints filed, the investigations carried out and their results, charges brought, as well as decisions rendered and/or redress or compensation awarded.

II. SPECIFIC ISSUES

Use of racist and xenophobic discourse in politics

86. In its second report, ECRI expressed concern at the widespread use made of racist and xenophobic discourse by the exponents of certain political parties in Italy. It noted that members of the Northern League (*Lega Nord*) had been particularly active in resorting to this type of discourse, although members of other parties had also sometimes made use of xenophobic or otherwise intolerant discourse. ECRI notes with regret that since then, some members of the Northern League have intensified the use of racist and xenophobic discourse in the political arena. Although locally-elected representatives of this party have been particularly vocal in this respect, representatives exercising important political functions at national level have also resorted to racist and xenophobic discourse. Such discourse has continued to target essentially non-EU immigrants, but also other members of minority groups, such as Roma and Sinti. In addition, since ECRI's second report, Muslims have increasingly been the target of political racist and xenophobic discourse. In some cases, this type of discourse has consisted in generalisations concerning these minority groups or in their humiliating and degrading characterisation, even taking the form of propaganda aimed at holding non-citizens, Roma, Sinti, Muslims and other minority groups collectively responsible for a deterioration in public security in Italy. Racist and xenophobic discourse has gone as far as presenting the members of these groups as a threat to public health and the preservation of national or local identity, resulting in some cases in incitement to discrimination, violence or hatred towards them.
87. In its second report, ECRI recommended that the Italian authorities ensure that the criminal law provisions in force against incitement to discrimination and violence on racial, ethnic, national or religious grounds are fully applied. ECRI notes that in December 2004, the first instance Court of Verona found six local members of the Northern League guilty of incitement to racial hatred in

connection with a campaign organised in order to send a group of Sinti away from a local temporary settlement. These persons were sentenced to six month jail terms, the payment of 45 000 Euros for moral damages and a three-year suspended ban from participating in campaigns and running for national and local elections.

88. In its second report, ECRI recommended that, in addition to ensuring an effective implementation of the existing criminal law provisions against incitement to racial hatred, the Italian authorities adopt legal provisions targeting specifically the use of racist and xenophobic discourse by exponents of political parties. ECRI notes that no such provisions have been adopted since ECRI's second report.
89. In its second report, ECRI expressed concern that the influence exercised by the Northern League, a part of the government coalition, on the whole political arena may favour the adoption of policies and practices not always respectful of human rights and of the principle of equal treatment, which ECRI stands to protect. As illustrated by other parts of this report, ECRI considers that, since then, these concerns have become more pressing.

Recommendations:

90. ECRI reiterates that political parties must resist the temptation to approach issues relating to non-EU citizens and members of other minority groups in a negative fashion and should instead emphasise the positive contribution made by different minority groups to Italian society, economy and culture. Political parties should also take a firm stand against any forms of racism, discrimination and xenophobia. ECRI reiterates its recommendation that an annual debate be instigated in Parliament on the subject of racism and intolerance faced by members of minority groups.
91. ECRI strongly recommends that the Italian authorities take steps to counter the use of racist and xenophobic discourse in politics. To this end it recalls, in this particular context, its recommendations formulated above concerning the need to ensure an effective implementation of the existing legislation against incitement to racial discrimination and violence³⁷. In addition, ECRI calls on the Italian authorities to adopt *ad hoc* legal provisions targeting specifically the use of racist and xenophobic discourse by exponents of political parties, including, for instance, legal provisions allowing for the suppression of public financing for those political parties whose members are responsible for racist or discriminatory acts. In this respect, ECRI draws the attention of the Italian authorities to the relevant provisions contained in its General Policy Recommendation N°7³⁸.

The situation of the Roma and Sinti populations

92. In its second report, ECRI dealt extensively with the situation of marginalisation, disadvantage and discrimination experienced by Roma and Sinti in Italy³⁹. It made recommendations to the Italian authorities aimed at improving the situation of this part of the Italian population in vital fields such as housing, issuing of personal documents, education, employment, health, administration of justice and relations with the police. ECRI notes with regret, however, that no or very

³⁷ See above, "Criminal law provisions".

³⁸ ECRI General Policy Recommendation N°7, paragraph 16 (and paragraph 36 of the Explanatory Memorandum).

³⁹ Although no precise data is available, generally agreed estimates indicate that there are between 120 000 and 150 000 Roma and Sinti in Italy. Approximately 60% of all Roma and Sinti are Italian citizens. Most of the remaining 40% are Roma coming from the Balkans and increasingly, since ECRI's second report, from Romania.

little progress has been achieved since then in virtually all the fields highlighted in that report.

93. In its second report, ECRI recommended that a comprehensive policy to improve the situation of the Italian and non-Italian Roma and Sinti populations across a wide range of areas and to counter discrimination against them, be elaborated at national level. ECRI notes that there has been no progress towards the establishment of such a policy and that there is no meaningful co-ordination of or support for the action taken by the regions in these fields at the national level. Civil society organisations have, however, consistently underlined that the situation of disadvantage, marginalisation and discrimination of Roma and Sinti is such that without national co-ordination and leadership it cannot be addressed in a sustainable way.
94. In its second report, ECRI recommended that legislation in force to protect the right of historical and linguistic minorities be extended to cover Roma and Sinti. The Italian authorities have reiterated that extension of such protection is impeded by the fact that Roma and Sinti are not linked with a specific part of the Italian territory. However, they have also reported that they are considering legislation aimed at favouring the settlement of the non-sedentary Roma and Sinti populations on the Italian territory – ECRI is not aware of the details of this legislation – and that inclusion of Italian Roma and Sinti in the general legislation protecting historical and linguistic minorities could subsequently be effected.
95. In its second report, ECRI noted that the Italian authorities tended to approach all issues relating to Roma and Sinti from the assumption that the members of these groups live a nomadic lifestyle. ECRI considered that it was particularly urgent to change such an approach, since it had resulted, notably, in the forcible relegation of many Roma and Sinti into camps for nomads. Civil society organisations have reported to ECRI that Roma and Sinti are still considered as nomadic populations in official policy, especially at national level. However, ECRI also notes that some progress has been made in a few regions, where, in collaboration with the communities concerned, local authorities have started to partially eliminate camps, as suggested by ECRI in its second report. By and large, however, the situation remains the same as described in ECRI's second report, with approximately one third of Roma and Sinti, both citizens and non-citizens, living in conditions of practical segregation from the rest of society in camps for nomads, in many cases without access to the most basic facilities.
96. In its second report, ECRI urged the Italian authorities to address the Roma and Sinti's lack of documents, including Italian passports and residence permits. ECRI has continued to receive reports according to which many Roma and Sinti born in Italy or who have lived in Italy most of their lives, and their children, do not have Italian citizenship. In many cases, these persons only have short-term residence permits and in some cases no residence permits at all. ECRI has also received reports that a few hundred stateless Roma children currently live in Italy.
97. In its second report, ECRI recommended that the Italian authorities strengthen their efforts to ensure that all Roma and Sinti pupils benefit fully from compulsory schooling. The Italian authorities report that over 13 000 Roma and Sinti children are enrolled in school, although not all of them attend regularly. However, civil society organisations report that as many as 20 000 Roma children, virtually all non-citizens from the Balkans and Romania, are at present outside the compulsory school system. ECRI understands that a Protocol has been signed by the Ministry of Education with Opera Nomadi, a voluntary sector organisation, in order to address this problem. ECRI is pleased to note that the Italian authorities object to teaching Roma children in separate classes. However, it notes reports according to which decisions by non-Roma parents to move their

children from schools attended by Roma children has resulted in classes in certain schools being left with Roma children only. In its second report, ECRI recommended that the Italian authorities take measures to facilitate the participation of Roma and Sinti students in further and higher education. However, it has been reported to ECRI that, in some cases, lack of residence permits has prevented Roma children willing to pursue further education from doing so.

Recommendations:

98. ECRI strongly recommends that the Italian authorities establish a comprehensive policy at national level to address the situation of marginalisation, disadvantage and discrimination of the Roma and Sinti populations. To this end, it urges the Italian authorities to establish an effective co-ordinating mechanism at national level, with the participation of national and local authorities, Roma and Sinti representatives, civil society organisations and other relevant partners.
99. ECRI recommends that the Italian authorities find a suitable legal means to protect the Roma and Sinti along the lines of historical and linguistic minorities and to co-ordinate existing regional policies and efforts to overcome the barrier of non-territoriality.
100. ECRI reiterates that the Italian authorities should not base their policies concerning Roma and Sinti on the assumption that the members of these groups live a nomadic lifestyle. It strongly recommends that the Italian authorities address the housing situation of the Roma and Sinti populations in close collaboration with the communities concerned. ECRI recommends that the long-term objective of housing policies should be the elimination of camps for nomads.
101. ECRI urges the Italian authorities to take immediate steps to address Roma and Sinti's lack of passports and residence permits.
102. ECRI urges the Italian authorities to ensure that all Roma and Sinti children are enrolled in school and to strengthen their efforts, in collaboration with the communities concerned, to favour regular school attendance by these children. ECRI reiterates its call on the Italian authorities to facilitate participation of Roma and Sinti students in further and higher education.
103. ECRI reiterates that only a policy that would simultaneously tackle the different areas where Roma and Sinti experience disadvantage and discrimination can be successful in improving their situation in a sustainable way. Therefore, ECRI recommends that, in addition to the areas addressed above, the Italian authorities take urgent action to improve the position of Roma and Sinti in other fields, including employment, health, relations with the police, administration of justice and general prejudice in society.

Immigrants and asylum seekers

- *Asylum seekers*

104. Although precise statistics on asylum applications are not available, the Italian authorities report that between 2002 and 2004, the number of applications has dropped from approximately 16 900 to about 8 700. In its second report, ECRI recommended that Italy adopt a comprehensive law on asylum. It notes that such a law is not yet in force. However, provisions on asylum exist in different parts of the Italian domestic legal order, and notably in various laws dealing with immigration. Since ECRI's second report, the Bossi-Fini Law⁴⁰ has introduced

⁴⁰ See above, Reception and status of non-citizens.

important changes to the asylum procedures, some of which constitute an improvement. A number of the newly-introduced provisions, however, raise serious concerns for ECRI.

105. The Bossi-Fini Law established seven Asylum Territorial Commissions throughout the national territory, responsible for examining applications for international protection and granting asylum or humanitarian protection. ECRI is pleased to note that the United Nations High Commissioner for Refugees (UNHCR) is represented and has voting rights in these commissions. The Law introduces two distinct procedures. The first (ordinary procedure) applies to asylum seekers who entered Italian territory legally, while the second (simplified procedure) applies to asylum seekers who entered illegally or who filed their applications after being served with an expulsion order (i.e. the vast majority of asylum applicants). ECRI notes that in both procedures the time-frame for decisions is very short and concern has been expressed that, unless substantial financial and human resources are secured, this could have a seriously negative impact on the quality of decisions. Furthermore, ECRI notes that appeals against negative decisions do not have a suspensive effect on deportations.
106. Although good structures are reported to be in place at a number of airports and land border points to facilitate asylum seekers' access to the asylum procedure, ECRI is seriously concerned that potential candidates to asylum have been returned without being given a chance to apply for asylum, especially when intercepted at sea or apprehended on entering illegally in Southern Italy. ECRI addresses this particular aspect below⁴¹.
107. ECRI is furthermore concerned about the introduction of generalised detention for asylum seekers in Italy since ECRI's second report. The Bossi-Fini Law provides that asylum seekers should in principle not be detained. However, it also provides for a number of exceptions to this principle. In particular, it establishes that asylum seekers who entered Italy illegally (i.e. the same to whom the simplified procedure applies) are to be detained, for a maximum of 20 days, in Identification Centres. No judicial control over the decision to detain asylum seekers in these centres is provided for. It has been noted that these provisions, combined with the establishment of the simplified procedure mentioned above, have resulted in a system whereby practically all asylum seekers are automatically held in detention throughout the examination of their claims and, in case of negative decisions, deported before their appeals are finalised. In this connection, it has also been noted that, in many cases, Identification Centres are being established in close proximity or as separate parts of Temporary Stay and Assistance Centres, where non-citizens are detained in view of deportation⁴².
108. It has furthermore been reported to ECRI that reception conditions for asylum seekers are at present not adequate. After applying, asylum seekers receive financial assistance for 45 days. Following this time-period, however, they are left with no official support from the State and it is often the voluntary sector who takes care of destitute individuals. ECRI notes that a programme involving the Ministry of Interior, UNHCR, local authorities and non-governmental organisations has since 2001 provided adequate reception services, including housing, social and legal assistance, to a number of asylum seekers. It welcomes the fact that this programme has been given legal recognition by the Bossi-Fini Law. However, ECRI notes that, due to limited funding, this programme can at present cater for approximately 2250 persons at any one time, and that there are marked disparities in the availability of funding for this programme between the

⁴¹ Immigrants and asylum seekers – Immigrants without legal status.

⁴² See Immigrants and asylum seekers – Immigrants without legal status

regions. ECRI notes that the introduction of the system of Identification Centres – which has only been operational since April 2005 and is in the process of being finalised – will obviously have a serious impact on reception of asylum seekers. In this respect, ECRI also notes that living conditions in some of these centres are reported to be sub-standard.

109. Finally, ECRI is concerned that the lack of a comprehensive integration policy at national level, which it addressed in other parts of this report⁴³, is also reflected in the absence of a national integration programme for recognised refugees. Once again, local authorities or internationally-funded projects carried out by the voluntary sector may palliate the situation in this respect. However, failing these opportunities, recognised refugees are left alone facing the challenge of integrating into Italian society.

Recommendations:

110. ECRI reiterates its call on the Italian authorities to adopt a comprehensive law on asylum. It recommends that they provide all the necessary human and financial resources to the Asylum Territorial Commissions to ensure good quality decisions on asylum applications within a reasonable time. ECRI recommends that asylum seekers not be deported before a decision is rendered on their appeals.
111. ECRI recommends that the Italian authorities ensure that asylum seekers only be detained when it is absolutely necessary, for short periods of time, and following an examination of the circumstances of the individual case. It stresses that measures alternative to detention should be used in all other cases. ECRI urges the Italian authorities to ensure that, when detained, asylum seekers have access to adequate living conditions.
112. ECRI recommends that the Italian authorities ensure that asylum seekers are not left destitute pending the examination of their claims.
113. ECRI recommends that the Italian authorities establish a national integration programme for recognised refugees and make available adequate resources to this end.

- Immigrants without legal status

114. The Italian authorities have reported that most immigrants without legal status in Italy are persons who, after entering Italy legally, overstay their visas, or are persons who enter Italy using fraudulent means. They stress that only between 5 and 10% of the total number of immigrants without legal status reach Italy by sea. Within this group, arrivals from Albania have virtually ceased since ECRI's second report, and most people come instead on board boats from Libya and Tunisia. The Italian authorities also report that, in absolute numbers, arrivals by sea have been declining from 23 700 in 2002, to 13 600 in 2004 and to 5 340 from 1 January to 15 June 2005. Although in this section ECRI addresses issues that are relevant for all immigrants who are in Italy without legal status, it also focuses more specifically on the situation of those immigrants arriving by sea, in respect of whom particularly serious human rights concerns have been expressed nationally and internationally since ECRI's second report.
115. ECRI is seriously concerned that, since its second report, the Italian authorities have not always respected the principle of *non-refoulement*, which prevents Italy from returning persons to countries where they would be at risk of serious human rights violations. In this respect, ECRI has received consistent reports that indicate that people, especially when intercepted at sea or apprehended on

⁴³ Reception and status of non-citizens - Immigrants with legal status.

entering Southern Sicily and the island of Lampedusa illegally, have been effectively denied access to the asylum procedure. In particular, actual or supposed nationals of certain countries, notably Egyptians, but also Moroccans and Tunisians, are reported to be very often denied such access. In this connection, ECRI also notes reports according to which, particularly in Lampedusa, immigrants, including in some cases minors, have been summarily identified and rapidly returned. Concerning more particularly the situation in Lampedusa, ECRI is pleased to note that there are now plans to open a UNHCR Office there.

116. ECRI also notes reports according to which expulsions and returns have been in some cases carried out in violation of national and international norms, including without adequate notification of the relevant orders to the person concerned. In this respect, ECRI notes that, following a sentence rendered by the Constitutional Court in 2004⁴⁴, automatic judicial supervision of expulsion orders has now been established. Finally, many have brought to ECRI's attention the fact that non-public bilateral agreements signed by Italy with Libya significantly increase the risk of *refoulement* of individuals reaching the Italian coasts from this country.
117. ECRI is also concerned at reports according to which the treatment of immigrants without legal status kept in detention has not always been respectful of their human rights. In its second report, ECRI already noted that immigrants without legal status can be detained in view of deportation in Temporary Stay and Assistance Centres (*Centri di Permanenza e Temporanea Assistenza*, CPTAs). ECRI notes that, since then, the Bossi-Fini Law has extended the maximum duration of detention in these centres from 30 to 60 days. ECRI notes that living conditions in CPTAs are reported to be not always adequate and that, in those CPTAs which are subject to receiving considerable periodic arrivals of immigrants, overcrowding and the consequent lack of hygiene can be particularly serious and degrading. In this respect, the Italian authorities have reported that steps are being taken to address the inadequacy of some CPTAs, including in Lampedusa.
118. ECRI notes that norms and guidelines to ensure that detainees in CPTAs are treated in conformity with human rights are in force and have been further strengthened since ECRI's second report. However, ECRI expresses concern at allegations of ill-treatment, humiliating treatment and denial of adequate medical assistance having taken place in these centres. In this respect, it has been stressed that people who are responsible for running the CPTAs and especially ensuring security, are not always adequately trained for this type of work, which requires good knowledge of human rights. ECRI notes that an authorisation from the Prefect is necessary for organisations and individuals to access the CPTAs and that such authorisations have in many cases been denied to organisations concerned with the protection of the human rights of asylum seekers and immigrants since ECRI's second report.

Recommendations:

119. ECRI strongly recommends that the Italian authorities take urgent steps to ensure that respect for the principle of *non-refoulement* is guaranteed in all cases. To this end it recommends, in particular, that the Italian authorities ensure that the right of individuals to apply for asylum is thoroughly respected in all cases without

⁴⁴ In its sentence No. 222 of 8-15 July 2004, the Constitutional Court declared unconstitutional the provision contained in Article 13, comma 5-bis of the Consolidated Text on Immigration (as introduced by Decree Law No. 51 of 2002, converted into Law No. 106 of 2002) inasmuch as it did not provide for validation of the deportation order to take place in due hearing, before the execution of the order and with the defence guarantees.

discrimination, including when immigrants are intercepted at sea or have been apprehended on entering Italy illegally.

120. ECRI recommends that the Italian authorities ensure that living conditions in all CPTAs meet adequate standards. It urges the Italian authorities to investigate all allegations of ill-treatment in CPTAs and to punish those found responsible. ECRI recommends that the Italian authorities increase transparency by facilitating access to CPTAs, including by organisations concerned with the protection of the human rights of asylum seekers and immigrants.

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