



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 2504th meeting

Held at the Palais Wilson, Geneva, on Thursday, 1 December 2016, at 3 p.m.

Chair: Ms. Crickley

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The meeting was called to order at 3.05 p.m.

**Consideration of reports, comments and information submitted by States parties
under article 9 of the Convention** *(continued)*

*Combined nineteenth and twentieth periodic reports of Italy (CERD/C/ITA/19-20
and CERD/C/ITA/Q/19-20)*

1. *At the invitation of the Chair, the delegation of Italy took places at the Committee table.*
2. **Mr. Petri** (Italy), introducing his country's combined nineteenth and twentieth periodic reports (CERD/C/ITA/19-20), said that Italy's commitment to non-discrimination was illustrated by its acceptance of all of the recommendations relating to the issue made during its universal periodic review in 2015. The principle of non-discrimination was set out in the Italian Basic Law, and the Council of the European Union Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin had been transposed into domestic legislation, resulting in the adoption of comprehensive protection measures against discrimination on grounds of race or ethnic origin, including in the areas of employment, health care and education. However, legislation was insufficient to address the prejudice and racist attitudes that persisted in the country; work on the ground was required to promote interaction between different cultures.
3. Ethnic, national, racial and religious hatred and discrimination were now deemed to be aggravating circumstances in offences such as defamation and threats, and no mitigating circumstances applied to those offences, which were prosecuted *ex officio*. Legislative amendments had been made to prevent genocide, crimes against humanity and war crimes. Italian legislation also included provisions that sanctioned racist and xenophobic discourse, incitement to violence on the ground of race and the forming of organizations that aimed to incite discrimination or violence on the grounds of race, ethnicity or religion. Those provisions had been invoked by the Italian courts on several occasions.
4. The National Plan of Action against Racism, Racial Discrimination, Xenophobia and Related Intolerance had been devised by a working group led by the National Office against Racial Discrimination and comprising representatives from various ministries, local bodies and civil society. The working group was also tasked with monitoring the implementation of the Plan, which aimed to support national and local policies so as to ensure respect for equality and to counter discrimination, racism and related intolerance, in line with European and Italian legislation. Data had been collected in order to identify the areas where access to basic services was limited as a result of discrimination and which therefore required attention under the Plan. The Plan's activities included gathering statistics to monitor discrimination in the labour sector, supporting potential victims of discrimination in launching start-up companies and improving access to justice for victims of discrimination.
5. Access to justice was further enhanced by the Solidarity Fund, which, on request, met the legal costs of victims of discrimination, or associations taking legal action on their behalf. To date, the Fund had financed 35 legal proceedings and had seen a gradual increase in the number of requests from individual victims.
6. To implement the National Strategy for the Inclusion of the Roma, Sinti and Caminanti (Travellers) Communities in Italy 2012-2020, the National Office against Racial Discrimination had launched a platform for dialogue between those communities and the authorities, with particular emphasis on young Roma. The Office had also established an inter-agency working group to define the action to be taken with regard to those communities.

7. The mandate of the National Office against Racial Discrimination had been broadened to include all forms of discrimination. Rising numbers of complaints of hate speech, particularly online, had prompted the Office to establish an observatory that monitored hate speech in the media and on social networks, producing reports and reporting the most serious cases to social networks or law enforcement agencies.

8. The Observatory for Security against Acts of Discrimination provided a range of training courses for the police on all forms of discrimination and was involved in several projects and programmes at the regional level, including the Preventing, Redressing and Inhibiting Hate Speech in New Media (Prism) Project, the Training against Hate Crimes for Law Enforcement programme and the working party on improving reporting and recording of hate crime in the European Union of the European Union Agency for Fundamental Rights.

9. Italy was at the forefront of efforts to rescue migrants at sea. In July 2016, 93 per cent of migrants arriving in Europe had been registered in Italy, and in the first seven months of 2016 more than a quarter of a million migrants had arrived. Hundreds of thousands were accommodated in reception centres in the country, and the numbers were growing each day. A decree had been adopted to implement two Council of the European Union directives relating to asylum. New regulations for the reception of asylum seekers had been implemented and were overseen by a committee that was also tasked with drafting a national plan for asylum seekers and identifying the reception capacities of the country's different regions.

10. Measures had also been adopted to respond to the increased demand for reception facilities, including reforms to the procedure for accessing funding under the Reception System for Asylum/International Protection Seekers, which would shore up funding for ongoing projects and allow applications to be submitted at any time. Unaccompanied minors were addressed by a specialized unit within the Ministry of the Interior and received initial assistance at specialized centres. A bill on their rights was currently under discussion in Parliament.

11. A National Action Plan against Trafficking in and Serious Exploitation of Human Beings had been adopted in order to identify long-term strategies to combat the phenomena and measures to raise public awareness and reintegrate victims into society. A National Action Plan on Business and Human Rights would soon be launched and would focus on due diligence in relation to vulnerable groups and promote the involvement of the private sector in the field of human rights.

12. **Ms. McDougall** (Country Rapporteur) said that she wished to commend the State party for its extraordinary efforts in providing search and rescue services and humanitarian assistance to migrants. That said, there appeared to be several errors in the State party's understanding of the Convention. First, although the provisions of the Convention included hate speech and hate crimes, which were a particular problem in Italy and should be combated, they extended to actions based on race, colour, descent, or national or ethnic origin that had the de facto effect of infringing human rights. However, the State party's periodic report suggested that its efforts to combat discrimination were limited to addressing hate speech.

13. While noting that the European directives paid a certain amount of attention to the impact of hate speech and other discriminatory acts, she wondered how European law was transposed into national legislation; she would also like to know if that legislation dealt with local authorities' treatment of the various populations that came within their jurisdiction, particularly Roma communities and camps. Who exactly was protected under the law and what special measures were in place to remedy any inequalities in the protection afforded ethnic groups under article 1 of the Convention?

14. The report provided a good deal of information on action by the State party to protect the rights of various vulnerable groups, but members of those groups fell under the Committee's mandate only if they were specifically protected under the Convention by virtue of being subjected to discrimination on grounds of race, colour, descent or ethnic or national origin. Unless that was the case the Committee could not consider that information.

15. The State party had not answered all the Committee's questions because it appeared that it had a different interpretation of the term "ethnic minorities". As she understood it, in the State party that term referred to certain specific groups that were classified as national linguistic minorities and were protected by specific legislative regimes. What the Committee meant by "ethnic minorities" in its communications with the State party was all groups protected under article 1 of the Convention. The Committee was also concerned about ethno-religious groups, specifically the Muslim population, although, while it was supportive of the State party's efforts with regard to interreligious dialogue, it was more interested in indicators that might reveal the reality of life in the Muslim community in terms of security of the person, equality of economic and social rights and participation in decision-making and political and public life.

16. She therefore asked the delegation to review its replies to the list of themes and provide more of the information the Committee was seeking, particularly statistical data.

17. In general, Italian law did not fully incorporate the provisions of the Convention. The National Office against Racial Discrimination was not sufficiently independent from the Government to meet the requirements of the Paris Principles. Was it authorized only to gather data, or did it also carry out public information campaigns, provide training to the police or other public officials, or liaise with NGOs and community groups? She would like to know what institution under Italian law dealt with discrimination in practice and had the power to react to occurrences of discrimination. Could the delegation give figures for prosecutions and convictions, and details of reparation provided to victims?

18. While welcoming the adoption of the National Plan of Action against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the National Strategy for the Inclusion of the Roma, Sinti and Caminanti (Travellers) Communities in Italy 2012-2020, she was concerned at their apparent lack of implementation. She would like to know how those initiatives had changed lives or the reasons why they had not.

19. She understood that many Roma still lived in segregated and virtually uninhabitable camps, under the jurisdiction of local mayors who tended to interpret their authority in such a way as to deny rights. To what extent did the State party's national and international obligations to provide decent housing cover such camps? Alarming statistics showing the reality of life for the Roma had been provided by an Italian NGO: 40,000 lived in camps, for example, 36 per cent of Roma households lacked basic housing amenities, children had a 1 in 5 chance of not starting school at all and the dropout rate between primary and secondary school was 50 per cent. That was an indictment of the State party's treatment of a group that had long been established in the country. If the State party had any figures to contradict that picture, she would be pleased to see them.

20. The State party's report made little mention of the settled communities of people from East Africa and they were virtually invisible in the national discourse on the demographics and cultural make-up of the country. She would appreciate more information on groups from Ethiopia, Eritrea and Somalia.

21. She would also like to know how the State party planned to tackle implementation of the Sustainable Development Goals on elimination of poverty, inequality and the rule of law and peaceful societies.

22. **Mr. Marugán** said that, while the Committee acknowledged the extraordinary efforts made by the State party to cope with migration flows, it nevertheless had concerns about the underlying legal provisions. He welcomed the fact that, as the Special Rapporteur on the human rights of migrants had noted in the report on his mission to Italy (A/HRC/29/36/Add.2), irregular entry to Italian territory was now no longer a criminal offence but subject only to administrative sanctions. He was nevertheless concerned that irregular migrants re-entering the country after expulsion continued to face criminal sanctions and he asked whether there were any plans to amend the law further. He would also like to know whether detention was used only as a last resort.

23. He would appreciate some information on progress with the European Union migrant relocation scheme agreed in September 2015, which appeared to be moving rather slowly. He would like to know what the legal basis was for the first line reception centres or “hotspots” operated by the State party. Was all detention in those centres limited to 48 hours, in accordance with the Constitution? What was the procedure for dealing with unaccompanied minors?

24. According to information received, migrants received little legal advice and it was not always appropriate. Did the State party believe that migrants were sufficiently well informed and had enough legal advice to deal with asylum and reunification procedures, for example? The Committee had worrying information about conditions in the centres, including overcrowding, failure to separate men from women and children from adults, lack of access to NGOs or human rights defenders and uncertainty as to the complaints mechanisms available.

25. The Special Rapporteur on the human rights of migrants had reported that in order to obtain migrants’ fingerprints as part of the Dublin process, under European Union Regulation No. 603/2013, police officers were authorized to use force. He would like to know how the State party was dealing with that situation. The Special Rapporteur had also stated that undocumented migrants did not trust the Dublin process and that the responsible office in the State party was understaffed. Had that situation changed?

26. He understood that in some cases local mayors were responsible for the care and custody of unaccompanied minors. He wondered how many minors it was possible for a mayor to take care of and what measures the State party was taking to ensure that the care and custody of minors was adequate. Centres for minors were sometimes overcrowded, the children had no information concerning their situation and had difficulty in obtaining access to education.

27. He would like to know whether there was a legal constraint on migrant centres preventing them from passing information to the security forces about undocumented migrants who used education or health services for their children.

28. With regard to the State party’s obligations in respect of non-refoulement, he asked whether the State party was observing the prohibition on collective expulsion, particularly in light of the judgments of the European Court of Human Rights in a number of cases, as reported by the Special Rapporteur on the human rights of migrants. He understood that there had been an expulsion to the Sudan in August 2016 and he would like to know under what conditions that had been carried out.

29. Lastly, noting that Decree-Law No. 119/2014 provided for tax reductions for local authorities involved in providing assistance to migrants, he requested information on the action taken by local authorities to help with their integration.

The meeting was suspended at 4.15 p.m. and resumed at 4.25 p.m.

30. **Mr. Kut** (Special Rapporteur for follow-up on concluding observations) said that the Committee was grateful for the State party’s report on follow-up to the Committee’s

concluding observations of 2012 (CERD/C/ITA/CO/16-18/Add.1). However, judging from paragraph 202 of the recent common core document (HRI/CORE/ITA/2016), the establishment of a national human rights institution appeared to be no closer than it had been in 2012. He would appreciate more information on progress and an undertaking to establish such an institution before the State party submitted its next report. As to forced evictions, the other matter of special concern in the Committee's previous concluding observations, both the European Commission against Racism and Intolerance (ECRI) and civil society reported that the practice was continuing. The Committee remained of the view that it should cease and would like more information from the delegation.

31. **Ms. Shepherd** said that she was pleased to note that civil society had been consulted on the Plan against racism, xenophobia and related intolerance that was due to be implemented in the triennium 2015-2017, and asked whether that Plan was on track for completion. While she understood that according to the tables on pages 14 and 15 of the State party's report (CERD/C/ITA/19-20), ethnic or racial origin was the main ground for discrimination, it was unclear which ethnic groups were targeted. The delegation should also indicate what additional training mechanisms had been put in place to address racial discrimination in the media, since that sector appeared to be responsible for the majority of complaints.

32. The statement of the Country Rapporteur and the report of the Working Group of Experts on People of African Descent on its mission to Italy seemed to suggest that the State party faced an uphill task in fighting racial discrimination, with people of North African, East African, Middle Eastern, Arabic and Baltic origin encountering prejudice more frequently than other groups. Such issues also affected those who self-identified as Afro-Italians, including high-level public officials and sportsmen and women. In 2013, bananas were thrown at Ms. Cécile Kyenge, Italy's first black government minister, who had also been racially insulted by Northern League politicians. A number of footballers had also received racial abuse, despite the positive steps undertaken by the National Office against Racial Discrimination to address racism in sport.

33. Adoptions and the growing number of mixed-race marriages between Italians and Africans were leading to an increase in the number of Afro-Italian children; however, Italian society seemed unprepared to cater to their social and educational needs. Mixed-race children often faced the same issues as black mono-heritage children, and had reportedly suffered from name-calling and the refusal of their classmates to hold hands, compounded by their teachers' failure to take action. She would therefore welcome information on how the State party might intensify training in multicultural education so that teachers did not ignore or seek to minimize such incidents.

34. While recognizing that Italy had developed several initiatives to facilitate the social and economic inclusion of the second and third generation communities originating from African countries, and that a technical group within the Ministry of Education was drafting guidelines to tackle some of the problems facing foreign students in the school system, she wished to learn what provision existed within the formal education system for the children of migrants to receive instruction in their own languages. She was also interested to learn about any actions that the State party might take to ensure that the curriculum fostered an understanding of historical relations between Italy and the countries of origin. In that regard, she noted that the presence of Africans in Italy was not a new phenomenon and could be traced to the early Renaissance, while some pre-unification city states had been involved in the slave trade. Was that history taught in the curriculum? The delegation should also comment on how the education system could be used to address racial discrimination and on whether the school dropout rate among minorities and racism towards people of African descent might be influenced by a lack of knowledge about the past.

35. Considering that the Working Group of Experts on People of African Descent had raised concerns about institutionalized racism, racially motivated crimes, hate speech, incitement to hatred and disparities in access to social services, she believed that there was a strong case for temporary special measures to address the marginalization of Afro-descendent communities. Lastly, she expressed the hope that Italy would launch awareness-raising programmes as part of the International Decade for People of African Descent to help to address issues of recognition, visibility, justice and development.

36. **Mr. Murillo Martínez** said that he welcomed the efforts undertaken by the State party in favour of the migrant population, but would be grateful if the delegation could describe its efforts to combat trafficking in persons, which was intimately connected with the large migration flows into Italy. He congratulated the Government of Italy on incorporating the reversal of the burden of proof into its legislation, which was an important development in the fight against racial discrimination, and asked whether an analysis had been carried out on the impact of that measure in terms of the number of discrimination complaints. Equally commendable were the efforts of the Observatory for Security against Acts of Discrimination, whose extensive functions included raising awareness among the public to prevent discriminatory behaviour, as well as identifying and processing some 1,700 documented cases of racism and racial discrimination on the Internet. In that context, he asked whether Italy was making use of the Internet in order to raise public awareness and to reverse the trend of increasing cyberracism?

37. The State party was also to be commended for incorporating the concept of insult (“*ingiuria*”) into its Criminal Code, and for applying it in cases concerning public figures. In that regard, he wondered whether administrative or judicial actions had been taken in the case concerning Ms. Kyenge, such as sanctions of the public officials who had targeted her.

38. He also wished to know whether Italy made use of the Committee’s general recommendation No. 35 on combating racist hate speech in its institutional architecture. The Committee would also be grateful for details of studies carried out on the political impact of the issue of race, how it was being used as a political strategy by certain groups, and how society as a whole was acting to reverse such trends. He fully shared Ms. Shepherd’s hope that Italy would play an active role in the International Decade for People of African Descent, and asked whether the State party would engage in those commemorations through specific actions, such as hosting the regional conference due to be held in Europe. Finally, noting the new architecture for development cooperation mentioned in article 231 of the core document, he asked whether the State party could give an update on its prospects for achieving the Sustainable Development Goals and on any actions planned under that framework.

39. **Mr. Kemal** said that he was familiar with the work of National Office against Racial Discrimination, having participated in a conference organized by that institution in Italy in 2011. At that time he had asked whether Italy intended to establish a national human rights institution, and had been assured that not only would the Government succeed in doing so, but that the institution would be compliant with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). Given that some years had elapsed since then, he would be grateful for information concerning the State party’s progress in that regard, along with an update on whether the Government intended to withdraw its reservation to article 4 of the Convention.

40. In his view the refugee situation had worsened since his 2011 visit, with paragraph 158 of the report stating that Operation Mare Nostrum, designed to rescue refugees at sea, had been phased out in November 2015, having saved some 101,000 lives. In the light of reports that 500,000 people had travelled from North Africa to Italy since the beginning of November 2014, he wished to know how many of those people had left Italy for other countries and how many remained on national territory. How did the State party intend to

deal with that vast influx of people, considering that sheer numbers made it difficult to apply the usual asylum procedures? He was also keen to learn about any efforts undertaken to help communities, since migration flows placed a heavy burden upon them and could lead to fatigue, intolerance and disquiet.

41. **Mr. Avtonomov** said that he welcomed the on-time submission of the periodic report, but noted that it was easier for the Committee to understand responses to its specific concerns and recommendations. He was also grateful to the delegation for the renewal of the core document, which provided new information in light of the changes in the Italian Government and in the distribution of powers between the central Government and the regions and municipalities. On that topic, he was concerned that there might be an ethnic and racial dimension, meaning that further information was needed as to the extent to which regional legislation coincided with the Convention, whether the regions had passed legislation on racial discrimination, and whether State monitoring and control mechanisms were in place, given that discrimination occurred most often at the municipal level.

42. The information provided on Roma, Sinti and Travellers was important because it showed that decisions were still being taken to fund new camps, despite the May 2015 ruling by the Court of Rome that it was illegal to create exclusive camps for Roma, Sinti and Travellers. The Committee would appreciate information on how the State party intended to overcome the problem created by the continued existence of those camps, and to enforce the Court's ruling.

43. Lastly, the Committee would be grateful for information on the results of the experimental initiative to combat poverty, begun in 2013 with the participation of 12 cities, which he understood had provided the basis for the adoption of Act No. 228/2012 (the 2013 Stability Law). The Committee was also interested in the Government's plans for the future development of the initiative, since Roma, undocumented migrants and refugees were among the most vulnerable and disadvantaged groups in society.

44. **Mr. Lindgren Alves** said that States parties' reports usually contained much valuable information regarding the situation of the country, but that such information did not always refer specifically to the country's obligations under the Convention. In the case of Italy, paragraph 9 of the report alluded to affirmative actions in a number of thematic areas under the Plan against racism, xenophobia and related intolerance. It appeared, therefore, that special measures of the kind envisaged under the Convention were in place; however, it was unclear which segments of the population were targeted.

45. He would welcome any data on the effectiveness of the measures that had been taken to hold football clubs responsible for the racist actions of their supporters. He would also welcome a clarification of paragraph 129 of the State party's combined nineteenth and twentieth periodic reports (CERD/C/ITA/19-20), which seemed to suggest that the welfare of the people of Italy depended far more on the help that they could get from their families than on services provided by the State.

46. **Mr. Calí Tzay** said that he wished to know whether the ethnic breakdown of the State party's prison population was similar to that of the population in the State party as a whole. He wondered what had accounted for the fall in the number of complaints of racial discrimination in the workplace and what specific steps the State party was taking to enforce the laws it had adopted to combat racial discrimination. In addition, he asked whether immigrants trusted the police sufficiently to report incidents of racial discrimination to them and whether the State would consider placing the Observatory for Security against Acts of Discrimination, currently operated by law enforcement agencies, under the control of non-law enforcement personnel.

47. **Mr. Kemal** said that he would appreciate an explanation of how the provisions of international instruments, including the Convention, were incorporated into domestic law.

In that connection, he asked whether the Italian system was dualist or monist and whether an individual could initiate a legal action in response to a violation of his or her rights under the Convention. If so, information on any resulting court cases would be welcome. He urged the State party to ensure that discrimination specifically on grounds of colour and language was penalized, if it had not already done so. Lastly, he asked whether the considerable efforts the State party was making to deal with the refugee crisis included any special measures to help preserve minority groups, such as the Yazidis and the Assyrians, that were in danger of extinction.

48. **Mr. Yeung Sik Yuen** urged the State party to consider the views of Cécile Kyenge, the former Minister for Integration, who had argued that children who had been born in Italy to non-Italian parents should be able to acquire Italian citizenship before they became adults. Naturalization rules that enabled nationals of States members of the European Union to apply for Italian citizenship after four years' residence in Italy, while requiring 10 years' residence for others, struck him as problematic, in particular if it was understood that the former were white.

49. **Mr. Murillo Martínez** said that he would welcome updated information on the number of refugees who had died in attempting to reach Italy. He asked what measures the State party had taken to act on the recommendations made in the recent report of the Working Group of Experts on People of African Descent on its mission to Italy (A/HRC/33/61/Add.1).

50. **Mr. Calí Tzay** asked what the State party was doing to combat hate speech. It would also be interesting to know whether any official efforts were being made to discourage racial profiling, which, if a recent experience of his was any indication, appeared to be fairly widespread.

51. **Mr. Avtonomov** said that he would welcome an indication of the results of legislative efforts to protect the State party's traditional linguistic minorities. In Luino, for instance, he had seen inscriptions in Ladin, but it seemed that no locals spoke the language. He therefore wondered what measures were taken to preserve the State party's linguistic diversity.

52. **Ms. McDougall** said that, as had been noted by a number of Committee members, clarification of how relevant European Union directives and the provisions of the Convention fitted within the framework of the State party's legal order would be welcome. It would also be interesting to know more about the legal relationship between the Convention and the local authorities, whose decisions affected the rights of people living in Roma camps and refugee hotspots, and about the situation of people of African descent who had been living in the State party for forty or fifty years. Were such people Italian citizens or were they still in immigration limbo?

53. **The Chair** said that the State party's authorities should keep in mind that Roma living in camps were often concerned less about leaving camps slated for evacuation than about the lack of culturally appropriate alternative accommodation. Lastly, she wondered whether the Italian authorities were fully aware of the implications, in particular for women from minority groups, of such heavy reliance on the family for the provision of welfare services as was apparently the norm in Italy.

The meeting rose at 5.55 p.m.