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Foreword

The European Commission against Racism and Intolerance (ECRI) is a body of the Council of Europe, composed of independent members. Its aim is to combat racism, xenophobia, antisemitism and intolerance at a pan-European level and from the angle of the protection of human rights.

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.

At the end of 1998, ECRI finished the first round of its country-by-country reports for all member States. ECRI's first report on Italy is dated 13 June 1997 (published in June 1998). The second stage of the country-by-country work, initiated in January 1999, involves the preparation of a second report on each member State. The aim of these second reports is to follow-up the proposals made in the first reports, to update the information contained therein, and to provide a more in-depth analysis of certain issues of particular interest in the country in question.

An important stage in ECRI's country-by-country work is a process of confidential dialogue with the national authorities of the country in question before the final adoption of the report. A new procedure in the second round of country reports is the organisation of a contact visit for the ECRI rapporteurs prior to the drafting of the second report.

The contact visit to Italy took place on 28-31 May 2001. During this visit, the rapporteurs met with representatives of various ministries and public administrations responsible for issues relating to ECRI's mandate. ECRI warmly thanks the Italian national authorities for their wholehearted co-operation in the organisation of the contact visit, and in particular would like to thank all the persons who met its delegation each of whom provided much valuable information on their own field of competence. ECRI would also like to thank the Italian national liaison officer whose efficiency and collaboration were much appreciated by ECRI's rapporteurs.

Furthermore, ECRI would like to thank all the representatives of non-governmental organisations with whom its rapporteurs met during the contact visit for the very useful contribution they made to the exercise.

The following report was drawn up by ECRI under its own responsibility. It covers the situation as of 22 June 2001 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposals made by ECRI.

Executive summary

Italy has taken a number of steps towards combating racism and intolerance since the publication of ECRI's first report, including the adoption of a legal and institutional framework to favour integration, across a whole range of areas, of its steadily increasing immigrant population and the adoption of legislation for the protection of the language and culture of national minorities. The adoption of civil anti-discrimination provisions and the initiatives taken to fight against human trafficking are also noted with interest by ECRI.

Problems of racism and xenophobia, however, persist and concern particularly non-EU citizens – and notably Albanians – and Italian and non-Italian Roma/Gypsies. Manifestations of these problems include societal prejudice, discrimination and instances of violence, including in some cases on the part of the police. The role played by the use of racially inflammatory and xenophobic propaganda by certain politicians in determining this situation is stressed. The legislation in force to counter phenomena of discrimination and racist or xenophobic manifestations is not always adequately implemented. The lack of a comprehensive law on asylum is also stressed.

In the present report, ECRI recommends that the Italian authorities take action in a number of fields. These recommendations cover, *inter alia*: the urgent need to take measures to improve the situation of the Roma/Gypsy communities in Italy; the need to counter the exploitation of racism and xenophobia in politics; the need to fine-tune the legislation to combat racism and discrimination and to ensure a more effective implementation; the urgent need to adopt a comprehensive law on asylum; and the need to further strengthen the efforts towards mutual integration of majority and minority populations in Italy, including through ensuring that the existing opportunities in this respect are used in practice.

SECTION I: OVERVIEW OF THE SITUATION

A. International Legal Instruments

1. Italy has ratified most international legal instruments relevant in the field of combating racism and intolerance. ECRI welcomes the signature by Italy of the Additional Protocol N°12 to the European Convention on Human Rights, which widens in a general fashion the scope of application of Article 14 of the Convention and contains a non-exhaustive list of grounds of discrimination. ECRI is pleased to learn that the process of ratification of this instrument is well underway and encourages the Italian authorities to complete this process as soon as possible.
2. In its first report, ECRI recommended that Italy ratify the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. ECRI welcomes the ratification by Italy of the Framework Convention for the Protection of National Minorities in November 1997. As concerns the European Charter for Regional or Minority Languages ECRI notes that Italy signed this instrument in June 2000 and understands that the process of ratification of this instrument has started. It strongly encourages the Italian authorities to complete the ratification process as swiftly as possible.
3. ECRI also notes the signature by Italy of the European Convention on Nationality in November 1997 and encourages the prompt ratification of this instrument by the Italian authorities.
4. ECRI furthermore notes that on ratifying the Convention for the Participation of Foreigners in Public Life at Local Level, Italy declared that the application of the Convention by Italy would not cover its Chapter C, which concerns the attribution of eligibility and voting rights to foreign residents. In line with its recommendations made below¹, ECRI strongly encourages the Italian authorities to extend the application of this Convention to its Chapter C.

B. Constitutional provisions and other basic provisions

5. Article 3 of the Italian Constitution states that “all citizens have equal social status and are equal before the law without distinction as to sex, race, language, religion, political opinions, and personal or social conditions”. Although this Article only refers to “citizens”, the principle of equality also applies to non-citizens, as Article 3 should be interpreted in the light of Article 2 which guarantees the inviolable rights of the individual. The Constitutional Court has confirmed this interpretation in several rulings². In addition, Article 10, which stipulates that Italy's legal system shall conform with the generally recognized principles of international law and that the legal status of foreigners shall be regulated by law in conformity with international rules and treaties, implies a reference to the diverse international provisions and instruments prohibiting discrimination. ECRI welcomes the adoption of the Legislative Decree N° 286/98 (Consolidated text of measures governing immigration and norms on the

¹ *Reception and Status of non-citizens – Immigrants with legal status*

² *See decisions n120 of 15/11/1967, 104 of 19/06/1969 and order n215 of 01/07/1983.*

condition of foreign citizens³) and encourages the Italian authorities to take all the necessary measures for expressly guaranteeing equality for all individuals under Italian jurisdiction.

6. As regards linguistic minorities, Article 6 of the Constitution provides that “the Republic shall safeguard linguistic minorities by means of special provisions”. Article 6 of the Constitution was implemented by the Law N° 482/1999 containing “Norms for the protection of historical and linguistic minorities”. This law is a framework law, which enables the regions and autonomous provinces to legislate in the field of protecting and promoting the development of the language and culture of the Albanian, Catalan, German, Greek, Slovenian and Croat populations as well as those speaking French, Franco-Provençal, Friulian, Ladin, Occitan and Sardinian. ECRI welcomes the adoption of this law as a means to further the protection and promotion of minority languages and cultures. It notes, however, that the Roma/Gypsy population is not included in the list of groups whose language and culture are protected and promoted by the Law. A specific reference to Roma/Gypsies was deleted from the Law during its passage through Parliament, on the grounds that this minority is not linked with a specific part of the Italian territory and under the assumption that the protection of the language and culture of Roma/Gypsies would be the subject of specific legislation. ECRI notes, however, that although certain aspects of Roma/Gypsy language and culture are covered by regional legislation, no comprehensive legislation yet exists at the national level for Roma/Gypsies. ECRI therefore invites the Italian authorities to ensure that adequate protection and promotion of Roma/Gypsy language and culture is provided in legislative texts at the national level.

- **Citizenship legislation**

7. Italian citizenship is regulated by the Law N°91/1992 and is based on the principle of *ius sanguinis*. Children born in Italy to foreign parents automatically obtain Italian citizenship by means of a declaration made between 18 and 19 years of age, provided they have resided in Italy continuously since their birth. Children of whom at least one parent has become an Italian national, and children who do not acquire the nationality of their parents at birth, obtain Italian citizenship before they become 18.
8. Naturalisation on the basis of residence is possible after ten years of regular residence in the country. This period is reduced to five years for refugees and stateless persons, four years for EU citizens and three years for descendants of persons born Italian citizens and for foreigners born in Italy. Further requirements stipulated in the law for obtaining naturalisation on the basis of residence include sufficient income and payment of tax duties. However, even when these criteria are met, the attribution of citizenship remains a discretionary act of the Italian authorities. Although knowledge of the Italian language is not a requirement provided for by either the law or regulations, there are indications that it is taken into account in the exercise of this discretionary power. The procedure for naturalisation on the basis of residence lasts from one to two years.
9. ECRI believes that further improvement of the Italian citizenship legislation which would provide for easier access to Italian citizenship both for children born or raised in Italy and for long-term residents would be in line with the commitment, repeatedly

³ « Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero » (G .U. 18 August 1998, N°191)

expressed by the Italian authorities and reflected in other laws in force, to facilitate integration of the immigrant population legally residing in Italy.

10. As concerns more particularly naturalisation on the basis of residence, in its first report ECRI regretted that the Law N°91/1992 had extended the period of residence necessary to apply for naturalisation from five to ten years. Although it recognises that such period of residence is in conformity with European standards, ECRI nevertheless encourages the Italian authorities to consider reducing this period. Furthermore, in order to facilitate access to citizenship and reduce the discretionary element in the attribution of naturalisation, ECRI encourages the Italian authorities to simplify and standardize the relevant naturalisation procedures and to take measures to clarify and simplify the situation as regards knowledge of the Italian language and culture.

C. Criminal law provisions

11. The main provisions in the field of combating racism and intolerance are to be found in Law N° 205/1993 containing “urgent measures as regards racial, ethnic and religious discrimination”. This law amended the previous Law N° 654/1975, which implemented the Convention for the Elimination of All Forms of Racial Discrimination. Law N° 205/1993 prohibits the dissemination of ideas based on superiority or racial and ethnic discrimination, as well as the incitement to commit or the commission of discriminatory acts for racial, ethnic, national or religious reasons (Section 3(1) a. of Law N° 654/1975 as amended by Law N° 205/1993). It also punishes the incitement to commit or the commission of violent acts or provocation on racial, ethnic, national or religious grounds (Section 3(1) b. of Law N° 654/1975 as amended by Law N° 205/1993). It furthermore prohibits the establishment of, the participation in or assistance to organisations, associations, movements or groups aiming to incite to racial discrimination or hatred (Section 3(2) of Law N° 654/1975 as amended by Law N° 205/1993). In addition, the display or manifestation of emblems or symbols of organisations, associations, movements inciting to discrimination or violence for racial, ethnic, national or religious reasons is punished, especially when it takes place at public meeting or sport events (Section 2 of Law N° 205/1993). Finally, Section 3 of the Law N° 205/1993 introduces 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. The Law also provides that any racially-aggravated offence is prosecuted *ex officio*.
12. Although there are cases of application of these provisions, there are some reports that the cases brought before the courts do not reflect the actual numbers of racist acts occurring in Italy. This may also be partly due to the initial difficulties in spreading knowledge about the legislation. In particular, ECRI feels that the implementation of the provisions establishing the racist motivation as an aggravating circumstance and of those concerning incitement to discrimination and violence for racial, ethnic, national or religious reasons should be improved. To this aim, ECRI encourages the Italian authorities to provide further training on this subject to all actors involved in the criminal justice system, from the police to the prosecuting authorities and the judges, and to further raise their awareness of the need to actively counter racially-motivated crime and incitement to racial discrimination and violence. At the same time, ways should be considered to encourage victims of such acts to come forward.

D. Civil and Administrative Law Provisions

13. Law 40/1998 (Discipline Regulating Immigration and Rules on the Status for Foreigners)⁴ contains civil provisions against discrimination.
14. Article 41 of this law covers direct and indirect discrimination on the basis of race, colour, national or ethnic origin or descent and religious conviction or practices. It prohibits direct discrimination in the fields of access to employment, housing, education, training and social services and direct discrimination by public officials or persons providing public services or by whoever offers goods and services accessible to the public. It also prohibits direct and indirect discrimination by employers. Article 42 establishes that on the demand of the plaintiff, the judge can order the cessation of the discriminatory behaviour and the removal of all effects of discrimination. The judge may also decide for the payment of material and moral damage.
15. These provisions have so far been used in very few cases. ECRI notes in this respect that Law 40/1998 foresees the establishment of regional observatories tasked with monitoring and information functions as well as legal assistance to victims of discrimination. However, at the time of writing no such observatories appear to have been established. While recognising the difficulties in the setting up of such observatories in local communities which may have no contacts with immigrants, ECRI believes that the creation of these bodies could favour the application of the relevant provisions and urges the Italian authorities to ensure their swift establishment in all regions of Italy. ECRI furthermore notes that the anti-discrimination provisions target discriminatory behaviour “solely” based on race, religion and ethnic or national origin and stresses that this could exclude racially discriminatory behaviour which is based on other grounds as well. In addition, the provisions contained in Articles 41 and 42 of the Law do not allow for the burden of proof to be shifted to the respondent once the complainant has provided proof of a *prima facie* case of discrimination.
16. While welcoming the adoption of these anti-discrimination provisions as an instrument enhancing the protection of certain groups of persons vulnerable to discrimination, ECRI encourages the Italian authorities to consider the adoption of a more comprehensive body of civil and administrative provisions in all spheres of life prohibiting discrimination on such grounds as race, colour, religion, language, nationality, national and ethnic origin. As will be mentioned below⁵, ECRI stresses the fundamental role that could be played by a specialised body on combating racism and intolerance in supervising the implementation of such anti-discrimination legislation. Such a body on the national level could work in close co-operation and collaboration with the regional observatories which are to be established.

E. Administration of justice

17. There have been complaints that Roma/Gypsies and sometimes foreigners held in detention are not always treated in accordance with due process, including immediate access to legal counsel. In addition, although non-Italian speaking defendants have a right to translation into their mother tongue of judicial acts concerning them and interpretation, there have been reports that foreigners do not always understand their

⁴ See below, *Reception and status of non-citizens*

⁵ *Specialised bodies and other institutions*

trials. ECRI notes that the Italian authorities have promoted the establishment of co-operation with co-operatives and associations of mediators and translators in the languages of the major ethnic groups and invites the authorities to ensure that the rights of all persons to due process, including legal defence, are thoroughly respected.

18. ECRI notes that the representation of foreigners in the prison population of Italy is particularly high in relation to the percentage of foreigners in the general population. There have also been some complaints of unbalances between the sentences handed down to Roma/Gypsies and foreigners and those handed down to Italian defendants convicted of comparable crimes. ECRI encourages the Italian authorities to carry out research on these issues.

- **Legal aid**

19. Everyone in Italy has the right to be represented by a lawyer, either of his choice or appointed by the Court. According to Italian law, any foreign citizen, even if not legally resident in the country, can be granted legal aid at the expenses of the State on the basis of a sworn statement endorsed by the Consular Authority. In practice, however, there are reports that most foreigners without legal status do not access the system of free legal aid, and that their lawyers are therefore not paid, which may have an impact on the quality of the services provided to their clients. ECRI expresses concern at this situation, especially as it applies to all criminal cases and to most non-criminal cases, including those relating to expulsion orders.

F. Specialised bodies and other institutions

20. ECRI attaches importance to the existence and functioning of specialised bodies which can effectively and independently monitor the situation in a particular country -- whether as regards human rights generally or specifically in relation to racism, racial discrimination, xenophobia, antisemitism and related intolerance --and assist in providing effective means of redress to victims. While noting the existing regional, provincial and municipal ombudsmen, ECRI, as already suggested in its first report, encourages the Italian authorities to establish a national specialised institution which could deal with these problems. ECRI draws the attention of the Italian authorities to its general policy recommendation N° 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, which contains detailed suggestions on the forms that such bodies might take. As mentioned above⁶, ECRI considers that the establishment of such an institution at national level should also be examined within the context of the adoption of a more comprehensive anti-discrimination legislation -- in view of the central role this institution could play in supervising the implementation of such legislation -- and of the establishment of the regional observatories as foreseen by the Law 40/1998.
21. Article 44 of the Law 40/1998 established the Commission for Immigrants Integration, an advisory body to the Government dealing with policies concerning the integration of immigrants, inter-cultural policies, and the fight against racism. The Commission is required to: prepare an annual report to Parliament on the current state of implementation of policies to integrate immigrants; elaborate proposals to improve

⁶ *Civil and administrative law provisions*

those policies; and respond to any questions the Government may have on matters of its competence. The Commission is composed of academics, experts in immigration issues and of representatives of the State administrations involved in policies for the integration of immigrants. ECRI welcomes the establishment of this Commission. It encourages the Italian government to continue to support its activities and to work for the implementation of the recommendations formulated in its annual reports.

22. Article 40 (3) has established within the National Council of Economy and Labour a National Coordination Unit for local policies of social integration of foreign citizens. This body has the primary task of studying local initiatives and experiences of social integration of foreigners and of identifying and promoting good practices in this field. It brings together representatives of the local (municipal, provincial as well as regional) administrations, trade unions and employers associations, as well as associations working with immigration-related issues and associations of immigrants.
23. Article 40 (4) of the Law 40/1998 establishes within the Office of the Prime Minister a Council for the Problems of Immigrant Workers and Their Families, which brings together representatives of different sectors and institutions, including representatives of the National Co-ordination Unit, of associations working with immigrants, Ministries, and social partners.
24. Article 33 of the Legislative Decree N° 286/98 created within the Office of the Prime Minister an interministerial committee for unaccompanied minors, particularly aimed at their protection, assistance and optimal accommodation, with a view to their reunification, when possible, with their parents.

G. Education and training/awareness-raising

- *School education to combat racism and intolerance*

25. Since the beginning of the nineties, Italy has introduced the concept of intercultural education for all pupils. This concept is reflected in the ongoing reform of the educational system in Italy, which provides for the teaching of the principles of tolerance and respect of difference as part (Democratic Citizenship) of the Social Studies curriculum, a compulsory course in primary schools. The principles of democratic citizenship are also the subject of specific projects and horizontal principles in the light of which all disciplines are being reviewed.
26. While welcoming the introduction of the concept of intercultural education, ECRI believes that significant additional efforts are necessary for its realisation in practice. In this respect, ECRI notes that the practical implementation of this principle varies widely from school to school, mainly due to their different management systems . Since intercultural education is not a separate subject, but rather an approach which should permeate the whole curricula, teaching methods and relations within the schools, ECRI feels that it is important that teachers receive targeted training in delivering such education and that the existing regular evaluation systems ensure that this approach is fully reflected in their teaching practice and methods.
27. ECRI notes that, in the field of intercultural education, the Italian authorities have focused their efforts predominantly on primary education. ECRI strongly encourages the Italian authorities to ensure that this concept increasingly inspire secondary education as well, including through compulsory teaching of human rights.

H. Reception and status of non-citizens

28. The phenomenon of immigration to Italy is relatively recent, having predominantly taken place in the last two decades. The sharp rise in immigration is the result of large-scale displacements of populations, often following situations of urgency such as wars, ethnic cleansing and related persecutions, and of the harsh economic and social conditions prevailing in some countries. ECRI deplors that the desperation of the persons involved has been exploited and has led to an international rise in phenomena of organised crime, such as trafficking in human beings and related abuses.
29. Currently, foreigners legally residing in Italy number around 1,500,000 i.e. just over 2,5 % of the total population. In addition, a number of foreigners without legal status ("*clandestini*" or "*irregolari*") – generally estimated around 200,000 and 300,000 persons – are also present in Italy. However, most of the "*clandestini*" who entered Italy in the last decade have obtained legal status. The Government sets an annual quota of non-EU workers who are allowed to enter Italy to meet the demands of the Italian labour market.
30. The Law 40/1998 (Discipline Regulating Immigration and Rules on the Status for Foreigners) incorporated in the Consolidated Text⁷ contains provisions regulating aspects such as entry of foreigners, residence permits, control of the frontiers and expulsions, family reunification, employment, education, professional activities, health, housing, social assistance and, as mentioned above⁸, the fight against discrimination. The Law establishes a clear distinction between foreigners legally residing in Italy and those without legal status and aims at facilitating integration of the members of the former group but also at curbing illegal entries and expelling immigrants without status.

- *Immigrants without legal status*

31. Taking into account the rise in clandestine immigration, especially by sea, in recent years, ECRI notes that, recently, the number of expulsions from Italy of immigrants without legal status has significantly increased. The Law 40/1998 establishes Centres for Permanence and Temporary Assistance in which immigrants without legal status can be detained pending deportation, for a maximum of 30 days. ECRI expresses concern at reports that conditions in some of these centres are very harsh and urges the Italian authorities to provide adequate standards of living conditions for the persons detained in these centres, in accordance with the instructions of the Ministry of the Interior of 30 August 2000, which also contain a Charter of rights of persons detained in Centres for Permanence and Temporary Assistance. The placement of foreigners in these centres must be confirmed by a judge within 48 hours. ECRI encourages that Italian authorities to ensure that judicial control on such detentions is effective and include the possibility of appeal in all cases.
32. In order to counter illegal entries, Italy has concluded readmission agreements with a number of countries from which immigrants without legal status come. ECRI has been informed that, more recently, some of these agreements have been combined

⁷ See above, *Constitutional provisions and other basic provisions*

⁸ *Civil and administrative law provisions*

with provisions aimed, *inter alia*, at favouring the legal entry into Italy of nationals of the signatory States and their access to the Italian labour market. ECRI notes that these initiatives have met with the approval of some segments of civil society involved in the assistance and protection of immigrants.

33. As concerns human trafficking, ECRI notes with interest that Article 16 of the Law 40/1998 foresees the issuing of a special temporary residence permit for those persons who are victims of human trafficking. In addition, an inter-ministerial Commission has been established with the task of managing funds for local initiatives aimed at countering human trafficking. ECRI encourages the Government to continue to support such initiatives, including through increased funding.
34. Furthermore, ECRI notes that unaccompanied foreign children, whose expulsion is not allowed, are granted the necessary measures of protection and assistance, including the right to education and health care.

- ***Immigrants with legal status***

35. The Law 40/1998 guarantees to legal immigrants with legal status most of the rights in the civil and social sphere on equal footing with Italians. Furthermore, it contains a range of measures aimed at facilitating their integration in society, which involve Italian authorities at all levels as well as civil society and include language courses, the valorisation of foreign cultures, the establishment of intercultural mediators, dissemination of information and training courses in order to combat racism and xenophobia. ECRI welcomes these opportunities and strongly encourages the Italian authorities to ensure that these are used in practice to the fullest extent.
36. European Union (EU) citizens living in Italy have voting and eligibility rights in local elections. ECRI regrets that the extension of these rights to non-EU citizens, contained in the draft version of the Law 40/1998, was not retained by the Parliament. As already mentioned in its first report, ECRI recommends that the Italian authorities extend the right to vote in local elections to non-EU citizens who are long-term residents⁹.

- ***Asylum seekers and refugees***

37. To date, Italy has not yet adopted a law on asylum. Article 1 of the Law 39/1990 as well as the Geneva Convention, which is part of the Italian legislation, are the juridical bases for Italy's handling of asylum matters. A new comprehensive law on asylum and humanitarian protection was pending before the last Parliament. Asylum-seekers must apply with the border police, although application with the local police headquarters is also accepted. An inter-ministerial Commission for the Recognition of Refugee Status is responsible for taking first instance decisions regarding the granting or refusal of refugee status.
38. ECRI urges the Italian authorities to adopt a comprehensive law on asylum, and closely to collaborate with UNHCR and the associations providing assistance to asylum-seekers for monitoring its application. In the meantime, ECRI urges the Italian authorities to ensure that adequate legal representation and means of subsistence pending determination are available to asylum-seekers. Noting reports that good quality interpretation is not always readily available to asylum seekers, ECRI

⁹ See also above, *International legal instruments*

encourages the authorities to take action in this respect. ECRI also stresses the need for further training of the police who come in first contact with asylum seekers in order to ensure that such first contact takes place in the full respect of human rights and that all asylum seekers are treated equally by the police, irrespective of their countries of origin.

- **General climate concerning immigrants**

39. ECRI is concerned at the rather negative climate in Italy concerning non-EU citizens. Opinion polls suggest that non-EU immigration features increasingly high in the list of concerns of the Italian population. ECRI believes that this situation is closely connected to the widespread presence in public debate of stereotypes, misrepresentations and, in some cases, inflammatory speech targeting non-EU citizens. ECRI believes that exponents of certain political parties bear a particular responsibility in this respect¹⁰. However, other public figures and leaders have made regrettable statements, which contribute, in ECRI's view, to the creation of this climate. ECRI considers that this trend runs counter to efforts to develop a culture of tolerance and respect for difference in Italy.

I. Access to public services

- **Access to social services such as health care, welfare and housing**

40. Access to housing is reported to be one of the most problematic areas for non-EU immigrants and Roma/Gypsies in Italy. Discrimination on the part of landlords and private housing agencies, but also discrimination, notably indirect, in the public housing system appear to play a fundamental role in this respect. In many cases, even for immigrants regularly employed it may be difficult to find adequate accommodation. When accommodation is found, it is often of worse quality or more expensive than that accessible to Italians of the same income level. ECRI strongly encourages the Italian authorities to address this situation through an effective implementation of the existing anti-discrimination provisions – ECRI notes in this respect that one of the few cases of application of the new anti-discrimination provisions has actually covered the field of access to housing --, but also awareness-raising initiatives and dissemination of the existing good practices at the local level.
41. The attention of the Italian authorities is also drawn to reported instances of discriminatory refusal of access to places open to the public, notably opposed to Roma/Gypsies and foreigners.
42. ECRI notes that one of the objectives of the National Health Project 1998/2000 is to include immigrants with legal status in the national health system with the same rights and with the same conditions and opportunities as Italian citizens. Immigrants without legal status are entitled to emergency health care , but also to essential or preventive treatment needed to protect health conditions. ECRI notes that foreigners and service providers are not always aware of these rights. In this respect, ECRI welcomes the initiatives undertaken by the Ministry of Health aimed at raising the awareness of both the immigrant population and those providing the health services of the rights of the immigrant population in the field of health, and encourages the Italian authorities to

¹⁰

See below Section II, *Exploitation of racism and xenophobia in politics*

extend their efforts in this field. ECRI also notes that immigrants without legal status can avail themselves of health services without the fear of being reported to the police.

- **Access to education**

43. The presence of foreign children in Italian primary schools has registered a sharp increase in the last decade. Access to education is granted to all foreign children (both with and without legal status) present on the Italian territory. ECRI notes that some efforts have been made by the Italian authorities as well as by the non-governmental sector, to provide to these children teaching of Italian as a second language, notably in the field of teacher training and preparation of teaching material. ECRI believes, however, that significantly more efforts are necessary in this field and urges the Italian authorities to provide adequate funding in this area. ECRI also encourages efforts to provide, parallel to teaching in Italian, mother tongue education for foreign children.

J. Employment

44. Foreigners represent today over 3% of the workforce in Italy. However, many foreigners, even when they have been legal residents and on a regular job for some time are still employed in the underground economy. Furthermore, as is the case in most other European countries, immigrants are disproportionately represented in a wide range of low skilled occupations. Although this situation can be connected to a combination of factors -- including in some cases the differing levels of education -- direct and indirect forms of discrimination also contribute significantly to the weak labour market position of foreigners in Italy.
45. ECRI strongly encourages the authorities to address this situation through a wide range of measures. These should obviously include the effective implementation of anti-discrimination provisions in the field of employment. In this respect, ECRI notes that the partial reversal of the burden of proof has proved an effective tool in several countries in order to counter the incidence of racial discrimination in employment. ECRI understands that the Ministry of Labour in collaboration with the International Labour Organisation plans to undertake monitoring and awareness-raising activities in the field of discrimination in employment. ECRI welcomes this initiative and encourages the Italian authorities to extend this type of measures in the future. As concerns training opportunities for foreign workers, ECRI notes that the quality of training initiatives and the extent to which these are available depend largely on the regions. ECRI encourages the Italian authorities to carefully monitor the effectiveness of the training initiatives taken at the local level and to ensure that these are carried out throughout the country. ECRI also notes that the Italian government is promoting the skills and training of foreign workers for specific sectors through a number of bilateral agreements¹¹.

K. Racism at mass events

46. ECRI is seriously concerned at the incidence of disturbing manifestations of racism and antisemitism at football matches in Italian stadiums, including racist and

¹¹ See above, *Immigrants without legal status*

antisemitic chanting and display of signs. ECRI believes that the existing criminal legislation applicable to this type of behaviour should, first of all, be applied to the persons responsible. ECRI notes initiatives taken at the level of sport regulatory bodies and self-disciplinary measures taken by football societies and players. In addition, other appropriate measures should be considered by the Italian authorities. Although awareness-raising initiatives of the general public and preventive measures targeting the more extremist supporters are welcome, ECRI considers that a firmer response on the part of the Italian authorities to these manifestations would be desirable in order to reflect the priority given to the respect of human dignity.

L. Vulnerable groups

This section covers certain minority groups which may be particularly vulnerable to problems of racism, discrimination and intolerance in the country in question. It is not intended to provide an exhaustive overview of the situation of all minority groups in the country, nor to imply that groups not mentioned face no problems of racism and discrimination.

- Roma/Gypsies

47. ECRI deals with the situation of the Roma/Gypsy communities in Section II of this report.

- Albanians

48. Albanians are one of the biggest immigrant communities in Italy. Although many Albanians reside legally in Italy, they are also represented amongst the immigrant population living in Italy without legal status. ECRI notes that, as a way of creating alternatives to illegal entries into Italy and in order to respond to labour force demands, the Italian authorities promote training programs in Albania. However, ECRI is concerned at the significant amount of anti-Albanian sentiment which has paralleled the increase in the number of Albanians living in the country in recent years. This negative attitude *vis à vis* Albanians is particularly nourished by reports of criminal activities carried out by some members of this community. ECRI is concerned that this situation is increasingly resulting in a general public perception that all or most Albanians are criminally-inclined. ECRI believes that the media and the statements of public figures have played an important role in creating this situation and urges the authorities to take measures in this respect, as highlighted in other parts of this report¹². ECRI furthermore strongly encourages the Italian authorities to take measures to raise the awareness of the general population of this prejudice and the problems and disadvantage that it causes.

M. Antisemitism

49. Most antisemitic incidents are constituted by insulting or threatening letters sent to members or representatives of the Jewish community and of graffiti. In some cases, the persons responsible of these acts have been identified. Antisemitic books and publications and general Holocaust denial material are reportedly increasingly

¹² See *Media, Exploitation of racism and xenophobia in politics*

available in bookshops. Football vandalism and Internet propaganda are also among the main focal points of antisemitic activities in Italy. ECRI has been informed that the Italian authorities are monitoring the situation as concerns the presence of antisemitic material on local websites. ECRI draws the attention of the Italian authorities to its general policy recommendation N° 6 on «Combating the dissemination of racist, xenophobic and antisemitic material via the Internet». However, as noted above¹³, ECRI believes that action is still needed to counter the phenomenon of racist and antisemitic chanting at football stadiums.

50. ECRI notes recent initiatives to improve education on the Holocaust and strongly encourages the Italian authorities to continue and extend these initiatives.

N. Conduct of certain key institutions

- Law enforcement officials

51. There have been reports of misbehaviour on the part of some law enforcement officials, such as discriminatory checks, insulting and abusive speech, ill-treatment and violence, including in some cases undue use of firearms. ECRI is concerned that certain groups of persons, including Roma/Gypsies, foreigners and Italian citizens of immigrant background are particularly likely to become victims of this behaviour.
52. Although most of these incidents do not generally result in a complaint being filed by the victim, there is reported to be little investigation of these cases, and little transparency on the results of these investigations within the police. Counter-charges are reportedly frequently brought or threatened against those indicating their intention of lodging a complaint of ill-treatment against law enforcement officers. ECRI stresses the urgent need for the improvement of the response of the internal and external control mechanisms to the complaints of misbehaviour *vis à vis* members of minority groups on the part of the police. To this end, it encourages the Italian authorities to consider the establishment of an independent commission to investigate all allegations of human rights violations by the police.
53. ECRI notes that, as suggested in its first report, initiatives have been taken to improve human rights training of law enforcement officials. ECRI nevertheless encourages the Italian authorities to further strengthen their efforts as concerns provision of initial and ongoing training of the police in human rights and anti-discrimination standards.
54. Italian nationality is necessary to work as a law enforcement officer. Since the number of Italian citizens of immigrant background is increasing, ECRI invites the Italian authorities to start considering methods aimed at encouraging members of ethnic minorities to participate in the relevant recruitment procedures. In addition, the use of cultural mediators to favour communication between the law enforcement authorities and the immigrant communities could be further encouraged.

¹³ *Racism at mass events*

- **Penitentiary administration**

55. As mentioned above¹⁴, a very significant part of the prison population of Italy is made up of foreigners. The penitentiary law prohibits discrimination of prisoners on grounds of nationality, race, economic and social conditions, political opinions and religious belief. ECRI notes, however, that immigrants have often complained of ill-treatment in Italian prisons. It has also been observed that immigrants have very rarely access to measures alternative to detention. Although the authorities have stated that this is due to the non-fulfilment by the immigrants of the necessary requirements for being accorded such measures, ECRI strongly encourages the Italian authorities to further investigate this area in order to remove any direct or indirect obstacles in this respect.
56. ECRI notes that the Italian authorities have initiated a number of measures to improve the situation of foreigners in prison. These measures include: a better integration of the foreigner in the penitentiary institutions through the use of cultural mediators; measures aimed at raising foreign detainees' awareness of their rights; better training of prison staff to ensure their knowledge of foreign languages and of the culture and the general situation of foreign detainees; initiatives to guarantee the free exercise of religion; and measures to prevent ill-treatment, such as the keeping of registers which are under the control of the judicial authorities. ECRI welcomes these initiatives, which it encourages the Italian authorities to monitor and extend.

O. Media

57. ECRI notes that the media have often resorted to sensational reporting on issues concerning immigrants and Roma/Gypsies. The vast majority of information in the Italian media touching upon immigrants or immigration appears to be connected with crime. Concerned at the prejudice and misconception that this type of reporting fuels in society, ECRI strongly encourages the Italian media professions to adopt codes of self-regulation or charters aimed at countering racism, xenophobia, antisemitism and intolerance, and at promoting cultural pluralism and equal opportunities. These should include guidelines on reporting, but also, *inter alia*, a commitment to reflect cultural pluralism in all sectors and to respect the human dignity of all persons. Efforts could also be made to improve representation of members of minority groups in the media.
58. Furthermore, the Italian authorities are strongly encouraged to undertake awareness raising campaigns through the media on the dangers posed by racism and intolerance and on the need to respect the principle of equality and human dignity.

¹⁴ Administration of justice

SECTION II: ISSUES OF PARTICULAR CONCERN

In this section of its country-by-country reports, ECRI wishes to draw attention to a limited number of issues which in its opinion merit particular and urgent attention in the country in question. In the case of Italy, ECRI would like to draw attention to the situation of the Roma/Gypsy communities and to the exploitation of racism and xenophobia in politics.

P. Situation of the Roma/Gypsy communities

59. According to official figures, there are presently about 120,000 Roma/Gypsies in Italy, approximately two thirds of whom are Italian nationals. Non-official sources tend to estimate the Roma/Gypsy population as slightly more numerous, but with similar proportions of citizens and non-citizens. Italian Gypsies are, broadly, constituted by Rom, predominantly present in the South of Italy, and Sinti, traditionally present in the North. Non-Italian Roma/Gypsies include persons born outside Italy -- originating mostly from the Balkan region -- and persons born in Italy to foreign parents.
60. About one third of the total Roma/Gypsy population of Italy -- including both Italian citizens (predominantly Sinti) and non-Italian citizens -- currently lives in authorised or unauthorised camps separated from mainstream Italian society. Over and beyond the question of the living conditions in these camps, which will be addressed below, ECRI is concerned that this situation of practical segregation of Roma/Gypsies in Italy appears to reflect a general approach of the Italian authorities which tend to consider Roma/Gypsies as nomads and wanting to live in camps. The representation of Roma/Gypsies as nomads also appears to be closely related to the general perception of the members of the Roma/Gypsy communities of Italy as 'foreigners', even if, in fact, only a part of the Roma/Gypsy population still living in camps is non-Italian. This perception is exemplified by the attribution of competence for issues related to Roma/Gypsies to administrative offices 'for nomads' or for 'nomads and foreigners'. ECRI strongly believes that one of the first necessary steps to be undertaken by the Italian authorities should be to approach all issues related to the members of the Roma/Gypsy communities, whether Italian or not, without assuming that all Roma/Gypsies are nomads. ECRI believes that policies based on the attentive consideration by the authorities of the genuine aspirations of the communities concerned have better chances of success. ECRI therefore urges the Italian authorities, when considering issues of relevance for the Roma/Gypsy communities, to ensure close consultation with the members of the communities concerned at all levels, central, regional or local. Moreover, again from the point of view of the general approach, ECRI believes that State policy should also reflect more closely the fact that Roma/Gypsies and their culture constitute an integral part of the Italian population and Italian culture.
61. As mentioned above, the living conditions in camps inhabited by Roma/Gypsy families are extremely harsh, due to the lack of basic infrastructure and facilities, including access to energy, heating and lighting, sanitation as well as washing facilities and refuse disposal, site drainage and emergency services. Although the situation is particularly worrying for unauthorised camps, the living conditions in many authorised camps are not significantly better. ECRI expresses deep concern at this situation. It believes that, in the medium and long-term, the Italian authorities should implement measures to overcome the practical segregation of Roma/Gypsy communities in the field of housing in Italy, including through abandoning the systematic relegation of members of the Roma/Gypsy communities to camps for

nomads. As mentioned above, moves to change the thrust of housing policy should be conceived and implemented in close consultation with the members of the communities concerned. As an emergency short-term measure, ECRI urges the Italian authorities to ensure that the camps where members of Roma/Gypsy communities live meet, at the very least, the basic standards on adequate housing.

62. Many foreign Roma/Gypsies possess no legal status in Italy and most of those who are legally present in Italy only possess residence permits valid for short periods of time. Roma/Gypsies are reported to have benefited comparatively less than other groups from the various opportunities for regularisation, partly because of their lack of awareness of these opportunities, and partly because many of them did not possess the necessary valid documentation from their countries of origin. The difficulties encountered by members of the Roma/Gypsy communities in obtaining residence permits affect in turn their possibilities of securing Italian citizenship, for which proof of residence is required¹⁵. ECRI encourages the Italian authorities to devote urgent attention to the question of Roma/Gypsies' access to residence permits and citizenship.
63. The practical separation of the Roma/Gypsy communities from mainstream social and political life of Italy is reflected in virtually all fields of life, including education, health and employment. In the field of education, ECRI notes some initiatives supported by the Italian authorities which aim both at ensuring better access of Roma/Gypsy children to schools, for example through the establishment of cultural mediators, and at adapting the content of education to a multicultural reality. However, ECRI notes that these efforts have produced limited results, particularly due to the absence of a comprehensive policy at national level aimed at improving the situation of the Roma/Gypsy communities in all fields of life in an integrated fashion. ECRI emphasises that it is very difficult to ensure regular and successful schooling of Roma/Gypsy children when their families are struggling with severe poverty, joblessness and poor health as well as prejudice and discrimination by society at large. As a result, while Roma/Gypsy children's attendance in compulsory schooling is increasing, only a part of these children appears to attend school regularly. ECRI notes the initiatives taken by the Italian authorities in this field. However, it strongly encourages the authorities to strengthen their efforts to ensure that all Roma/Gypsy children benefit fully from compulsory schooling and to take measures to facilitate the participation of Roma/Gypsy students at further levels of education.
64. Lack of education and training impact negatively on employment possibilities for members of the Roma/Gypsy communities. These possibilities are further reduced by widespread prejudice and discrimination on the part of potential employers as well as by additional disadvantaging circumstances such as the fact that Roma/Gypsies often live in camps. ECRI considers employment to be another priority area for government action aimed at improving the situation of this disadvantaged group. While noting that training opportunities exist in Italy at the level of the regions for both Italian citizens and foreigners, ECRI notes that members of the Roma/Gypsy communities generally encounter difficulties in accessing such opportunities. ECRI strongly urges the Italian authorities to introduce initiatives aimed at facilitating access of Roma/Gypsies to the labour market. These could include initiatives to ensure that Roma/Gypsies actually access the training and other opportunities generally available, including funding

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See above Constitutional provisions and other basic provisions – Citizenship legislation

opportunities existing at national and international level. The Italian authorities could also consider the establishment of special funds earmarked for financing employment projects for Roma/Gypsies.

65. The health situation of the members of the Roma/Gypsy communities also testifies to their generally disadvantaged situation. Such disadvantage is linked to several factors such as poverty and unhealthy living conditions, but also reflects the inability of the health system to cater for the specific needs of these communities and, in some cases, prejudice on the part of those providing the service. Infant mortality rates are significantly higher within these communities as are certain pathologies amongst adults. ECRI strongly urges the Italian authorities to take initiatives to facilitate Roma/Gypsy access to health care in practice.
66. The behaviour of some law enforcement officials *vis-à-vis* members of the Roma/Gypsy communities living in Italy is also a cause for serious concern to ECRI. There have been numerous reports of evictions of Roma/Gypsy families from unauthorised camps, usually carried out late at night or early in the morning, during which law enforcement officials have acted in a violent and abusive way. Alleged misconduct includes abusive use of firearms, ill-treatment, humiliating treatment, arbitrary destruction of property and confiscation or destruction of papers. Furthermore, Roma/Gypsies are widely reported to be subject to disproportionately frequent checks. In cases where Roma/Gypsies have been victims of racial attacks, there are reports that the response by law enforcement officials has sometimes been inadequate. ECRI expresses deep concern at these reports. In line with the observations made in other parts of this report¹⁶, ECRI strongly urges the Italian authorities thoroughly to investigate all alleged cases of misbehaviour on the part of the police and to bring to justice those officers found responsible. In this respect, ECRI underlines the importance of the existence of reliable and adequately publicised avenues for the reporting of police misbehaviour *vis-à-vis* members of the Roma/Gypsy communities. More generally, ECRI urges the Italian authorities to ensure a more effective implementation of the existing criminal law provisions against racist acts. ECRI also expresses concern at reports of group expulsions of Roma/Gypsies from Italy and strongly urges the Italian authorities to investigate such reports.
67. ECRI furthermore notes with concern reports of unequal treatment of Roma/Gypsies by the Italian judicial authorities, including reports of comparatively more frequent use of pre-trial detention measures and heavier sentences inflicted upon members of the Roma/Gypsy communities. There have also been reports that placement of Roma/Gypsy children in state custody is not uncommon and that such placement is applied more readily to Roma/Gypsy children than to non-Roma/Gypsy children in comparable circumstances. As already suggested above¹⁷, ECRI strongly encourages the Italian authorities to undertake in-depth research on these issues and to take any necessary corrective action, notably through awareness raising and training measures for judges.
68. More generally, ECRI believes that a comprehensive policy is urgently needed to address the situation of the Roma/Gypsy population of Italy, which would cover, in an integrated manner, all fields of life, including those highlighted above. Such policy should be co-ordinated at the central level and should enable the combination of

¹⁶ See *Criminal law provisions and Conduct of law enforcement officials*

¹⁷ *Administration of justice*

national initiatives with local specificities. As mentioned above, ECRI believes that the involvement of the Roma/Gypsy communities at all levels of the elaboration, implementation and evaluation of this policy is essential to ensure its success. In accordance with its general policy recommendation N° 3 on «Combating racism and intolerance against Roma/Gypsies», ECRI therefore encourages the Italian authorities to develop institutional arrangements to promote an active role and participation of Roma/Gypsy communities in the decision-making processes, through national, regional and local mechanisms, with priority placed on the idea of partnership on equal footing. The attention of the Italian authorities is drawn more generally to all the suggestions contained in ECRI's general policy recommendation N°3, which proposes a range of legislative and policy measures governments can take.

69. In the shorter term, measures which ECRI feels could be undertaken by the Italian authorities encompass the inclusion of the Roma/Gypsy community in the legislation protecting and promoting minority languages and cultures, as suggested above¹⁸. In addition, ECRI believes that a wide awareness-raising campaign on the real situation of the Roma/Gypsy communities in Italy and the problems they face could be beneficial in order to counter the high levels of prejudice of the general public *vis-à-vis* the members of this group.
70. ECRI regrets to note that such widespread societal prejudice against Roma/Gypsies is exploited and corroborated by inflammatory statements made by politicians against Roma/Gypsies. ECRI addresses this issue in more depth in the section below.

Q. Exploitation of racism and xenophobia in politics

71. ECRI is concerned at the widespread use made of racist and xenophobic propaganda by the exponents of certain political parties in Italy. Such propaganda mainly targets non-European Union immigrants, particularly those without legal status, but also members of other minority groups. Members of these groups are typically portrayed as being responsible for a deterioration of security conditions in Italy, particularly on the basis of generalisations concerning their involvement in drug trafficking and prostitution, for unemployment and increased public expenditure, or as posing a threat to the preservation of Italian national or local identity. ECRI expresses its deep concern at the negative consequences that such propaganda has on the perception of non-EU immigrants by the majority population and at the climate of general intolerance and xenophobia that it fosters.
72. Racist and xenophobic propaganda is disseminated through the use of written material such as posters and leaflets, but is also significantly present in the speech of public figures, including mayors and other elected representatives. In most cases non-European Union immigrants are referred to in a way which is stereotyped, stigmatising and humiliating; however, there have also been reports of cases where politicians have resorted to speech encouraging violent or discriminatory behaviour *vis-à-vis* members of these groups, and particularly illegal immigrants and Roma/Gypsies. In this respect, ECRI strongly urges the Italian authorities to ensure that the existing criminal law provisions against incitement to discrimination and violence on racial, ethnic, national or religious grounds are fully applied.

¹⁸ *Constitutional provisions and other basic provisions*

73. Exponents of the Lega Nord (Northern League) have been particularly active in resorting to racist and xenophobic propaganda, although members of other parties have also made use of xenophobic or otherwise intolerant political discourse. ECRI registers here its concern at the influence exercised by these political parties on the whole political arena. In this respect, ECRI fears that – in an attempt to obtain support from wide segments of the population supposed to be hostile to foreigners – politicians may tend to increasingly move away from a concept of society based on principles of justice and solidarity for all its members. This may favour the adoption of policies and practices not always respectful of human rights and of the principle of equal treatment. Therefore ECRI is alarmed at the participation in governmental coalitions of political parties whose members have resorted to xenophobic and intolerant propaganda and in this respect expresses its concern at the new coalition formed in Italy in June 2001.
74. ECRI stresses that political parties should resist the temptation to approach the subject of immigration in a way which may result in racist, xenophobic or discriminatory attitudes by society at large vis-à-vis certain minority groups. Political parties should, rather, emphasise the positive contribution made by different minority groups to Italian society, economy and culture. ECRI believes that all political parties should also take a firm public stand against any forms of racism, discrimination and xenophobia as part of a more general commitment to respecting and guaranteeing human rights. In order to raise awareness of these issues among politicians, an annual debate could be instigated in Parliament on the subject of racism and intolerance and the various disadvantages faced by members of immigrant and other minority groups living in Italy.
75. ECRI urges the Italian authorities to make all possible efforts to counter the exploitation of racism and xenophobia in politics. As already mentioned, ECRI stresses in this respect the importance of ensuring an effective implementation of the existing criminal law provisions aimed at countering incitement to racial hatred and discrimination. At the same time ECRI believes that ad hoc measures could be adopted targeting more specifically the use of racially inflammatory or xenophobic discourse by exponents of political parties.

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The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Italy.

APPENDIX

ECRI wishes to point out that the analysis contained in its second report on Italy, is dated 22 June 2001, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, a national liaison officer was nominated by the authorities of Italy to engage in a process of confidential dialogue with ECRI on its draft text on Italy and a number of his comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the Italian governmental authorities expressly requested that the following observations on their part be reproduced as an appendix to ECRI's report.

OBSERVATIONS PROVIDED BY THE AUTHORITIES OF ITALY CONCERNING ECRI'S REPORT ON ITALY

" General remarks

Italy confirms its full commitment to fight against racial discrimination both at the national and international level.

The Italian legal framework is inspired by the principle that countering racism and racial discrimination on a global level means first of all providing every person living in our country with the opportunity of being integrated at all levels of Italian society, while respecting his/her cultural identity.

A true multicultural society, as stressed in the motto of the European Conference against racism of Strasbourg in November 2000, "All Different, all Equal", is for Italy both a challenge and a resource to enrich the society.

At the International level, Italy fully co-operates with all International Organisations, Institutions and Human Rights mechanisms acting in this important field.

Pursuant to its deep commitment to counter any form of racism, racial discrimination, xenophobia and related intolerance, Italy has actively collaborated with the Secretariat of the Council of Europe, during the Semester of Italian Presidency of the Council, to the organisation of the Strasbourg Conference against Racism. With the same constructive spirit we participated to the Durban Conference against racism, where Italy key role was acknowledged with the election as Chairman of the Main Committee.

Efforts to further improve the fight against racism are always needed and Italy fully recognises the important role of ECRI in this respect. Italy will consider ECRI's recommendations as a valuable tool to improve, where necessary the situation and it will disseminate the final text in all the competent official and private fora in Italy.

While submitting the annex of the Italian Government to the II Report, Italy is confident that ECRI, will avoid unmotivated generalisations and would bring to its attention any particular case that ECRI may consider not being treated in accordance with the internal or international standards in the field of combating racism and intolerance.

Executive summary

A. Italy considers useful to avoid to single-out in the Executive Summary any particular ethnic or national group.

For this reason, Italy proposes to delete "..... and notably Albanians" (second line of second paragraph).

B. Even recognising that an organic law on asylum does not exist, Italy stresses that the whole issue is ruled by various provisions, included some of Constitutional law. Moreover, Government and the Parliament are considering the possibility of improving the current rules.

Overview of the situation

A. International legal instruments

1. Italy attributes a great importance to the contents of Protocol n. 12 to ECHR and it's proud to have actively contributed to the definition of the text and to the fact that it has been opened to signature during the period of the Italian Presidency of the Council of Europe.

B. Constitutional provision and other basic provisions

Citizenship legislation

7. Children who do not acquire the nationality of their parents obtain Italian citizenship since their birth.

8. As far as the attribution of the Italian citizenship is concerned, the fourth phrase should read as follows: "...the attribution of citizenship remains a discretional act of the Italian authorities, against which it is possible to appeal to the competent Judicial Authorities"

9. Italy will take into account the proposal of ECRI that the current law on citizenship could be further improved. Nevertheless, it should be noted that the

provisions of law n. 91/1992 are among the most advanced and open in favour of children and long term residents.

Children born or raised in Italy obtain automatically and with immediate effect Italian citizenship by means of a simple declaration made between 18 and 19 years of age, as mentioned under para 7.1 of ECRI Report.

C. Criminal law provisions

12. It must be noted that the consideration that the number of criminal proceedings before Courts is lower than the actual number of racist acts occurring in Italy is inconsistent and not enough supported by factual elements, or statistical data.

In Italy there is the legal principle that prosecution is compulsory whenever the injuries are particularly serious. In all other cases the judicial actions start on express demand of the offended persons. Over the last years the crimes committed for racist motivations by individuals or people belonging to extremist organizations were duly investigated and prosecuted.

E. Administration of justice

17. The law implementing article 111 of the Constitution provides, in its present wording, that any person, as from the moment of its first contact with the judicial authorities, shall be informed of his/her rights in the language he/she knows. In this regard, as an example, we enclose the forms used by the judicial authorities in the phase of preliminary investigations (*indagini preliminari*) and of preliminary hearings (*udienze preliminari*).

Furthermore, the Court of Cassation (*Corte di Cassazione*) has reaffirmed the principle stating that any judicial act regarding the suspect (*indagato*) and/or the accused (*imputato*) shall be null and void if it has not been translated in his/her mother-tongue.

18. The number of foreigners in the Italian prisons is due to the fact that many illegal immigrants are more easily involved in criminal activities. Our legal system is based on the principle that the punishment has to be proportionate to the seriousness of the act and has to take into account the offender's capability to commit a crime (article 133 of the Italian criminal code). Therefore there could not be any difference in a sentence concerning an Italian or a non-Italian citizen for the same offence.

Legal aid

19. Law n. 217 of 30 July 1990, as integrated by law n. 134 of 23 March 2001, provides that any foreign citizen, even if he/she is not legally a resident in the country, can be granted legal aid (*gratuito patrocinio*) at the expenses of the State, without exception, on the basis of a simple affidavit/sworn statement

(autocertificazione) endorsed by the Consular Authority. Any complaint on this matter receives due attention by the competent Italian Authorities.

Legal aid defending counsels are not to be chosen from a special list of lawyers but any lawyer of choice may be appointed and his fees will be borne by the State on the basis of the profession's list of fees.

H. Reception and status of non-citizens

28-30 The Italian Government is discussing possible changes to Immigration Law 286/98, taking into consideration:

- *the evolution of the phenomenon of immigration in Italy and Europe,*
- *the on-going debate on an EU Directive, currently being negotiated by the Council of the EU.*

Immigrants without legal status

31. As regards the living conditions in the Centres for permanence and temporary assistance, it should be underlined that all structures where to lodge immigrants pending decision on their future, meet the standards established by the Minister's Directive of 30 August 2000 and by the related Charter of the Rights of detained people. In this connection, it should be pointed out that they are runned by associations or agencies with consolidated experience in the solidarity and assistance fields (mostly the Italian Red Cross). In these centres freedom of communication with the outside is guaranteed by allowing free use of wireless telephony devices and by distributing phone cards and stamps.

It is also possible to receive visits in fixed hours.

In all centres nursing services and leisure and sport premises are available as well as worship places in order to allow the immigrants to observe the rites of their own religions.

Special care is observed in the preparation of food, in respect of religious principles practised by detained foreign people.

Cultural meditation, interpretation and legal counselling services supplied by volunteer associations are also available in all centres.

Security measures, both active and passive, are enforced not only with the purpose of preventing any immigrant escapes, as explicitly provided for by Law n. 40 of 1998, but also in order to protect all people living in the centres. These measures are applied in order to avoid the rising of possible conflictual situations, which may be favoured by compulsory permanence conditions, among immigrants who are members of ethnic groups with different cultural, religious and traditional background.

As regards to judicial control on detention measures taken by the Questori, article 12, paragraph 4 of Law n. 40 of 1998 explicitly provides for their expiration in case of lack of confirmation by a judge within 48 hours. Judicial control is, therefore, always effective and jurisdictional protection of immigrants is ensured either in the first degree of the trial and in the degree of appeal.

33. On August 9th 2001 the Italian Government approved a bill providing adequate measures against the grave form of criminality linked to the traffic of persons and especially to "women trade".

The bill is meant to solve problems arising from the implementation of existing regulations and - along with the United Nations Protocol on the prevention and fight of person trade, discussed at the Conference in Palermo (December 12th 2001) - to establish a line of conduct aimed at considering the organization and activation of human beings trade as a specific and independent crime.

Furthermore, to the trade victims is granted:

- assistance and protection
- documents to testify the status of victim, and others necessary for the repatriation in their native country.

As far as it concerns human trafficking, article 16 of the law 40/1998 and following art.18 of "Testo Unico" (D.L. 286/98) foresee the issuing of a special temporary residence permit for persons who are victims of human trafficking.

Those provisions are enforced by funding and developing initiatives at local level.

In year 1999/2000 49 different programs of action have been promoted for a total funding of 16.500.000.000 It. Lira.

Results of protection initiatives during the period 01/04/2000 - 30/06/2000:

F. Total numbers of persons concerned	7.242
Persons addressed to Public services	1.338
Persons in protection programs	354
Persons with legal temporary residence permit	156
Persons in temporary assistance	604
Persons in training programs	192
Persons employed	161

A new Draft of Law which takes into account the provisions of the Protocol against illegal trafficking of human beings (additional to the Convention against transnational organized crime) is at present pending for consideration of the Parliament.

This Draft of Law shall sanction as a specific and autonomous crime the organization and the implementation of human beings trafficking.

Asylum seekers and refugees

37. *The Italian authorities are aware of the utility of a comprehensive law on asylum. As a matter of fact, during the previous legislature, the Government had already introduced a bill that, unfortunately, has not completed its course before the natural expiration of the Chambers. The present Government agrees with the fact that a comprehensive discipline would have the advantage to keep in a sole law the different already existing rules.*

As far as assistance and interventions in favour of asylum seekers is concerned, it should be stressed the long standing and fruitful co-operation between Italian Authorities and UNHCR. A representative of UNHCR is member with full rights of the Special Committee charged for the recognition of the refugee status. It could be added that, in close co-operation with the UN High Commissioner for Refugees and the National Association of Italian Municipalities (ANCI), the Ministry of the Interior has recently launched a special assistance plan for asylum seekers allowing an extension of interventions after the term of 45 days, provided for by the existing legislation. This is an extraordinary strengthening of the assistance activity carried out by the Italian State towards the applicants for the recognition of the refugee status and it is aimed at ensuring financial means for a minimum of 180 days (board, lodging, health care, education and vocational training).

General climate concerning immigrants.

39. *It must be clear that the negative climate, pointed out by ECRI, cannot be referred to immigrants in general but to the great number of illegal immigrants who, because of their conditions, are more easily involved in criminal activities.*

Private sector

J. Employment

44-45. *In order to face the problems, stressed by ECRI, and in order to reduce the weakness of the labour market of foreigners, Italy has concluded and intends to conclude bilateral agreements with countries of provenience, so as to offer, among others, better opportunities for employment, adequate to the professional qualifications owned by the foreigners.*

K. Racism and mass events

46. *The Italian Government has faced the problem of violent behaviour during sport events.*

In the case of soccer matches, the safety of the vast public of supporters is endangered by limited fringes of violent people.

The violence in stadiums requires an answer by the Government which cannot only consist of aggravating penal sanctions, but also of increasing the safety levels and involving the most reasonable leaders of organized fans.

It is worth noting that, in order to face this situation, the Government is engaging about 11.000 policemen every Sunday at stadiums.

The relevant Ministries (Interior, Justice and Sport) have stressed the need to fill the gaps - in prevention and repression - of current guidelines.

On August 20th 2001 the Government approved a special Decree aimed at preventing and punishing acts of violence committed on the occasion of sport events and, among others, at punishing actions, expressions and written panels connotated by racism or intolerance:

- *The Police can arrest the responsible of acts of violence to persons and to objects even if not caught in flagrancy (but anyhow within the 48 hours), whenever the identification of the culprits has been possible through photos, films or TV shots.*
- *Further provisions will reinforce the admittance in the stadiums and the obligation to sign at the Police Posts in the match-days for those convicted for previous acts of violence.*

All these measures are contained in an "ad hoc" bill presented by the Council of Ministers together with another bill ruling:

- *the utilization of close-circuit T.V.,*
- *the sale of ticket and their check at admittance to the stadiums,*
- *the relative administrative sanctions for default cases.*

M. Antisemitism

49 Italy takes into account the suggestion of ECRI to pay attention to its recommendation n. 6 and deploys any effort in combating the dissemination of racist, xenophobic and antisemitic material, according to Italian legislation.

N. Law enforcement officials

51-52 As far as law enforcement officials misbehaviour is concerned, any complaint filed by possible victim is duly investigated and results of these investigations are brought before the competent Court.

Italy reserves a particular attention to the training of law enforcement officials operating in the field of human rights safeguard, as it is particularly stressed in the annexed booklet "Activity of the Carabinieri Corps in the field of human rights", issued by the Comando Generale dell'Arma dei Carabinieri.

54. As regards the linguistic-cultural mediation with some migrant's communities, the Department of Public Security, through its Central Directorate

of Highway, Border and Post Police, has subscribed a Convention with the NGO called C.I.E.S. for the setting up of a linguistic-cultural mediation service at the Migration and Minors' Offices.

The Convention also envisages a training module for the Police operators belonging to the Border Police, as a completion of the specialisation courses for the Border personnel, carried out in Duino (North Eastern Italy), whose programme is herewith enclosed.

Penitentiary administration

55. There are no reports of ill treatments due to the personal features of prisoners, related to race, ethnic group, nationality, language, religion, political opinions or economic and social conditions of the prisoners themselves.

The fact that the above-mentioned complaints are not to be referred to the condition of being a non-national is confirmed by the complaints being lodged, on average, in the same measure by Italian prisoners as well.

On the other hand, the number of the complaints is not large and the ascertained episodes of ill-treatment are extremely rare.

However, it must be highlighted that any lawbreaking - in terms of violence, abuse of authority, or harassment towards any prisoner (both national and not national) - is a disciplinary infringement. It always results in a disciplinary sanction (up to the removal from office) in addition to causing an intervention of a criminal court where the facts can be considered crimes.

It is also important to notice that, just to prevent such events, the basic and on-going training of the Penitentiary Police as well as of the whole penitentiary staff focuses on education in legality, both "internal" (the Constitution and the ordinary laws) and international (the conventions ratified by Italy on the protection of human rights and against discriminations).

Therefore, it can be said that the training is strongly oriented to fight any attitude of intolerance, racism or xenophobia.

Furthermore, it must be pointed out that, in order to prevent any act of violence towards any prisoner (both alien national and Italian), and to facilitate the prosecution of any act of violence perpetrated, some special circulars - the first one dates back to June 1998 - have been issued, complying with what the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) hoped and providing that:

a) When the physician of the prison, during any medical examination, ascertains that the subject concerned presents injuries, he/she has to record in the Register "model 99" (register of examinations, prescriptions and proposals of the physician) both the objective outcome of the examination and what the

examined subject may declare about the circumstances of the violence suffered and about persons who have committed the violence. The physician has also to write his/her evaluation whether the injuries are compatible with the relevant causes declared by the subject concerned;

b) In all the cases of injuries found during any medical examination the prisoner and the internee undergo, the notes written by the physician in the Register model 99 shall be immediately sent by the Prison Governor to the Judicial Authority for any possible provision.

In order to facilitate the full application of the principles stated in the above mentioned circulars, a new version of the Register "model 99" has been drawn. Unlike the former model, every page of the register in the new version is split up in several columns: date and time of the examination, prisoner's personal data, objective examination, diagnosis and prognosis, proposals and instructions, prisoner's statements, evaluation of the physician about the compatibility of the prisoner's statements with the outcomes of the objective examination.

In the last column, the Prison Governor shall note his/her personal decisions.

The new structure of the Register Model 99, and namely the introduction of specific items concerning the prisoner's "statements" and the physician's evaluation, serves just for drawing the physician's attention on the obligation of writing in the register, every time he/she finds some injuries on the prisoner/internee during an examination, all the elements within his/her competence, so that the Judicial Authority to be addressed may ascertain the facts.

c) As for the statement that "the immigrants have rarely access to measures alternative to detention", it must be reasserted, as it was explained during the meeting with ECRI's representatives, that measures alternative to detention (such as house arrest or permission to leave the prison during the day for working outside) are not easily applicable to persons deprived of a permanent housing, with a lack of employment and with a fragile social and familiar relationship as the great majority of foreigners in prisons who live in condition of clandestinity.

On the other hand, the prison benefits are granted or denied in Italy under the decision taken by independent magistrates, as in the Italian legal system only a judge may decide on the prison benefits. Therefore, it can be quitely stated that, in the same conditions, the benefits would be denied to an Italian citizen as well.

Nevertheless, ECRI's invitation to constantly and carefully monitor the situation, in order to remove any direct or indirect obstacle in this respect, is well accepted.

56. As regards item 56, as noted by ECRI, the Penitentiary Administration has provided for the translation (into English, French, German, Croatian and Arabic) of some excerpts from penitentiary rules and regulations as well as of an handbook relevant to the main rights of the prisoner (into French, English, Spanish and Arabic); the Administration has also drawn up a convention with CIES (a non governmental organisation for the linguistic-cultural mediation and integration) aimed at facilitating the process of integration of foreigners, in particular non-EU persons.

P. Situation of Roma/Gipsy communities

60. When talking about the Italian Roma/Gypsies, it is not proper to define them as a group which is practically segregated from the rest of the population, since the Italian legislation provides for specific measures in their favour, including enrolment in the registry office, free movement, work licenses and education.

61. In compliance with the existing regional laws and in co-operation with Municipalities, cultural mediators and voluntary societies, a number of Regions have taken steps for the setting up of campsites and transit areas specially equipped within authorised camps. Furthermore, regional laws provide for actions aimed at improving their life conditions, including health, housing, education and job; these provisions alone assume a great importance in themselves, since they prove that Gypsies are recognized as an ethnic minority with their own culture and language.

69. As to the proposal of protecting and recognizing the Roma/Gypsy population as a linguistic minority, it is worth mentioning that the Parliament has devoted its attention to this particular issue which has been the subject of a long debate during the law-making procedure for the adoption of Law No 482 of February 15th 1999, entitled "Provisions for the protections of historical linguistic minorities". Taking into account the particular importance of Roma/Gypsy communities, the Parliament and the Government are considering the possibility of approving a special law on this issue.

Q. Exploitation of racism and xenophobia in politics

General remarks.

Italy is one of Europe newest immigration societies. Until about 20 years ago it "exported" more workers than it "imported". Today, immigrants still make up only about 2.8 percent of the population, the lowest percentage in Europe.

In the past year, polls show that the Italian public opinion has begun to accept new immigrants as a necessary solution to an ageing work force.

Some inconveniences are the result of the absorption of foreigner manpower by the local communities. In a few words the social impact of immigration on local communities needs to be monitored and improved constantly.

Some isolated cases of intolerance by few citizens and local leaders have been broadly condemned. In any way they represent the official point of view of any Italian political party. No political party in Italy has in its programme or attitude any inspiration to racial and xenophobic intolerance.

Therefore, a new wording of the para 71-72-73 - as indicated below - could better reflect the Italian situation:

para 71: "ECRI is concerned at the widespread use made of racist and xenophobic propaganda by some individuals and some local leaders in Italy....."

para 72: "Racist and xenophobic propaganda is disseminated through the use of written material such as posters and leaflets, but in most cases has also been noticed in some speeches of few public figures at local level. In most cases non-European Union....."

: "...humiliating; however, there have also been reports of cases where local politicians would have resorted to speech encouraging violent of discriminatory..."

para 73: "It has been reported that some local members of political parties have made use of xenophobic or otherwise intolerant political discourse. ECRI registers here its concern at the influence these political persons could exert on the whole political arena. In this respect ECRI fears that in an attempt to obtain..."