

# ITALY

A REPORT BY THE EUROPEAN ROMA RIGHTS CENTRE



## Country Profile

2011-2012

CHALLENGING DISCRIMINATION PROMOTING EQUALITY



# Table of Contents

<b>1</b>	<b>About the Country Profile</b>	<b>5</b>
<b>2</b>	<b>Introduction and Background Data</b>	<b>7</b>
2.1	Socio-Economic Data	8
<b>3</b>	<b>Summary of (Crosscutting) Laws, Policies and Structures</b>	<b>11</b>
3.1	Compliance of Anti-Discrimination Legislation With EU Law	11
3.2	Italy's State of Emergency	13
3.3	The Italian Strategy on Roma	14
<b>4</b>	<b>Key Issues by Theme</b>	<b>17</b>
4.1	Housing and Evictions	17
4.1.1	Background and ERRC Activities	17
4.2	Violence and Hate Speech	19
4.2.1	Legal and Policy Framework	19
4.2.2	Background and ERRC Activities	20
4.3	Movement and Migration	26
4.3.1	Legal and Policy Framework	26
4.3.2	Background and ERRC Activities	27
4.4	Statelessness	28
4.4.1	Legal and Policy Framework	28
4.4.2	Background and ERRC Activities	29
4.5	Access to Education and Healthcare Services	30
4.5.1	Legal and Policy Framework	30
4.5.2	Background and ERRC Activities	31
	<b>Annex 1: Human Rights Treaty Ratification and Reservation Table</b>	<b>35</b>



# 1 About the Country Profile

The country profile on Italy focuses on both migrant Roma and autochthonous Roma and on issues such as state of emergency, anti-Romani violence and hate speech, housing, education, health, movement, migration and statelessness. The information is correct as of April 2013.

The Italian Country Profile was produced by: Rosi Mangiacavallo, Marcello Cassanelli, Victoria Vasey, Stephan Muller, Djordje Jovanovic, Marianne Powell and Dzavit Berisha.

This publication and the research contributing to it have been funded by various ERRC funders, including the Swedish International Development Co-operation Agency, Open Society Foundations and the Sigrid Rausing Trust. The content of this publication is the sole responsibility of the European Roma Rights Centre. The views expressed in the report do not necessarily represent the views of donors.



## 2 Introduction and Background Data

There are no accurate figures on the current number of Roma, Sinti and Caminanti in Italy<sup>1</sup>, and data on their socio economic situation are lacking. Roma in Italy are not a homogeneous group; they have different legal statuses in the country and their integration in to the Italian society is of varying degrees.

There are approximately 110,000 - 180,000 Roma, Italians and (registered) migrants in Italy according to unofficial estimates, representing about 0.25% of the total population.<sup>2</sup> Half of them are under 16 years old and only 0.3% are older than 60.<sup>3</sup>

These figures are higher if Roma who do not have any record of residency and are “illegal” or “irregularly” present in Italy are included.<sup>4</sup> There are also de facto stateless persons among the Roma in Italy, originally from former Yugoslavia, but reliable data is not available.

About 70,000 of the estimated Roma population are Italian Romani citizens that have been living in Italy for more than 600 years and are present across the country; about 90,000 are Roma born outside Italy or born in Italy to immigrant parents, mainly from Eastern Europe. There are Roma from former Yugoslavia who have been living in Italy for more than 40 years and have become Italian citizens. During the wars of the 1990s, a new wave of Roma from the former Yugoslavia migrated to Italy seeking asylum; some, but not all, Romani asylum applicants were successful.<sup>5</sup>

In the last ten years, Roma, primarily from Romania and Bulgaria have been migrating in increasing numbers to Italy, especially after the lifting of the visa regime in 2002 and the January 2007 accession of Romania and Bulgaria to the EU.<sup>6</sup>

A lack of basic data and understanding negatively impacts the development of appropriate policy responses to the problems faced by Roma.<sup>7</sup>

1 The term Roma will be used thoroughly this report to denominate also the Sinti and Caminanti groups who do not all identify as Roma but are perceived as such remain and face discrimination from the majority population.

2 See: <http://hub.coe.int/web/coe-portal/roma>.

3 UNAR, *Strategia Nazionale d'inclusione dei rom, dei sinti e dei caminanti*, 24 February 2012, available at: [http://2.114.23.93/unar/\\_image.aspx?id=bfcd9506-da4b-4583-a85e-223a8f6d93a1&sNome=UNAR%20LIBRO%20STRATEGIA%20ROM%20SINTI%20ING.pdf](http://2.114.23.93/unar/_image.aspx?id=bfcd9506-da4b-4583-a85e-223a8f6d93a1&sNome=UNAR%20LIBRO%20STRATEGIA%20ROM%20SINTI%20ING.pdf).

4 UNAR, *Strategia Nazionale d'inclusione dei rom, dei sinti e dei caminanti*, 24 February 2012, available at: [http://2.114.23.93/unar/\\_image.aspx?id=bfcd9506-da4b-4583-a85e-223a8f6d93a1&sNome=UNAR%20LIBRO%20STRATEGIA%20ROM%20SINTI%20ING.pdf](http://2.114.23.93/unar/_image.aspx?id=bfcd9506-da4b-4583-a85e-223a8f6d93a1&sNome=UNAR%20LIBRO%20STRATEGIA%20ROM%20SINTI%20ING.pdf).

5 European Roma Rights Centre, *Security a la italiana Fingerprinting, Extreme Violence and Harassment of Roma in Italy*, September, 2009, available at: <http://www.errc.org/cms/upload/file/m00000428.pdf>.

6 *Ibid.*

7 Senato della Repubblica, Commissione Straordinaria per la Tutela e la promozione dei Diritti Umani, *Rapporto conclusivo dell'Indagine sulla condizione di Rom, Sinti e Camminanti in Italia*, 9 February 2011, available at: <http://www.senato.it/documenti/repository/commissioni/dirittiumani16/Rapporto%20conclusivo%20indagine%20rom,%20sinti%20e%20caminanti.pdf>.

The approach of the Italian authorities to Roma has been marked by the classification of these groups as “nomads”, although almost all Roma in Italy are sedentary; just 3% are itinerant.<sup>8</sup> The continuing misperception that Roma are “nomadic” implies that Romani settlements are not intended for long-term use, and the construction of nomadic camps has been the main local policy towards groups of Roma, labelled as “Nomads” since the 1980s, throughout the whole national territory, giving such local policies a national uniformity.

In general, the Romani camps can be classified into three main groups: formal, semi-formal and informal camps.<sup>9</sup> The first type are called “formal” or “authorised” or “equipped” camps: they are established by local authorities (municipal councils, prefects or other authorities) and “equipped” with basic facilities. Roma families live in caravans, mobile houses or metal containers and have running water and electricity. Some settlements have pre-school facilities, while most offer some form of transportation to and from schools. This kind of camp is often strictly controlled, and may be surrounded by fences and walls, with a security guard at the entrance and cameras all around the camp. In Rome’s formal camps, all the inhabitants must have an identification pass. The inhabitants of the camps often need authorisation to receive external visitors, even family members.

The second type are semi-formal camps: spontaneous settlements subsequently recognised by municipalities, or formal camps “downgraded” and for this reason destined to be evicted. In the latter case, a municipality halts any work to improve the camp because it will be closed. Only basic services are provided by municipalities: rubbish collection, water and electricity.

The third kinds of camps are “informal” or “unauthorised”: these camps are often located far away from city centres, close to railways or waste dumps or, in some case, directly on former waste sites. Roma families live in caravans and shacks, often without access to drinking water or electricity, gas for cooking or heating, access roads or drainage systems. Their health conditions are very poor and in many cases, access to health services and schools is provided by civil society and voluntary organisations that sometimes receive funds from local administrations.

## 2.1 Socio-Economic Data

**Housing:** A report by the European Commission Against Racism and Intolerance (ECRI), published in 2012, highlighted that the Romani population of Italy living in formal camps, usually located far away from city centres, close to industrial areas.<sup>10</sup> This situation has only worsened in recent years, due to housing policies created under the so-called ‘Nomad State of Emergency’ instated by Berlusconi’s government in May 2008 in order to face the “Nomad

8 *Ibid.*

9 See SCI Italy, SCI Romania, European Centre for Studies on Discrimination (CESD), Association Arcilesbica Lady Oscar, *The Forgotten under the Forgotten*, available at: <http://www.theforgotten.eu>.

10 European Commission against Racism and Intolerance, Rapporto dell’ECRI sull’Italia (quarto ciclo di monitoraggio), Council of Europe, 21 February 2012.



threat” in five Italian regions. Despite the fact that only 3% of Roma in Italy have an itinerant lifestyle, the authorities preferred the construction of “nomad camps” as the solution to the housing situation of Italian and migrant Roma.

Roma from Romania are among the groups that face the worst housing conditions. They bear the brunt of being the latest to arrive and are confronted with local administrators who try to keep them out because, according to them, there are already more Roma than the cities can absorb.<sup>11</sup>

The National Roma Integration Strategy (NRSI), approved by government on 24 February 2012, affirms the necessity to overcome the camps for “nomads” because they are a place of degradation.<sup>12</sup> The strategy provides a plurality of solutions that meet the real needs of the Roma.<sup>13</sup> Despite the positive indications in the strategy, a large formal camp on the outskirts of town was opened by the municipality of Rome in June 2012. A total of around 650 Roma will be moved from semi-formal camps to live in this camp, known as La Barbuta - approximately 250 have already been relocated.

**Education:** The enrolment rate and educational attainment rates of Romani children remain low, despite a number of local initiatives to target Roma. Projects in some municipalities include providing transport from camps to schools, mediation between schools and families, supporting learning at school and after school and promoting the involvement of Romani parents in the educational careers of their children. Official data from the Ministry of Education for the school year 2010/2011 showed no significant progress when it comes to the education of Romani children in Italy. According to research carried out by associations such as Opera Nomadi and Comunità di Sant’Egidio, in Italy more than 36,000 Romani minors are of school-age, although only 12,342 are enrolled, distributed as follows: 2,016 enrolled at preschool, 6,801 at primary school, 3,299 at first-level secondary school and 181 at second-level secondary school.<sup>14</sup>

**Health:** Research by the ERRC and other NGOs shows that prejudices, lack of knowledge and communication barriers affect the health of the Roma who, in general, have poorer health than non-Roma in Italy. Overcrowding and poor sanitary conditions seriously endanger the health conditions in camps. According to FRA research, seven times more Roma than non-Roma report limitations in daily activities due to health.<sup>15</sup> Research conducted in Milan by a local NGO found that Roma health conditions are negatively impacted by housing conditions, a low level of education and employment and difficulties in accessing health services because of their locations.<sup>16</sup>

11 Udo C. Enwereuzor, Laura Di Pasquale, *Italy RAXEN National Focal Point-Thematic Study-Housing Conditions of Roma and Travellers*, (COSPE, March 2009), available at: [http://www.cospe.it/uploads/documenti/allegati/roma\\_housing\\_final.pdf](http://www.cospe.it/uploads/documenti/allegati/roma_housing_final.pdf).

12 UNAR, *Strategia nazionale di integrazione dei rom, dei sinti e dei caminanti*.

13 *Ibid.*

14 *Ibid.*

15 European Union Agency of Fundamental Rights, *The situation of Roma in 11 EU member states. Survey results in a glance*, 2012.

16 NAGA, *Sociodemographic and health conditions of the Roma’ population in Milan*, 2011, available at: [http://www.epiprev.it/sites/free/1114\\_EP5-6\\_282\\_art4\\_full.pdf](http://www.epiprev.it/sites/free/1114_EP5-6_282_art4_full.pdf).

According to research conducted by Milan NGO Naga: 94% of the Romanian Roma living in camps in Milan are not registered with the national health service or with any other health service.<sup>17</sup> During 2011 research by the ERRC, 41% of Romani women interviewed relied exclusively on emergency services and were subjected to discriminatory treatment by hospital employees and other patients, including inadequate explanations about their conditions and medications.<sup>18</sup> In 2011 monitoring on the health situation of the Romanian Roma visited by NAGA in informal settlements in Milan, 146 out of 453 women had had at least one abortion or miscarriage, and just 17 out of 216 women older than 14 years old were using contraception.

**Employment:** Prejudice and negative stereotypes towards Roma, both those who have Italian citizenship and foreign migrants, form a key structural obstacle to employment.<sup>19</sup> According to the European Union Agency of Fundamental Rights (FRA) report “the number of Roma saying that they are unemployed is at least up to four to five times than the number of non-Roma” in Italy. The research further revealed that during the job research “the largest shares of discrimination experiences are among Roma in Italy and the Czech Republic”.<sup>20</sup> ERRC research in 2011 found that levels of unemployment, underemployment and employment in the informal sector are disproportionately higher among the Romani women surveyed than among Italian women, with 48% of Romani women respondents reporting ethnic discrimination as the main obstacle to obtaining a job.<sup>21</sup>

17 *Ibid.*

18 European Roma Rights Centre, Idea Rom Onlus and Opera Nomadi, *Parallel submission to the Committee on the Elimination of all Forms of Discrimination against Women on Italy.*

19 European Union Agency of Fundamental Rights, *The situation of Roma EU citizens moving to and settling in other EU Member States*, November, 2009, available at: [http://fra.europa.eu/fraWebsite/attachments/ROMA-Movement-Comparative-report\\_en.pdf](http://fra.europa.eu/fraWebsite/attachments/ROMA-Movement-Comparative-report_en.pdf).

20 European Union Agency of Fundamental Rights, *The situation of Roma in 11 EU member states. Survey results in a glance*, 2012, available at: [http://fra.europa.eu/sites/default/files/fra\\_uploads/2099-FRA-2012-Roma-at-a-glance\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/2099-FRA-2012-Roma-at-a-glance_EN.pdf).

21 ERRC, Idea Rom Onlus and Opera Nomadi, *Parallel submission to the Committee on the Elimination of all Forms of Discrimination against Women on Italy under Article 18 of the Convention on the Elimination of all Forms of Discrimination against Women for its consideration at the 49th session 11 to 29 July 2011 concerning the situation of Romani women in Italy*, June 2011, available at: <http://www.errc.org/cms/upload/file/italy-cedaw-submission-24-june-2011.pdf>.

### 3 Summary of (Crosscutting) Laws, Policies and Structures

Roma have not been formally recognised as a linguistic minority in Italy.<sup>22</sup> However, the Parliament is currently considering a modification to the relevant law.<sup>23</sup>

The Constitution of Italy (Article 3) contains the principle of equality without distinction according to sex, race, language, religion, political opinion, personal and social conditions, while Article 6 relates to the protection accorded to all recognised linguistic minorities.<sup>24</sup> Article 3§2 adds the so-called principle of “substantial equality”, which imposes a duty on the Italian Republic to actively ensure the respect of equality and non-discrimination principles.<sup>25</sup>

Legislation prohibiting discrimination was issued in Italy in order to implement international conventions<sup>26</sup>. Further more Article 44 of Act 40/1998<sup>27</sup> instituted a specific civil action against discrimination based on race, colour, descent, national or ethnic origin and religious belief in all instances where either a private entity or a public body has caused discrimination.<sup>28</sup>

#### 3.1 Compliance of Anti-Discrimination Legislation With EU Law

By means of Legislative Decree no. 215 of 9 July 2003, Italy transposed into national law the Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.<sup>29</sup> An opinion from European Commission’s in June 2007<sup>30</sup> raised concerns regarding the burden of proof limited protection

22 In 1999, the Italian parliament enacted the Law 482/1999 on the recognition and protection of linguistic minorities that embraces twelve minorities, including several small groups.

23 The proposal is available at: [http://english.camera.it/\\_dati/lavori/stampati/pdf/15PDL0033210.pdf](http://english.camera.it/_dati/lavori/stampati/pdf/15PDL0033210.pdf).

24 Art. 2 of Law 482/1999, available at: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1999-12-15;482~art2>.

25 Maiorca Alessandro, “Il quadro degli strumenti di tutela giuridica in Italia contro le discriminazioni nei confronti delle persone Rom e Sinte” (lecture, University of Milan Bicocca, International Conference on the situation of Roma and Sinti in Italy, 16-18 June 2010).

26 European Network of Legal Experts in the Non-discrimination Field, Report on measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report Italy, (Racial Discrimination Act 654 of 13 October 1975, amended by the Act of 20 May 1993 and Article 13 of Act no. 85/2006), report available at: [http://www.non-discrimination.net/content/media/2011-IT-Country%20Report%20LN\\_final.pdf](http://www.non-discrimination.net/content/media/2011-IT-Country%20Report%20LN_final.pdf).

27 *Ibid*, Decreto legislativo 25 luglio 1998, n. 286 Testo unico delle disposizioni concernenti la disciplina dell’immigrazione e norme sulla condizione dello straniero (in Gazzetta Ufficiale no. 191, 18 August 1998 - S.O. no. 139).

28 *Ibid*, page 4.

29 Legislative Decree 9 July 2003, no. 215, implementing the Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin available at: <http://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=2003-08-12&atto.codiceRedazionale=003G0239&currentPage=1>.

30 EC, Race and Ethnic Origin Directive, list of Member States to which a reasoned opinion will be sent, Brussels 27 June 2007, available at: [http://www.diritto.it/pdf/24533\\_1.pdf](http://www.diritto.it/pdf/24533_1.pdf).

against victimisation and the incorrect definition of racial harassment. Following this, in June 2008, the Italian Parliament modified the Decree 215/2003.<sup>31</sup>

In general, Italian anti-discrimination legislation is now formally in line with European standards. Unfortunately its implementation remains a serious concern. The lack of implementation is due to a number of factors including the slow pace of the Italian justice system,<sup>32</sup> a lack of political will and a lack of financial resources assigned to institutions, such as the equality body (UNAR).<sup>33</sup> These make it almost impossible to ensure a full and correct implementation of anti discrimination law throughout the Italian territory.

In addition to the transfer into national law of the Council Directive 2000/43/EC, several other laws include anti-discrimination provisions.<sup>34</sup>

The Office for the Promotion of Equal Treatment and Removal of Discrimination based on Race or Ethnic Origin (UNAR), the Italian equality body, was established by Decree 215/2003 of 9 July 2003, when it transposed the Race Equality Directive within the Presidency of the Council of Ministers, Department of Equal Opportunities. UNAR shall act ‘with full autonomy of judgment and in conditions of impartiality’ but in practice is not an independent body as UNAR is part of the Government<sup>35</sup> Expert reports indicated, for example, that changes of Government lead to changes in key staff of UNAR.<sup>36</sup> On the other hand, UNAR cannot be considered a quasi-judicial institution, nor can it issue sanctions, it has no standing to litigate on behalf of victims of discrimination, and it can only provide external assistance before and during litigation.<sup>37</sup>

UNAR led the development of the Italian strategy on Roma in 2011 and was appointed as the National Focal Point for the inclusion of RSC.<sup>38</sup> However, in 2012, UNAR’s staff was

31 Decree 215/2003, 9 July 2003, available at: [www.camera.it/parlam/leggi/081011.htm](http://www.camera.it/parlam/leggi/081011.htm).

32 Report by Nils Muznieks, European Commissioner for Human Rights, following his visit to Italy from 3 to 6 July 2012, available at: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2143096&SecMode=1&DocId=1926434&Usage=2>.

33 ERRC, Italy – *Gaps between policy and practice as concerns the inclusion of Roma, Sinti and Caminanti*, available at: <http://www.errc.org/cms/upload/file/italy-letter-housing-31-july-2012-en.pdf>.

34 Law no. 962 of 9 October 1967 on prevention and punishment of the crime of genocide, Law no. 654 of 13 October 1975 for the ratification and implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, Law no. 205. of 25 June 2003 – Urgent measures in the field of racial, ethnic and religious discrimination, available at: [www.normattiva.it](http://www.normattiva.it).

35 European Network of Legal Experts in the Non-discrimination Field, Report on measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report Italy, (Racial Discrimination Act 654 of 13 October 1975, amended by the Act of 20 May 1993 and Article 13 of Act no. 85/2006), report available at: [http://www.non-discrimination.net/content/media/2011-IT-Country%20Report%20LN\\_final.pdf](http://www.non-discrimination.net/content/media/2011-IT-Country%20Report%20LN_final.pdf).

36 *Ibid*, page 68.

37 ERRC, Written Comments concerning Italy for consideration by the European Commission on the Transposition and Application of the Race Directive and on the legal Issues Relevant to Roma Integration, report available at: <http://www.errc.org/cms/upload/file/italy-red-written-comments-5-april-2013.pdf>.

38 UNAR, *Costituzione Punto di Contatto Nazionale Rom*, available at: [http://2.114.23.93/unar/\\_image.aspx?id=0daec7ea-fc2f-4f86-99a9-b43bf371abae&sNome=Costituzione%20Punto%20Contatto%20Nazionale%20Rom.pdf](http://2.114.23.93/unar/_image.aspx?id=0daec7ea-fc2f-4f86-99a9-b43bf371abae&sNome=Costituzione%20Punto%20Contatto%20Nazionale%20Rom.pdf).

significantly reduced, undermining its capacity to fulfil its duties in the implementation of the National Strategy.<sup>39</sup>

## 3.2 Italy's State of Emergency

On 21 May 2008, the former Prime Minister Silvio Berlusconi declared the State of Emergency for some regions in Italy (Lazio, Campania, Lombardy, Piedmont and Veneto) because of “the extremely critical situation” caused by the “presence of nomadic camps”.<sup>40</sup> The Decree effectively prescribed the suspension of human rights and fundamental freedoms and afforded special state authorities with extraordinary powers such as: monitoring camps, conducting censuses of persons resident in camps (including minors), taking photos and requesting documents to identify and record residents, expelling persons with irregular status from camps, displacing persons to formally monitored camps and carrying out forced evictions of informal settlements. Authorities in these regions undertook extensive census operations, including fingerprinting and photographing Roma living in camps, which raised serious data protection concerns.<sup>41</sup>

In November 2011 the Italian Council of State, ruling after an ERRC pleading, judged that the State of Emergency was not lawful and found that some parts of it could, *de facto*, constitute discrimination.<sup>42</sup> The Council of State ruled that there was no evidence of a causal link between the existence of nomadic settlements and the extraordinary and exceptional disruption of order and public security in the affected areas. The judgment had immediate effect, rendering the State of Emergency invalid. All regulations and State actions whose legal authority was based on the State of Emergency were illegal. These included the presidential decrees providing extraordinary powers to prefects and appointing them as special commissioners for the emergency situation and all their subsequent acts.

The government challenged the Council of State's judgment with an extraordinary appeal<sup>43</sup> before the Court of Cassation for abuse of power from the judges, an argument which had

39 ERRC, *Italy's forced evictions of Roma undermine National policy commitments*, July 2012, available at: <http://www.errc.org/article/italys-forced-evictions-of-roma-undermine-national-policy-commitments/4032>.

40 Decree of the Prime Minister of 21 May 2008, *Dichiarazione dello stato di emergenza, in relazione agli insediamenti di comunità nomadi nel territorio delle regioni Campania, Lazio e Lombardia*, May 2008, available at: [http://www.interno.it/mininterno/export/sites/default/it/sezioni/servizi/legislazione/immigrazione/0979\\_2008\\_05\\_27\\_decreto\\_21\\_maggio\\_2008.html](http://www.interno.it/mininterno/export/sites/default/it/sezioni/servizi/legislazione/immigrazione/0979_2008_05_27_decreto_21_maggio_2008.html).

41 See *inter alia* European Roma Rights Centre (ERRC), *osservAzione and Amalipé Romanò*, Submission to UN UPR on Italy, February 2010, available at: <http://www.errc.org/article/errc-submission-to-un-upr-on-italy-february-2010/3752>; ERRC, Submission to the European Commission on Violations of EC Law by Italy, available at: <http://www.errc.org/article/errc-submission-to-the-european-commission-on-violations-of-ec-law-by-italy-may-2009/3787>; ERRC, New Decision on Italian State of Emergency Must Not Mean a Return to Anti-Roma Activity, Says ERRC available at: <http://www.errc.org/article/new-decision-on-italian-state-of-emergency-must-not-mean-a-return-to-anti-roma-activity-says-errc/3986>.

42 Sentenza n. 6050 del 16 novembre 2011 Consiglio di Stato, available at: <http://www.immigrazione.biz/sentenza.php?id=1182>.

43 Redattore Sociale, *Per il governo è ancora “Emergenza Nomadi”. Ricorso contro il Consiglio di Stato*. Available at: <http://www.redattoresociale.it/DettaglioNotizie.aspx?idNews=389927>.

not been used by the government in the course of the previous proceedings. This strongly suggested that the government was trying to reverse the outcome of the proceedings and to undermine the merits of the judgment, by using a procedural ruse. The appeal stands in contrast to Italy's National Strategy on Roma, which acknowledged that the measures undertaken under the State of Emergency proved to be ineffective, costly and harmful. By a decision on 22 April 2013, the Court of Cassation rejected the government's appeal. The State of Emergency is now definitively a thing of the past and illegal as per the Council of State's ruling from 2011.

In 2009 the Ministry of the Interior established a special fund, known as "*Project Maroni*", named after the then Minister of the Interior, with a national budget of 100 million Euros for the construction, on the basis of special agreements between the Ministry of the Interior and the municipalities concerning the "urgent action for the enhancement of urban safety and the protection of public order". These funds were established by the government in the framework of the State of Emergency, and used to implement all its activities ranging from census, monitoring and construction of new camps.

Under the State of Emergency, large formal camps were constructed. Construction continues in some areas of Italy. As such, the discredited approach continues to have a negative impact on the lives of Roma, who are resettled in camps away from the city and existing networks, including the large formal camp, La Barbuta, mentioned above.

### 3.3 The Italian Strategy on Roma

The Italian Government approved a National Strategy for Italy on 24 February 2012,<sup>44</sup> following consultation between UNAR, Italian federations of RSC, international human rights NGOs and other organisations. The strategy was required, as in all EU member states, following the adoption of the EU Framework for National Strategies for Roma Integration up to 2020 (EU Framework).

The Italian strategy targeted the four areas indicated in the EU Framework, namely education, employment, housing and health, and emphasised the need to overcome emergency responses to the situation of Roma in a coordinated manner.<sup>45</sup>

In June 2012, the Minister of Integration and International Cooperation, Andrea Riccardi, initiated a series of national, regional and local thematic roundtables in order to communicate the content of the Strategy at the regional and local level. Authorities at all levels and civil society representatives, as well as representatives of the Roma, Sinti and Caminanti communities were invited. The roundtables were also part of the preparation of local action plans,

44 The National Strategy of Italy is available at: <http://www.unar.it/>; for the EU Framework see Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 5 April 2011, available at: [http://ec.europa.eu/health/social\\_determinants/docs/com2011\\_173\\_en.pdf](http://ec.europa.eu/health/social_determinants/docs/com2011_173_en.pdf).

45 National Strategy for the Inclusion of RSC, page 5.

primarily for municipalities within the regions (Lazio, Campania, Lombardy, Piedmont and Veneto) covered by the State of Emergency (see above).<sup>46</sup>

The ERRC, in cooperation with several other organisations, called upon the authorities to act on the commitments of the Italian government expressed in the Strategy at a local level, and emphasised that central authorities should encourage local authorities, in particular in Rome and Milan, to adhere to the Strategy.<sup>47</sup>

The Lombardy's municipalities of Milan and Legnano developed action plans for the integration of Roma that were not fully in line with the national strategy. The "Nomad Plan" adopted by the then Special Commissioner of the region Lazio for the "State of Emergency" is particularly problematic. The plan promoted the opening of a new segregated camp for Roma "La Barbuta" in June 2012 with the relocation of Roma from other semi-formal camps such as Tor de Cenci. So far, the municipality of Rome has not developed a local action plan.

In July 2012, the city of Milan presented its draft "Project Roma, Sinti and Travellers for 2012-2015. Proposal of the City of Milan" that according to officials is in line with the Strategy.<sup>48</sup> The draft plan includes the same types of measures targeting residents of informal Romani camps that until now have failed to improve the situation of Roma: forced evictions and short-term emergency shelter if available. Milan's draft project with respect to the administration of formal camps for Roma and Sinti mirrors in many ways the actions undertaken in the context of the "State of Emergency" which was declared illegal by the Council of State. In addition, representatives of the Roma, Sinti and Caminanti and civil society organisations during the policy drafting, they were only invited to submit comments on the draft of the plan.

The ERRC considers that the NRIS does not pay adequate attention to anti-discrimination measures in relation to its four main areas: education, employment, health and housing. Discrimination is mentioned in the strategy; but there is no dedicated section on it and notably no recognition of the significance of long-term discrimination to the general situation of Roma. Violence against Roma is only mentioned in passing, and the phenomenon of anti-Gypsyism is only indicated on a descriptive basis. The strategy does not mention the concepts of direct, indirect and multiple discrimination suffered by Roma and does not provide for specific budget lines to deal with anti-discrimination measures.<sup>49</sup>

46 Decreto del Presidente del Consiglio dei Ministri 21 Maggio 2008, available at: [http://www1.interno.it/mininterno/export/sites/default/it/sezioni/servizi/legislazione/immigrazione/0979\\_2008\\_05\\_27\\_decreto\\_21\\_maggio\\_2008.html](http://www1.interno.it/mininterno/export/sites/default/it/sezioni/servizi/legislazione/immigrazione/0979_2008_05_27_decreto_21_maggio_2008.html).

47 See letter of ERRC, Associazione 21 luglio, Consulta Rom e Sinti della Città di Milano, Gruppo di Sostegno Forlanini, NAGA and UPRE ROMA to the Italian Government of 31 July 2012 available at: <http://www.errc.org/cms/upload/file/italy-letter-housing-31-july-2012-en.pdf>.

48 Progetto Rom, Sinti e Caminanti 2012-2015. Proposta del Comune di Milano del 6 Luglio 2012, page 1.

49 ERRC, Written Comments concerning Italy for consideration by the European Commission on the Transposition and Application of the Race Directive and on the legal Issues Relevant to Roma Integration, report available at: <http://www.errc.org/cms/upload/file/italy-red-written-comments-5-april-2013.pdf>.

## SUMMARY OF (CROSSCUTTING) LAWS, POLICIES AND STRUCTURES

A year after its adoption, at the beginning of 2013 the NRIS still remains largely unapplied in the country and, more generally, in practice nothing has changed for Roma people living in Italy. Evictions are still on the rise and still lacking any eviction order or prior consultation, with ethnically segregated camps still being built and Roma being relocated into those without being offered any viable housing alternative.<sup>50</sup>

<sup>50</sup> *Ibid.*



## 4 Key Issues by Theme

The following section highlights some of the key topics in Italy that the ERRC is working on.

### 4.1 Housing and Evictions

Italian authorities have focused their housing policy for Roma on constructing ‘nomad camps’ and forcibly evicting informal camps. The Italian policy and approach to camps started as a result of regional policies. When Roma from the former Yugoslavia arrived in Italy in the 1980s and 1990s, many regions issued local laws for the protection of “nomad cultures” by camps. This project made official the perception that all Roma are nomads, not Italian citizens and that they can only live in areas isolated from the rest of Italian society. For this reason the office in charge for RSC are called “Uffici Nomadi” (Nomad offices) and are often under the competence of immigration authorities.<sup>51</sup> The segregation of Roma in camps has resulted in severe barriers to accessing education, employment and health care.

#### 4.1.1 BACKGROUND AND ERRC ACTIVITIES

*The situation in formal and informal camps*

In 2011 and 2012 the ERRC visited 27 camps in Milan and Rome, including formal, semi-formal and informal camps, and three shelters. In the same period the ERRC monitored evictions that brought up serious concerns, expressed in several letters of concern sent to Italian authorities.<sup>52</sup>

The situation in the largest formal camp in Rome (Via Salone 323) serves as an illustration of the overall situation and of the official policy addressing this situation.<sup>53</sup> It is distant from essential services: the nearest pharmacy is 4.2 km, the nearest hospital is 10.6 km, the nearest post office is 2.7 km and the nearest grocery store is 3.1 km. The nearest bus stop is 1.5 km away and the road leading to the camp is without lights, pavements or crosswalk.

The camp is surrounded by a metal fence and equipped with about 30 video cameras around the perimeter of the settlement. Originally, the camp was home to around 600 inhabitants from Bosnia, Serbia, Montenegro and Romania. Since 2009 the number of inhabitants has been steadily increasing as a consequence of the transfer of many families who were victims

51 ERRC, *Il Paese dei Campi*, 5 October 2000, available at: <http://www.errc.org/article/il-paese-dei-campi/3881>.

52 All ERRC letters of concern are available at: <http://www.errc.org/en-search-results.php?mcountry=104&mtheme=1&marea=1&mkeyword=Enter+keywords+...&ok=OK>.

53 Associazione 21 Luglio, *Esclusi e ammassati*, Report on the living condition of Roma minors in the camp in via di Salone, Roma 2010, available at: [http://www.21luglio.com/ESCLUSI%20E\\_AMMASSATI.pdf](http://www.21luglio.com/ESCLUSI%20E_AMMASSATI.pdf).

of evictions. According to local NGOs there are now about 1100 people in 198 container houses, which offer a limited amount of living space (22 - 28 square metres), but are inhabited by up to nine people. According to the relevant legislation, four people should have at least 56 square metres at their disposal.<sup>54</sup>

It is impossible for inhabitants to enjoy normal daily activities, such as sleeping, eating and studying, in such a limited space. The increase of the camp population has caused deteriorations in living conditions too. The health of the inhabitants of the camp, especially children, is further endangered by the presence of an incinerator for toxic and harmful waste just 800 metres from the camp.

In informal camps, ERRC research found that evictions are conducted by law enforcement officials disregarding the personal situation of the affected people; no special consideration is made for children enrolled in local schools, elderly people, pregnant women or people with health problems. Furthermore, the Italian municipalities, in some cases, have reduced but not stopped the evictions. Families living in informal camps were persistently evicted without respect for the protections prescribed by international standards: residents are not consulted prior to eviction, do not receive formal eviction orders which makes it difficult to challenge legally the eviction and are not offered alternative accommodation, which forces them into an endless cycle of evictions.<sup>55</sup> Media report some violent attacks by law enforcement in occasion of evictions. For instance, on 6 April 2012 during an eviction in Pisa, a local police officer slapped a Romani boy of 15 years old, and pushed a Romani woman who had a one-year-old baby in her arms.<sup>56</sup>

### *Forced evictions and new camps*

The ERRC monitored evictions of Roma in Italy between April 2011 and December 2012, through media, local informants, information gathered by local organisations and ERRC staff witnessed evictions. During the period, the ERRC recorded about 263 forced evictions, which is not to be considered as a comprehensive total but as a sample of cases that the ERRC has received information about.

ERRC field research found that families living in informal camps were persistently evicted without respect for the protections prescribed by international standards: residents are not consulted prior an eviction, do not receive formal eviction orders, which makes it difficult to legally challenge the evictions, and are not offered alternative accommodation, which forces them into an endless cycle of evictions. The situation of schoolchildren, ill and old people is

54 Municipality of Rome, *Regolamento Generale Edilizio del Comune di Roma*, available at: <http://www.comune.roma.it/was/repository/ContentManagement/node/P138069942/regolamento%20edilizio%20di%20roma.pdf>.

55 Italy is legally obliged to respect, protect and fulfill the right to adequate housing, including a prohibition on forced evictions according to the United Nations (UN), *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, available at: <http://www2.ohchr.org/english/law/cescr.htm> and the United Nations, *International Covenant on Civil and Political Rights (ICCPR)* available at: <http://www2.ohchr.org/english/law/ccpr.htm>.

56 Pisa Notizie.it, “Sgomberate dall’immobile dell’Asl, le famiglie ritornano nell’ex-convento”, 7 April 2012, available at: [http://pisanotizie.it/news/news\\_20120407\\_sgombero\\_rom\\_ex\\_dipartimento\\_salute\\_mentale\\_fрати\\_bigi.html](http://pisanotizie.it/news/news_20120407_sgombero_rom_ex_dipartimento_salute_mentale_fрати_bigi.html).

not taken into consideration.<sup>57</sup> ERRC research conducted in 2011 in Rome, Turin and Reggio Calabria with women living in different housing situations found that almost a third (27.2%) of the respondents reported being evicted at some point in their lives.<sup>58</sup>

The newly-created segregated camp “La Barbuta”, on the outskirts of Rome, close to Ciampino airport demonstrates another approach of the authorities: the relocation of Romani people from semi-formal camps in the inner city to the fenced-in “equipped villages” at the outskirts.<sup>59</sup> In October 2012, the ERRC submitted an amicus brief in a domestic case taken by national NGOs to challenge the legality of La Barbuta camp.

The ERRC, along with local partners, undertook several advocacy activities at national and international levels. At the national level, ERRC and its partners contacted local and national authorities.<sup>60</sup> At the international level, the ERRC and its partners submitted written comments concerning Italy to the UN Committee on the Rights of the Child in July 2011, underlining that evictions from both formal and informal camps constitute a major problem for the mental and physical well-being of Romani children.<sup>61</sup> In January 2012, ERRC and Associazione 21 luglio sent a parallel report to the UN Committee on the Elimination of Racial Discrimination, expressing their deep concerns regarding the ongoing evictions.<sup>62</sup>

## 4.2 Violence and Hate Speech

### 4.2.1 LEGAL AND POLICY FRAMEWORK

In the Italian legal system, specific laws criminalise any manifestation of thoughts aiming at propagandising ideas founded on racial or ethnic superiority or hatred, and at inciting to

57 Italy is legally obliged to respect, protect and fulfill the right to adequate housing, including a prohibition on forced evictions according to the United Nations (UN), *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, available at: <http://www2.ohchr.org/english/law/cescr.htm> and the United Nations, *International Covenant on Civil and Political Rights (ICCPR)* available at: <http://www2.ohchr.org/english/law/ccpr.htm>.

58 European Roma Rights Centre, Idea Rom Onlus and Opera Nomadi, *Parallel submission to the Committee on the Elimination of all Forms of Discrimination against Women on Italy*, June 2011. Of 88 respondents to questions on evictions, 77 specified their housing type, 26 resided in formal camps, nine resided in informal camps, 11 resided in squats, 10 lived in private housing and 18 were living in social housing.

59 See: <http://www.errc.org/article/italian-courts-must-respect-human-rights-in-ruling-on-relocation-of-roma/4070>.

60 All the letters of concern sent by ERRC are available at: <http://www.errc.org/en-search-results.php?mcountry=104&mtheme=1&marea=1&mkeyword=Enter+keywords+...&ok=OK>.

61 European Roma Rights Centre and Associazione 21 Luglio to the committee on the rights of the children on Italy for its consideration at the 58th session 19 September to 7 October 2011, July 2011, available at: <http://www.errc.org/cms/upload/file/italy-crc-submission-26-july-2011.pdf>.

62 Associazione 21 luglio and ERRC, Parallel report by ERRC and Associazione 21 Luglio to the committee on the elimination of racial discrimination on Italy for its consideration at the 80th session 13 February to 9 March 2012, January 2012, available at: <http://www.errc.org/cms/upload/file/italy-cerd-submission-27-january-2012.pdf>.

commit acts of discrimination or violence for racial, ethnic or religious reasons. Therefore political debates, which present racist or xenophobic arguments and which are considered to have a criminal intent, are subject by law to examination by a criminal court and can constitute a crime. As a case in point, Article 3 of Law 654/1975, which ratifies and implements the International Convention on the Elimination of All Forms of Racial Discrimination,<sup>63</sup> as amended by the Decree Law 122/1993, provides for penalties for anyone who supports organisations or groups that aim to solicit discrimination for the above-mentioned reasons.

The Additional Protocol to the Convention on Cybercrime, which Italy signed on 9 November 2011,<sup>64</sup> also penalises the dissemination of any written material, any image or any other representation of ideas or theories, which advocate, promote or incite hatred, discrimination or violence committed through computer systems.

Law 205/1993 or the so called “*The Mancino Law*,” can be used against those who incite violence or racial, ethnic and religious discrimination. The *Mancino Law* also makes it a crime to “instigate in any way or commit violence or acts of provocation to violence for racist, ethnic, national or religious motives,” and to “propagate ideas based on racial superiority or racial or ethnic hatred, or to instigate to commit or commit acts of discrimination for racial, ethnic, national or religious motives. Article 3 of this law allows judges to increase the sentence to be imposed for a crime, by up to half, if it was committed “with the purpose of discrimination or hatred based on ethnicity, nationality, race, or religion, or in order to facilitate the activity of organisations, associations, movements, or groups that have this purpose among their objectives”.

International Law and domestic precedents require States to ban certain speeches on the basis that they undermine the right of others to equality or to freedom from discrimination.<sup>65</sup> The International Covenant on Civil and Political Rights (ICCPR) states that “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law” (Art. 20). The Convention on the Elimination of All Forms of Racial Discrimination (CERD) similarly prohibits all incitement of racism (Art.4).

### 4.2.2 BACKGROUND AND ERRC ACTIVITIES

The ERRC has been documenting instances of violence against Roma by State and non-State actors in Italy since 1998.<sup>66</sup> Reports from international and local civil society and academics

63 International Convention on the Elimination of All Forms of Racial Discrimination (New York, 7 March 1966) available at: <http://www.un.org/millennium/law/iv-2.htm>.

64 Additional Protocol to the Convention on Cybercrime, available at: <http://conventions.coe.int/Treaty/en/Treaties/Htm/189.htm>; Italy signed in 2011, but it has not yet been ratified or entered into force.

65 See the relationship between Articles 19(3) and 20(2) of the International Covenant on Civil and Political Rights (ICCPR) clearly explained in Toby Mendel, *Hate Speech Rules Under International Law*, (Centre for Law and Democracy, 2010), 1-3, available: <http://www.law-democracy.org/wp-content/uploads/2010/07/10.02.hate-speech.Macedonia-book.pdf>.

66 ERRC, *Campland: Racial Segregation of Roma in Italy*, October 2000, available at: <http://www.errc.org/cms/upload/media/00/0F/m0000000F.pdf>.

regarding incidents of daily discrimination and violence against Roma in Italy confirmed an ever-growing climate of racism.<sup>67</sup>

In 2011 and 2012, ERRC monitored cases of violence against Roma reported in the media and by ERRC local sources: three cases of violence by law enforcement officials, four cases of attacks against camps and Romani homes and six cases of violence by private citizens.

Cases of violence by law enforcement:

- On 6 April 2012 during an eviction in **Pisa**, a local police officer slapped a Romani boy of 15 years old and pushed a Romani woman who had a one-year-old baby in her arms.<sup>68</sup>
- On 5 July 2012, in **Florence**, five Roma (three men and two women) were beaten up by officers at Santa Maria Novella's railway police station. They were taken to the police headquarters, where they were fingerprinted and photographed. One of the woman said "He (the policeman) gave him (another Roma) a slap and blood came out of his ear. Then he gave me a kick [...] They (policemen) took the money (collected by Roma begging in the railway station) and bought a ticket of EUR 23.00 to send Roma to Bologna".<sup>69</sup>
- On 8 November 2012, a 21-year-old Romani man was killed by policemen after having robbed a tobacco shop in **Santa Maria Capua Vetere** (Naples). The Roma and his partners did not stop at a police roadblock and the police opened fire. The Naples's prosecutor has entered the six policemen in the register of those under investigation, with the charge of murder.<sup>70</sup>

Attacks and violence against Roma:

- In July 2011 in **Naples** a group of about 10 people wearing masks<sup>71</sup> and armed with clubs broke into a Roma camp during the morning. They attacked shacks and vehicles, breaking five windshields and terrifying the residents. They threatened to return if the camp wasn't evacuated by the evening. A police investigation was launched.
- In **Brescia**, on 26 October 2011 a man shot and killed an 18-year-old Romani boy. The man said the reason for the killing was to avenge the death of his daughter who died

67 Council of Europe, Commissioner for Human Rights, RAPPORTO di Nils Muižnieks Commissario per i Diritti Umani del Consiglio d'Europa a seguito della visita in Italia dal 3 al 6 luglio 2012, 18 September 2012.

68 Pisa Notizie.it, "Sgomberate dall'immobile dell'Asl, le famiglie ritornano nell'ex-convento", 7 April 2012, available at: [http://pisanotizie.it/news/news\\_20120407\\_sgombero\\_rom\\_ex\\_dipartimento\\_salute\\_mentale\\_frati\\_bigli.html](http://pisanotizie.it/news/news_20120407_sgombero_rom_ex_dipartimento_salute_mentale_frati_bigli.html).

69 Radio Radicale.it, "Violenza verso i cittadini Rom: intervista a Giovanni Lopez e Luisa (rom rumena) sulla denuncia per maltrattamenti da parte della polizia ferroviaria di Firenze", 24 July 2012, available at: <http://www-2.radioradicale.it/scheda/357551/violenza-verso-i-cittadini-rom-intervista-a-giovanni-lopez-ed-a-luisa-rom-rumena-sulla-denuncia-per-maltra>.

70 Mario Di Vito, "Rom ucciso a Napoli. "Era disarmato": sei poliziotti indagati", Contropiano.org, 13 November 2012, available at: <http://www.contropiano.org/en/archive/archivio-news/item/12499-rom-ucciso-a-napoli-era-disarmato-sei-poliziotti-indagati>.

71 La Repubblica, "Raid di ignoti in campo rom danneggiate baracche e auto", 13 July 2011, available at: [http://napoli.repubblica.it/cronaca/2011/07/13/news/raid\\_di\\_ignoti\\_in\\_campo\\_rom\\_danneggiate\\_baracche\\_e\\_auto-19091055/?ref=HREC2-5](http://napoli.repubblica.it/cronaca/2011/07/13/news/raid_di_ignoti_in_campo_rom_danneggiate_baracche_e_auto-19091055/?ref=HREC2-5).

because of drugs overdose. The father accused the boy of being part of a group who had given drugs to the girl.<sup>72</sup>

- In December 2011, in **Turin**, a Romani camp was destroyed after a demonstration, which was organised following the false accusation that a Romani man had raped a non-Romani girl. Material inciting violence was distributed at the event. Local media and eyewitnesses confirmed that a public official, the president of the fifth district, was present at the demonstration.<sup>73</sup> Hundreds of people marched to an informal Romani camp at Via Continassa, and set fire to shacks, caravans and cars. The ERRC and local NGOs sent a letter of concern calling on Italian authorities to investigate this incident.<sup>74</sup>
- On 21 January 2012, in **Bergamo**, a Romani boy was run over by a car following a fight with non-Roma.<sup>75</sup>
- In **Bari**, in February 2012, a fire completely destroyed a small informal camp. Fortunately, nobody was in the camp at the time of the fire.<sup>76</sup>
- In spring 2012, tensions flared in **Pescara** after a Romani man allegedly killed a non-Romani individual. On 3 May 2012, a Molotov bottle was thrown against the house of the alleged perpetrator. Further, an online petition calling for the “Expulsion of Gypsies from Pescara” has been started and a demonstration against Roma has been organised, chanting slogans under a banner saying “Rome Hunt for Five Days”. There have been ongoing threats of violence and intimidation, and police has informally warned Roma not to leave their homes because of the threat of violence. The local authorities asked members of the Romani community to “isolate the criminals.” The ERRC sent a letter of concern to local and national authorities in order to ask for all necessary steps to adequately protect Romani individuals.<sup>77</sup>

Many cases of violence against Roma remain unreported because Romani individuals fear retaliations against themselves and their families.<sup>78</sup> Other reasons for not reporting are: the victims think that no one would believe them; they are threatened with criminal charges; they lack identity documents.

72 BS News.it, “Omicidio del 18enne rom, fermato il padre di Francesca Manca. “Ho sparato, ma non volevo uccidere””, 31 October 2011, available at: [http://www.bsnews.it/notizia/11463/31\\_10\\_2011\\_Omicidio\\_del\\_18enne\\_rom\\_fermato\\_il\\_padre\\_di\\_Francesca\\_Manca\\_Si\\_s](http://www.bsnews.it/notizia/11463/31_10_2011_Omicidio_del_18enne_rom_fermato_il_padre_di_Francesca_Manca_Si_s).

73 The attack was apparently sparked by a rape allegation against two Romani men which was later reportedly retracted. The whole camp was destroyed, including the homes and property of the 46 Romani individuals living there.

74 European Roma Rights Centre, “Italian Authorities Urged to Investigate Destruction of Roma Camp”, 15 December 2011, available at: <http://www.errc.org/article/italian-authorities-urged-to-investigate-destruction-of-roma-camp/3950>.

75 Il Giorno, “Investe rom fuori dal locale, scatta subito la caccia all’uomo”, 21 January 2012, available at: [http://www.ilgiorno.it/bergamo/cronaca/2012/01/21/656901-investe\\_fuori\\_dalla\\_discoteca.shtml](http://www.ilgiorno.it/bergamo/cronaca/2012/01/21/656901-investe_fuori_dalla_discoteca.shtml).

76 La Repubblica di Napoli.it, “Le fiamme distruggono il campo rom. “Qualcuno ha appiccato il fuoco””, 10 February 2012, available at: [http://bari.repubblica.it/cronaca/2012/02/10/foto/le\\_fiamme\\_distruggono\\_il\\_campo\\_rom\\_qualcuno\\_ha\\_appiccato\\_il\\_fuoco-29640224/1/](http://bari.repubblica.it/cronaca/2012/02/10/foto/le_fiamme_distruggono_il_campo_rom_qualcuno_ha_appiccato_il_fuoco-29640224/1/).

77 European Roma Rights Centre, “Italian Authorities Must Protect Roma Facing Violence in Pescara”, 18 May 2012, available at: <http://www.errc.org/article/italian-authorities-must-protect-roma-facing-violence-in-pescara/3989>.

78 European Roma Rights Centre, Idea Rom Onlus and Opera Nomadi, *Parallel submission to the Committee on the Elimination of all Forms of Discrimination against Women on Italy*, June 2011, See also Human Rights Watch, *Everyday Intolerance Racist and Xenophobic Violence in Italy*, available at: <http://www.hrw.org/sites/default/files/reports/italy0311WebRevised.pdf>.

The ERRC, in cooperation with other human rights and Roma organisations, undertook several advocacy activities to raise awareness of ongoing violence against Roma, and calling upon the authorities to adequately investigate incidents of violence against Roma.

#### *Violence against Romani Women*

In 2011 ERRC conducted research on violence against Romani women. The ERRC interviewed 88 women in Turin, Rome and Reggio Calabria. The research revealed that 26% of Romani women respondents reported suffering abuse by police including physical violence, degrading treatment, racist remarks during violent attacks and sexual harassments.<sup>79</sup> Many women did not want to answer questions related to violence, due to fear for their own safety. Incidents perpetrated by law enforcement officials and non-state actors continue in a climate of absolute impunity. The violent incidents reported occurred inside police stations, on the streets or inside shops and in the context of evictions. The very few Roma that reported the abuses to a competent institution did not obtain any justice.

According to local NGOs and lawyers, Romani women are particularly targeted by police and charged with resistance to public officials as a way of preventing them from filing charges against the police for ill or degrading treatment. As a result, many Roma do not file charges for inhumane treatment but rather agree to bargain a plea in order to be released.<sup>80</sup> Anti-Roma sentiment also plagues the Italian judiciary system, which often means a presumption of guilt by judges in the case of Roma.<sup>81</sup>

In August 2011 the Committee on the Elimination of Discrimination against Women published its Concluding Observations.<sup>82</sup> Many are the recommendations of the Committee to the Italian government concerning the situation of Romani women especially on the issue of violence.<sup>83</sup>

#### *Anti-Romani Statements*<sup>84</sup>

Widespread discrimination and hate speech against Roma includes frequent incidents of hostile and biased language from public officials and private individuals, perpetuating an environment

79 European Roma Rights Centre, Idea Rom Onlus and Opera Nomadi, *Parallel submission to the Committee on the Elimination of all Forms of Discrimination against Women on Italy* (June 2011).

80 Email correspondence with Italian lawyer Gilberto Pagani: 6 May 2011.

81 European Roma Rights Centre, Idea Rom Onlus and Opera Nomadi, *Parallel submission to the Committee on the Elimination of all Forms of Discrimination against Women on Italy* (June 2011).

82 Committee on the Elimination of Discrimination against Women, *Concluding Observations*, 2 August 2011, available at: <http://www2.ohchr.org/english/bodies/cedaw/cedaws49.htm>.

83 Committee on the Elimination of Discrimination against Women, *Concluding Observations*, 2 August 2011, available at: <http://www2.ohchr.org/english/bodies/cedaw/cedaws49.htm>.

84 "Hate speech" shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin See Council of Europe Committee of Ministers' Recommendation No. R (97)20 available at: [http://www.coe.int/t/dghl/standardsetting/hrpolicy/other\\_committees/dh-lgbt\\_docs/CM\\_Rec\(97\)20\\_en.pdf](http://www.coe.int/t/dghl/standardsetting/hrpolicy/other_committees/dh-lgbt_docs/CM_Rec(97)20_en.pdf).

in which anti-Roma violence persists. As Thomas Hammarberg underlined in 2011, political parties often abuse anti-Roma sentiments in the population within their electoral campaigns and contribute to inciting hatred.<sup>85</sup>

In 2011 and 2012 ERRC monitored different categories of hate speech reported in the media:

- **27 anti-Romani statements by public figures**<sup>86</sup> characterised by public insults and defamation, dissemination of ideas based on racial hatred and on racial superiority.
- **6 demonstrations by political movements** that incite people to protest against Roma.
- **6 cases of production and dissemination of material inciting violence** (“games” on Facebook, blogs and flyers against Roma and camps.

Public figures continue to dehumanise Roma in their rhetoric. On 9 February 2011 Tiziana Maiolo, the former town Councillor of Milan said “All ethnicities can be integrated except for the Roma [...] it is easier to educate a dog than Roma.” An Italian MEP from Lega Nord Party stated on 17 November 2011: “you can’t expect much from a culture in which theft is tolerated, if not exalted” and that “it’s useless to continue with this fake European goodness [...] Roma should be expelled from Rome”.<sup>87</sup>

In September 2012, the former deputy Mayor of Milan, Riccardo De Corato, said “The family of Roma mostly live thanks to the begging of children, women and old people: they are cruel to each other. We must send a strong message. And remember that the integration does not work on large numbers”.<sup>88</sup> In May 2012, one of the biggest Italian political parties, Partito delle Libertà, put up anti-Romani posters in Pescara. The posters said: “PdL keeps its commitments. Roma and delinquents out of social housing”.<sup>89</sup>

85 Council of Europe, *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Italy from 26 to 27 May 2011* (7 September 2011) available at: <https://wcd.coe.int/wcd/ViewDoc.jsp?id=1826921>, NAGA appealed against the Zingaropoli poster and denounced the discriminatory language used by PDL and Northern Lega on the base of Legislative Decrees 215/2003 and 286/1998.

86 “Public figures are persons holding public office and/or using public resources and, more broadly speaking, all those who play a role in public life, whether in politics, the economy, the arts, the social sphere, sport or in any other domain” in Resolution 1165 (1998) of the Parliamentary Assembly of the Council of Europe on the right to privacy, Point 7, and in Paragraph 71: ECHR, CASE OF VON HANNOVER v. GERMANY (no. 2), applications nos. 40660/08 and 60641/08, 7 February 2012.

87 Ansa, *Nomadi: scontro Lega-Ppe sui Rom a Strasburgo Morganti e Bizzotto attaccano politiche integrazione Ue*, 17 November 2011, available at: [http://www.ansa.it/europa/notizie/rubriche/altrenews/2011/11/17/visualizza\\_new.html\\_638188017.html](http://www.ansa.it/europa/notizie/rubriche/altrenews/2011/11/17/visualizza_new.html_638188017.html).

88 Il Giornale.it, “Sgomberati i campi di Rubattino: il Comune vuole piazzare 60 rom”, 28 September 2012, available at: <http://www.ilgiornale.it/news/sgomberati-i-campi-rubattino-comune-vuole-piazzare-60-rom-841529.html>.

89 PrimaDaNoi.it, “Via i rom e delinquenti», bufera sui manifesti del Pdl. Rifondazione: «imbecilli». Sito neonazista applaude”, 23 May 2012, available at: <http://www.primadanoi.it/news/527145/%C2%ABVia-i-rom-e-delinquenti%C2%BB-i-manifesti-del-Pdl-fanno-gridare-al-razzismo.html>.



Political parties also exploit anti-Roma sentiments in the population to win popular support during electoral campaigns, and contribute to inciting hate.<sup>90</sup> The Council of Europe's Committee of Social Rights found the Italian authorities in violation with the Revised European Social Charter particularly on an aggravated violation of article E (prohibition of discrimination) and condemned the Italian authorities' use of xenophobic political discourse against Roma and Sinti.<sup>91</sup>

Anti-Romani discourse is however, not a new phenomenon in Italy. In 2008, the ERRC submitted information to the United Nations Committee on the Elimination of Racial Discrimination<sup>92</sup> about the alarming level of anti-Romani hate speech by politicians and other public figures in Italy. In its *Concluding Observations*, the Committee on the Elimination of Racial Discrimination provided specific recommendations to tackle this problem.<sup>93</sup> Italy, however, has not yet implemented the recommendations.<sup>94</sup>

Incidents in Turin in December 2011 demonstrated how hate speech and stirring up anti-Romani sentiments can lead to violence.<sup>95</sup> In the last two years, encouragement to violence included as well on line manifestations on internet such as blogs militating against Roma or a "Facebook game" called "Hit the Gypsies" where players had to run down Roma in order to gain points.<sup>96</sup>

More recently, with the occasion of his visit in Italy, the Council of Europe's Human Rights Commissioner Nils Muižnieks pointed out the need to increase the monitoring of hate crimes and to ensure that prosecutors and judges take into account the size of racist crimes calling

90 Council of Europe, *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Italy from 26 to 27 May 2011* (7 September 2011) available at: <https://wcd.coe.int/wcd/ViewDoc.jsp?id=1826921>, NAGA appealed against the Zingaropoli poster and denounced the discriminatory language used by PDL and Northern Lega on the base of Legislative Decrees 215/2003 and 286/1998.

91 European Committee of Social Rights, Decision on the merits 25 June 2010 on the complaint *COHRE v. Italy*, 29 May 2009, complaint no. 58/2009, available at: [http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC58Merits\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC58Merits_en.pdf).

92 COHRE, ERRC, Osservazione and Sugar Drom, *Written Comments of European Roma Rights Centre (ERRC), the Centre On Housing Rights and Evictions (COHRE), Osservazione and Sugar Drom concerning Italy for consideration by the United Nations Committee on the Elimination of Racial Discrimination at its 72nd session, 2008* available at: <http://www.errc.org/cms/upload/media/02/C9/m000002C9.pdf>.

93 Committee on the Elimination of Racial Discrimination *Concluding observations*, CERD/C/ITA/15, (16 May 2008) point 22, available at: [http://unipd-centrodirittumani.it/public/docs/CERD\\_C\\_ITA\\_CO\\_15.pdf](http://unipd-centrodirittumani.it/public/docs/CERD_C_ITA_CO_15.pdf).

94 Commissario per i diritti umani, *Rapporto di Nils Muižnieks Commissario per i Diritti Umani del Consiglio d'Europa a seguito della visita in Italia dal 3 al 6 luglio 2012*, 18 September 2012.

95 In December 2011, a Romani camp was destroyed after a demonstration, which was organised following the false accusation that a Romani man had raped a non-Romani girl. Material inciting violence was distributed at the event. Local media and eyewitnesses confirmed that a public official, the president of the fifth district, was present at the demonstration. Hundreds of people marched to an informal Romani camp at Via Continassa, and set fire to shacks, caravans and cars. See also ERRC, Federazione Romani and Idea Rom, Italian Authorities Urged to Investigate Destruction of Roma Camp, 15 December 2011, available at: <http://www.errc.org/article/italian-authorities-urged-to-investigate-destruction-of-roma-camp/3950>.

96 La Repubblica, *E contro gli zingari la vergogna, su Facebook*, 9 February 2011, available at: <http://roma.repubblica.it/cronaca/2011/02/09/news/facebook-12274292/>.

on the Italian authorities to also promote greater awareness on the need to actively combat all manifestations of racism and racial discrimination, and of possible remedies to the victims.<sup>97</sup>

## 4.3 Movement and Migration

### 4.3.1 LEGAL AND POLICY FRAMEWORK

The Freedom of Movement is regulated by Legislative Decree 30/2007<sup>98</sup> transposing the Free Movement Directive 38/2004/CE on the right of citizens of the European Union and their family members to move and reside freely within the territory of the Member States and has been later amended by the Legislative Decree 32/2008<sup>99</sup>.

On the basis of this decree the decision of expulsion can be made on the following range of grounds: state security, imperative public security and other serious public order or public security grounds. However some limitations in relation to transposition of the Free Movement Directive such as the broad and not properly defined meaning of “state security”, together with a lack of reference to the meaning of “sufficiently serious threat” when referring to the personal conduct of the individual concerned allow public authorities to issue expulsion orders which do not comply with the principle of proportionality.<sup>100</sup> That means that the degree of integration of the persons concerned is not taken account, with no regard to the length of their residence in the host Member State, their age, state of health, family and economic situation and the links with their country of origin.<sup>101</sup>

Although the Free Movement Directive permits the return of an EU national who represents a present or future threat to public security, the European Commission has clarified that this does not automatically include all persons with any previous criminal conviction.<sup>102</sup> According to European law, a criminal conviction does not constitute, *per se*, ground for expulsion or removal measures. Even multiple convictions do not suffice without further evidence to show that the person’s presence constitutes a continuing threat to public security. The Commission has also emphasised that any kind of expulsion or removal measure based on public order or security

97 Commissario per i diritti umani, *Rapporto di Nils Muižnieks Commissario per i Diritti Umani del Consiglio d’Europa a seguito della visita in Italia dal 3 al 6 luglio 2012*, 18 September 2012.

98 Available at: [http://www.interno.gov.it/mininterno/export/sites/default/it/assets/files/15/08982\\_DECRETOLEGISLATIVO6febbraio\\_2007.pdf](http://www.interno.gov.it/mininterno/export/sites/default/it/assets/files/15/08982_DECRETOLEGISLATIVO6febbraio_2007.pdf).

99 Available at: <http://www.camera.it/parlam/leggi/deleghe/08032dl.htm>.

100 Transposition of the Article 27(1) of the Free movement Directive.

101 Milieu, Environmental Law and Policy, and Europe Institute,, *Conformity Study for Italy, directive 2004/38/EC on Free movement of Union Citizens and their family members to move and reside freely within the territory of the Member States*, (2008), p. 8, available at: [http://ec.europa.eu/justice/doc\\_centre/citizenship/movement/doc/italy\\_compliance\\_study\\_en.pdf](http://ec.europa.eu/justice/doc_centre/citizenship/movement/doc/italy_compliance_study_en.pdf).

102 European Commission, *Communication from the European Commission to the European Parliament and the Council on guidance for better transposition and application of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States*, COM(2009) 313 final, 2 July 2009, pp. 12-13.

grounds should look at the degree of social danger caused by the individual, the nature of the offending activity, and the frequency, cumulative danger and damage caused, the level of integration within the country as well as the individual's conduct since the behaviour was engaged in.<sup>103</sup>

### 4.3.2 BACKGROUND AND ERRC ACTIVITIES

In the National “Voluntary Assisted Return” (AVR) schemes financed by the Minister of Interior, European Union citizens are not considered an eligible group.<sup>104</sup> However, Roma from EU Member States in different municipalities such as Pisa, Florence, Milan and Rome have received different forms of return assistance. In 2011, the Municipality of Milan, via the NGO AVSI Foundation, offered assisted returns to Romanian Romani families who lived in the former formal camp of via Triboniano-Barzaghi for approximately one year. The funds were provided in the frame of the Piano Maroni.<sup>105</sup>

About 200 Romanian Roma participated in the return scheme. They had to give up their residence in Italy and were provided with tickets to Romania, financial assistance (1,500 Euros for going back to Romania and 180 to 200 Euros monthly for the period of one year), support in repairing their homes, employment trainings and enrolment in schools in Romania.<sup>106</sup> According to informal sources, the Roma that participated in the return scheme to Romania have in the meantime returned to Milan's informal camps.

Outside the context of these assisted repatriation plans, the ERRC has been informed about other cases of expulsion orders potentially in breach of Article 21 of legislative decree 30/2007, which transposed the Free Movement Directive (Directive 2004/38/CE).<sup>107</sup>

The ERRC has monitored or followed up on a number of expulsions from several municipalities, reported by NGOs or the Italian media. On 4 January 2011, a Romanian Romani man was issued an expulsion order, citing reasons of public order and security. According to the prefecture of Milan, based on an arrest for robbery in 2005, the man represented a sufficiently serious threat to public order and security to justify his expulsion.<sup>108</sup>

103 The ECJ stated these principles on several occasions: <http://curia.europa.eu/jcms/upload/docs/application/pdf/2012-03/cp120020en.pdf>; <http://curia.europa.eu/jcms/upload/docs/application/pdf/2012-05/cp120066en.pdf>; <http://curia.europa.eu/juris/document/document.jsf?docid=122961&mode=req&pageIndex=1&dir=&occ=first&part=1&text=&doclang=EN&cid=197487>; <http://curia.europa.eu/jcms/upload/docs/application/pdf/2009-02/cp050050en.pdf>; <http://curia.europa.eu/juris/document/document.jsf?docid=56253&doclang=EN&mode=&part=1>; <http://curia.europa.eu/jcms/upload/docs/application/pdf/2009-03/cp0372en.pdf>.

104 For more information on the National Assisted Voluntary Return, see: <http://www.ritornare.eu/ita/rva.asp>.

105 Paolo Foschini, *Corriere della sera*, *Si svuota il campo rom di Triboniano La prima famiglia partita per la Romania*, 2 March 2011, available at: [http://milano.corriere.it/milano/notizie/cronaca/11\\_marzo\\_2/rom-triboniano-partita-prima-famiglia-190133457563.shtml](http://milano.corriere.it/milano/notizie/cronaca/11_marzo_2/rom-triboniano-partita-prima-famiglia-190133457563.shtml).

106 ERRC phone interview with Anna Difonzo from Avsi organisation, October 2011.

107 European Commission, Directive 2004/38/CE, 29 April 2004, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:158:0077:0123:EN:PDF>.

108 Information on file with the ERRC.

On 22 October 2011, in Sassuolo, in the province of Modena, according to media reports, local police stopped three Romani women “about to carry out their clear illegal intentions” and gave them an expulsion order, with a ban preventing their return for three years.<sup>109</sup> In May 2012, four Roma living in Pisa who did not obtain documents were expelled with an escort to the border.<sup>110</sup> In September 2012, in Lecce, two Roma were stopped by police when they were driving to a camp. They did not have documents and were repatriated with forced returns.<sup>111</sup>

## 4.4 Statelessness

### 4.4.1 LEGAL AND POLICY FRAMEWORK

The condition of stateless persons is regulated by international law, EU law and domestic law. Law No. 306, issued on 1 February 1962, implements the Convention of New York relating to the status of stateless persons.<sup>112</sup> The complex Italian legal framework is supposed to protect stateless persons and grant them the same rights as political refugees, such as document of identity, residence, work, health care, social security and the opportunity to apply for Italian citizenship after five years of regular residence, etc. However, the procedures to be recognised as stateless are uncertain and complicated, thus people seeking and obtaining the *de jure* stateless status are rare.<sup>113</sup> As a matter of fact, some Roma resort to seeking international protection or humanitarian protection.<sup>114</sup>

109 Modena2000, *Sassuolo: controlli durante mercato settimanale, fermate tre nomadi*, 23 October 2011, available at: <http://www.modena2000.it/2011/10/23/sassuolo-controlli-durante-mercato-settimanale-fermate-tre-nomadi/>.

110 La Nazione Pisa, *Rom della Bigattiera scattano altri rimpatri*, 18 May 2012, available at: [http://www.lanazione.it/pisa/cronaca/2012/05/18/714551-della\\_bigattiera.shtml](http://www.lanazione.it/pisa/cronaca/2012/05/18/714551-della_bigattiera.shtml).

111 *LecceNews24.it*, “*Coppia di nomadi senza documenti. Immediato il foglio di via*”, 29 September 2012, available at: <http://www.leccenews24.it/articoli/cronaca/2012/09/29/183889/coppia-di-nomadi-senza-documenti-immediato-il-foglio-di-via-obbligatorio.html>.

112 Convention of New York relating to the status of stateless persons (28 September 1954) available at: <http://www2.ohchr.org/english/law/stateless.htm>. Italian Law of 1 February 1962, No. 306 (published in G.U. No. 142 of 7 June 1962) implementing the Convention of New York is available at: <http://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1962-06-07&atto.codiceRedazionale=062U0306&currentPage=1>. Italy’s currently reservations are to Articles 17 (employment) and 18 (self-employment).

113 According to the prevailing opinion in established legal case-law the procedures to be followed are the administrative or the court procedures which both present contradictions including the evidences to be provided such as documents proving residence in Italy, birth certificate, evidences from country of origin about the lack of citizenship, etc. For more information about statelessness issues in Italy See Giulia Perin and Paolo Bonetti, ASGI, *Statelessness practical guide* (2009) available at: [http://www.asgi.it/home\\_asgi.php?n=documenti&id=321&l=it](http://www.asgi.it/home_asgi.php?n=documenti&id=321&l=it).

114 International protection is governed by the Legislative Decree (D.Lgs). No. 251/07 implementing the Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:EN:HTML>. For refugees’ rights: <http://untreaty.un.org/cod/avl/ha/prsr/prsr.html>; humanitarian protection is governed by the Single text of Immigration laws, *Art. 5 (6) Legislative Decree No. 286, July 1998*

The situation for Roma is hampered by two main factors. On one hand, Italian legislation includes demanding prerequisites for the procedure for the recognition of stateless status, resulting in an administrative procedure which in practice is extremely difficult to complete. Undertaking the judicial procedure is equally complex due to the lack of regulation, causing uncertainty as to which type of judicial procedure should be followed. On the other hand, there is an objective difficulty for Roma people in obtaining nationality from their countries of origin. At times, this is due to the prerequisites set by the regulations of the individual countries; at others, the fault lies in the lack of collaboration with diplomatic representations in Italy and consequent problems with obtaining the necessary documents (proving nationality).<sup>115</sup>

#### 4.4.2 BACKGROUND AND ERRC ACTIVITIES

According to 2013 research studies, the number of Romani stateless persons in Italy is uncertain and underestimated.<sup>116</sup> According to official statistics there are around 800 stateless Roma in Italy, but the studies estimate that the actual number might be a few tens of thousands. The largest group of stateless Roma in Italy is apparently refugees from former Yugoslavia without valid ID documents, and thus unable to prove their identity. They are at risk of deportation due to a lack of documents or employment, despite having resided in Italy for more than 20 years.<sup>117</sup>

Despite being born in Italy, some Roma are *de facto* stateless because they cannot acquire their parents' citizenship due the fact that many Roma have no relationship with their country of origin (or in the case of former Yugoslavia, the country no longer exists). These persons have extreme difficulties in accessing housing, education, employment and health care.<sup>118</sup> Most of them must be considered *de facto* stateless persons (while, at present, some of them have their own passport and are in a situation of administrative regularity).<sup>119</sup> These stateless Roma “in fact”, even when they seek to obtain official certification of the status of stateless persons are in a paradoxical situation. Administrative channels, through the Ministry of the Interior, are very demanding, asking for documents such as residence permits that these people do not have, even if they have lived for generations in Italy. They do not have legal residences and thus cannot obtain an identity card or passport. In order to gain legal residence, a foreigner is supposed to have a residence permit (*permesso di soggiorno*). Without this, neither legal residence, nor driving license nor access to social welfare is given.

115 For a deeper analysis of such issues, refer to <http://www.statelessness.eu/blog/roma-statelessness-italy-%E2%80%93-field-research-reveals-long-awaited-data> and [http://www.cir-onlus.org/in\\_the\\_sun\\_CIR\\_last%20review.pdf](http://www.cir-onlus.org/in_the_sun_CIR_last%20review.pdf).

116 Immigrazione Oggi, In Italia sono migliaia gli apolidi non riconosciuti. La maggior parte rom provenienti dalla ex Jugoslavia, 8 February 2013, available at: [http://www.cir-onlus.org/in\\_the\\_sun\\_CIR\\_last%20review.pdf](http://www.cir-onlus.org/in_the_sun_CIR_last%20review.pdf).

117 These Roma are without resident permits due to a lack of formal employment or because they do not have their original documents or they failed to renew them due to lack of knowledge about the procedures or negligence.

118 They have their birth certificate, but do not have legal residence and thus cannot have either identity card or passport. In order to gain legal residence, a foreigner is supposed to have a residence permit (*permesso di soggiorno*). Without this, neither legal residence, nor driving license nor access to social welfare is given. See: Legge 91/1992 of 5 February 1992 on citizenship, available at: [http://www.interno.it/mininterno/export/sites/default/it/sezioni/servizi/legislazione/cittadinanza/legislazione\\_30.html](http://www.interno.it/mininterno/export/sites/default/it/sezioni/servizi/legislazione/cittadinanza/legislazione_30.html).

119 Presidency of the Council of Minister, UNAR, National contact point, National Strategy for the Inclusion of Roma, Sinti and Caminanti communities - European Commission communication No.173/2011.

The other way is to resort to the court, but in this case they spend many years before it be given the status of a stateless person. For example in the formal camp Lombroso located in the XIV Municipality of Rome there are around 196 Roma from Bosnia and Herzegovina who are *de facto stateless*, except for five persons who were recognised as *de jure* stateless people. Interviewed Romani people declared not to have applied for the recognition of the *de jure* stateless due to lack of documents required, bureaucratic issues such as length of the procedures and costs.<sup>120</sup>

With regard to *de facto* statelessness, the NRIS stated in February 2012 that there is an intention to formalise the establishment of a working group, comprising the representatives of the Ministry of the Interior, the Ministry of Foreign Affairs, the Office of the Minister for International Cooperation and Integration, the UNHCR and representatives of the Roma and Sinti communities as well as human rights NGOs. The working group would promote specific actions with regard to those countries of hypothetical origin of statelessness persons, as well as evaluating the feasibility of granting refugee status to Roma from the former Yugoslavia who entered Italy no later than 1 January 1996.<sup>121</sup> An additional, unknown number of Roma from former Yugoslavia applied successfully for asylum and live in Italy.

## 4.5 Access to Education and Healthcare Services

### 4.5.1 LEGAL AND POLICY FRAMEWORK

The Constitution of Italy guarantees the right to education (Art. 34).<sup>122</sup> The relevant laws foresee an eight-year compulsory education.<sup>123</sup> The right to education for foreigners is regulated by article 39 of the Testo Unico sull'Immigrazione<sup>124</sup> which provides equal opportunities to Italian and foreign students.

Two further documents are important for Romani children with regard to enjoying the right to education: Circular No. 24 “Guidelines for the reception and integration of foreign students” of the Ministry of Education (2006)<sup>125</sup> and the document of the National Observatory for the Integration of Foreign Students and Intercultural Education of the Ministry of Education “The Italian Way to the School and the Cultural Integration of Foreign Students” (2007).<sup>126</sup>

120 ERRC internal monitoring report, interviews during field work in camp Lombroso. Rome, February 2012.

121 Available at: [http://www.eu-inclusive.eu/sites/default/files/UNAR\\_LIBRO\\_STRATEGIA\\_ROM\\_SINTI\\_ING.pdf](http://www.eu-inclusive.eu/sites/default/files/UNAR_LIBRO_STRATEGIA_ROM_SINTI_ING.pdf) page 36.

122 Available at: [http://www.senato.it/1025?sezione=121&articolo\\_numero\\_articolo=34](http://www.senato.it/1025?sezione=121&articolo_numero_articolo=34).

123 Law n.390 of 2 December 1991 available at: [http://statistica.miur.it/scripts/tc\\_univ/legge390\\_91.htm](http://statistica.miur.it/scripts/tc_univ/legge390_91.htm); Presidential Decree of 9 April 2001 available at: <http://www.handylex.org/stato/d090401.shtml>.

124 Available at: [http://www.interno.gov.it/mininterno/site/it/sezioni/servizi/legislazione/immigrazione/legislazione\\_200.html](http://www.interno.gov.it/mininterno/site/it/sezioni/servizi/legislazione/immigrazione/legislazione_200.html).

125 Available at: [http://archivio.pubblica.istruzione.it/normativa/2006/cm24\\_06.shtml](http://archivio.pubblica.istruzione.it/normativa/2006/cm24_06.shtml).

126 Available at: [http://hubmiur.pubblica.istruzione.it/alfresco/d/d/workspace/SpacesStore/cecf0709-e9dc-4387-a922-eb5e63c5bab5/documento\\_di\\_indirizzo.pdf](http://hubmiur.pubblica.istruzione.it/alfresco/d/d/workspace/SpacesStore/cecf0709-e9dc-4387-a922-eb5e63c5bab5/documento_di_indirizzo.pdf).

These documents set out principles and actions that define the “national model” for the reception and integration of children of different cultural origins, including Roma, Sinti and Caminanti. The latter document mentions prejudice and discrimination, as well as “anti-Gypsyism [which] assumes the appearance of a specific form of racism that intercultural education must fight, through the knowledge of the history of Roma and Sinti”.

The National Strategy for the Integration of Roma states that access to education is the first axis of intervention in order to promote their social inclusion into the Italian society.<sup>127</sup> In particular, it states that children in RSC communities particularly with regard to the pursuit of the “best interest of the child, non-discrimination and protection” should be seen always as part of the community capable of integrating as a citizen.<sup>128</sup>

The Italian Constitution also safeguards health as a fundamental right and guarantees free medical care.<sup>129</sup> The right to health is stated in article 32 of the Constitution.<sup>130</sup> European citizens can make use of the National Health System if they are staying in Italy for more than three months and they are regularly employed. In this case, health insurance will cover them and their families. All other European citizens who are not regularly employed or covered by private insurance can only access urgent medical care, but only if they have a valid identity document.<sup>131</sup>

The National Strategy for the Integration of Roma aims at improving access to health and social-related services, as well as implementing prevention and medical care, with specific regard to the most vulnerable Roma and Sinti with focus on women, children, adolescents, the elderly and disabled. A specific objective is also related to “involving trained Roma and Sinti people in social services and medical care programs, such as, for instance, cultural mediators”<sup>132</sup>. Yet, one of the gaps identified by the European Commission in terms of the Italian Strategy on Roma is related to the fact the proposed measures in the health area are not clearly reinforced by precise quantitative targets, quantification of necessary resources and setting up concrete timeframes.<sup>133</sup> These aspects raise serious concerns in terms of the effectiveness of the Strategy.

## 4.5.2 BACKGROUND AND ERRC ACTIVITIES

Research in Italy indicates that Romani children living in camps often leave schools early. The causes of school drop-out of Roma children are complex and interrelated: living conditions

127 UNAR, National Strategy of Inclusion of RSC.

128 *Ibid.*

129 Senato della repubblica, Articolo 32 della Costituzione Italiana, available at: [http://www.senato.it/1025?sezione=121&articolo\\_numero\\_articolo=32](http://www.senato.it/1025?sezione=121&articolo_numero_articolo=32).

130 Senato della repubblica, Articolo 32 della Costituzione Italiana, available at: [http://www.senato.it/1025?sezione=121&articolo\\_numero\\_articolo=32](http://www.senato.it/1025?sezione=121&articolo_numero_articolo=32).

131 Minsitero della Salute, Assistenza ai cittadini comunitari non assicurati, diritto alle cure indifferibili e urgenti, 20 February 2008, available at: <http://www.salute.gov.it/dettaglio/phPrimoPianoNew.jsp?id=119>.

132 The Italian National Strategy for the Integration of Roma, available at: [http://ec.europa.eu/justice/discrimination/files/roma\\_italy\\_strategy\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/roma_italy_strategy_en.pdf).

and lack of services (water, electricity, etc.) in the camps, lack of necessary school equipment, feelings of shame and the need to work to contribute financially to family survival.<sup>134</sup> The distance between the camps and schools and the poor connections to public transportation make regular attendance difficult.<sup>135</sup> Local organisations in Milan noted that the lack of residence documents also creates obstacles for attending education facilities: free books are given to children who are registered in Milan, without proof of a residence in Milan they must pay the highest fee for the canteen meals and children without residence in Milan are disadvantaged when it comes to enrolment in kindergarten.<sup>136</sup>

ERRC research on women shows that discriminatory treatment of Romani children by school personnel and classmates negatively affects the self-esteem and development of Romani girls.<sup>137</sup> According to local NGOs, Italian authorities are often indifferent to the school absenteeism of Romani children. Social workers reportedly perceive school drop-out of Romani children, particularly as a result of early marriage, as a “cultural” issue, and thus do not follow normal administrative procedures to ensure school attendance of school aged Romani children.<sup>138</sup>

On 31 October 2011, the UN Committee on the Rights of the Child expressed its concerns regarding discrimination against Roma and recommended to develop a national plan of action for the genuine social integration of Roma in Italian society, taking due consideration of the vulnerable situation of Roma children, in particular in relation to health and education and measures to address harmful practices such as early marriage.<sup>139</sup>

The evictions often abruptly interrupt the schooling of these children forcing them to change schools or even leave them outside schooling system for longer periods.<sup>140</sup> Just as a example

133 Commission staff working document accompanying document to the National Roma Integration Strategies: a first step in the implementation of the EU Framework, SWD(2012) 133 - 21 May 2012, available at: [http://ec.europa.eu/justice/discrimination/files/roma\\_nat\\_integration\\_strat\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/roma_nat_integration_strat_en.pdf).

134 Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, *Memorandum, 28 July 2008*, available at: <https://wcd.coe.int/wcd/ViewDoc.jsp?id=1309811&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&B>.

135 Elena Rozzi, *Discriminazioni dei minori rom e sinti rispetto al diritto di istruzione: uno sguardo socio-giuridico*, Conference “La condizione giuridica di rom e sinti in Italia”, June 2010.

136 Information provided by Stefano Nutini of Gruppo di sostegno forlanini on 6 March 2013.

137 European Roma Rights Centre, Idea Rom Onlus and Opera Nomadi, *Parallel submission to the Committee on the Elimination of all Forms of Discrimination against Women on Italy*, June 2011.

138 All children in compulsory school age are registered with the local city council in a list which is given to schools. School authorities are obliged to report children that do not attend school to the Municipality, which then should intervene to eliminate the reasons resulting in absenteeism. However in the case of Romani children, the process often does not advance beyond the first report to the Municipality.

139 United Nations Committee on the Rights of the Child issued recommendations concerning Romani children to the Italian government, 31 October 2011, available at: <http://www.ohchr.org/EN/countries/ENACARegion/Pages/ITIndex.aspx>.

140 “It is a tool of racial segregation, ethnic cleansing because children have to wait for months in order to be enrolled in another school.” Interview with a teacher working in a Romani camp. Milan, Italy: 24 May 2011. European Roma Rights Centre, Milan and Rome Field Report, 23 May – 2 June 2011.



in this regard, a 10-year-old boy stated that between 2007 and 2010 he had been evicted 10 times, which forced him to change schools eight times.<sup>141</sup>

In terms of access to health care, Romani persons face a number of difficulties. Research conducted in formal camps in Rome in 2011 found that a high percentage of children raised in such deprived environments are prone to a number of severe and debilitating conditions. These can include anxiety disorders, a number of different phobias, sleep disorders, attention and hyperactivity disorders and delays in learning; disorders which “are also predictive of more serious disorders in adolescence and adulthood.”<sup>142</sup> They are also affected by a variety of diseases or malnutrition.<sup>143</sup>

Evictions from formal, semi formal and informal camps constitute a major problem for the mental and physical well-being of Romani children. During the evictions of some of the larger illegal camps in Milan, local policemen have threatened to remove children from the custody of their parents in order to speed up the process of the forced eviction.<sup>144</sup> The conditions in shelters may also prove hazardous to the children’s health.<sup>145</sup>

In 2011, the ERRC and partners conducted a survey on access to health care among 88 Romani women for a submission to CEDAW. It revealed that around 10% of the respondents reported that they were not able to access healthcare services at all and that most of the women who made use of the health services used primarily emergency facilities. Around 49% reported incidents of perceived discriminatory and degrading treatment.

141 European Roma Rights Centre, Milan and Rome Field Report, 17 – 20 October 2011.

142 Associazione 21 Luglio *Esclusi e ammassati Report on the living condition of Roma minors in the camp in Via Salone*, Roma 2010, available at: [http://www.21luglio.com/ESCLUSI%20E\\_AMMASSATI.pdf](http://www.21luglio.com/ESCLUSI%20E_AMMASSATI.pdf).

143 Lorenzo Monasta, *La condizione di salute di persone rom e sinti nei campi nomadi*, Conference “La condizione giuridica di rom e sinti in Italia”, June 2010.

144 European Roma Rights Centre, Milan and Rome Field Report, 23 May – 2 June 2011.

145 European Roma Rights Centre, Milan Update: Roma Rights Record 2010/2011, May 2011, on file with the ERRC.



# Annex 1

## Human Rights Treaty Ratification and Reservation Table

Treaty	Accession/ Ratification Date	Objections and Reservations
<b>UN Conventions</b>		
Convention on the Punishment and Prevention on the Crime of Genocide 1948	4 Jun 1952 a	
Geneva Convention Relating to the Status of Refugees (1954)	15 Nov. 1954 (r)	
Convention Relating to the Status of Stateless Persons (1954)	3 Dec 1962 (r)	Declaration: The provisions of articles 17 and 18 are recognised as recommendations only.
International Covenant on the Elimination of All Forms of Racial Discrimination (CERD) (1966)	5 Jan 1976 (r)	Declaration 5 May 1978 With reference to article 14, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, opened for signature at New York on 7 March 1966, the Government of the Italian Republic recognizes the competence of the Committee on the Elimination of Racial Discrimination, established by the afore-mentioned Convention, to receive and consider communications from individuals or groups of individuals within Italian jurisdiction claiming to be victims of a violation by Italy of any of the rights set forth in the Convention. The Government of the Italian Republic recognizes that competence on the understanding that the Committee on the Elimination of Racial Discrimination shall not consider any communication without ascertaining that the same matter is not being considered or has not already been considered by another international body of investigation or settlement.
International Covenant on Economic, Civil and Cultural Rights (1966)	15 Sep 1978 (r)	

## ANNEX 1: OVERVIEW OF RELEVANT HUMAN RIGHTS TREATY RATIFICATION AND RESERVATION

International Covenant on Civil and Political Rights (1966)	15 Sep 1978 (r)	<p>Declaration: With reference to article 15, paragraph 1, last sentence: “If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby”, the Italian Republic deems this provision to apply exclusively to cases in progress.</p> <p>Consequently, a person who has already been convicted by a final decision shall not benefit from any provision made by law, subsequent to that decision, for the imposition of a lighter penalty.</p> <p>Article 19, paragraph 3 The provisions of article 19, paragraph 3, are interpreted as being compatible with the existing licensing system for national radio and television and with the restrictions laid down by law for local radio and television companies and for stations relaying foreign programmes.</p>
Optional Protocol to the ICCPR (1966)	15 Sep 1978 (r)	
Protocol to the Geneva Convention (1967)	26 Jan. 1972 (a)	
Convention on the Elimination of All Forms of Discrimination Against Women (1979)	10 Jun 1985 (r)	
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)	12 Jan 1989 (r)	<p>Declaration: 10 October 1989 “Article 21: hereby declares, in accordance with article 21, paragraph 1, of the Convention, that it recognizes the competence of the Committee against torture to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention;</p> <p>“Article 22: hereby declares, in accordance with article 22, paragraph 1, of the Convention, that it recognizes the competence of the Committee against torture to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of violations by a State Party of the provisions of the Convention.”</p>
Optional Protocol to IC-CPR: Abolishment of the Death Penalty (1989)	27 Feb 1991 (r)	
Convention on the Rights of the Child (1989)	5 Sep 1991 (r)	
Convention on the Rights of the Child (1989)	5 Sep 1991 (r)	
Optional Protocol to CEDAW (1999)	22 Sep 2000 (r)	

Optional Protocol CRC: Involvement of Children in Armed Conflict (2000)	9 May 2002 (r)	<p>Declaration:</p> <p>The Government of the Italian Republic declares, in compliance with article 3:</p> <ul style="list-style-type: none"> <li>- That Italian legislation on voluntary recruitment provides that a minimum age of 17 years shall be required with respect to requests for early recruitment for compulsory military service or voluntary recruitment (military duty on a short-term and yearly basis);</li> <li>- That the legislation in force guarantees the application, at the time of voluntary recruitment, of the provisions of article 3, paragraph 3, of the Protocol, inter alia, as regards the requirement of the consent of the parent or guardian of the recruit.</li> </ul>
Optional Protocol CRC: the Sale of Children, Child Prostitution and Child Pornography (2000)	9 May 2002 (r)	
Optional Protocol to CAT (2002)	20 August 2003 (a)	
Convention on the Rights of Persons with Disabilities (2006)	15 May 2009 (r)	
International Convention for the Protection of all Persons from Enforced Disappearances (2006)	3 July 2007 (a)	
Optional Protocol to the Covenant on Economic, Social and Cultural Rights (2008)	28 September 2009 (a)	
<b>COE Conventions</b>		
Convention for the Protection of Human Rights and Fundamental Freedoms	26 Oct. 1955	
European Social Charter	22 Oct. 1965	
European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment	29 Dec.1988	
Framework Convention for the Protection of National Minorities	3 Nov. 1997	
European Convention on Nationality	Signed but not ratified, 11 June 1997	
European Convention on the Exercise of Children's Rights	4 July 2003	

## ANNEX 1: OVERVIEW OF RELEVANT HUMAN RIGHTS TREATY RATIFICATION AND RESERVATION

Council of Europe Convention on Action against Trafficking in Human Beings	29 November 2010	
European Charter of Fundamental Rights	7 December 2000; 1 December 2009 (entry into force)	

CHALLENGING DISCRIMINATION PROMOTING EQUALITY

