



european network against racism

ENAR Shadow Report 2009-2010

ENAR SHADOW REPORT 2009/2010

Racism and Discrimination in Italy

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism with the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.

Published by the European Network against Racism (ENAR) in Brussels, March 2011, with the support of the Open Society Foundations, the Joseph Rowntree Charitable Trust. and the Community Programme for Employment and Social Solidarity - PROGRESS (2007-2013).

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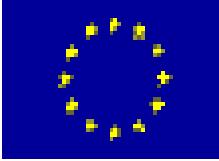
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3. promoting policy transfer, learning and support among Member States on EU objectives and priorities; and
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I. Executive summary

In 2009 there has been a dramatic increase in the vulnerability of migrants to racism and discrimination. Although some categories such as Roma and Sinti or Northern Africans have experienced more incidents of racism, strong anti-immigrant feelings have generally affected *all nationalities* and groups. It is not a coincidence that critical situations, like that of the seasonal workers in the agricultural sectors have reached a violent climax by 2010.

A discriminatory attitude has especially characterised public services, challenging the idea that education and health are fundamental rights for all. Also regional and municipal norms, based on the exclusion of non Italians and non European citizens, have affected the basic rights of migrants.

The Berlusconi government has taken an increasingly hard line against irregular migrants and asylum seekers, clearly expressing his opposition to the idea of Italy as a multicultural nation. The restrictive and criminalizing provisions of the so called security package, under discussion in 2008, continued through Parliament in the midst of racist representation of migrants, and entered into force in 2009. Law 94 included a provision which made irregular migration a crime and other laws were passed on family reunification or citizenship, their aims being making integration and social inclusion harder.

Measures for Roma and Sinti at the city level have continued to be based on policies of control and on forced evictions, affecting the process of integration of Roma families and children. The basic human rights of asylum seekers such as non *refoulement* have been violated by the policy of interception at sea and by special agreements with Libya.

No efforts have been made to combat racism as a crime or to seriously deal with the social inclusion of migrants. National tools to combat poverty, have unfairly excluded migrants.

Among the recommendations included in this report, the main ones are:

- Adopt a policy on immigration based on the full acknowledgment of the social, political and cultural rights of migrants rather than focusing only on the securitarian and criminalizing measures;
- Approve a comprehensive law on the protection of asylum seekers and refugees, stressing the principle of *non refoulement* and the right to a fair and satisfactory asylum procedure;
- Invest in policies aimed at promoting the inclusion of Roma and Sinti population, their integration in the housing and employment sectors and the end of their segregation in camps.

- Raise awareness on racial crime
- Address social inclusion through the active involvement of regional and local actors. The development of standards of social assistance should be carried out in partnership with local institutions and civil society

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III. Introduction

The present report covers the period from 1st January 2009 to the end of March 2010. Some events occurred in April and May 2010 have also been inserted if they shed light on events of the period under analysis.

2009 and 2010 have been characterised by strong anti immigrant feelings fuelled by criminalizing statements of policy makers and discriminatory policies, aimed at making it harder for migrants to integrate. For example they made irregular migration a crime the access to health services, education and other basic services has become more difficult.

The policy of interception at sea and the agreement with Libya have reduced the number of migrants arriving on the coasts of Southern Italy but this practice also violated the principle of *non refoulement* and the right to seek asylum. Also the situation of the Roma and Sinti communities has been negatively affected by new norms at a Municipal level.

The present report will start with an overview of the groups that are the most vulnerable in society. Racism and discrimination will be then explored in greater depth in the various domains. The second part of the report will summarise the main policies and legal measures affecting migrants, with special attention to the Security Package. A critical appraisal of the national and local policies of social inclusion will also be presented.

IV. Communities vulnerable to racism and discrimination

As of the 1st January 2009, the amount of migrants registered in Italy was 3,900,000, registering an increase of 462,000 in a year (ISTAT). The most represented nationalities are European: Romanian and Albanian. The third largest national group is Moroccan, then Chinese and Ukrainian. As an in depth study on African migrants in Italy indicates, their presence in Italy is significant¹. In the EU there are 5 million immigrants of African origin; about 1 million of them are in Italy. Their area of origin is especially North Africa (69.7 % of African migrants), 46, 3 % of African immigrants in Italy are Moroccans.

The EU- MIDIS survey on discrimination shows that discrimination “on the basis of immigrant or ethnic minority background, is a pervasive experience for some specific groups in the country where they live”². The results for Italy indicate that North-Africans are the ethnic group that has experienced greater discrimination (52% of respondents have been discriminated against because of their immigrant/minority background). The second most discriminated group are Albanians (37%), then Romanians (29%). The incidence rate of discrimination for North Africans in Italy is extremely high: they experience on average 9 incidents in a 12 months period, this is the highest incidence rate in Europe, which was also pointed by the High Commissioner for Human Rights, Pillay,³ in her speech to the Italian Senate.

Another study by Fundamental Rights Agency (FRA) confirms this data, as Muslims of North African origin in Italy experienced the highest levels of discrimination and repeat discrimination in almost every area⁴. Muslim communities have actually been targeted by many ordinances and norms at the local level, and a lawyer in Milan has started over 100 anti discrimination proceedings on behalf of the UCOfI, the union of Islamic communities and organizations.

Going against a European trend, there has been a decrease in the number of asylum applications. From 30,492 applications of 2008, the number of asylum applications presented to the Italian authorities has gone down to 17,603 in 2009. This is probably a consequence of the policy of intercepting boat migrants in international waters. By May 2009 the arrivals by sea have decreased by 90%, compared to the previous year. In 2008, 75% of migrants arriving by sea applied

¹ Caritas/Migrantes, *Africa-Italia. Scenari migratori*, Edizioni Idos, Roma giugno 2010

² 2009, *European Union Minorities and Discrimination Survey* the European Union Agency for Fundamental Rights

³ Transcription of the Speech at the Senate on the 10th March 2010 <http://unipd-centrodirittiumani.it/it/news/Discurso-dellAlto-commissario-per-i-diritti-umani-delle-Nazioni-unite-Navi-Pillay-al-Senato-della-Repubblica/1561>

⁴ Fra, EU MIDIS, *Data in Focus report, Muslims*: http://fra.europa.eu/fraWebsite/attachments/EU-MIDIS_MUSLIMS_EN.pdf

for asylum, and 50% of these were granted protection⁵. UNHCR expressed serious concerns that Italy's interdiction policy, in the absence of adequate safeguards, can prevent access to asylum and undermines the principle of *non-refoulement*⁶. The Office of the High Commissioner for Human Rights, (OHCHR), as well as many other human rights organizations have protested against the increasing numbers of immigrants, intercepted at sea and returns to Libya, without having the chance to apply for asylum.⁷

There are an estimated 120,000 and – 150,000 Roma and Sinti people in Italy. They are still the group experiencing most serious discrimination, also by the national and local government. The state of emergency⁸, giving special powers to the regions and to the Municipality of Rome, Milan and Naples has been extended to 2010 and to the whole Italian territory. Milan and Rome have also issued a plan based on strict controls of camps; while at the same time have continued forced evictions. Human rights organizations have expressed concern about the housing situation of Roma and Sinti; furthermore, their lack of documents is a barrier to their social participation and economic integration into Italian society.

The report by *Medicines sans Frontieres* on the situation of immigrants in detention centres highlights their dramatic conditions throughout Italy⁹. The centres host migrants with heterogeneous legal and personal situations, people waiting for identification, for a reply to their asylum application, or for the results of legal proceedings, as well as people charged with a crime together with people belonging to vulnerable categories. Within the centres, there are multiple violations of basic human rights, including limited access to basic health and legal services. The minimum standards provided by the centres are not monitored by the central government and there is little information provided regarding the centres to civic society. Researchers found a high level of psychological distress among the guests of the centre, highlighted by a phenomenon of self harm, large use of tranquilizers, fights and riots.

A riot exploded in the town of Rosarno in January 2009, with a violent confrontation between migrants and the local population, which brought to light the high level of discrimination and exploitation of migrants working as seasonal workers in the agricultural sector. Moving around Italy, according to the product

⁵ Data on asylum obtained from UNHCR news at www.unhcr.it/cms/view.php?dir_pk=26&cms_pk=752 (accessed 10/09/2010)

⁶ Ibid.

⁷ Press office ochcr “human rights chief visit to Italy”<http://www.ohchr.org> accessed 20/08/2010

⁸ In May 2008 an ordinance by the President of the Council of Minister provided for the state of emergency in Campania, Lazio and Lombardia. The state of emergency was motivated by the “mere presence” of Roma citizens and their illegal settlements and had the purpose of authorising practices and policies that would appear unusual in normal conditions. Such ordinance basically authorised the discrimination and persecution of Roma and Sinti citizens in Italy. An exemplary issue is that of the census of Roma and Sinti people in the settlements, with fingerprinting also of minors. See *Memorandum to the European Commission*, Justice Initiative, ERRC and osservAzione, May 4, 2009.

⁹ *Medici senza frontiere – Missione Italia. Al di là del muro* (2010, Roma, MSF)

to harvest or pick, they work 14 hours a day for an unfair pay, live in degrading conditions with no access to health services¹⁰.

About 30,000 Jews live in Italy and the largest communities are in Rome (15,000) and Milan (10,000). According to a study by the University of Tel Aviv anti-Semitism is on the rise in Italy and in 2009 there have been 1129 episodes, double the number of 2008 (559)¹¹.

The number of unaccompanied minors arriving in Italy who report to the authorities is approximately 7700 per year. Data available for the first 9 months of 2009 indicate that 6,587 unaccompanied minors arrived in Italy¹². According to research by *Terres des Hommes* and Parsec, the estimated arrivals via land raise the number to 22.000-27.000. The study points to the critical areas of the legal and social provisions for unaccompanied minors implemented in many municipalities, and to its high rate of abandonment by minors, who actually prefer to live in irregularity. Migrants outside social schemes are more exposed to risks of exploitation and criminality. A high number have strong psychological problems including addictions to drugs or glue¹³. Another study¹⁴ points to the conditions of many unaccompanied minors who are victims of trafficking and exploitation. Some have been sexually abused during their journey to Italy and are forced to hard work and illegal activities (sex work, drug smuggling, irregular work in agriculture and catering). Human trafficking is a phenomenon especially for minors from Afghanistan. The vulnerability of minors is worsened by the fact that social protections foreseen for victims of trafficking¹⁵ is not often given to unaccompanied minors. The law n 94/2009, discussed in chapter vi, has made it harder for unaccompanied minors to obtain a permit to stay, once they are over 18.

The Italian policy against irregular migration and the collaboration with the Libyan authorities has also affected the situation of unaccompanied migrant minors: the number of minors arriving by sea in 2009 has been of 889 compared to 2327 of 2008.

¹⁰ For a discussion on seasonal workers in the agriculture sector see chapter V.I of this report.

¹¹ Stephen Roth Institute, "Rapporto sull' antisemitismo in Italia" Telaviv 2009 http://www.osservatorioantisemitismo.it/sub_tipologie.asp?idtipo=56&idmacro=1&idfiglio=119&n_macro=&pagina=Rapporti&documento=Rapporti (accessed 20/08/2010)

¹² Number registered in of the data base of Non Italian Unaccompanied Minors MSNA according to authors of the second EMN report in Italy EMN " *Minori non accompagnati- Ritorni Assistiti-Protezione Internazionale*" (2010 Edizioni Idos, Roma)

¹³ G. Candia, Carchedi, F.; Giannotta F; Tarzia G. *Minori Erranti- L' accoglienza e i percorsi di protezione*.2009 Ediesse Roma

¹⁴ Save the Children "Dossier Le nuove schiavitù" Agosto 2010. Available at: <http://www.savethechildren.it/IT/Tool/Pubblicazioni/All?year=2010&offset=1> (accessed 20/08/2010)

¹⁵ Minors victims of trafficking have the right to special protection. Law n.286.1998, art 18

1st of March 2010 is a movement, linked with the *French Journee sans immigrés*.

The movement has organised a massive non violent manifestation in Rome to increase awareness of the important role of migrants in Italian society. Other manifestations were also organised around Italy. After the massive mobilization, the movement has become an anti racist association www.primomarzo2010.it

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V. Manifestations of racism and religious discrimination

There is a new national source of information on discrimination of people belonging to ethnic minorities, that is the report of the contact centre UNAR, the anti discrimination body operating within the Ministry of Equal opportunities. The main context of discrimination reported is in “public life”, registering an increase from 13,6% of 2008 to 17% of 2009. UNAR classifies as racist and discriminatory incidents occurring in the domain of “public life” all cases occurring in public spaces, which are usually unmotivated manifestations of racial hatred. The report underlines that “public life” is actually the vaguest domain used in their survey, yet it is still useful. The fact that most cases can be traced back to this domain proves a widespread phenomenon of racial intolerance. The second area of incidents of discrimination reported to the contacted centre is that of employment. Also the number of cases of discrimination relating to the access and use of public service has increased, by 0.7%. Finally, there is a big increase in cases of racism and discrimination perpetrated by the mass media, +8, 1%¹⁶.

V.i Employment

The report Ocse Censis *International Migration Outlook* indicates that foreign workers registered at INAIL in 2008 amount to 3.266.395, 42% of them are women. The actual financial crisis is negatively affecting the demand for foreign workers by firms. While in 2008 Italian firms estimated their need of new employers around 171.900, in 2009 the estimated numbers of new foreign employees is of 92,500.¹⁷

Also this year, Italy is characterized by the so called phenomenon of ethnicization of work, due to the fact that certain professions are believed to be more suited to specific national groups and others exclude non Italian citizens. A national research project based on a survey of 16,000 migrant workers, provides an accurate portrait of workers of immigrant origin in Italy¹⁸. 77% of them currently have a regular job but 32% have experienced irregular work in the past. Their level of education is only slightly lower than the Italian working population (40,6% of workers of immigrant origin has a diploma or degree compared to 44.9% of Italians), yet they do not have access to qualified jobs and they do not experience vertical social mobility. 29% of non Italian workers are employed as a worker, 21% as a domestic worker or care worker, 16% work in hotel and catering. 31% have a monthly salary of less than €800.

¹⁶ UNAR “Eventi pertinenti rispetto all’ ambito di discriminazione” www.unar.it (accessed 15/09/2010)

¹⁷ Osce Censis “Migration outlook 2010” Milano Sopem 2010 www.oecd.org/dataoecd/12/24/45613085.pdf (accessed 15/09/2010). It is worth noting that the report underlines the mismatch among the number of employers coming from abroad requested by firms and the lower number of migrant workers allowed to arrive in Italy without a work contract by the Italian government through migration policy.

¹⁸ Censis, Iprs, ISMU *Immigrazione e lavoro. Percorsi lavorativi, Centri per l’impiego, politiche attive* Milano, Franco Angeli 2010 . See http://www.iprs.it/publication_detail.asp?ReclId=42 (accessed 12/08/2010)

Another national study, by the Foundation Leone Moressa¹⁹, indicates only 1,1% of the immigrant population has a qualified job (director level) and the gap in the salary between Italian and non Italian workers are of €238 (per month). A foreign worker receives an average salary of €962 per month while the average salary of an Italian employee is €1245.

Eurobarometer²⁰ found out that only 35% of respondents consider that enough has been done to increase the ethnic diversity in the workplace, while the average percentage of positive replies in other countries involved in the survey is 51%. The main barriers to more qualified professions are the lack of recognition of education certificates together with discriminatory procedures of employment. As also reported by FRA in the *Annual Report 2010*, five long-term legally-resident non-EU nurses were excluded from the selection process by a hospital in Genoa on the grounds that they did not possess Italian or EU citizenship and hence could not work as public officials²¹. Other cases of discrimination in the public sector were dealt by the EU Commission, which formally asked Italy to stop discriminating against non-Italian citizens in relation to employment vacancies in the public administration in the province of Bolzano, a town in northern Italy. Another case is that of a young Moroccan teacher, who was dismissed by the school where he was working just because of his nationality. After two years, the tribunal of Genoa²² considered that his dismissal was discriminatory and ordered the Ministry of Education to provide financial compensation for material and moral damage undergone by the Moroccan teacher. The teacher has been re-admitted to the category and his right to work as a teacher in Italian public schools has been re-affirmed.

Discrimination is also present in the private sector. The company of public transport of Milan was taken to court²³ and found guilty of discriminating against legally-resident third country nationals for having a policy of only employing Italian or EU citizens.

A special report on Muslims by FRA, indicates that Muslims considered that they were most discriminated against in the employment sector. 39% of interviewees, (the second highest percentage in Europe), stated that they experienced discrimination in access to work, and 31%, the highest percentage in all Europe, has been discriminated against at work²⁴.

¹⁹ Fondazione Leone Moressa. "I livelli retributivi dei dipendenti stranieri e i differenziali con gli italiani. Italia. ii trimestre 2009.

²⁰ Eurobarometer survey on discrimination in the EU in 2009. http://ec.europa.eu/public_opinion/archives/ebs/ebs_317_en.pdf

²¹ "concorso per infermieri esclusi gli immigrati" Available at: <http://genova.repubblica.it/dettaglio/concorso-per-infermieri-esclusi-gli-immigrati/1640650>

²² Sentenza n.113 of 21/1/2010 Genova, sezione lavoro. Available at <http://www.immigrazione.biz/sentenza.php?id=253>

²³ Tribunale di Milano — Sezione Lavoro — Ordinance of 20 July 2009. Available at: http://www.asgi.it/public/parser_download/save/tribunale_milano_lavoro_200709.pdf

²⁴ Fra, EU MIDIS, *Data in Focus report, Muslims*: http://fra.europa.eu/fraWebsite/attachments/EU-MIDIS_MUSLIMS_EN.pdf

In the period under analysis, an incident has brought to light the situation of extreme exploitation faced by seasonal workers in the agricultural sector. One reconstruction of the events indicates that on 7 January 2009, two separate drive-by shootings, the second of a Guinean, led to a protest by African seasonal migrant workers, who marched in rage through the town to denounce their inhumane living conditions and economical exploitation. During the protest, there were several violent episodes, such as setting fire to cars and clashing with riot police. The next day, local residents set up an informal road-block and occupied the local town hall in protest: migrants were reportedly beaten with iron bars, five deliberately run over and a further two injured by shot-gun pellets. Amnesty International reports that in total, 53 persons were hospitalised, including 21 migrants, 14 local residents and 18 police officers. Order was only restored in the town after the departure of most of the migrant workers, hundreds of whom were removed from the town by the authorities. Following their departure, many of the temporary shelters they had set up in abandoned buildings around the town were demolished by the authorities²⁵.

Non governmental organizations indicated that the situation turned violent because migrants were exhausted by the extremely harsh living conditions, the widespread illegal nature of the work and the way they were treated as well as the presence of the mafia. Migreurop pointed to the Italian *"governments responsibility for encouraging racism and violence through legislation and the declarations by some of its representatives, while it ends up being absent in places where conflicts take place"*. The group explains what happens as a result of two factors *"the criminalization of migrants and the absence of the State in places where the law of the mafia rules"*²⁶. Arci has denounced the fact that the state only deals with seasonal workers by carrying out work inspections, while employees have been waiting for a simplification of legislation on seasonal workers and a standardised format for contracts. Human Rights Watch denounced national government's response to the events of Rosarno: political declarations focused more on irregular immigration and employment than on the victims²⁷. The events of Rosarno are the epilogue of a situation of degradation, violence, the total absence of the public institutions that has not changed for years and that it is not a coincidence that the situation exploded in the year of the security package.

²⁵ Amnesy International Italia " Tutti i migranti devono essere protetti dallo sfruttamento" <http://www.amnesty.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/2981> (accessed on 18/08/2010)

²⁶ Report of Migreurop following the fact-finding mission on 15 January 2010. Available at <http://www.migreurop.org/article1609.html> (consulted on 18/08/2010)

²⁷ Referring to the violence in Rosarno after a special session of the council of ministers in Reggio Calabria on January 28, Berlusconi said his government had achieved positive results in its fight against irregular immigration and that "a reduction in the number of foreigners in Italy means fewer people to swell the ranks of criminals." At the height of the violence in Rosarno, Interior Minister Roberto Maroni blamed the situation on excessive tolerance of "illegal immigration." www.hrw.org/en/news/2010/02/04/italy-speed-investigations-rosarno-attacks(consulted on 18/08/2010)

In-depth studies of seasonal migrant workers in the agricultural sector describe conditions of extreme and systematic exploitation, almost slavery. *Medicines sans frontieres* has denounced for years their situation in Southern Italy²⁸ and the last report indicates that 90% of workers do not have a labour contract and, 16% have been victims of violence. The living conditions of seasonal workers in Southern Italy are inhumane: 65% live in poor housing with no access to water, 62% have no access to toilets and 76% have chronic illness, mostly linked to working conditions. The pay for 14 hours of work per day is about €25. Workers complained that they were being blackmailed by their employers, that there were delays in payment, that there was no respect for the safety of the workers when using pesticides. Another study²⁹ pointed out that seasonal agricultural workers are forced to move from one place to another, living in the countryside where they work with no contact with local services and the local population. Their chances of forming a family or integrating are inexistent; on the contrary, their irregular situation in the labour market exposes them to illegal exploitation and conflicts with the local population.

Also in response to the facts of Rosarno, International Labour Association (ILO) stated that they intend to monitor the policies of the Italian government toward migrants. In particular, the international organization will evaluate the application of Convention ILO 143³⁰ on the rights of migrant workers, and of norms on forced labour, especially in the agricultural sector³¹.

V. ii Housing

Housing is a problem for the weakest groups of the Italian population, and even more so for immigrants. Discrimination in the housing sector has been the most common form of discrimination reported to the UNAR contact centre in previous years³². Furthermore, the economic crisis, with its negative impact on the labour market, has also affected migrant's access to housing.

The report on global rights 2010³³ indicates that immigrant citizens have less possibilities to buy a house than Italians. The purchase of housing by immigrants has decreased by 23,7% between 2007 and 2008, stopping the positive trends of the previous four years. Evictions for non payment of rent have increased

²⁸Medici senza frontiere *Una stagione all' inferno* 2009. Available at <http://www.medicisenzafrontiere.it/msfinforma/pubblicazioni.asp?id=1644> (consulted on 18/08/2010)

²⁹ Cicerchi M., Pallara P. *Gli immigrati nell' agricoltura italiana*. Istituto Nazionale di Economia Agraria 2009. Available at www.inea.it/public/pdf_articoli/775.pdf Accessed 18/08/2010

³⁰ The Convention 143 of 1975 concerns Migrations in Abusive Conditions and the Promotion of Equality of Opportunity of Treatment of Migrant Workers. Promoting the human rights of all migrants, C143, in the case of illegal work and exploitation, states the need to apply sanctions against employers and not against migrant workers who are in an irregular position.

³¹ <http://www.cgil.it/dettagliodocumento.aspx?ID=13225>

³²The last UNAR report available refers to 2007. Unar *Un anno di attività contro la discriminazione razziale. Rapporto 2007*

³³Associazione Informazione *Rapporto sui diritti globali 2010* available at <http://www.dirittiglobali.it/component/content/article/53-rapporto-sui-diritti-globali/39-rapporto-2010.html> (consulted 19/08/2010)

heavily because of a rise in rent and an increase in the number of people losing their job. In the northern regions of Italy, evicted families of immigrant origin are 22% of all evicted families³⁴.

Different case studies have tested discrimination in access to housing for migrant citizens. Researchers of the CAPP³⁵ conducted research on the web, sending 3,000 emails with different false identities to landlords that had advertised a flat for rent. 62% of the mails “sent by Italians” received a positive answer, also if the working conditions of the potential lodger had not been specified. For non Italians the percentage of replies and follow ups was 41%. Mails “from migrants with an Arab name” had the lowest chances of getting a rental contract. EU migrants, from Eastern Europe seem to experience less discrimination as 49.5% received a reply. In the regions of northern Italy only one landlord out of four gave a positive reply to a male Arab name, while 70% positive replies were received to mails sent with an Italian male name.

Médecins sans Frontières has described the inhuman housing conditions of seasonal workers in the agricultural sector, especially in Southern Italy³⁶.

The unequal situation of people from ethnic minority backgrounds in Italy, has become even worse with the provisions of the Italian security package related to housing which will be discussed in greater detail in chapter vi. It has become harder for immigrants to rent a house, as landlords risk jail if tenants do not have a permit to stay and a new requirement relating to housing has been added in order for migrants to be granted family reunification. Different municipalities have interpreted the law in different ways and in places such as Florence; the process of family reunification has been slowed down by the lack of personnel assigned to this task³⁷.

In the months following the approval of the Security Package, the government has tried to give clear instructions about the certification of housing requirements for migrants. Yet, municipalities, especially those governed by the Northern League, have added stricter regulations about certificates of “house suitability”, managing by themselves national issues and discriminating against non Italian citizens. For instance, the municipality of Montecchio has modified and increased the requirements to obtain the eligibility of flats to house a certain number of people and has extended these requirements also to the instances of family reunification, to the requests of permit to stay³⁸ and to the requests of having a

³⁴Osce Censis “Migration outlook 2010” Milano Sopem 2010 www.oecd.org/dataoecd/12/24/45613085.pdf (accessed 15/09/2010)

³⁵Massimo Baldini, Marta Federici *Ethnic discrimination in the Italian rental housing market* CAPPpaper n. 77 luglio 2010

³⁶Medici senza frontiere *Una stagione all' inferno* 2009. Available at <http://www.medicisenzafrontiere.it/msfinforma/pubblicazioni.asp?id=1644> (consulted on 18/08/2010)

³⁷“Il certificato per l'alloggio non arriva e le famiglie degli immigrati sono bloccate” Repubblica 1/08/2009 in <http://www.meltingpot.org/articolo14879.html>

³⁸ The two dispositions of Comune di Montecchio Maggiore are (VI) n. 233 dd. 6 luglio 2009 and n. 347 dd. 8 dicembre 2009

foreign guest³⁹. In order to detect situations of overcrowdings, house to house controls have been implemented in the houses of non Italian citizens in the evening or early morning by law enforcement officials. Also the Mayor of the Municipality of San Martino a Lupari (prov Padova) has introduced a new requirement that persons have to obtain a permit to have non Italian guests⁴⁰. Civil rights organizations, such as ASGI have claimed that these municipal norms are discriminatory and have taken legal proceedings against them. It is worth pointing out that such norms discriminate non Italian citizens as guests- why should one ask for permission to have a non Italian guest in the house for more than one day?- and as hosts, as it is more likely for immigrant citizens to have non Italian guests. These dispositions have been contested also on the grounds that they deal with issues that are outside the mandate of Municipalities and violate the right to privacy of family life⁴¹.

The housing situation of Roma and Sinti people has been highly criticised for years as they live segregated in camps frequently located far away from the city centres, often close to motorways or railways, to industrial areas, or even on former waste dump sites. A research carried out by the NGO COSPE for FRA has confirmed that they live in substandard conditions in segregated structures, often overcrowded lacking in services and basic infrastructure⁴².

High Commissioner for Human rights visiting a unauthorised camp in Via Marchetti, said: "*I am profoundly shocked by the conditions of the camps*". After visiting the unauthorized camp of Via Marchetti, on the outskirts of Rome Pillay added: "*(...)For a moment I thought I was in one of the poorest developing countries and not in one of the richest nations in the world,*"⁴³. While some of the settlements are authorized, others are not. Both types of settlements are often targets of social alarm and hostility from residents. Unauthorized settlements are often subject to eviction orders and the inhabitants of the settlements are moved out without alternative accommodation by law enforcement authorities.

Notwithstanding national and international appeals⁴⁴, the approach of the national government⁴⁵ regarding forced evictions continued in 2009. The census

³⁹ With the disposition 47/2009 a non Italian guest has to be notified to the Municipality, showing additional papers respect to those foreseen by the national law. The host, presenting the request of authorization to stay in his house for a non Italian guest has to present to the local municipality also a proof of "suitability" of the flat to host a certain number of people and the proof of ownership of the house.

⁴⁰Disposition of the 8th February 2010 available at http://www.asgi.it/home_asgi.php?n=951&l=it (accessed on 12/08/2010)

⁴¹Trade unions CGIL-CISL-UIL with the support of ASGI have presented a legal proceeding against the Municipality of Montecchio Maggiore at the Tribunal of Vicenza in September 2010. http://www.asgi.it/home_asgi.php?n=1192&l=it (accessed 30/10/2010) Asgi has presented written a letter to UNAR about the case of San Martino a Lupari. Available at www.asgi.it/home_asgi.php?n=951&l=it (accessed 20/09/2010)

⁴² Enwereuzor U., Di Pasquale L. *Housing conditions of Roma and Travellers in Italy* Cospe Raxen NFP Italy 2009) Available at www.cospe.it/uploads/documenti/.../roma_housing_final.pdf (accessed 20/09/2010)

⁴³"Human rights chiefs visit to Italy", 12/03/2010. <http://www.ohchr.org/EN/NewsEvents/Pages/HRchiefsvisittItaly.aspx> (accessed 19/08/2010)

⁴⁴ Organizations as OSCE, OSI, the United Nation's CERD and international NGOs like the European Roma Rights Centre, the Centre on Housing Rights and Evictions are just some of the that have made public

of inhabitants of camps carried out in some regions in 2008 and in 2009 has also been conducted in camps in other regions, for instance in Veneto ⁴⁶. The "Nomad Plan" in force in Rome foresees forced evictions of thousands of Roma; most (but not all) of them will be resettled in new or expanded camps on the outskirts of Rome. Also in Milan, eviction will continue until at least December 2010; these are carried out without any consultation with the Roma and Sinti populations and often without offering alternative accommodation.

The only solution for most of the families evicted from camps is to find a barrack or some shelter and create another non authorized settlement in another area. Yet, the relocation also has a negative effect on the employment prospects of those of who have a job and on schooling for children. The eviction of the Milan settlement in Via Rubattino, in November 2009, caused Italian families of the neighbourhood to protest as they wanted to preserve the process of integration of the 36 minors. As of September 2010, there are 200 people in the same camp⁴⁷.

The project of the micro areas for Roma and Sinti families is a valid alternative to the logic of camps, since these consist in vast segregated settlements inhabited by thousands of people and located in the periphery of cities. On the contrary, the micro area in the province of Reggio Emilia provides accommodation to individual families and is centrally located. The project has been considered valuable by the UNRRA (United Nations Relief and Rehabilitation Administration) and it has received by the UN agency a contribution of 126.000 Euro. In February 2009 the first Sinti family selected by the Municipality moved to their house the micro area.⁴⁸

V.iii Education

There are 629,000 non-Italian students enrolled for the school year 2008/2009. They represent, on average 7% of the school population. They are 9.6% more than last year. Most represented nationalities are Rumanian, Albanian and Moroccan. An increasing number of them, 233,003, were born in Italy, and are now, so called second generation Italians. The percentage of non Italian students gets lower in higher school grades. Non Italian students attending upper secondary school are only 5% of the total student population; they are mainly

statements and appeals against the discrimination of Roma and Sinti in Italy. One of the latest appeals by Amnesty International. Amnesty International is on www.unimondo.org/Notizie/Amnesty-le-autorita-di-Roma-rivedano-il-piano-di-sgomberi-forzati-dei-Rom (accessed 19/08/2010)

⁴⁵Declaration of the state of emergency with regard to settlements of nomad communities in the territories of Campania, Lazio and Lombardia regions ("Nomad Emergency Decree"), defining the presence of "nomads" in these regions as the cause of great social alarm with potentially grave consequences for public order and security, and declaring a state of emergency until 31 May 2009 and then extended until 31 December 2010

⁴⁶ERRC, Osservazione and Open Society Institute have presented a formal to the European Commission a formal statement denouncing the illegitimate nature of the census on Roma and Sinti population in Italy.

⁴⁷"Storie migranti" <http://www.sivola.net/dblog/articolo.asp?articolo=4127> (accessed 20/08/2010)

⁴⁸"Reggio Emilia, oggi inaugurata la prima micro area in http://sucardrom.blogspot.com/2009_02_01_archive.html (accessed 20/08/2010)

concentrated in technical and professional schools. There is also an increase in the number of students of Roma origin: 12638, 4% more than last year. 54.6 % of Roma students attends primary school, only 1.5% attend secondary school.

One of the debated “innovations” of the new Ministry of Education ⁴⁹ is to have a maximum of 30% of non Italian students in each class. The official purpose of the norm is to “stay open to integration, protecting the symbols and identity of the Italian school” avoiding the formation of ghetto classes. Yet the norm has been highly criticised as discriminatory also because it forces parents living in areas with a high density of migrant students to take their sons and daughter to a school far from their area of residence⁵⁰.

The law 94/2009 of the security Package introduces the obligation for foreign citizens to show their residence permit when accessing public services. However in the previous law there were exceptions to this such as when accessing essential services such as schools and hospitals. The actual law includes fewer exceptions. Schools are still exempt from this but not all levels of schools, this exemption only applies to “mandatory education”. Education is not mandatory for persons over 16 years and it does not include kinder garden, the definition of mandatory education is debated and the law seems in contrast with other norms⁵¹ on the right to education. Regional and municipal authorities are tackling the issue differently. Even before the approval of the Security Package, the director of a school in Padova has asked non Italian students to show the permit in order to take the exams needed for their diploma⁵².

Another case of discrimination, on the basis of religion, took place in the municipal council of Goito, in the province of Mantova. They have approved a regulation that establishes that access to kinder garden is limited to families who accept the “Christian inspiration of life”. The Guarantor of private liberty has intervened, who believes it is an invasion of ones privacy to question one’s religion⁵³.

V.iv Health

The security package” and the public debate around it has made it more difficult for non-Italian citizens to access health services. The proposal which asks doctors to report patients who are undocumented generated a strong reaction across the country. Thanks to the strong opposition of NGOs, civil society and of

⁴⁹“Tetto del 30% agli studenti “stranieri” <http://www.meltingpot.org/rubrica90.html> Accessed 30 August 2010

⁵⁰ Circ 8/10/2010 of Ministry of Education <http://www.istruzione.it/web/ministero/cs080110>
<http://www.immigrazione.biz/circolare.php?id=383>

⁵¹Such as the decree of Ministero della pubblica istruzione or n. 139/2007 or Legge-delega 53/2003 implemented with d.lgs. n. 76/2005, on “L’obbligo scolastico”

⁵²“Padova discriminazione a scuola” melting pot 21/05/2009 (accessed 10/08/2010)

<http://www.meltingpot.org/articolo14545.html> (accessed 10/08/2010)

⁵³ “Asilo di Goito, interviene il Garante per la privacy” 24/02/2010 TG3 in <http://www.tg3.rai.it/dl/tg3/focus/articoli/ContentItem-f2fa9a5a-66fd-4fef-9ac8-de19844faf28.html> (accessed 10/08/2010)

many doctors, the law has been modified. The current law does not make it mandatory for doctors to report patients. Thanks to the pressure of civil society, a letter from the Ministry of Health has made clear that the doctor of a public hospital cannot report patients with an irregular legal status.

Yet migrant citizens have certainly felt the effect of this proposal. The coordinator of Gris (the national Group immigration and health) explained that "the Security Package has challenged the generally shared view of that health is a right for all"⁵⁴. In March 2009, after two months of discussions on the proposal, access to health services for migrants decreased by 30%⁵⁵. Some of the cases of discrimination in this sector are listed below.

In March 2009 a Nigerian woman did not go to hospital for fear of being denounced and died of TB⁵⁶. The decreased access to public medical services cannot be merely considered a result of an unjustified fear on behalf of migrants. Some non-Italian patients were actually denounced and expelled after accessing medical care⁵⁷. In April 2009, a Senegalese who went to hospital for a toothache and a woman from the Ivory Coast who gave birth to a child, were reported to the police and expelled from Italy⁵⁸. In April 2010 the emergency services of a hospital near Milano, denied care to a 13 month baby of Nigerian origin, because her father had not renewed his health card (although he had a regular permit to stay)⁵⁹.

In some regions as Friuli Venezia Giulia, the newly elected regional right wing government, apart from repealing the regional law on immigration, (among the most inclusive laws in Italy) has ordered the closure of all the medical centres for irregular migrants⁶⁰.

Good Practice

A national campaign "no reporting" has been launched by Medici Senza Frontiere, ASGI, Società Italiana Medicina delle Migrazioni, OISG. The campaign

⁵⁴ Stefano Femminis, "Pacchetto sicurezza, un anno dopo" in Cammini di giustizia, agosto/settembre 2010. <http://www.popoli.info/anno2010/08/1008art1.htm> (Accessed 20/10/2010)

⁵⁵ "Sempre meno immigrati vanno dal medico per paura di essere segnalati alla Polizia " http://immigrazione.aduc.it/notizia/maroni+tunisi+bloccare+sbarchi+lampedusa_106886.php. Accessed 10 September 2010

⁵⁶ Teme la denuncia e non va in ospee- Ragazza nigeriana muore di Tbc, rischio contagio" <http://www.meltingpot.org/articolo14162.html> (Accessed 10 September 2010)

⁵⁷ The current law does not make mandatory for doctors the prohibition to report patients, although a letter from the Ministry of Health has made clear that the doctor of a public hospital cannot report patients with an irregular legal status

⁵⁸ "In ospedale per il mal di denti, espulso un senegalese" Da il Corriere della Sera del 9 aprile 2009 <http://www.meltingpot.org/articolo14316.html> (Accessed 10 September 2010).

⁵⁹ "Cure negate senza tessera sanitaria" Repubblica http://milano.repubblica.it/cronaca/2010/04/12/news/nostra_figlia_morta_per_il_no_dellospedale_la_piccola_nigeriana_non_aveva_la_tessera_sanitaria-3279255/ (Accessed 10 September 2010).

⁶⁰ Stefano Femminis, "Pacchetto sicurezza, un anno dopo" in Cammini di giustizia, agosto/settembre 2010. <http://www.popoli.info/anno2010/08/1008art1.htm> (Accessed 20/10/2010)

states that the Italian Constitution (Article 32 (1)) includes the right to sanitary treatments as a universal right, for all human beings, regardless of their legal status www.divietodisegnalazione.medicisenzafrontiere.it Following pressure from civil society and associations, a representative of the Home Ministry has sent an official letter to all public doctors stating that that public officials working in health centres have to respect their obligation not to report their patients, foreseen by Article 35 of the decree 286/98.

V.v Policing and ethnic profiling

Little research or data is available on the situation of ethnic profiling in Italy in the period 2009-2010. An exception is the 2010 EU MIDIS report on racism and discrimination⁶¹. The perceptions of ethnic profiling in Italy is quite high among all three migrant minorities surveyed: 67% of Albanians, 45% of Romanians and 55% North Africans believe that the last time they were stopped by the police; they were stopped due to their ethnic background. The survey also explores casual police stops in the street which are extremely frequent in Italy for migrants. In fact, one of out of three respondents (of migrant origin) has been stopped by the police at least four times in the last 12 months. Only half of the respondents from Albania and Romania and one third North Africans in Italy evaluated the police conduct during stops positively. Migrants from North Africa had the worst experience with the police, 41% believed that the police were disrespectful to them during the checks while only 21% of Romanian and 18% of Albanians claimed that the conduct of the police during checks was fairly to very disrespectful. The percentage of negative evaluations of police treatment during checks by migrants living in Italy is the highest among all migrant communities in all the EU countries included in the study, suggesting that the conduct of the police should be monitored.

While in the aftermath of September 11th, discriminatory treatment by the police was especially directed to Muslim citizens within their anti-terrorism operations, lately ethnic profiling seem to occur as an excuse to enforce migration policies. As noted by the Open Society Justice Initiative in relation to anti-terrorist police operations post September 2001, in Italy, ethnic profiling practices are driven by policy making⁶².

Fuelled by a violent and xenophobic political discourse, identity checks are often carried out with methods that are against the law and violate persons human rights, especially in northern regions with elected representatives of the anti-immigrant party, the Northern League. In the small town of Coccaglio, the

⁶¹[1] European Union Agency on Fundamental Rights, *EU-MIDIS European Union Minorities and Discrimination Survey, FRA 2009. Result report available at: http://www.fra.europa.eu/fraWebsite/eu-midis/eumidis_main_results_report_en.htm accessed 10/10/2010)*

⁶²Open Society Justice Initiative, *Ethnic Profiling in the European Union: Pervasive, Ineffective and Discriminatory* 2009, OSI. http://www.soros.org/initiatives/justice/focus/equality_citizenship/articles_publications/publications/profiling_20090526 (accessed 10/10/2010)

Northern League Mayor, ordered municipal officers to go to the houses of an estimated 400 non Italians and check their residence status and permits. The operation was called “White Christmas” as it implied a sort of ethnic cleansing before the 25th of December: all irregular migrants should leave by that date, so the town would be clean and white. Controls were carried out on the legal status of all non Italians living in Coccaglio but also on the hygienic conditions of their houses. The shocking declaration of the mayor reported by the media is “Here *there is not a problem of criminality, we simply intend to start to do some cleansing*”⁶³.

In Milan, since September 2009, a special corps of the municipal police conducted mass checks on all non Italian passengers of public transport to spot irregular migrants. Passengers without a valid document were brought to the police station for further inspections on a bus with windows with iron grating, known as the “jail bus”. The municipal police of Milan “specialised in clandestine hunting”, as referred to by some media sources, carried out the mass identity checks also at bus stops, targeting visible ethnic minorities⁶⁴.

This form of ethnic profiling was also carried out in Rome. In January 2010 the police arranged 11 police stops, one close to the other, in a small area of just 500 square meters around the main train station. Shops and especially phone centres were controlled during the raid, to verify the license of shops and the legal status of the non Italian customers. According to the newspapers the result of a day of pervasive and intrusive checks, disrupting the regular activity of shops and phone centres, was that 10 citizens of migrant origin were taken to the police station since they did not have a legal permit to stay. It is not yet possible to know the exact results of the controls carried out by the police.

In 2009, the association of South Asian immigrants Dhumcatu⁶⁵ denounced the lack of intervention by the police in an incident involving an undocumented Italian. The police (Carabinieri), went to the spot where the incident was taking place, but after some questioning, did not intervene, leaving the man to be assaulted. The absurd explanations given by the law enforcement authorities was that the Bangladeshi admitted that he was an undocumented migrant, which warranted them not interfering in the attack.

Other cases of ethnic profiling are relative to the forced evictions, the destruction of properties and documents, and the physical and psychological violence against Roma and Sinti people in the so called “nomad” camps are well known. A Bangladeshi citizen who was the victim of violence by a group of co-nationals

⁶³“Razzismo bianco natale con caccia al clandestino”, Repubblica 18/11/ 2009 www.stranieriinitalia.it/s.o.s._razzismobianco_natale_con_caccia_al_clandestino_10198.html (accessed 10/10/2010)

⁶⁴F. Vanni “milano pugno duro dei vigili. Caccia agli irregolari ” <http://milano.repubblica.it/dettaglio/Milano-pugno-duro-dei-vigili-caccia-agli-irregolari-sul-bus/1470095> (accessed 10/10/2010)

⁶⁵www.dhumcatu.com

and documented in previous Shadow Reports⁶⁶.

V.vi Racist violence and crime

Racism and xenophobia towards migrants, Roma and Sinti, characterized by violence and offensive political discourse, is a serious problem in Italy but at the same time it is difficult to demonstrate, as the collection of data on racist violence and crime is scarce. In addition, official data on discrimination obtained by the Ministry of Justice is biased⁶⁷. Most crimes go unreported and are seldom labelled as racist crimes by the law enforcement authorities and by the media. According to Everyone group⁶⁸, if in 2008, 25% of the victims of violence in Italy were foreigners, in 2009 the percentage was even higher (also considering that the media often does not even mention the presumed nationality of the murder victims.)

According to the UNAR the main victims of racist violence in 2009 have been citizens of African origin and national groups as Rumanians, Chinese, Moroccans and those from Bangladesh⁶⁹.

The EU MIDIS Report on Discrimination shows that Italy is among the host countries with the highest percentage of respondents belonging to ethnic minorities who have experienced racially motivated crime in the last year. 22% of Romanians, 22% of Albanians and 31% of North Africans (these are three national groups included in the survey) have experienced a racially motivated crime. The type of crimes more frequently considered racially motivated in Italy are harassment incidents (for 96% Albanians and 80% of Rumanians). Also assaults or threats were considered to be racially motivated. 19% of North Africans were victims of serious harassment, assault or threats with a racist motive. The incidence rate for such crimes is the second highest in Europe⁷⁰.

Although ODHIR-OSCE modified their annual report, providing more data than in previous years, some comparisons are still possible. In 2008 Italian police recorded 112 hate crimes, 3 less than 2007, yet none of them were prosecuted. The crimes were recorded in the following categories: 62 racist crimes and 27 xenophobic crimes, resulting in ten arrests, 14 assaults and 15 instances of

⁶⁶Open Society Institute, Centre on Housing Rights and Evictions, European Roma Rights Centre, Romani Criss, Roma Civic Alliance in Romania, *Security a la italiana: fingerprinting, extreme violence and harassment of Roma in Italy*, available at: http://www.soros.org/initiatives/brussels/articles_publications/publications/fingerprinting_20080715 accessed 10/10/2010. See also European Roma Rights Centre, Centre on Housing Rights and Evictions, OsservAzione, Sucar Drom, *Written comments concerning Italy for consideration by the United Nations Committee on the Elimination of Racial Discrimination at its 72nd session* (n.p., n.p., 2008), available on: <http://www.errc.org/db/02/9B/m0000029B.pdf>, accessed 10/10/2010

⁶⁷In September 2010 163 justice offices throughout Italy had not sent the data for racist crime in 2009 in their jurisdiction as commented in a personal communication by Statistic office of the Ministry of justice

⁶⁸See www.everyonegroup.org

⁶⁹ibid

⁷⁰FRA *EU MIDIS European Union Minorities and Discrimination Survey 2009* http://www.fra.europa.eu/fraWebsite/attachments/eumidis_mainreport_conference-edition_en_.pdf accessed 30 June 2010

graffiti. Such data are to be taken with caution, because as the ODHIR-OSCE researchers noted, the government data of Anti-Semitic crimes that they used are half the number of NGO data⁷¹.

In 2009, the Observatory on Anti-Jewish Prejudice of the CDEC Foundation recorded 53 anti-Semitic manifestations, fewer than in 2008 (69). As in previous years, anti-Semitism was expressed mainly in the media, in anti-Semitic graffiti, and in insulting emails to Jewish institutions and posts on web forums. Wall graffiti made up the bulk of the incidents (20), and was often accompanied by swastikas and crosses. Many graffiti messages praised Hitler and the extermination of the Jews. There was a slight increase in incidents in which Jews were targeted as individuals, such as graffiti on the walls of houses and businesses owned by Jews (see below). There were five acts of vandalism, in January during Israel's operation in Gaza. The far right Militia, for example, also sealed and padlocked 22 Jewish-owned shops⁷².

The lack of data on racist violence and crime is also due to the fact that NGOs tend not to have enough resources to monitor the issue on a yearly or national basis. Some associations are starting to collect data on a city level, to try to put pressure on local authorities about the need to combat increasing racism. An Anti Racist Association in Rome has monitored racist aggression in Rome from January 2008 to May 2010⁷³. They counted 50 racist aggressions, with four deaths, many people injured and attacks to properties and objects. Analysing with special attention an area of Rome, the VI Municipality, the association highlights that most aggressions victimise immigrants from Bangladesh, whose shops have often been destroyed. Other victims are from Romania, Albania, Egypt and China. The aggressions belong to two typologies: organised raids against specific targets in the night, carried out by Italian men and "unprompted" aggressions the perpetrators being girls or families, whose actions are not planned, although these can be lethal – as in the case of a Senegalese man killed by his neighbour, who meant to protest about the voices and noises of people in the garden but actually killed him⁷⁴. According to the association, acts of racist violence are very often unreported. Monitoring the media, it is possible to note a worrying number of racist attacks and crimes against people belonging to ethnic minorities carried out by minors.

⁷¹ OSCE-ODHIR Hate Crimes in the OSCE Region- Incident and Responses Annual Report for 2008, Warsaw, 2009. Available at http://www.osce.org/odihr/item_11_41314.html (accessed 15/09/2010)

⁷² Stephen Roth Institute, "Rapporto sull'antisemitismo in Italia" Tel Aviv 2009 http://www.osservatorioantisemitismo.it/sub_tipologie.asp?idtipo=56&idmacro=1&idfiglio=119&n_macro=&agina=Rapporti&documento=Rapporti, accessed 20 august 2010

⁷³ Osservatorio Antirazzista Pigneto-Tor Pignattara "Dossier Aggressioni Razziste Roma"2008-2009-maggio2010 available at www.6antirazzista.net accessed 20 august 2010

⁷⁴ Il Corriere della Sera "Civitavecchia, poliziotto spara a vicino di casa Senegalese : fermato per omicidio". The man accused of killing his neighbour stated that he just wanted to scare the neighbour and his friends with the sound of shooting, without meaning to hit anybody. 31/01/2009 /www.corriere.it/cronache/09_gennaio_31/civitavecchia_ispettore_polizia_uccide_senegalese_a4cea5c4-ef9e-11dd-b57d-00144f02aabc.shtml

One of the incident's that caught the media's attention took place at the train station of Nettuno, near Rome. Three young boys, including one minor, doused a homeless Indian citizen with petrol and set fire to him. Not all politicians and commentators actually considered this act as a racist one. Other examples include a "baby gang", made up of 8 boys between 13 and 17 years old, who were caught in Ostia after they assaulted a young boy from Bielorussia. In another incident, 18 minors assaulted and injured a vendor from Marocco in Calabria. The man did not report the aggression but the police was informed by passers-by⁷⁵.

Other racist incidents worth of mentioning include the attacks on seasonal workers in Rosarno. As explained in section V.I of the present report, at least 53 people were injured during two days of unrest, and more than 1000 migrant workers were sent to migrant reception centers of Bari and Crotona. Although the situation of Rosarno is also linked to the inhuman working conditions of seasonal workers, the UN Special Rapporteur on the human rights of migrants, Jorge Bustamante and the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai said in a joint statement that :*"The violence which erupted in Rosarno is extremely worrying since it reveals serious and deep- rooted problems of racism against those migrant workers"*⁷⁶.

The violent anti immigrant climate of 2009 and 2010 has been fuelled by the "xenophobic rhetoric" recurrent in public discourse, especially with the election of representatives of the xenophobic party of the Northern League. "Security" has become the catchy word of the government and the number of migrants forcibly returned to their country seems the main indicator of its success. A parallel between migrants and criminals is continually drawn by political representatives in official discourses and public speeches. For instance, suggesting that all migrants are criminals, in a meeting against mafia, Premier Silvio Berlusconi said that *"reducing the number of migrants in Italy means less "labour force" for criminality"*⁷⁷. Letizia Moratti, mayor of Milan stated that *"Clandestines (undocumented migrants) without a regular job usually live on crime"*⁷⁸.

Roma and Sinti citizens have often been victims of violent political declarations and also of manifestations organized by representatives of the Northern League Party. The Minister Maroni has expressed his approval at the French attitudes

⁷⁵ ibid

⁷⁶ "UN experts urge Italian authorities to curb xenophobic attitude toward migrant workers" in http://www2.ohchr.org/english/issues/racism/docs/PR_Italy_12January2010.pdf accessed 20/08/2010

⁷⁷ "Berlusconi: Meno immigrati significa meno criminalità in LaStampa 28/01/10 available <http://www.lastampa.it/redazione/cmsSezioni/politica/201001articoli/51689girata.asp> accessed 20/08/2010

⁷⁸ Moratti "Clandestini senza lavoro delinquono". E Maroni avverte "In Italia rischio banlieue" La Repubblica 10/05/2010 //www.repubblica.it/cronaca/2010/05/10/news/moratti_clandestini-3955475/ (accessed 20/09/2010)

towards Roma. "It is right to expel the Roma. We will have a harder line than Sarkozy!"⁷⁹.

V.vii Access to goods and services in the public and private sector

In 2009 and in the first months of 2010, many municipalities issued discriminatory provisions, aiming to limit the access of non-Italian citizens to services and public spaces in every day life. On the other hand, decrees and policies targeting immigrants, Roma and Sinti and the xenophobic political declarations have led to widespread anti-immigrant feelings, which affect every other area of public life, including access to shops and private services. Although these forms of discrimination, for their nature, are not easy to monitor and often go unreported, some examples were found in the media.

A serious episode of ethnic discrimination occurred in Abruzzo. A group of 14 Roma students and 5 social workers, who were on a seven day trip for a project on the integration of Roma and Sinti students at school, were refused entry in a restaurant. The group had booked the restaurant for the seven days, but after the first dinner, the owner refused entry to the group due to complaints from other customers. Another restaurant nearby also refused entry to the group. Interviewed by local newspapers the restaurant owners explained that they refused entry because the students were dirty and noisy⁸⁰.

Another case that caught the media's attention was when a shopkeeper in Empoli erected a notice in his shop which read "no Chinese who do not speak Italian allowed here". The mayor of the town ordered the removal of the sign and has started judicial proceedings against the shopkeeper⁸¹.

In Tuscany, the owner of a bathing establishment on a beach asked a Senegalese couple, hosted by an Italian couple to leave their establishment. The declarations given by the owner of the establishment to the host of the couple and to the media was that Senegalese people were not welcome, especially because "*they do not spend much and are dirty*"⁸².

Some car insurance companies (Zurich connect, Carige Assicurazioni) charge a higher fee for some nationalities. For instance citizens from Romania have to pay up to €250 more than an Italian citizen for the same kind of insurance. While the consumer association consider the ethnic differentiation of price legitimate, Romani associations and civil rights associations such as ASGI intend to start

⁷⁹ "Maroni: giusto espellere i rom. Saremo piu duri di Sarkozy" Il corriere della sera 21/08/2010 http://www.corriere.it/politica/10_agosto_21/maroni_d57cd780-acea-11df-b3a2-00144f02aabe.shtml (accessed 20/09/2010)

⁸⁰ "Abruzzo. Discriminazione alunni Rom di Roma" in Sivola 25/08/2009 <http://www.sivola.net/dblog/storico.asp?s=Italia&m=&pagina=27&ordinamento=desc> (accessed 20/09/2010)

⁸¹ "Negozio vietato ai cinesi, Il sindaco di Empoli: intollerabile" L' Unità 19/01/2010 www.unita.it/news/93904/negozio_vietato_ai_cinesi_il_sindaco_di_empoli_intollerabile

⁸² M. Neri "Senegalese cacciati dal bagno "Sporcano e non spendono" in La Repubblica Firenze 19/08/2009 <http://firenze.repubblica.it/dettaglio/senegalesi-cacciati-dal-bagno-sporcano-e-non-spendono/1699000> (accessed 20/09/2010)

legal proceedings. Similarly, a well known telecommunication company, providing telephone and internet connections, gave directions to the sales and contract staff to refuse service to Romanian customers⁸³.

In Foggia, to avoid conflict between migrants and local population, in the route between a village with a reception centre for migrants and the city, the public transport company has added a new line serving only the local population. The company explains the decision to add a new line, to the same route but with a different initial and last stop, as a strategy to avoid conflicts⁸⁴.

There has been a wave of discriminatory decrees and norms, limiting in different ways the freedom of non Italian citizens also at the municipal level. An example of a municipal norm preventing full access and participation of Muslim citizens to social and public life is that of a village in the province of Vercelli called Varallo. The mayor of the village issues a norm against the use of the so called "burkini" (a swimming costume made of long pants and a shirt used mainly by Islamic women) in public swimming pools, rivers and lake⁸⁵.

V.viii Media, including the internet

In 2009 and 2010 the media fuelled the xenophobic rhetoric based on the criminalization of migrants. A study published in 2010 confirms that migrants are represented by the media mainly as "criminals" especially on TV. Three out of four times non Italians are referred to on the news, they are the perpetrator or victims of crimes. Out of 684 TV news articles during 2009 and the first quarter of 2010, only 26 tackle migration unrelated from the debate on security or criminality. All the media present a static and negative image of migrants, pointing out the darkest and most violent aspects. They use incorrect language and terminology and the voice of migrants is absent in newspapers and on TV. In addition, journalists reporting on migrants tend to break their code of ethics more often than reporting on Italians. About 40% of TV news which reported on violent crimes included images or description which could lead to the identification of the person, if migrants were involved. Greater attention to privacy was paid when Italians were involved in TV news on crimes: only 30% of the time the news included details that could lead to the identification of the author⁸⁶.

⁸³ Asgi "Inchiesta di La Repubblica: premi maggiorati per gli immigrati per la stipula delle polizze assicurative RC Auto" 1/06/2010 in http://www.asgi.it/home_asgi.php?n=1049&l=it (accessed 20/

⁸⁴ Piero Russo "Foggia, bus solo per immigrati. L' ira di Vendola: "Aboliteli subito" La Repubblica 3/04/2009 in www.repubblica.it/2009/04/sezioni/cronaca/immigrati-foggia/immigrati-foggia/immigrati-foggia.html (accessed 20/09/2010)

⁸⁵The norm near Vercelly was issued after a case, covered at length in the national media about a woman wearing a burkini in a swimming pool in Verona . According to media reports the presence of a woman wearing a burkini in a local swimming pool scared the children present in the swimming pool. The mothers of the "scared children" protested with the director of the pool, who asked the Muslim lady to provide information about the composition of the material of the burkini. The lady felt offended and decided not to return to the swimming pool but the piece of news arrived to the main national media and was used to stir big debates. "Islam in piscina col Burkini. Sorpresa e proteste a Verona" in La Repubblica 18/09/2009 <http://www.repubblica.it/2009/08/sezioni/cronaca/immigrati-10/burkini-verona/burkini-verona.html>

⁸⁶ Università la Sapienza, "Ricerca nazionale su immigrazione e asilo nei media italiani"

Racism is also present on the web. Just in the social network facebook Italia, here over 1000 groups who are openly anti-immigrant, 350 of them have between 5-7000 members. At least 100 of these groups are anti Islam. 400 are against people from Southern Italy and 300 against Roma and Sinti people.⁸⁷ Other groups are against Moroccan, people from Maghreb, Rumanians and Chinese. There are anti--Semitic groups.

After the Chart of Rome⁸⁸ in 2008, another step towards a fairer representation of migrants in the media has been made in 2010 with the creation of ANSI, the national association of intercultural media. Acknowledged by the National Federation of Press, the association was born after a long process taken forward by multicultural journalists, experts, trade unions and the national order of journalists. The NGO Cospe www.cospe-fi.it , actively working for the promotion of cultural diversity in the media for over 10 years, had a crucial role in facilitating and supporting the process, still allowing multicultural journalists to be the protagonists . The main objectives of ANSI are to promote multiculturalism as a key element of journalism in Italy, promote policies on diversity in the media, and facilitate the access to the professional order for non Italian journalists defending their rights. ANSI intend to promote exchange of good practices at the international level.

⁸⁷ Italia dall' Estero :“Quasi la metà dei giovani italiani sono intolleranti o del tutto xenofobi” 18/02/2010 <http://italiadallestero.info/archives/9059>

⁸⁸ As summarised in the previous Shadow Report, the Charte of Rome is a code of conduct setting the professional standard to respect when covering news involving refugees, asylum seekers, victims of trafficking and migrants. It was promoted in 2009 by the National Council of Journalists' associations and by the National Federation of Italian Press.

VI. Political and legal context

VI.i Anti discrimination

The main positive development at a national level in the field of anti-discrimination is that UNAR (the Italian National Office for the Promotion of Equality of Treatment and the Contrast to Discrimination based on Race and Ethnic Origin)⁸⁹ has made greater efforts to increase its capacity and extend its activities to combat discrimination. For instance an information system for the contact centre has been created and data on the cases of discrimination reported to the office during the year will be more accurate and comprehensive than those currently available. In partnership with civil society and local authorities, UNAR has also developed a network of anti-discrimination centres throughout Italy and has made formal agreements with many regional governments. Thus the regional authorities of Puglia, Emilia Romagna, Liguria, Piemonte and Sicily are now part of the national UNAR anti-discrimination network .

Associations and civil society bodies have shown concern about the lack of independence of UNAR from the government and about the few actions taken by UNAR to combat discrimination. As for the first issue, UNAR is still dependant on the government, from the Ministry of Equal Rights and Opportunity. Since it is not independent, UNAR does not take strong stances to defend migrants especially for cases of discrimination caused by other public bodies⁹⁰. The UNAR report for the Parliament includes alternative solutions to resolving cases of discrimination. For instance, it is suggested that in specific exemplary cases conciliatory agreements, the so called "mediation", should be preferred to legal proceedings. UNAR also promises greater legal support to victims of discrimination and the creation of an economic fund to assist victims of discrimination with the cost of legal proceedings. UNAR will also offer online support to personnel and association of the anti discrimination network. Time is needed to see the effects of the actions and projects described in the report⁹¹.

Among the sentences concerning anti discrimination issues during the period under analysis, it is worth providing a summary of the most significant decisions, pointing to the fact that many sentences tackled similar issues, that is the access of non Italian citizens to work or to benefits provided by Municipalities. As reported in previous Shadow Reports, health and public services often exclude non EU citizens from access to employment. In October 2009 the tribunal of

⁸⁹ (UNAR) was set up in 2003 implementing the CE directive 2000/43 and operates within the Ministry of Equal Opportunity of the Presidency of the Council of Minister

⁹⁰ See for instance UNAR view on the access of non Italian citizen to employment in the public sector. ASGI http://www.asgi.it/public/parser_download/save/parere_unar_pubblico_impiego.pdf (accessed 2/09/2010)

⁹¹ For further details see www.unar.it

Rimini⁹² accepted the appeal of an Albanian citizen against her exclusion from a public competition for a job with the Health Agency of Rimini. One year after the publication of the call, the Tribunal of Brescia established that it is discriminatory to make a public call for “scholarships” which is just limited to Italian students. In fact, the case was controversial due to the contradictory responses from the Municipality and from the Court. First, the Municipality of Chiari published the public call, then, after a few months, the Court of Justice of Brescia considered it discriminatory. Then, Chiari presented an appeal against the sentence⁹³ and finally, a second sentence stated again that the public call was discriminatory⁹⁴.

In the light of the new powers acquired with the “Security Package” mayors have started to pass laws on all sorts of “security” issues. After the “obsession” with Roma settlement, since 2010 the protection of the Catholic religion seems to be the new obsession. With the aim of targeting Islamic groups, the Municipality of Trezano (BS) passed an ordinance that made it compulsory the use Italian in public meetings which are discussing cultural, political or religious aims. The Regional Administrative Court and the Court of Justice of Brescia have revoked such ordinance for its discriminatory character⁹⁵.

The Italian Government contested the regional financial law 2010 of Friuli Venezia Giulia⁹⁶. The law introduced a provision which made it essential to have proof of residence in the region for at least 36 months in order to have the right to access public social services. Following the letters sent by the civil rights association ASGI to the Presidency of the Council of Minister and to UNAR, the council of minister has challenged the law, stating that it is discriminatory towards all citizens that are not long time residents of the region, whether they are Italian, EU citizens, third country citizens and homeless persons. It is argued that this discriminatory practice is not justified⁹⁷.

The European Commission, in October 2009, closed legal actions against Italy, started in 2007, in relation to the incorrect transposition of two European directives on discrimination (2000/43/CE against discrimination based on “race”

92Court of Justice of Rimini, employment section, sentence n3626, 26/10/ 2009

93Tribunale di Brescia, ordinanza dd. 19.01.2010 n. 4536/09 (Comune di Chiari)

94 The municipality of Chiari had contested the sentence of first degree in relation to the fact the case had been presented to court by Associations that were not eligible to present it and that migration law could not be applied to school prizes, of occasional nature. The Court of Justice of Brescia has rejected the objection, applying anti discrimination law, sentence n 1317/2010_ordinanza dd. 4.03.2010

95Tar revoked the ordinance considering the issue beyond the power of the mayor with sentence 15 , 15/01/2009.The sentence n71, 29/1/2010 of the court of Justice of Brescia revoked the ordinance relative to the use of language as discriminatory.

96The contested regional law of Friuli Venezia Giulia is n 24/2009 .

97The law is considered discriminatory and in contrast with the acknowledgement of fundamental rights, the provision of basic social assistance to any needy citizens. Such law does not grant the impartiality of Public Administration. More details on BUR 7/1/2010

<http://www.affariregionali.it/Normativa/EsameLeggiRegionali/SchedaLegge.aspx?idDelibera=6254&Start=0> (accessed 20/08/2010)

and ethnic origin and 2000/78/CE against discrimination in the employment sector)⁹⁸.

VI.ii Migration and integration

The Berlusconi government has taken an increasingly hard line against irregular migrants and asylum seekers, loudly expressing his opposition to the idea of Italy as a multiethnic nation. The political and public debate on migration has been focused since 2008 on the so called Security Package. Some of the restrictive and criminalizing provisions were approved in 2008, others continued their route in the Parliament and were only fully approved in 2009. The main provisions included in the Law of 15 July 2009 (A.S. 733-B) are:

- Regulation on public security (Disposizioni in materia di sicurezza pubblica)
- The provision (Art 1.16) makes "irregular migration" an offence. Such law criminalizes irregular entry and stay in Italy, imposing a penalty between 5,000 and 10,000E.
- Reporting. Under Italian law, all public officials are required to report criminal conduct. The new provisions include an invitation to medical personnel and education officials to report irregular migrants and lift the obligation for doctors to "no informing" (which means not revealing information that put at risk patients, in the case of irregular migrants). Reporting is not made compulsory, but lifting the obligation of "no informing" led to concerns that public health officials, may report undocumented migrants who seek medical attention. As explained in greater detail in section V.IV of the present report, following pressure from civil society and associations, a representative of the Home Ministry sent an official letter to all public doctors stating that that public officials working in health centres have to respect their obligation not to report their patients
- Changes to the existing disposition on the acquisition of Italian citizenship and marriage. To obtain citizenship after marriage, the non Italian partner has to prove that they resided in Italy for a minimum period of two years, instead of six months, which was the timeframe required before the security package was passed. The new procedure also requires a payment of €200, which is an extremely high administrative fee for national standards.
- -Renting accommodation to an irregular migrant is a criminal offence that can be punished by up to three years of jail.
- - To apply for family reunification a person needs to obtain a letter by the Municipality stating that his/her house/flat is apt to host one or more people, (the number of members of the re-unified family). The criteria of suitability of the houses are not clear and quite demanding; actually many houses inhabited by Italian citizens would not satisfy them⁹⁹.

⁹⁸Infringement procedure no.2005/2358.

⁹⁹ For further details on the law see the web site of the Home Ministry http://www.interno.it/mininterno/site/it/sezioni/sala_stampa/speciali/Pacchetto_sicurezza/ (accessed 20/09/2010)

- Introduction of the permit to stay with a “credit system”. Immigrant citizens applying for a permit to stay have to subscribe to an “agreement of integration” and reach a certain number of credits relative to indicators of integration. The actual “agreement of integration” and the rules and regulations about the “permit to stay with the credit system” still have to be established by the government¹⁰⁰.
- Limitations to the conversion of the permit to stay for unaccompanied minors. Once unaccompanied minors are 18 they have the right to obtain citizenship only if they can prove they were permanently resident in Italy for at least three years, at least since they were 15. On the one hand, this law will interrupt the paths of integration and personal development of unaccompanied minors who have been in charge of social services for less than three years; on the other it is likely to foster the arrival of unaccompanied minors under 15.
- The time of detention in the centres of identification and expulsion for irregular migrants is extended to 180 days. Medicines sans frontieres has monitored the inhuman conditions of many detention centres in Italy (see chapter iv). The extension of administrative detention for irregular migrants has raised serious concerns that they may contravene a person’s right to liberty but also put at serious risk the health and psychological well being of migrants.

Human rights organisations have strongly protested against these provisions and in particular against the criminalization of irregular migration. These control measures are extremely severe and, as shown in chapter V iv, put at risk the health of migrant citizens as well as the education of their sons and daughters. The NGO COSPE has argued that all the measures contained in the Security Package have actually little to do with security. Rather, they are meant to make life for migrants more precarious and difficult¹⁰¹.

Since May 2009, the arrival of migrants and asylum seekers to the coasts of Southern Italy has decreased. Although the estimate number of arrivals is controversial- as the government tend to say that irregular migration has totally stopped while civil society organizations show that there many new arrivals in the Mediterranean’s and also through new routes- it is not a overstatement to say that a crucial role in the policy against irregular migration is played by a pact with Libya. The Treaty of Friendship, Partnership and Co-operation, based on an agreement between Italy and Libya of 2007, signed by the Ministry of Interior Maroni in February 2009 and operative since May 2009, establishes the joint

¹⁰⁰ The regulations about the “permit to stay with the credit system” are still under discussion. The regulations under discussion in May 2010 state that credits can be gained by applicants if they prove a good level of knowledge of Italian language and index of integration such as the registration if the contract of one’s house (for tenants renting a house), having chosen a GP. Credits are lost committing crimes and illegal acts See “Permesso a punti; ecco l’ accordo di integrazione” in *Stranieri in Italia* 17/05/2010 http://www.stranieriinitalia.it/attualita-permesso_a_punti_ecco_l_accordo_di_integrazione_10957.html (accessed 20/09/2010)

¹⁰¹ Cospe Comunicato Stampa “Irregolarita uguale reato: è legge il decreto sulla sicurezza” <http://www.cospe.it/cospe/old/areaStampa.php?i=as2> – (accessed 20/09/2010)

patrolling of the sea between the two countries to combat “illegal migration”. In order to facilitate the operations, Italy provided to Libya resources, including technology and promised to compensate Libya for its occupation of the country between 1911 and 1943, with the payment of US\$5bn package for construction projects. Libya agreed to patrol the coasts and to accept disembarkation on its soil of individuals intercepted at sea by Italian vessels.

One of the most worrying aspect of the policy of forcibly sending migrants rescued in international waters to Libya is that no assessment of the potential needs for refuge or asylum is carried out. Amnesty International has reported that large numbers of people, including children, have been returned to Libya without assessing their asylum claim, with Italy breaching the prohibition of *non-refoulement*¹⁰². UNHCR expressed concern that Italy’s policy of interdiction at sea prevents access to asylum. The international agency reminded Italy that two out of three people who landed on the coast in Southern Italy in 2008 presented a request of asylum¹⁰³. On the other hand, Libya has not signed the 1951 Geneva Convention on Refugees and there are no formal mechanisms in place for individuals seeking asylum.

The forced returns to Libya should be forbidden in the light of the degrading inhuman treatment faced by migrants there. In a report published in 2010, Human Rights Watch has reported that migrants are often treated with violence, disrespect of basic human rights and kept in deplorable conditions. People from different nationalities are crammed all day long in detention facilities, with half an hour of fresh air a day and even without water for day. Some interviewees have even reported the shooting and killing of other detainees. The NGO underlines that the Italian government, the EU and its external borders migration control agency, Frontex, should be held accountable for the safety of people who are returned to Libya even without an assessment of their protection needs¹⁰⁴.

There have been negative developments also in the policies targeting Roma and Sinti citizens. As illustrated in last years Shadow Report, in May 2008, the President of the Council of Ministry declared a state of emergency with special reference to nomad settlements in the Region of Campania, Lombardia and Lazio. The prefects (officials of the Ministry of Interior in charge of security especially at a city level) of the mentioned regions were given special powers to implement a census of the Roma people and restrict access to camps. The census operations caused great controversy as they consisted in a massive filing exercise on the basis of ethnicity. The census operations involved finger printing

¹⁰² Amnesty International “Rapporto annuale 2010: ulteriori informazioni e aggiornamento in Italia gennaio 2009-maggio2010” in www.amnesty.it/Rapporto-Annuale-2010/aggiornamento-diritti-umani-Italia (accessed 20/09/2010)

¹⁰³ UNHCR “Forte preoccupazione dell’ UNHCR per il rinvio forzato verso la Libia” 7/05/2009 <http://www.unhcr.it/news/dir/26/view/551/forte-preoccupazione-dell-unhcr-per-il-rinvio-forzato-verso-la-libia-55100.html> (accessed 20/09/2010)

¹⁰⁴ Human Rights Watch “Pushed Back, Pushed around” 2009 in <http://www.hrw.org/en/reports/2009/09/21/pushed-back-pushed-around-0> (accessed 20/09/2010)

of all Roma and Sinti citizens, including minors. Notwithstanding the recommendations to the Italian government by human rights associations and bodies¹⁰⁵, in 2009, the state of emergency was prolonged to December 2010 and extended to all of Italy.

Examples of the reactions to the census include a 2008 ruling by the Regional Administrative Tribunal of Lazio (TAR) which declared the identification and selective census of people in settlements illegal¹⁰⁶. Yet, in 2009 the State Council revoked the previous sentence by the TAR¹⁰⁷ and actually, in 2009, the census operations spread to all over Italy. The census operations worked as preparatory measures to forced eviction carried out in large and small scale settlements. Associations such as Amnesty International have stated on more than one occasion that forced evictions are contrary to international law, such as the Universal Declaration of Human Rights and the convention of Rights of the Child.

With respect to migration and integration, it is worth mentioning that most regional governments have approved in the last 10 years laws tackling aspects of migration and integration¹⁰⁸. Yet, within regional laws, specific measures against discrimination and positive actions are scarce¹⁰⁹. As noted by UNAR, very few regions, such as Emilia Romagna, Puglia and Tuscany, have tackled ethnic discrimination, in their regional laws and developed supportive bodies or measures for victims of discrimination¹¹⁰.

The Law approved in Tuscany¹¹¹ and Puglia is the most comprehensive example of laws protecting and promoting the rights of migrants. It also acknowledges diplomas and the rights of second generation migrants. The Law n.32 of Region

¹⁰⁵ ERCC Human Rights groups urge European Commission start infringement procedure against Italy 5/05/2009 <http://www.errc.org/cikk.php?cikk=3032> and 15/05/2010 8 accessed 20/09/2010)

¹⁰⁶ Asgi [Il testo della sentenza TAR Lazio, I sez. civ. n. 06352/2009 depositata il 1 luglio 2009](http://www.asgi.it/home_asgi.php?n=412&l=it) http://www.asgi.it/home_asgi.php?n=412&l=it (accessed 20/09/2010)

¹⁰⁷ Asgi, "Il Consiglio di Stato sospende la sentenza del Tar Lazio" 15/09/2010 http://www.asgi.it/home_asgi.php?n=501&l=it accessed 20/09/2010)

¹⁰⁸ I. r. Lazio n. 10 del 2008, recante "Disposizioni per la promozione e la tutela dell'esercizio dei diritti civili e sociali e la piena eguaglianza dei cittadini stranieri immigrati"; la I. r. Calabria n. 18 del 2009 recante "Accoglienza dei richiedenti asilo, dei rifugiati e sviluppo sociale, economico e culturale delle comunità locali"; I. r. Puglia n. 32 del 2009 recante "Norme per l'accoglienza, la convivenza civile e l'integrazione degli immigrati in Puglia"; la I. r. Marche n. 13 del 2009 recante "Disposizioni a sostegno dei diritti e dell'integrazione dei cittadini stranieri immigrati"; I. r. Toscana n. 29 del 2009 recante "Norme per l'accoglienza, l'integrazione partecipe e la tutela dei cittadini stranieri nella Regione Toscana"; I. r. Liguria n. 4 del 2009 recante "Modifiche alla legge regionale 20 febbraio 2007, n. 7 (Norme per l'accoglienza e l'integrazione sociale delle cittadine e dei cittadini stranieri immigrati)".

¹⁰⁹ At a national level discrimination is sanctioned by distinct pieces of legislation as Art 43/44 of TU 286/98 or the transposition of directives 2000/43/CE but there is not an organic comprehensive law about discrimination

¹¹⁰ UNAR, "Relazione al Parlamento sull' effettiva applicazione del principio di parità di trattamento e sull' efficacia dei meccanismi di tutela" 2009 <http://93.63.216.212/unar/relazioni.aspx>

¹¹¹ The Regional Law of Tuscany of 9/06/ 2009, n. 29 (Norme per l'accoglienza, l'integrazione partecipe e la tutela dei cittadini stranieri nella Regione Toscana) was challenged by the President of the Council of Minister with an appeal 30 luglio/3 agosto 2009, Sentence 269/2010 of the Constitutional Court has declared the validity of the law on the 28/07/2010. See sentence at www.cortecostituzionale.it/giurisprudenza/pronunce/scheda_ultimo_deposito.asp?comando=let&sez=ultimo_dep&nodec=269&annodec=2010&trmd=&trmm= (accessed 20/09/2010)

Puglia¹¹² also includes the creation of anti discrimination centres. It is almost ironic that these two regional Laws, which actually fully promote the rights of migrants, have been challenged and considered non constitutional by the (right wing) national government.

VI.iii Criminal justice

VI.iii.i Racism as a crime

Undoubtedly, the disturbing Italian climate of racism and xenophobia, also strong at the institutional level, go against the call to national governments for responses to racist crimes, expressed by the EU Framework Decision on Racism and Xenophobia 2008/ 913/ JHA of November 2008. Thus, as racism inflames the rhetoric of elected leaders, it is not surprising to find out that the national Italian government has not focused on the prevention of racism and xenophobia. The only positive development of 2009 is the greater commitment of UNAR to combating racism as a crime, noted in the previous section. In its report, which provides more data than last years, UNAR highlighted an increase in the cases of racism reported to the contact centre and has at the same time noted that most cases of racism are still unreported. A crossed- monitoring exercise of cases of racism reported in the media with cases of racism denounced by victims will hopefully lead to an increase of awareness of this crime and to a better system of protection of the rights of the victims of hate crimes. However, the lack of participation of UNAR at a judicial level is still an area of concern.

In the year 2009 another member of the Northern League Party, beside Tosi already sentenced last year, was found guilty of racism. Gentilini, vice major of Treviso, was charged with instigation to racial hatred for his declarations against immigrants¹¹³. During the meeting of the Northern League Party in Venice, he publicly said that "Muslim should go to pray and pee in the desert"¹¹⁴. He has been banned from participating at public electoral meetings for three years.

VI.iii.ii Counter terrorism

The provisions of the anti terrorism law in force since 2005 and requiring managers of internet points to record data of internet users¹¹⁵ has been extended to 31 December 2010. The part of the provision that has been extended to 2009

¹¹² "Norme per l'accoglienza, la convivenza civile e l'integrazione degli immigrati in Puglia" (legge regionale n.32/2009) available at http://www.regione.puglia.it/web/files/politiche_migratorie/Legge_accogl_imm.pdf The Law has been put under constitutional challenge by the Council of Ministers on the 5/2/2010: In September 2010, the final sentence has still to be passed.

¹¹³ The Sentence of the IV Penal section of the Suprema Corte di Cassazione N. 41819/09 N 2129) of Venice found Gentilini guilty under a law of 1975 (legge 654/ 1975) and the decree Mancino and its modifications (n 205/93)

¹¹⁴ "La procura di Venezia indaga su Gentilini" La tribuna di Treviso 2/10/2008 in tribunatreviso.gelocal.it/dettaglio/articolo/1521850; Androkronos " Treviso il leghista Gentilini condannato per tre anni" 26/10/2008. www.adnkronos.com/IGN/News/Politica/?id=3.0.3914483917 (accessed 10/08/2010)

¹¹⁵ L 155/205

and 2010 states that managers of internet points have to register the identity of internet users and make data available to law enforcement authorities until December 2010.

A Tunisian citizen, Ali Toumi, was forcibly returned to Tunisia, notwithstanding the European Court of Human Rights called three times on Italy to suspend the expulsion¹¹⁶.

With an historic ruling, the first on extraordinary rendition, an Italian judge convicted 23 C.I.A officials for the kidnapping of the imam of Milan on the street of Milan in 2003. Two Italian officials of the Italian Secret Services¹¹⁷ were charged with aiding and abetting kidnapping, and were ordered to pay 1 and a half million Euro compensation to the Italian citizen. Not all the officials involved have been charged: the higher officials of CIA and higher Italian officials have been saved by diplomatic immunity¹¹⁸.

VI.iii.iii Ethnic profiling

In Italy the level of information and awareness on ethnic profiling is very low and official and unofficial data, reporting evidence of this practice are almost inexistent. Yet, the issue is quite critical as examples illustrated in chapter V of the current report indicate.

As for the political developments, an isolated exception has been in February 2010, a parliamentary question was asked on the alleged practices of the municipal police in Milan, entering and searching illegally, houses of citizens of migrant origin, within the scope of immigration controls. As of September 2010, the parliamentary question has been left unanswered by the parliament.¹¹⁹

The main actor in the research and collection of data on ethnic profiling in Italy has been the Open Society and Justice Initiative (OSJI). In a report on the practice of ethnic profiling in anti terrorism in Europe, OSJI underlines that this practice is pervasive, discriminatory and ineffective¹²⁰. A report on ethnic profiling in the context of migration enforcement in Italy, currently under preparation, is in

¹¹⁶ See statement against Italy by the Committee on Legal Affairs and Human Rights of the COuncil of Europe at [//assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc10/EDOC12216.htm](http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc10/EDOC12216.htm) accessed 20/9/2010

¹¹⁷ The Service for Information and Military Security (SISMI) has been totally reformed in 2007 and it is now called AISE, Information Agency and External Security

¹¹⁸ the higher Italian officials have not been charged as they case involves Official Secret Acts. See also Società civile "sentenza Abu Omar ha vinto il Segreto di Stato www.societacivile.it/focus/articoli_focus/sentenzabuomar.html (accessed 10/09/2010)

¹¹⁹ PublicAssembly at the Senat Ne. 336 of 17/02/2010. The minute of the Assembly is available at www.senato.it/japp/bgt/showdoc/frame.jsp?tipodoc=Resaula&leg=16&id=458320. See attachment b.(accessed 15/09/2010)

¹²⁰ Open Society Justice Initiative, *Ethnic Profiling in the European Union: Pervasive, Ineffective and Discriminatory 2009*, OSI. http://www.soros.org/initiatives/justice/focus/equality_citizenship/articles_publications/publications/profiling_20090526 (accessed 10/10/2010)

line with the conclusions of the previous report and shows that, in Italy, the current government policy and xenophobic rhetoric tends to drive practices of ethnic/migrant profiling. In the light of this, the involvement and sensitization of law enforcement authority to the abuses they often are “led” to commit is even more urgent.

VI.iv Social inclusion

The Strategic National Report and the White book on the future of the social model, for the period 2008-2010 are the main official documents summarising the efforts of the Italian government and the improvements reached in the field of social inclusion. These documents underline the importance of social participation and responsibility sharing among all the members of society in the fight against poverty and in increasing social inclusion. Unfortunately the rhetoric included therein on social inclusion does not match the actual measures of the government and with the social situation of the country.

The main instrument of the current government against social poverty has been the social card, considered by many commentators a mere propaganda. The government annually puts 450 million into the social card which is then spent on a monthly basis (used to pay bills and basic groceries) on the poorest segments of the population with Italian citizenship (and later extended to EU citizens). The exclusion of migrants is one the greatest limits of this instrument. Furthermore, as the requirements were quite strict it really reached the neediest, including retired people as well as families. Yet it left out a big portion of people in need. To fund the social card, the government reduced the national funds on social policy and the funds to local institutions. As in Italy local institutions are the main actors involved in the policy of social inclusion, working from the ground, this new measure implied a lack of acknowledgment of the experience and the ability of local government and a centralised management of the systems of support.

A critical report on poverty challenges the official government data, indicating that in Italy in 2009 the number of poor people has increased by half a million. Poverty especially affects people living in the South of Italy, families (with many members or with only one parent) and people with a low level of instruction. Caritas states that 30% more persons used their services between 2009 and 2010. Although the number of Italian users is recently on the rise, 70% of them are non Italian¹²¹. In addition, the report by the Italian Social watch network¹²² underlines how Italy is rapidly worsening in all fronts relative to fundamental, social, economic and cultural rights and also in relation to social inclusion. The increasing level of poverty (13,6% is in conditions of relative poverty) and unemployment are further demonstrations of the worrying situation that cannot

¹²¹ Caritas Italiana - Fondazione «E. Zancan» “In caduta libera rapporto 2010 su povertà ed esclusione sociale in Italia” Milano: Il mulino, 2010

¹²² Social watch is a network of organizations in the civil society, present in 60 countries. The Italian coalition of social watch is formed by Acli, Arci, Campagna per la Riforma della Banca Mondiale, Fondazione Culturale Responsabilità Etica, Lunaria, Mani Tese, Ucodep, Wwf.Ucodep, Wwf, www.socialwatch.it/

be merely explained in terms of the world economic crisis. According to the report it is due *“to the global financial crisis, but also to short sighted and weak policies, in many cases also discriminatory. The report considers racism a highly critical point, especially the measures contained in the security package”*.

As shown in previous chapters, since 2008, the government has in fact moved towards a policy of “social exclusion” rather than social inclusion, especially of non Italian citizens. Irregular migration has become a crime and becoming an irregular migrant is very “easy”. The criminalization of migrants and the fear of being reported to the police has increased the distance between migrants and institutions and public services. With the security package, further costs have been added to the renewal or requests of documents necessary to migrants. However, in a schizophrenic fashion, the national committee against poverty is implementing a series of valuable actions within the European year against poverty, involving of civic society across Italy, also providing funds to associations working with migrants and refugees¹²³.

The regional government of Emilia Romagna has tried to tackle social aspects of migration from different perspectives, developing a significant network with relevant institutions and associations. For instance, the 2009-2011 programme for social integration of the Region¹²⁴ or the special agreement between the Region Emilia Romagna, the Ministry for the Policies of Young People and Sport, the Ministry for the Economic development: GECO "Giovani Evoluti e Consapevoli"¹²⁵. The region sustains economic spaces and activities for adolescents and young people, also through a special law¹²⁶; which includes interventions for young immigrants and second generations.

¹²³A list of the projects 300 small projects approved for funding in March 2010 is available at www.lavoro.gov.it/NR/.../GRADUATORIADEFINITIVAsitoultime.xls

¹²⁴Immigrazione oggi “ Via libera dall' Assemblea i legislativa al Programma triennale 2009-2011 per l'integrazione sociale dei cittadini stranieri”
http://www.emiliaromagnasociale.it/wcm/emiliaromagnasociale/news/2008/dicembre/17_immigrazionepp.htm accessed 15/09/2010

¹²⁵Emilia Romagna Sociale “ Giovani”

<http://www.emiliaromagnasociale.it/wcm/emiliaromagnasociale/home/giovani.htm> accessed 15/09/2010

¹²⁶Law 14 2008

VII. National recommendations

- Adopt a policy on immigration based on the real management of the migratory flows and on the full acknowledgment of the social, political and cultural rights of migrants rather than focusing only on criminalizing measures

VII.i Anti-discrimination

- Take measures to ensure that the national equality body (UNAR) is really independent rather than under the Department for Rights and Equal Opportunities within the Presidency of the Council of Ministers;
- Unify the various provisions on racial /ethnic discrimination contained in civil and administrative laws under one act and undertake public awareness raising initiatives on existing legal instruments and how they can be best used to ensure equality;
- Entrust the systematic collection of data on discrimination in different spheres of public life, including ethnic profiling, to an independent body
- Combat barriers to access to employment for non Italian citizens and promote the conversion of diplomas and work experience gained in other countries

VII.iii Migration and integration


- Approve a comprehensive law on the protection of asylum seekers and refugees, which is in line with both international instruments and legal standards on the subject including the principle of *non-refoulement* and the right to a fair and satisfactory asylum procedure
- Cancel the provisions that affect the rights of regular and irregular migrants, in particular the introduction of the crime of irregular immigration;
- Develop legal and policy measures that favour the legal entry of migrant workers and allow them, especially seasonal workers, to stay in a legal condition;
- Stop the segregation of Roma and Sinti in camps and instead carry out policies aimed at promoting their inclusion. For instance favour their access to public residential housing managed by municipal authorities as well as to loans to enable some to acquire their own homes or pieces of land where they can construct their own houses;
- Reform citizenship laws to ensure that long term residents, unaccompanied minors, children born in the country to foreign parents or those who arrive at

a young age have easier access to citizenship

VII.iv.i Racism as a crime

- Ensure that attacks on migrants, Roma and other ethnic minorities are promptly investigated by the police and those responsible are brought to justice;
- Condemn forcefully and consistently all racist and xenophobic statements, especially by public and elected officials, and make clear that racist discourse has no place in Italian society.

VII.v Social inclusion

- The national government should punish and introduce a fine systems for discriminatory social measures implemented at a regional or local level
 - Address social inclusion through the active involvement of regional and local actors and the development of minimum standards of social assistance
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VIII. Conclusion

2009 and 2010 have been detrimental for the human rights of migrants and ethnic minorities in Italy, with step backwards in the field of anti discrimination and anti racism. However two responses of the civil society to the events of the year are worth of note. Firstly the organised action of migrants on the 1st of March for the first general strike of migrants in Italy. During the organization of the striking migrants proved to be a strong force in civic society. Second, the opposition of civil society to the so called decree on “doctors as spies of irregular migrants. The pressure of associations of doctors, NGOs and associations has led to an official letter by the prefect stating the prohibition of reporting for doctors in public hospitals and centres.

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