



**International Convention on  
the Elimination  
of all Forms of  
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER  
ARTICLE 9 OF THE CONVENTION**

**Fifteenth periodic reports of States parties due in 2005**

**Addendum**

**ITALY\* \*\***

[20 March 2006]

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\* This document contains the fourteenth and fifteenth periodic reports of Italy, due on 4 February 2005 and, submitted in one document. For the thirteenth periodic report and the summary records of the meetings at which the Committee considered the report, see document CERD/C/406/Add.1, CERD/C/SR.1466, 1467 and 1479.

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## Introduction

1. The protection and promotion of rights - be it civil and political, economic, social and cultural - constitute one of the fundamental pillars of both domestic and foreign Italian policies. The Italian legal system aims at ensuring an effective framework of guarantees, to fully and extensively protect the fundamental rights of the individuals, providing them with a wide range of protection means which have, as their core, the **principle of non-discrimination** set out at **Article 3** of the **Italian Constitution**: “All citizens possess an equal social status and are equal before the law, without distinction as to sex, race, language, religion, political opinions, and personal or social conditions”. This principle has been recognised by all the instruments of international law currently in force, such as the European Convention on Human Rights and Fundamental Freedoms, the United Nations Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, and the International Convention on the Elimination of all Forms of Racial Discrimination.

2. Furthermore, the principle of equal treatment is an established feature of constitutional law in Europe: the right to formal and substantive equality is a universal right that is widely represented in the *acquis communautaire*. Article 13 of the Treaty of Amsterdam - and now Articles I-2 to I-4, II-81 to II-83 and Title II (Articles III-123 to III-129) of the European Constitution - envisages that the Council of the European Union should decide unanimously, subject to consultation with the European Parliament, and adopt the appropriate provisions to combat all forms of discrimination within the Union, whether based on gender, race or ethnic origin, religion or personal beliefs, disability, age or sexual orientation. The commitment of the European institutions to combating discrimination is based on a recognition that discrimination based on race or ethnic origin may undermine the achievement of a number of fundamental objectives of the EC Treaty/European Constitution, such as the raising of the standard of living and quality of life of European citizens, economic and social cohesion, and the attainment of a high level of employment and social protection. Following this approach, the intentions of the European legislators have been translated into an important provision: the European Council Directive 2000/43/EC, which enshrines the principle of equality of treatment of all people, regardless of their race or ethnic origin.

3. On the basis of the guidance criteria contained in Article 29 of Act No. 39/2002 (the “Community Law”), the Italian Government acted promptly to transpose the Directive by adopting **Legislative Decree No. 215 of 9 July 2003** (Legislative Decree No. 215/2003). With respect to the general tone of the Directive, in addition to transposing its content in accordance with the provisions of the enabling act, Legislative Decree No. 215/2003 has an added value that strengthens its action at the national legislative level. This added value concerns different aspects: the affirmation of the principle of equal treatment of all persons in the public and private sectors, with respect to access to employment, occupation, guidance and vocational training, membership of workers’ or employers’ organisations, social protection, healthcare, social advantages, education and access to goods and services (Article 3); the judicial protection consisting in the procedure which represents a particular form of streamlined, effective civil action against discrimination both for the evaluation of evidentiary arrangements, including the system of presumptive proof, the modalities of awarding compensation for damage and the aspect of active legitimation depending on individual and collective discrimination (Articles 4

and 5); the institutional importance attributed in this area to the Department for Equal Opportunities in the Prime Minister's Office, where an ad hoc office has been set up as a sort of frontline post in the fight against discrimination (Article 7).

4. Facing problems such as **asylum or illegal immigration**, the respect for the fundamental rights of men, women and children is the primary criterion guiding our action. The countering of illegal immigration is not in fact marked by mere repressive intentions. Instead, above all, it tries to avoid further suffering and violations against these people. Illegal immigration is a consequence of trafficking in human beings, trade of organs, exploitation of prostitution, illegal work developing into new forms of slavery. The Italian legislative framework and the government policies have established appropriate procedural rules governing the granting of applications for the recognition of refugee status, the validation of the expulsion of aliens - taking on board the criticism raised by the Constitutional Court - the status of foreign citizens who entry and stay legally in Italy by assuring them the respect of the principle of integration in the national-social context, the recognition of their full right of access to housing, medical assistance and education, the possibility of implementing specific forms of civic participation, avoiding any discrimination based on nationality.

5. Furthermore, the Italian Constitution gives a great importance to the **right of religious liberty** for all and prohibits all forms of discrimination on the basis of religion (Article 8 and Article 19). These Constitutional clauses are generally respected; individuals can profess their religion (or no religion at all) without suffering any disadvantage in the enjoyment of their civil and political rights. The relation between the State and each religious Denomination is largely based on bilateral agreements, which grant some privileges in accordance to those guaranteed by the Constitution. The Constitution grants fundamental rights and, among them, "equal liberty" of expression for all religious denominations: freedom of assembly, freedom of organization of religious association, freedom of rites. In other words freedom of religious expression is limited only when a certain practice is deemed a threat to public order or decency.

6. These considerations refer to all the aspects concerning the right to freedom that, in our view, must prevail on the rationality or the rigidity of the procedures. The latter should be instrumental to the protection of freedom and not be considered separately. We have to see the "rationale" behind the Italian legislation on fundamental rights. When an Italian legal provision apparently seems to affect the basic individual needs or expectations, in reality we are facing a "modus procedendi" aimed at protecting fundamental rights, such as the right to life, safety, personal freedom and security. This is somehow a method of "damage containment"; by which a higher requirement is protected while other simply legitimate requirements of the individual are temporarily compressed. In our view, the basic rule, if any, which should guide modern democracies in the protection of rights is the effective implementation of the principle of non-discrimination, one of the main pillars of our Constitutional code upon which the domestic legislative system is based, when referring to different categories of people, such as women, minorities and other vulnerable groups.

7. It is worth mentioning that during the drafting process of this Report, the Inter-ministerial Committee of Human Rights has planned and put in practice a positive dialogue with representatives of some Italian NGOs who work on the topic of discrimination. On March, 30<sup>th</sup> 2005, CIR (Consiglio Italiano per I Rifugati - Italian Council for Refugees),

Nessun Luogo è Lontano, Medici senza frontiere, Amnesty International, Forum delle Comunità Straniere, Casa dei Diritti Sociali and Candelaria were invited by the Inter-ministerial Committee at the Ministry of Foreign Affairs, to debate on these issues. Furthermore, within the Committee itself, since March 2005 to September 2005 a specific work has been implemented by a Special Working Group composed of representatives of public administration and Ministries interested in this matter, in order to analyse nature and validity of remarks adopted by UN Committee against racial discrimination and to study all appropriate answers to them.

## SECTION I

### A. THE ITALIAN LEGISLATIVE FRAMEWORK

#### 1. Recent legislative provisions to combat racial discrimination: Legislative Decree No. 215 of 9 July 2003 implementing Directive 2000/43/EC

8. The principle of equal treatment is an established feature of constitutional law in Europe: the right to formal and substantive equality is a universal right, widely represented in the *acquis communautaire*.

9. The European Union has espoused those principles of freedom, democracy, respect for human rights and the fundamental freedoms that are typical of any state where the rule of law is respected. These principles have been recognised by all the instruments of international law currently in force, first of which are the United Nations Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, and the International Convention on the Elimination of all Forms of Racial Discrimination and, at the regional level, the European Convention on Human Rights and Fundamental Freedoms.

10. Article 13 of the Treaty of Amsterdam envisages that the Council of the European Union should decide unanimously, at the proposal of the Commission and subject to consultation with the European Parliament, and adopt the appropriate provisions to combat all forms of discrimination within the Union, whether these are based on gender, race or ethnic origin, religion or personal beliefs, disability, age or sexual orientation.

11. Following this approach, the intentions of the European legislators have been translated into an important provision: European Council Directive 2000/43/EC, which enshrines the principle of equality of treatment of all people, regardless of their race or ethnic origin.

12. The aim of the Directive is to create a legislative framework in which states can take action to combat discrimination on the grounds of racial or ethnic origin, with a view to putting the principle of equal treatment fully into effect in Member States.

13. It introduces a Community-wide prohibition of both direct and indirect discrimination, but at the same time limits its scope to specific sectors considered to be particularly sensitive, such as access to and conditions of employment, education, social protection, including social security and healthcare, and access to goods and services.<sup>1</sup> With respect to the general prohibition of discrimination, however, Member States are given a degree of discretion in regulating certain important excluded areas, especially with respect to features connected to race

or ethnic origin that might constitute an essential and decisive requirement to carry out a given job. Moreover, the Directive is without prejudice to national provisions governing the entry and stay of third country citizens, or in other words the national laws on immigration such as, in the case of Italy, the Consolidated Text of provisions governing immigration and the status of foreign nationals.<sup>2</sup>

14. The Directive introduces some important new rules in the fight against racial discrimination at both the functional and the organisational/structural levels.

15. In functional terms, the Directive prescribes that all Member States should provide an adequate system of legal protection to all those who feel they have been wronged by discriminatory conduct, by equipping their legal systems with judicial and/or administrative procedures that guarantee the right to fair compensation and the benefit of what is improperly defined - as we will clarify later - the reversal of the burden of proof.

16. Furthermore, in order to ensure an effective system of protection for the victims of discriminatory conduct, the Directive acknowledges that it is legitimate not just for the complainant but also for associations or legal entities that might be considered to represent the interests that have been wronged to take steps to set up protection mechanisms, without prejudice to the relevant domestic provisions concerning representation and defence in legal proceedings.

17. From the organisational point of view, the Directive envisages the establishment, within Member States, of one or more bodies to act as guarantors against all forms of discrimination based on race or ethnic origin. These bodies are required to provide independent assistance to victims, conduct independent enquiries, publish independent reports and formulate recommendations regarding discrimination.

18. On the basis of the guidance criteria contained in Article 29 of Act No. 39/2002 (the "Community Law"), the Italian Government acted promptly to transpose the Directive by adopting Legislative Decree No. 215 of 9 July 2003 (Legislative Decree No. 215/2003).

19. The task of drafting the Decree fell mainly to the legal affairs offices of the Department for Equal Opportunities and the Ministry of Labour and Social Policies.<sup>3</sup> With respect to the general tone of the Directive, in addition to transposing its content in accordance with the provisions of the enabling act, Legislative Decree No. 215/2003 also has an added value that strengthens its action at the national legislative level. This added value concerns two aspects, both focusing on the issue of equal opportunities.

20. The first emerges from a reading of Article 1 of the Decree, which clarifies that the objective of the legislators was to put into effect the principle of equal treatment by adopting the necessary measures to ensure that differences of race and ethnic origin should not be causes of discrimination, in a perspective that also takes into account the diverse impact that any given form of discrimination can have on men and women, as well as the existence of forms of cultural or religious racism. This principle made a tentative appearance in the recitals of the Directive, but was not then set forth explicitly in the body of the text. The Italian legislators, on the other hand, accorded great importance to this aspect, in view of the fact that the statistical data clearly indicate that episodes of discrimination are amplified when, to the elements of diversity arising from race or ethnic origin, others are added such as gender or religious beliefs.



21. The second aspect, connected to the first, is the institutional importance attributed in this area to the Department for Equal Opportunities in the Prime Minister's Office, where an ad hoc office has been set up as a sort of frontline post in the fight against discrimination. A wider concept of equal opportunities therefore emerges, which transcends the mere question of gender equality to embrace the whole subject of social policy in the light of an institutional mission whose objective is to ensure the widest possible equality of treatment.
22. If we go on to examine the Legislative Decree in more detail, Articles 2 and 3 transpose the content of the Directive more or less in its entirety, as applied to, respectively, the definitions of direct and indirect discrimination and the scope of application.
23. More specifically, Article 3 affirms that the principle of equal treatment applies to all persons in the public and private sectors, with respect to access to employment, occupation, guidance and vocational training, membership of workers' or employers' organisations, social protection, healthcare, social advantages, education and access to goods and services.
24. The Directive is without prejudice to provisions and conditions currently in force relating to the entry into and residence of third-country nationals and stateless persons on Italian territory, or provisions envisaging differences in treatment based on nationality.
25. With regard to employment, a specific area of exceptions is envisaged, while underlining that differences of treatment connected with race or ethnic origin do not constitute discrimination if the characteristics in question are a genuine and determining occupational requirement, as long as parameters of proportionality and reasonableness are respected; these are naturally left to the evaluation of the courts.
26. Finally, a highly generic safeguard clause excludes from the scope of the provision all those differences of treatment which, although resulting as indirectly discriminatory, are objectively justified by legitimate aims and by adequate and proportionate measures.
27. With respect to the judicial protection of rights, Article 4 envisages the application of the procedure referred to in Article 44 of Consolidated Text of provisions governing immigration and the status of foreign nationals No. 286/1998 providing for a particular form of streamlined, effective civil action against discrimination.
28. Certain forms of guarantee are underlined with respect to the system of protection set forth in Article 44: the possibility of attempting conciliation as envisaged by Article 410 of the Civil Code and by Article 66 of Legislative Decree No. 165 of 2001, in disputes concerning employment relations with, respectively, private or public administrations; evidentiary arrangements under the system of presumptive evidence; and finally, the possibility for the judge to: a) award compensation for damage, including non-economic damage; b) issue the appropriate provisions for the cessation of the discriminatory conduct and order the adoption of a plan for the removal of the discrimination; c) for the purposes of awarding damages, take into account the question of whether the discriminatory act or conduct is a response to a previous judicial action or an unjust reaction to previous actions by the victim with a view to obtaining the application of the principle of equality;<sup>4</sup> and d) order the publication of the judicial decision in a national daily newspaper.

29. The favourable view expressed in the directive with respect to the presumed victim has been transposed to the Italian legislation, which envisages a system of presumptive proof.

30. Those who consider themselves as victims of a discriminatory conduct are required to provide the judge with the evidence of the alleged violation of the principle of equality and the respondent will be required to demonstrate before the judge that the violation has not taken place.

31. It is then up to the judge to evaluate the evidence prudently, as envisaged by Article 2729§1 of the Civil Code.

32. With regard to actors legally entitled to engage in procedures to ensure judicial protection, Article 5 of Legislative Decree No. 215/2003 recognises as being legitimately entitled to engage in judicial and/or administrative procedure those associations and bodies identified, on the basis of programme objectives and experience in the sector, through an Inter-ministerial Decree jointly issued by the Minister of Labour and Social Policies and the Minister for Equal Opportunities on 16<sup>th</sup> December 2005. Associations and bodies which operate in the field of social integration and are included in the Ministry of Labour and Social Policies Register pursuant to Article 52§1 (a) of Presidential Decree No. 394 of 31 August 1999 or which operate specifically in the field of combating discrimination and are included in the register set up in the Department for Equal Opportunities, may obtain such entitlement.

33. This active legitimation concerns cases of individual and collective discrimination. In the first case, associations may act through a proxy issued by the victim of the discrimination in writing, on pain of nullity, in the form of a legally binding public or private document. In the second case, the associations may also act in the absence of a proxy, since the persons wronged by the discrimination cannot be directly or immediately identified.

34. Finally, Article 7 envisages that an Office for the Promotion of Equal Treatment and the Removal of Discrimination on Grounds of Race or Ethnic Origin should be set up in the Prime Minister's Office - Department for Equal Opportunities.

## **2. The legislative framework concerning immigration and the status of foreign nationals**

35. With respect to the implementation of Act No. 189/2002 amending and integrating the Consolidated Text of provisions governing immigration and the status of foreign nationals as adopted through Legislative Decree No. 286 of 25 July 1998, the regulation of the issue of immigration has been reviewed at the initiative of the present government through Decree Law No. 416 of 30 December 1989 containing "Urgent provisions governing political asylum and the entry and stay of non-EU citizens and stateless persons already present on Italian territory", confirmed by Act No. 39/1990. These new rules were supplemented through the Presidential Decree concerning amendments and additional provisions to Presidential Decree No. 394 of 31 August 1999 as envisaged by Article 34§1 of Act No. 189/2002, amending the implementing regulations of the above mentioned Consolidated Text with a view to establishing appropriate procedural rules governing the granting of applications for the recognition of refugee status.

36. Moreover, with the confirmation, in Act No. 272 of 12 November 2004, of Decree Law No. 241 of 14 September 2004, the rulings of Italy's Constitutional Court were implemented with a view to reviewing the provision in order to establish a procedure for the validation of the expulsion of aliens,<sup>5</sup> thus taking on board the criticism raised by the Constitutional Court and establishing new rules governing aliens remaining in Italian territory without justified reason in breach of the order issued by the *Questore* (head of the local police).

37. When drafting Presidential Decree No. 303/2004, the Government took into account the proposals put forward by relevant associations and agencies, particularly those from UNCHR, as well as the EU Directive (2003/9/CE), entitled "Basic provisions for the admission of asylum-seekers", as adopted by the EU Council on 27 January 2003.<sup>6</sup> Within this framework, it is worth recalling the EU Council Decision adopted on June 8 2004, which was translated into the Italian system by the Presidential Decree No. 242/2004. This Regulation aims at streamlining computerised and data processing systems to better deal with data on migration, migrants, and the status of refugees, with the Dublin and Geneva Conventions.

38. Finally, Presidential Decree No. 334 of 18 October 2004, which entered into force on 25 February 2005, provides for timely amendments and additions to Presidential Decree No. 394 and specifically increased the competencies of a number of bodies in procedures for issuing (Articles 4 and 5) or denying (Article 6) entry visas, the arrangements for concluding the "residence contract" (Article 8), for applying for, issuing and if applicable converting residence permits (Articles 10, 11 and 13), with specific reference to the possibility of issuing permits for reasons of social protection (Article 21) or for cases in which expulsion or denial of entry is specifically prohibited (Article 22), and with respect to "detention" in temporary stay and assistance centres (Article 20).

39. Of special relevance is Article 24 (and related Article 25) of the Presidential Decree, concerning the institution of the Single Desk for Immigration (also referred to in Article 45, concerning the changes to information systems, since the data acquired by these Single Desks are channelled into a computerised archive set up especially for this purpose). This mechanism is designed to facilitate the procedures for issuing authorisations to recruit non-EU workers or for family reunification, following a check on the "legality, completeness and compliance of the documentation submitted", leading to the granting of the residence permit.<sup>7</sup>

40. The Single Desk also sends employment enquiries through the computerised system to local Employment Centres, which within 20 days of receipt distribute the applications received and inform the Single Desk of any vacancies they have been informed of. The final step in this procedure is notification by the employer to the Single Desk and, for information, to the Employment Centre, where the application for authorisation for the applicant worker is confirmed.

41. The operation of the Single Desk - the tasks it will be performing in the future are currently carried out by the departments directly concerned, as far as opening the procedure is concerned, and by the *Prefettura* (offices of the Prefects, the local Government representatives) as recipients of the applications and notifications - will affect the procedures for drawing up contracts of stay for wage-earning employment (Article 30), for issuing the related residence permits (Article 31), for any changes in the employment relationship (Article 32), the

arrangements for registration on the jobseekers' list (Article 33), and access to other types of employment, from seasonal (Articles 34 and 35) to self-employment (Article 36). Special cases of entry for employment reasons are also envisaged (Article 37).

42. Of particular interest is Article 34, concerning priority cases, on the basis of which the Ministry of Labour and Social Policies, in conjunction with the Ministry of Education and in agreement with the State-Regions Conference, establishes "the arrangements for drawing up and carrying out training and education programmes for implementation in [...] countries of origin, as well as the criteria for their evaluation".

43. Finally, the regulations envisage different procedures and rules for granting visas for medical treatment (Article 40) or study (Article 41).

44. Actually, Italian commitment in the matter of asylum-seekers is well represented by Legislative Decree No. 140 of May 2005 and by Presidential Decree of 13 May 2005. The first decree, in fact, in implementing EU Directive 2003/9, regulates the procedures for the acceptance of foreign refugees in the national territory, defining the content of "asylum-seeker", "alien" and "asylum request". The decree entered into force on 20<sup>th</sup> October 2005 and it finalises the reception system for asylum-seekers initiated by Act No. 189/2002. The priority aim of Identification Centres is twofold- on the one hand they are designed for the reception of asylum-seekers and on the other they are supposed to prevent them from scattering throughout the national and European territories. Legislative Decree No. 140 regulates the reception of asylum-seekers not obliged to reside in State run facilities and who are entitled to receive their residence permits. This type of asylum-seeker is hosted in local authorities run facilities, which are funded by the National Fund for Asylum Policies and Services, whose budget has been appropriately increased and is now totalling almost 23 million Euros.

45. In connection with the possibility of asylum-seekers having a job, for example, Article 11 of Legislative Decree No. 140 introduces a totally new aspect in that it provides that should the relevant Territorial Commission not adopt a decision on the asylum application within six months from submission and the delay does not fall under the responsibility of the applicant, the residence permit is renewed for a further six month period and enables the applicant to work until the procedure for the recognition of refugee status is concluded. However, the residence permit cannot be turned into a "stay-for-work" permit. Thus the maximum time limit granted to the State to allow asylum-seekers to work is lowered to six months according to Italian legislation, as against the 12 month limit envisaged by the European Directive.

46. Moreover, asylum-seekers who have a job can still take advantage of the reception supplied by local authorities under the umbrella of the Protection System, provided they contribute to the relevant expenses as envisaged by the above mentioned Legislative Decree No. 140.

47. In case of appeal before the judicial authority against the rejection of the application for the recognition of refugee status, the applicant, if authorised to remain on the national territory pending the conclusion of the case, has access to the reception facilities only as long as he is not permitted to work, according to Article 11, or for all the necessary time in case he is unable to work owing to adverse physical conditions.

48. The Presidential Decree of 13 May 2005 implements the “National Plan concerning immigration policy foreigners on the national territory for 2004-2006”, examining in detail matters relating to asylum and suggesting proper objectives to offer adequate solutions.

**(a) The regulations concerning the procedures for the recognition of refugee status**

49. For geographical reasons Italy is one of the most exposed points of transit and destination of such immigration flows and, as such, one of the leading countries in countering such phenomenon. Therefore through a series of initiatives - promoted both at the national and international levels - Italy wants to be in the front-line in the action for prevention, combatting and suppression of this despicable phenomenon.

50. Without reiterating what was just mentioned, when dealing with measures concerning illegal immigrants and particularly the so-called Lampedusa case, **the respect for the fundamental rights of men, women and children is the primary criterion guiding our action.**<sup>8</sup>

51. The illegal entrances take place, most of all, through the crossing of **terrestrial borders** (the so called green borders) hiding people especially in commercial vehicles. However, it may happen that the entrances occur in a place where, due to the morphology of the territory, police controls are inferior. The most relevant borders are with: Slovenia, France, Switzerland and Austria.

52. Today the most important route followed to reach Italy **by sea** is the one on the South West coast of Sicily. In particular the islands of Lampedusa (Agrigento) and Pantelleria (Trapani) could be considered as a natural landing place for citizens of North- African and Western Africa Countries. Until a few years ago other routes have also been used that reached Calabria and Puglia. The routes reaching Calabria left from Sri Lanka and through Suez to arrive in Italy. From Turkey, there has been clandestine movement of Turkish, Iraqi of Kurdish ethnicity, Pakistanis, Indians, Sinhalese men, Bangladesh men and Afghans, with isolated cases of North Africans. Puglia represented during the last years one of the main passageways for illegal immigrants movements coming from nearby Albania and from the other countries of the Balkan peninsula, as well as from the Middle-East. This problem, thanks to the important engagement supported through strengthened collaboration with Albania, is now completely resolved.

53. In the last few years an increase of clandestine coming from Greece on board of the ship-ferry connecting, with daily lilt, the Greek harbours of Patrasso and Igoutmeniza with those of Ancona, Bari, Brindisi, Trieste and Venice, has been recorded. The foreigners are often hidden individually inside commercial vehicles embarked on these ships and others are found in possession of false documents. In order to intervene in a more effective way, joint operations are periodically undertaken among the two police forces, both in the harbours and on board the ferries.

54. **Aerial borders** are of interest from the point of view of clandestine immigration. The following airports can be considered “at risk” as places of origin and/or of transit of illegal migrants in Italy and in other Members States of the European Union:

- Europe: Moscow, Warsaw, Kiev, Istanbul, Tirana, Sarajevo, Belgrado, Budapest, Prague;
- Africa: Accra, Lagos, Dakar, Nairobi, Addis Abeba, Casablanca, Cairo;
- Asia: Teheran, Amman, Dubai, Abu Dhabi, Bahrein, Karachi, Islamabad, Colombo, Bangkok, New Dheli, Kuala Lumpur, Singapore, Peking, Hong Kong;
- America: Lima, Quito, Caracas, Havana, Santo Domingo, Rio de Janeiro, San Paolo, Bogotà.

55. For a better understanding of the phenomenon of clandestine immigration, the following statistics have been reported relating to the measures of precaution of leaving adopted and two recapitulate charts of the accords of readmission agreed upon by Italy.

#### **Foreigners rejected to the frontier and moved away the national territory**

Foreigners	2002	2003	2004	2005 (31.08.2005)
Rejected to the frontier	37.656	24.202	24.528	12.763
Moved away the national territory	50.845	40.951	35.437	23.428

#### **Illegal migration to Italian coasts**

	1999	2000	2001	2002	2003	2004	2005
Landed in Lampedusa	356	447	923	9 669	8 819	10 497	14 855
Landed in other places of Sicily	1 617	2 335	4 581	8 556	5 198	3 097	7 969
Landed in Puglia	46 481	18 990	8 546	3 372	137	18	19
Landed in Calabria	1 545	5 045	6 093	2 122	177	23	88
Landed in Sardinia	0	0	0	0	0	0	8
Total	49 999	26 817	20 143	23 719	14 331	13 635	22 939

56. In territorial waters such as in the contiguous zone and in the open sea, a police boat that locates a ship implicated in the illicit transport of migrants can, under certain conditions, carry out an inspection of this ship and “confiscate it by accompanying it to a national port”. Different modalities of intervention can be envisaged within the framework of collaboration with other States and in accordance with the international law in force. These do not consist simply of stopping the boat or repatriating the boat to the State of origin as indicated in the report, but rather of a system aiming at making a more effective collaboration in the correct management of migratory flows via sea at the national and international level.

57. The claim according to which Italy reportedly denied asylum rights to immigrants landing on the Isle of **Lampedusa** is groundless. The Assistance Centre based in Lampedusa is mandated to providing rescue and first-aid services to the shipwrecked migrants who are subsequently moved, under the supervision of the Security and Public Order Department at the Ministry of the Interior, into other Centres. As for the accuracy of the access and exit registers

of foreign nationals who transit through Lampedusa Centre, it is important to underline that the Managing Body of the Centre records the names of newly arrived persons and related personal data, including records of judicial proceedings, and draws up a detailed weekly report (including data such as the number of people hosted) to be sent subsequently to the Department for Civil Liberties and Immigration. The Managing Body is thus judicially liable for the validity and the correctness of the data contained therein.

58. Concerning “the identification of foreigners expelled”, it is necessary to note the following: in spite of the impressive illegal migration pressure organised by criminal gangs, administrative action as regards immigrants has always been based on scrupulous compliance with the law and careful examination of every single case. All persons illegally landed on Lampedusa have been identified and have been given the possibility of filing a political asylum claim and demonstrating that they have been personally persecuted in their countries of origin or residence. Families have been kept together and transferred as soon as possible to more adequately-equipped centres. Minors have been immediately transferred and committed to local bodies for protection and assistance measures. Those who expressed their desire to claim political asylum were transferred in large numbers to national centres created for the reception of refugees. Through violent and organized actions, some escaped from these structures before the completion of procedures. All the irregular immigrants expelled to Libya or Egypt were repatriated to their countries of origin and did not suffer from ill treatment.<sup>9</sup>

59. An Inter-ministerial Decree (Interior, Work, Social Policies, Economy and Finance) will soon be signed. This Decree will confer on the present Lampedusa Centre the character of a first reception and rescue facility, under Decree Law 30 October 1995 No. 451, converted in Act 563/1995 (the so-called Legge Puglia). The new legal status of this Centre entails that immigrants should stay in the Centre only for a strictly necessary period and should then be transferred to an Identification Centre (for potential asylum-seekers) or to a Temporary Stay Centre (for potentially expelled people), so as not to overcrowd the Centre or to create dysfunctions in providing services. Thus, the juridical status of the Centre will be progressively adapted to the function it has carried out all along under the growing pressure of the migratory flow. In this framework, the system of transfer of illegal immigrants will be improved so as not to exceed the maximum capacity of the Centre (300 persons).

60. Among other initiatives undertaken in order to improve the hosting conditions of immigrants, it is worth mentioning the renewal of the agreement with the organisation «Misericordia» as well as the decision to purchase land bordering on the Centre of Lampedusa for construction of new sanitary infrastructure. In regard to the hygienic services of this Centre, renovation works have recently been approved (ten new showers were built). Moreover, works for the improvement and re-adaptation of the Centre have also been approved in line with the proposals by the *Prefetto* in Agrigento based upon a preliminary plan presented by the Civil Engineer Service in Agrigento. Within this framework, according to a DCPM (see Order by Protezione Civile, No. 3476/2005), a delegate Commissioner was appointed in Lampedusa in order to organize all activities aimed at acquiring adequate reception structures for the illegal immigrants. His task is to co-ordinate and facilitate the connections between all the administrations concerned. Along with this, another area has been identified where a provisional camp will be set up in case of emergency for those immigrants waiting to be relocated.

61. Along with these urgent measures, the construction of a new Centre will also take place in an area so far occupied by army barracks. After some resistance, this project has finally been accepted by the local community. The aim is to put the new centre in place before next year. Additionally, a new Temporary Stay Centre will be established in Trapani and settled on the State property of Milo; it will be able to receive 200 people and preliminary planning activities are being implemented. Furthermore, the following three initiatives will be undertaken with the aim of improving the hosting capacity on the island of Sicily: i.) the construction in Porto Empedocle of a tensostructure for first aid and hosting-related activities. ii.) the restructuring and re-opening of the centre in Agrigento. iii.) the enlargement and rationalisation of the Caltanissetta centre that will become a modern multi-functional structure for the management of the migratory flows.

62. Pursuant to a specific request to establish a unit accountable to the Questura of Agrigento at the CPTA of Lampedusa Island, the Ministry of the Interior has already ordered the increase of State Police personnel at Lampedusa Temporary Stay and Assistance Centre. With a view to streamlining the administrative procedures concerning the identification of foreign nationals and to ensuring that the foreign nationals present in the centres are correctly informed about their rights in compliance with the immigration and asylum legislation, it should be noted that the competent Administration has already ordered to increase the police personnel at Lampedusa Temporary Stay and Assistance Centre to perform the tasks connected with the arrival of illegal immigrants to the Island.

63. Along these lines, with specific regard to the activities carried out by Carabinieri forces, it is worth mentioning that the Carabinieri Division based on Lampedusa Island has been deployed to perform only surveillance activities within and around the reception Centre. Their tasks focus on guaranteeing public order within the community; preventing possible escapes and episodes of violence among host residents who are not EU citizens, etc. The administrative tasks (identification and photo-cataloguing) and the investigative ones linked to the landing of people on the coasts are carried out by the State police.

64. Among the initiatives improving the stay conditions of immigrants in the Lampedusa Centre, with specific regard to the health and psychological assistance actually offered in the Centre, the convention for the management of the structure, in force for the year 2006, clearly sets forth the characteristics of the medical Centre, which in case of a number of 500 people hosted provide for the 24h/24 presence of a doctor and a medical service with professional personnel and ambulances. In case of particular pathologies, the medical personnel of the Centre shall get immediately in contact with the Lampedusa *Poliambulatorio* (health-care centre) and, if necessary, the patients will be transferred to the closest hospital by helicopters. Moreover, in order to ensure to the disembarked immigrants a prompter social humanitarian assistance, the *Prefettura* in Agrigento signed in 2004 an ad hoc MoU with “Médecins sans frontière” which is still in force. This organisation is authorized to make a preliminary screening of the illegal immigrants in order to implement specific measures and ensure the necessary hygiene in the Lampedusa Centre. Recently, *Médecins Sans Frontières (MSF)* has requested, in particularly serious conditions detected by the first screening, that they be allowed to extend their assistance activity even to the *Poliambulatorio* of the island. To this end, and in order to draw up a possible MoU for the future cooperation, the *ASL* (local health-care Centre) and *MSF* have started preliminary contacts. These requests were accepted and will be defined in the MoU, to be signed by the *Prefet* in Agrigento.



65. Referring to the relationships between Italy and Lybia it must be mentioned the agreement signed on 13<sup>th</sup> December 2000 in Rome on the fight against terrorism, organized crime, drug trafficking and illegal immigration. The agreement has been in force since 22<sup>nd</sup> December 2002 (Official Bulletin of the Italian Republic - Communication No. 111, 15<sup>th</sup> May 2003).

66. On this basis, the two Ministers of the Interior began several consultations, especially during the second semester of the year 2003, with the aim of implementing a programme of technical cooperation with the Libyan authorities along with various forms of collaboration to combat illegal immigration. The aim is to improve Libyan institutional capacities in the management of immigration and to provide the Libyan law enforcement officials with more effective training in compliance with European standards. The terms of these co-operation agreements have never been a mystery. The Ministry of the Interior website reports several press releases (among others, the following press releases from the Italian Minister, Hon. Pisanu, dated 27<sup>th</sup> September 2004; 12<sup>th</sup> October 2004; 25<sup>th</sup> November 2005; and lastly 19<sup>th</sup> January 2006) on the co-operation with Libya in the field of migration ([www.interno.it](http://www.interno.it)). Moreover, the Minister of the Interior has provided detailed information on this bilateral collaboration before the Parliament (hearings of 8<sup>th</sup> October 2004 and of 29<sup>th</sup> June 2005). Again before the Parliament, and prior to the cited interventions of the Minister Pisanu, two Undersecretaries of State, Hon. Ventucci and Hon. Antonione, explained the terms of reference of such agreements (see resumés of the following Parliament sessions: on 19<sup>th</sup> June and 10<sup>th</sup> December 2003). In fact, initiatives were initiated in the following areas: i.) Vocational training; ii.) Assistance for returning illegal migrants to Third Countries; iii.) Supply of goods and services; iv.) Setting up of detention centres for illegal migrants according to European standards; v.) Operational and investigative cooperation.

67. Moreover, it is worth mentioning that almost all foreigners returned to Libya - after “respingimento” according to Article 10 of the Consolidated Text on Immigration - have Egyptian nationality. Every return to Libya has implied the planning and monitoring - by Italy - of the removal of the people concerned to their Country of origin. All the operations were been carried out in due time. Egyptian Authorities confirmed the nationality of their citizens and granted them readmission in the State through Libyan borders. No cases of ill-treatment were reported, either in Italy or at our Embassy in Tripoli.

68. Actually, Italy has urged the European Union to pay more attention to the Libyan situation, since nowadays Libya represents the most important transit basin of migration flows towards Europe. On 3<sup>rd</sup> June 2005, JHA Council approved some Italian proposals and adopted a final document (ASIM 24 RELEX 291) with the aim of starting a dialogue and promoting co-operation between the EU and Libya. Such a document reflects the action carried out by Italy and envisages a number of initiatives already undertaken at the bilateral level.

69. For a long time Italy has been supporting the Libyan commitment aimed at intensifying cooperation in the field of migration, on the basis of a careful evaluation of the various policies concerning Arab and African Countries in relation to the treatment of foreign citizens. Arab-Libyan and African policy is based on the spirit of brotherhood with those Countries and on the absolute absence of oppressive intentions towards illegal migrants. In the last years, the Libyan Government adopted a series of actions aimed at revitalizing the organization of the

African unity and at developing initiatives to sustain neighbouring Countries. In this context it is worth mentioning, for example, the COMESSA Forum (community of Sahel and Saharan States), as well as the panhandle for humanitarian assistance to Darfur populations through Bengasi, Kufra Oasis and the paths of the desert connecting Sudan.

70. Recently Italy - in co-operation with IOM (International Organization for Migration) - is developing a project called "Through Sahara", financed with AENEAS funds for developing regional co-operation as well as improving the institutional capacity of Libya and Niger in the field of border management and of the fight against illegal migration.

72. Articles 1-bis, 1-ter 1-quater, 1-quinquies and 1-sexies, which were introduced by Articles 31 and 32 of Act No. 189/2002, introduced significant changes to the procedure for accepting foreign nationals applying for refugee status and the treatment and evaluation of applications.

73. Having laid out the general rules, the law provides that the more detailed operational arrangements should be laid down in the form of a regulation. More specifically, the new Article 1-bis establishes Temporary Stay and Assistance Centres which are provided for those who apply for asylum in accordance with the aforementioned Act No. 189/2002.

#### **Temporary stay and assistance centres - as of 2004**

Location	Number
Agrigento	110
Brindisi	180
Catanzaro	75
Lecce - "Regina Pacis"	180
Modena	60
Roma	300
Bologna	96
Caltanissetta	96
Crotone	129
Milano	140
Ragusa	60
Torino	78

#### **To be soon realised**

Location	Number
Bari	200
Foggia	220
Trapani	220

#### **Rescue and assistance centres**

Location	Number
Lampedusa	186
Lecce-Otranto	75

**Admissions to rescue and assistance centres between the years 2003 and 2004**

Years	M	F	MF	M	F	MF	M	F	MF
2003	1 464	68	1 532	1 342	648	1 990	2 806	716	3 522
2004	1 517	70	1 586	1 476	803	2 279	2 993	873	3 866

74. Paragraph 1 of the new Article 1-quater provides that “*Local Commissions* for the recognition of refugee status shall be set up in the Prefects’ offices-local Government offices indicated by the regulation”.

75. The new Article 1-quinquies provides that the rules governing the “arrangements” for the operation of the *National Commission* shall be determined through the regulation.

76. Actually, while the National Commission (the composition of which is reported in the Presidential Decree adopted on 8 February 2005) is based in Rome, the Local Commissions are in the following municipalities: *Gorizia, Milan, Rome, Foggia, Syracuse, Crotone, Trapani*. The creation of these bodies displaced all over the national territory and responsible for examining recognition applications according to territorial jurisdiction criteria- was actually the need to reduce this time-frame as a guarantee for the applicant. In fact, with a single Central Commission, the time-frame was considered too long and therefore caused some problems.

77. In relation to the request for precise information on the number of applications for the recognition of the refugee status lodged from the year 2002 to the year 2004, we provide the following data:

year 2002	applications received	17,000
year 2003	“	“ 13,900
year 2004	“	“ 9,700
year 2005	“	“ 9,400 (including the applications received by the Local Commissions from April to December)

78. To implement these provisions and in consideration of the breadth and scope of the changes to the legislative framework, the present regulation lays down specific rules replacing those established by Presidential Decree No. 136 of 15 May 1990 implementing Decree Law No. 416/1989 as confirmed by Act No. 39/1990. This was considered necessary in order to coordinate the previous regulations with the new regulatory and organisational system envisaged by the Consolidated Text No. 286/1998.

79. The new rules, in fact, introduced new actors, such as the Local or Territorial Commissions; it changed the name, role and functions of the Central Commission for the Recognition of Refugee Status, now known as the National Commission, and envisaged and regulated a new regulatory concept: “*detention*” of the asylum-seeker in special structures when certain conditions apply.

80. In drawing up the regulation account was taken of the proposals formulated by bodies and associations protecting the interests of asylum-seekers and refugees and in particular the

positions expressed by the UN High Commissioner for Refugees (UNHCR) and, albeit within the limits of the regulatory powers as applied solely to the implementation of Act No. 189/2002, by the Directive of the Council of the European Union laying down “Minimum standards for the reception of asylum-seekers in member states” approved at the meeting of the Council on 27 January 2003. For implementing EC Directive 2003/9 Article 11 of Legislative Decree No. 140 of 30 May 2005 provides for the asylum-seeker to work if his/her application has not been yet examined during the following six months and not for his/her fault.

81. In application of the Geneva Convention of 28 July 1951 relating to the status of refugees, implemented in Italy through Act No. 722 of 24 July 1954, Article 32 of Act No. 189/2002 clearly distinguishes those applications for recognition of refugee status that involve “detention” of the applicant in identification centres or temporary stay and assistance centres. The law envisages two different procedures, depending on whether the asylum-seeker is detained or not:

- the *simplified* procedure, which is applied to applicants detained obligatorily in the centres; and
- the *ordinary* procedure, for all those who are not sent to the centres and who are issued with residence permits valid for the purposes of examining their application.

82. More specifically, Article 1-bis of Decree Law No. 416/1989, confirmed by Act No. 39/1990, identifies two different types of “detention” in identification centres: one *obligatory* and one optional, and establishes the different circumstances under which *optional* “detention” is possible (Article 1-bis§1) as well as those cases in which the “detention” of the asylum-seeker is obligatory (Article 1-bis§2).

83. This provision is intended to set up specific structures to accommodate asylum-seekers other than those, known as temporary stay and assistance centres, that are intended to “hold” aliens subject to expulsion or removal orders, or expelled aliens who submit appeals for the recognition of refugee status; this suggests that *identification centres* should have their own features distinct from the structures envisaged and regulated in Consolidated Text No. 286/1998 for aliens awaiting expulsion.

84. In fact the CPTA were established with the aim of hosting the foreigners to be expelled, or those applicants for the refugee status already expelled whose application is under review. Actually, restructuring measures have been envisaged and/or implemented vis-à-vis the following Centres: Lampedusa, Bologna, Brindisi, Caltanissetta, Lecce-Otranto, Milano, Modena, Roma, Torino, Trapani-Serraino Vulpitta. As to the establishment of additional infra-structures, a Centre for 220 persons has been created in Foggia, and a new one for 200 units is about to be finalised in Bari. In the Northern-East part of Italy, a new Centre (CPTA) will be opened by the end of 2005 in Gradisca d’Isonzo (Gorizia), and able to host 252 units. Along these lines, local authorities are carrying out a mapping exercise to find out feasible posts so as to establish new Centres. Nevertheless, such exercise has already faced some socio-economic difficulties. Despite these problems the planning exercise keeps going. The relevant authorities are now focused on the dismissed airport in Milo at the Trapani Municipality which could host 200 persons. In addition to these areas, Prefectures have been engaged in building up and

finding out relevant structures - namely UTG - by means of memoranda with associations, bodies, or private sector, namely Caritas Centre in Gorizia, 32 units; Como, Lo Tavernola, managed by the Red Cross, 200 units; Benincasa Centre in Ancona, 40 units.<sup>10</sup> This network can host, up to 3250 units - calculated including also the reception capacity of the other governmental Reception Centres established in the Country, in order to expeditiously deal with emergencies. Moreover, the Ministry of the Interior has envisaged supplying the existing Centres with prefabricated structures.<sup>11</sup>

85. As for Reception Centres, the provisions in force - Decree Law No. 451/1995, converted by Act No. 563/1995 - authorize the Ministry of the Interior to provide for assistance measures and prompt action, inter alia, by means of adequate infra-structures, in order to ensure first-aid to the irregular foreigners, waiting for their identification, or eventually, for their expulsion. In particular, Article 14 sub§1, of the Consolidated Text No. 286/1998 as amended and integrated by Act No. 189/2002 sets that the stay can be arranged in the closest Centre, provided its availability. Such integration into the previous system allows for arranging accommodation in a better place, while in the past there was no concern for availability: the rule was to arrange accommodation in the closest Centre even though it may have been overcrowded.

86. As for respect for human rights of migrants hosted in the Temporary Stay and Assistance Centres (CPTA), the Ministry of Interior (Department for Civil Liberties and Immigration) drafted "Guidelines" in 2002 to better manage the Centres for immigrants. This text encompassed the supply of services, provided for adequate standards and highlighted the need to ensure the highest standards of professionalism for the managing bodies, all involved in the social sector. The cited Department supervises the Prefectures involved, monitoring: the respect for the different cultural, ethnic, religious and linguistic membership; adequate social and health assistance and psychological support;<sup>12</sup> legal counselling and orientation (including the entitlement to free legal aid - the State provides a lawyer to indigents - Article 97 c.p.p., an interpreter and a cultural mediator, etc.);<sup>13</sup> best standards in the provision of personal services (personal hygiene, food, laundry, etc.) in view of a decent daily stay. These Prefectures, on their own, must supervise the correct functioning of the Centres, particularly respect for fundamental rights of immigrants, in line with the Directive of the *ad interim* of the Minister of the Interior, Hon. Bianco, adopted on August 30, 2000.<sup>14</sup>

87. Within this framework it is worth noting therefore that the above mentioned Bianco Directive envisaged that "the representatives of Italy-based UNHCR, under authorization of the Ministry of Interior, are entitled to access the Centres, whenever requested, except for prevailing security reasons and the regular functioning of the Centres ...".<sup>15</sup>

88. In this sense all episodes of alleged ill-treatment denounced by hosts in CPTAs were the object of independent investigations by the Judicial Authority that were carried out according to the criteria of the existing legal system. This provides the granting of a permit of stay for "justice reasons" to third-country citizens pending resolution of the criminal trial for suspension of the expulsion order up to the relevant judicial resolution. It ought to be stated in advance that the access to Temporary Stay and Assistance Centres for illegal immigrants is allowed to members of Parliament in respect of functions related to their institutional mandates.

89. The set of rules regulating other actors entitled to access these structures is contained in the Regulation implementing the Consolidated Text No. 286/1998 - as amended and integrated by Act No. 189/2002 - Presidential Decree No. 394/1999, and its Article 21§7 in particular. This article clearly indicates the typologies of the persons entitled to access these centres, namely: management staff members, police forces, competent judges, police authorities, cohabitant relatives, solicitors of detained and hosted persons, ministers of religions, staff members of diplomatic or consular representations, members of volunteer associations and social cooperatives entitled to carry out assistance activities under the terms of Article 22 of Presidential Decree No. 394/1999 or on the basis of ad hoc Projects of cooperation agreed with the Prefect of the Province where the Centre has been established. This provision is justified by the need for the protection of the fundamental rights and freedoms of detained persons including the respect for privacy.

90. With reference to the request of acceding to the Lampedusa Centre made by the UNHCR representatives, it is worth mentioning that this request was accepted. The authorization for the request made on 4 October 2005 was granted two days later, on 6 October 2005, for the above mentioned reasons. It was deemed that the risk for the safety of the individuals (foreign nationals and personnel) was extremely high and the maintenance of law and order must be considered a priority vis-à-vis the two-day delayed access. Moreover, the Lampedusa Centre was often visited by members of Italian or foreign institutions. It was last visited by a Delegation of the European Parliament members on 15 and 16 October 2005. This visit follows that one made on 28 June by a delegation of European Parliament members belonging to the left-wing party. The Centre was also visited recently by the Council of Europe Commissioner on Human Rights, Mr. Gil Robles and by the UN Special Rapporteur on Human Rights of Migrants, Ms. Rodriguez Pizarro (visit in June), as well as by Italian Parliament members. Ad hoc bilateral Agreements between the Administration of the Interior and the three organizations (UNHCR, IOM, Italian Red Cross) are under definition, with a view to regulate the cooperation and information contributions offered to illegal immigrants just landed on the Italian coasts, by these NGOs. Moreover, in order to carry out information activities addressed to third-country citizens landed in Italy in the respect of the specific institutional competencies, the opportunity to start up local units of the three NGOs in the surrounding of the Centre of Lampedusa (AG) is under evaluation.

**(b) “Detention” arrangements**

91. The structural differences between the two types of centre also involve diverse arrangements for carrying out the “detention” in the two categories of structure, as also confirmed by the specific reference in Article 1-bis§4 of Decree Law No. 416/1989, as confirmed in Act No. 39/1999, to Article 14 of Consolidated Text No. 286/1998, for the “detention” of asylum-seekers subject to expulsion or removal procedures. A further argument in support of the hypothesis outlined here can be found in the absence in the law of a provision envisaging validation by the courts of the provision issued by the Chief of Police ordering the “detention” of the asylum-seeker in the identification centre. This validation is, however, specifically regulated by Consolidated Text No. 286/1998, with rules deemed to be compliant with the Constitution (see Constitutional Court ruling 105/2001).

92. Pursuant to Article 1-bis§3 of Decree Law No. 416/1989 as confirmed by Act No. 39/1990, the arrangements for “detention” in the identification centre are governed by specific rules that take into account the particular conditions of asylum-seekers awaiting the decision on their appeal for recognition of refugee status, the provisions adopted by the UNHCR, by the Council of the Europe and by the European Union.

93. It should also be noted that, in envisaging special conditions for the “detention” of asylum-seekers in identification centres, mainly with a view to protecting and safeguarding the applicants themselves, the law envisages precise consequences in the event of unauthorised departure from the Identification Centre. Article 1-ter§4 of Decree Law No. 416/1989, confirmed by Act No. 39/1990, automatically considers such departure as being equivalent to withdrawal of the application for recognition of refugee status.

94. Having thus outlined the primary legislative framework within which the rules regulating “detention” should be set, Article 1-ter establishes obligatory “detention” in the centres as a distinguishing criterion for the application of the rules governing the simplified procedure, or the ordinary procedure for the examination of applications for the recognition of refugee status. In both procedures the competent body is the local commission for the recognition of refugee status. This commission is charged by the law, at the local level, to decide on applications submitted pursuant to the Geneva Convention. In this it replaces the previous, sole body, the Central Commission for the Recognition of Refugee Status, which was transformed by Article 1-quinquies of Decree Law No. 416/1989, as confirmed by Act No. 39/1990, into the National Commission for the Right to Asylum.

95. The current provision, following the approach drawn up by the legislature, governs the procedures and operational arrangements both of the Local Commissions (Gorizia, Milan, Rome, Foggia, Syracuse, Crotone and Trapani) and of the National Commission.

96. Reference must be made to the legal and administrative practices adopted on the matter. Within the legal framework pursuant to Article 10 and Article 13 of the Consolidated Text on Immigration, Article 10§1 of the Consolidated Text No. 286/1998 envisages that “*the border police sends back (respingimento) the foreigners crossing the borders without the necessary requirements for the entry into the State’s territory as provided for in the “Testo Unico”*”. However, it is worth stressing that pursuant to § 4 of the same Article: “*The provisions of the paras. 1, 2, 3 as well as of paras. 3 and 6 of art. 4 do not apply in the cases provided for by the current legislation regulating political asylum, the recognition of the refugee status as well as the adoption of temporary protective measures for humanitarian reasons*”. Therefore, the term “*respingimento*” as above reported does not correspond to the internationally recognised term “refoulement”. The Consolidated Text on Immigration regulates a very diversified matter concerning respingimento (Article 10) compared with the one concerning expulsion (Article 13). Apart from the difference in the provisions relating to the two cases (attempt or immediacy of illegal entry into the national territory in the first case and actual presence in the second case), the former is less afflictive if compared to the latter: while immigrants who are refused entry are allowed to legally enter into the national territory at a later moment (on condition that they meet all the necessary requirements), expelled people are denied such an opportunity for a period of ten years as of the enforcement of the provision. Both provisions can be followed by the adoption of the measure of detaining migrants in temporary stay and assistance centres

(Article 14). The precondition for detention resides in the impossibility for the *Questore* to carry out immediately an *Art-10 measure* for several established reasons. If the identity of the alien is certain, if there is no need for individual assistance and the carrier and travel documents are available, it is not necessary for the *Questore* to adopt a detention provision. In this case, the Police Authorities implement the so-called “escorting police measure to the borders” (which doesn’t require a judicial validation). Consequently, in case of illegal disembarkations, after offering assistance, excluding the cases when the adoption of migrants’ protection measures is envisaged - for example, in case of possible risk of persecution in the Country of origin or provenance - the applicable form of taking illegal aliens away is that of respingimento according to Article 10 of the above-mentioned Consolidated Text. As to the non notification to the alien concerned of the *Art-10 measure*, it is worth mentioning that the Italian legislation envisages that this notification can be made also without resorting to a formal act, but simply through the delivery of a copy of said provision.

97. More recently, it is worth noting that: 1. Act No. 272/2004 took into account the judgment of the Constitutional Court concerning the validation process for the expulsion of the foreigners. This Act has therefore amended the previous system concerning the foreign who stays within the domestic borders, without a clear motivation and regardless of the local police authority’s order to leave the country; 2. The Presidential Decree No. 334/2004, which entered into force on February 2005, has better defined the functions of some bodies in charge with the relevant procedures of release (Articles 4 - 5) or denial (Article 6) of the visas, as well as the formalities for the release of the stay contract (Article 8), the requirements concerning the residence permits (Articles 10, 11 e 13), while paying due regard to the conditions for the social protection (Article 21) or the cases concerning the prohibition of the expulsion and *Art-10 measure* (Article 22), as well as the stay in the so-called CPTA (Article 20). This set of rules, apart from implicitly confirming the constitutional legitimacy of the detention measure with respect to persons to be expelled in Temporary Stay centres further strengthens the jurisdictional instruments of protection of asylum-seekers. It provides, in fact, that the Justice of the Peace shall give its opinion on the legitimacy of the expulsion only after cross-examination between the parties providing that an alien may avail himself, by law, of the assistance by a lawyer and/or an interpreter in the language he/she requires.

**(c) The regulations for the rationalisation and interconnection of communications between government departments in matters concerning immigration**

98. The aim of the regulations adopted with Presidential Decree No. 242 of 27 July 2004 is to rationalise the use of IT and telematic resources in the treatment of data concerning immigration, the status of aliens in Italy and the right to asylum, with the aim of ensuring the fullest possible interconnection between the computerised archives already generated or under construction. The aim is to obtain precise, reliable information on immigration-related processes, including for the purpose of asylum applications, so as to provide a reliable informational support in the administration of appeals under the current regulations and in particular for immigration through the channel referred to in Article 18 of Act No. 189/2002, according to the rules referred to in the Dublin and Geneva Conventions.



99. The EU Council decision of 8 June 2004 establishes the Visa Information System, to be introduced through the creation of a system for the exchange of data between member states. This will enable authorised national authorities to enter and up-date visa data and consult such data electronically.

100. In the legislative framework described above, the Government, through the directive issued by the Minister of the Interior, has established a specific remit for municipal authorities with respect to residence permits, without prejudice to circumstances that might arise in relation to public order. The Minister has also provided assurances that there will be no need for an extension to deal with the renewal of the residence permits of non-EU immigrants since all the interested party will need to do is apply; possession of evidence of having submitted their application (the “receipt slip”) should be considered as evidence of the legality of their position. All this will enable aliens awaiting issuance of their residence permit to leave Italian territory temporarily and still be able to return. This provision is intended in particular to enable aliens legally present in Italy to return to their countries of origin for family reasons.

101. As one of its lines of work the CNEL’s National Coordination Body (NCB) for social integration policies for foreign nationals has developed the promotion and integration, in system form, of the regional and local immigration monitoring centres and databases. This has been done through meetings between the local and national managers of the different systems, including with reference to Presidential Decree No. 242/2004, which gives the Ministry of the Interior responsibility for rationalisation and interconnection. Two meetings have been organised by the NCB to date: the first was intended to begin a course of action involving regional, provincial and municipal sources of knowledge of this new presence of non-EU citizens in Italy, while the second saw the involvement of central government departments. From the second meeting the need emerged to set up a Working Group that will draw up specific guidelines and a summary document that will be presented in June at an event organised for this specific purpose.

**(d) The framework law on the right to asylum**

102. While Act No. 189/2002 and related implementing regulations have made it possible to redefine the issue of immigration, this report seems to be a timely opportunity to examine the Consolidated Text approved by the Constitutional Affairs Committee. This Text is intended to introduce a systematic set of rules governing the right to asylum and humanitarian protection (in implementation of Article 10§3 of the Constitution, according to which the foreigner who is denied in his own country the real exercise of the democratic liberties guaranteed by the Italian Constitution has the right of asylum in the territory of the Republic, in accordance with the conditions established by law).

103. This text was submitted for consideration by the Chamber on 12 July 2004, its aim being to introduce a regulatory framework that respects the provisions contained in the international Conventions to which Italy has subscribed, with particular reference to the Geneva Convention of 28 July 1951, ratified in Italy by Act No. 722 of 24 July 1954, and to the Dublin Convention of 1990, made effective in Italy through Act No. 523 of 1992. No less important is the prospect of an adaptation of the Italian legislation to the current EU law in this area, given that in January-February 2003 the EU Council of Ministers adopted a Directive containing minimum

standards for the reception of asylum-seekers in member states, together with a regulation that lays down criteria to determine which member state is competent to examine an asylum application submitted in one of the member states by a third-country national.

104. Having considered these objectives the Committee, acting in a reporting capacity, then examined the six bills presented on this subject and, following meetings in the sub-committee, put together the above-mentioned Consolidated Text. The basic structure of the text, in spite of the changes introduced following consideration of the amendments submitted, was essentially confirmed in the version approved by the Committee and now under consideration by Parliament.

105. The text presented in the Chamber was subjected to two questions. The first was based on the consideration that Bill 1238-A containing provisions concerning protection and the right to asylum essentially reproduces Government Bill No. 5381 from the previous Parliament, the objective of which was to complete the reform of the legislative framework governing immigration and the status of aliens in accordance with Act No. 40 of 6 March 1998 and Legislative Decree No. 286 of 25 July 1998 replacing the asylum-related elements of the previous law of 28 February. The second arose from the observation that the definition of a common European Union policy in matters concerning immigration and asylum was already initiated by the European Council of Tampere in 1999. The Council Directive containing minimum common rules for the procedures to apply in member states for the purpose of recognising and withdrawing refugee status is now being drawn up.

106. Any decision on this issue has therefore been suspended, in view of the need to standardise the administrative and judicial procedures of European countries in recognising the right to asylum in order to prevent asylum-seekers' "tourism", since this would be directed towards those countries whose legislative framework was more favourable to such persons.

107. Taking all this into consideration, Italy is awaiting the adoption of a unanimous position by the European Union and discussion in the Chamber has therefore been postponed until the legislative framework has been harmonised at EU level and consequently in member states also.

**(e) From the National Asylum Plan to the Protection System for Asylum-seekers and Refugees**

108. Act No. 189/2002 provided for the creation of a "Protection System for Asylum-seekers and Refugees".

109. As part of this system the National Fund for Asylum Policies and Services was set up. Access to this fund is available to all local authorities providing services for the reception of asylum-seekers and the protection of refugees and foreign nationals in receipt of other forms of humanitarian protection. Initiatives put in place by city councils drawing on the Fund in the period 2001-2003 made it possible to provide help for 4,265 foreign nationals, mainly asylum-seekers, from the Middle East, the Horn of Africa, the Balkans and Africa. Of these, 2,880 were men (2,269 of majority age and 611 minors) and 1,385 women (855 adults and 530 minors). 2,148 were asylum-seekers, 728 refugees and 534 beneficiaries of humanitarian protection. 855 were currently awaiting access to the justice system, appeal or

else are in possession of papers issued by the Questura and awaiting completion of asylum applications. Most of the city councils involved are in Northern Italy (20), with a sizeable proportion (14) in Central Italy, 12 in the South and 4 on the islands. Various types of reception structure are involved: from community centres to supervised housing to apartments for individuals.

110. In 2003 and 2004 continuity was ensured in the services already in place, as envisaged by the European Refugee Fund. With Prime Minister's Order No. 3326 of 14 November 2003 "further extraordinary and urgent actions to combat and manage clandestine immigration"<sup>16</sup> were put in place for this purpose. Article 3 of the Order explicitly provides for the Minister of the Interior to adopt, in derogation of the Consolidated Text, the Decrees for the distribution of the Fund with a view to ensuring continuity of existing initiatives and services. Essentially, the possibility is envisaged of delivering financial support for existing initiatives, according to allocation arrangements already implemented by the first Distribution Decree in 2003.

111. On 29 April 2003 the Conference of the Regions expressed its approval of the outline Decree adopted by the Minister of the Interior for the distribution of the Fund. This opinion includes suggestions for amendments to the distribution arrangements (daily per capita cost, stronger assurances for the continuation of the initiatives and services provided by reception centres, acceleration of the procedure for issuing the implementing regulations to Act No. 189/2002).

112. Moreover, the Ministry of the Interior's Department for Civil Liberties and Immigration issued a Circular, dated 1 June 2004, concerning the imminent registration with the State Audit Office of the first Decree for the Distribution of the National Fund for Asylum Policies and Services. The provision will allocate to councils taking part in the Protection System - formerly the National Asylum Programme - pursuant to Article 32 of Act No. 189/2002, for the period running from 1 January to 30 April 2004, contributions based on the parameter of €18.52 per day per head. The Circular also specifies that the continuation of the initiatives from 1 May to 31 December 2004 will be guaranteed by the input of a further €5 million to the Fund, in implementation of Article 80 of the Finance Law for 2003. By virtue of this input and the recent accreditation of a portion of the European Refugee Fund for 2003, the number of reception places for which Councils can obtain funding has increased (in relation to the capacity provided by the councils themselves) by over 200 units, to 1,536.

**List of local authorities receiving allocations from the National Fund  
for Asylum Policies and Services (1.5.2004 - 31.12.2004)**

Towns	Reception Capacity	Amount
Agrigento*	155	189 922.60
Aviano	41	186 033.40
Badolato**	36	95 192.80
Bitonto	50	226 870.00
Borgo S. Lorenzo	25	113 435.00
Caronno Pertusella	30	136 122.00
Catania	36	163 346.40
Celleno	28	127 047.20
Chiesanuova	42	190 570.80

Towns	Reception Capacity	Amount
Cisa Asti Sud	30	136 122.00
Como	33	149 734.20
Cremona	12	54 448.80
Firenze	50	226 870.00
Forli'	23	104 360.20
Genoa	60	272 244.00
Gorizia	15	68 061.00
Isola Capo Rizzuto	40	181 496.00
Ivrea	21	95 285.40
Lecco	20	90 748.00
Lodi	16	72 598.40
Lucera	32	145 196.80
Malo	18	81 673.20
Matera	12	54 448.80
Modena	68	308 543.20
Monopoli	15	68 061.00
Ostuni	12	54 448.80
Parma	18	81 673.20
Perugia	27	122 509.80
Pisa	12	54 448.80
Poggio A Caiano	47	213 257.80
Pontedera***	37	189 348.48
Ragusa	30	136 122.00
Ravenna	50	90 748.00
Rieti	30	136 122.00
Rosignano Marittimo	18	81 673.20
Rovigo	12	54 448.80
Serrapetrona	30	136 122.00
Sessa Aurunca	18	81 673.20
Sesto Calende	10	45 374.00
Sezze	30	136 122.00
Siracusa	35	158 809.00
Todi	15	68 061.00
Turin	65	294 931.00
Trieste	53	240 482.20
Udine	54	245 019.60
Venice	105	476 427.00
Total	1 536	6 863 123.08

\* The reception capacity of the Agrigento project is 20 places from 1 May to 31 July and 55 places from 1 August to 31 December 2004.

\*\* The capacity of the Badolato project is 16 places from 1 May to 31 October and 36 places from 1 November to 31 December 2004.

\*\*\* The capacity of the Pontedera project is 56 places from 1 May to 30 June and 37 places from 1 July to 31 December 2004.

113. In this way the experience gained through the National Asylum Programme has been put to good use. This Programme was the first systematic scheme to provide reception services and assistance for asylum-seekers and refugees. It was promoted in 2001 by the Ministry of the Interior, the UNHCR and the National Association of Italian Town Councils (ANCI).

114. In order to rationalise and optimise the system for the protection of asylum-seekers, refugees and foreign nationals with permits issued for humanitarian grounds and to facilitate the coordination of local reception services at the national level, the Ministry of the Interior has set up the Central Service for information, promotion, advice, monitoring and technical support for local authorities providing reception services. Act No. 189/2002 has entrusted the management of this service to ANCI, thus recognising the central role played by local authorities in local services, as well as ANCI's own function in coordinating and networking them, as described below.

*1. Reception and protection services for asylum-seekers*

115. Local authorities throughout the country that are part of the Protection System provide reception and protection services for asylum-seekers, pending the completion of the procedure for the recognition of refugee status. Admission to the System's reception centres - until all the places available at the national level have been taken up - is arranged by the Central Service at the recommendation of individual local projects or third party organisations (Prefects' offices, Questura offices, associations).

116. During the period spent in the reception centres, beneficiaries are provided with a number of services that include enrolment with the national health service; enrolment in school, in the case of children, and in literacy courses, in the case of adults; and access to legal information on asylum application procedures.

*2. Support for the social and economic integration of refugees*

117. Local authorities provide refugees and holders of residence permits for humanitarian or temporary protection reasons with services designed to provide full and autonomous inclusion in the local community. More specifically, the aim is to establish training and re-training pathways to promote entry to employment. Liaison between all operators in the housing sector (estate agents, local council housing offices, associations of small property owners or tenants) is also promoted to facilitate the search for independent housing solutions.

*3. Assistance with repatriation*

118. Local authorities that are part of the Protection System cooperate with the Central Service in providing guidance and logistical assistance with repatriation, and in the dissemination of up-to-date information on the situation in project beneficiaries' countries of origin, as provided by the International Organisation for Migration (IOM).

*4. Local projects*

119. All local authorities that provide reception and protection services in their districts for asylum-seekers, refugees and foreign nationals holding residence permits for humanitarian reasons can obtain access to the funding envisaged by the National Fund for Asylum Policies and

Services, for up to 80% of the total cost of each local initiative. The funding granted is in any case subject to the available financial resources of the fund itself. For 2003 and 2004 the continuity of initiatives and services already under way is ensured, as envisaged by the European Refugee Fund.

120. It is therefore the local authorities that provide the backbone of the system for asylum-seekers and Refugees. This system is based on the decentralised management of reception and protection services, in close collaboration between the centre, represented by the Central Service, and local projects countrywide. To design and implement these projects, local authorities can avail themselves of the support of NGOs, bodies and associations that have built up expertise in the sector and demonstrated that they possess suitable operating capacity for initiatives on behalf of asylum-seekers, refugees and foreign nationals receiving other forms of humanitarian protection.

### **3. Discrimination on ethnic, linguistic and religious grounds**

#### **3.1 Linguistic minorities**

121. As regards the basic legislation for the protection of minorities, the Italian Parliament approved Act No. 482 of 15 December 1999 containing "Provisions for the protection of traditional linguistic minorities". This was followed by Presidential Decree No. 345 of 2 May 2001 concerning "Regulations implementing Law 482 of 15 December 1999, containing provisions for the protection of historic linguistic minorities".

122. Within the unified linguistic framework represented by the Italian language, which is re-affirmed by Article 1 of this law as the official language of the Republic, Act No. 482/1999 is intended to protect and enhance the languages and cultures of the Albanian, Catalan, Germanic, Greek, Slovenian and Croatian communities and of those speaking French, Franco-Provençal, Friulian, Ladin, Occitan and Sardinian.

123. The law is intended to implement Article 6 of the Constitution - which establishes that "the Republic shall protect linguistic minorities by means of special provisions" - by setting forth a systematic framework of rules to protect the linguistic minorities historically present in our country, in harmony also with the general principles laid down by the European and international bodies of which Italy is a member.

124. The main points of the law are:

- The identification of the minorities present in Italy, taking into due account the general configuration of those linguistic minorities that have become established over time; to this end, Article 2 lists the Albanian, Catalan, Germanic, Greek, Slovenian and Croatian communities and those speaking French, Franco-Provençal, Friulian, Ladin, Occitan and Sardinian;
- The involvement of the provincial and municipal authorities in delineating the geographical area in which the protective provisions are to be applied, and the enhancement of their role in the protection of minorities;

- The adoption by the regional authorities of measures to bring their legislation into line with the principles laid down by the legislation, without prejudice to existing regional laws that envisage more favourable conditions;
- Wide-ranging and precise rules for the teaching of the protected languages and related cultural and traditional subjects in state schools, with initiatives by the universities to facilitate research and cultural and training activities in support of the objectives of the law;
- The possibility of using the protected languages in the activity of municipal councils and other collective structures in those municipalities where the provisions apply; this also extends to councillors in mountain communities and in provinces and regions whose territory encompasses these municipalities, where they account for at least 15% of the population concerned;
- In these municipalities, the option for the oral and written use of the protected language in government offices and the possibility of using the minority language in hearings before the Justice of the Peace;
- Agreements for broadcasts of news and other programmes in the protected languages by the public radio and television channels, and agreements with local broadcasters;<sup>17</sup>
- The option for the regions, provinces and municipalities concerned to establish provisions for private publishers, the press and radio and TV broadcasters using the protected language;
- The option for the councils of municipalities whose territories contain minority communities to decide on the adoption of place names in keeping with local traditions and customs, in addition to the official place names;
- The right to reinstate names and surnames in the original language;
- Agreements with other countries for the development of protected languages and cultures used abroad and for cross-border and inter-regional cooperation;
- Funding allocations in the state budget for the application of the law, with the creation in the Department for Regional Affairs, part of the Prime Minister's Office, of a national fund for the protection of linguistic minorities.

125. From a more general point of view, the following features of the law are particularly significant:

- The identification of the linguistic minorities entitled to protection, as listed in Article 2, which implies the official recognition of the same as legally recognised minorities;

- The attribution of a key role to the regional and local authorities. Of particular significance in this respect is the procedure for the delineation of the geographical and sub-municipal context in which the provisions for the protection of historic linguistic minorities are applied, as defined by Article 3. This provision fully implements the principle of subsidiarity by attributing to local authorities the vitally important task within the context of this law of identifying the sphere of application of the protection and envisages the involvement of the communities concerned;
- The introduction, including for long-established minorities, of provisions regarding the teaching of the minority language and its use in relations with government offices;
- The special value attributed to international relations and cross-border cooperation for the purpose of protecting minorities.

126. The law also envisages the allocation of funding amounting to lire 20,500,000,000 per year from 1999 for the costs incurred in its application. More specifically, 2,000,000,000 per year have been earmarked for the promotion and realisation of local and national projects for the study of the languages and cultural traditions of members of recognised linguistic minorities; 8,700,000,000 lire per year have been allocated from the state budget for the costs incurred by local authorities in meeting the obligations envisaged by the law; and 9,800,000,000 lire per year have been earmarked to set up a national fund for linguistic minorities in the Department for Regional Affairs in the Prime Minister's Office.

127. As regards the protection of minority groups, where responsibility does not lie only with the state, the commitment of the regions to protecting minorities in their territory is particularly deserving of mention, especially in those sectors envisaged by the Covenant, since this commitment generally takes the form of protecting and enhancing the cultural and linguistic heritage of local communities.

128. In some cases this protection is provided through statutory provisions, as in the case of Piedmont, the Veneto, Molise, Basilicata and Calabria. But even within the wider framework of their remits, especially as regards the cultural heritage and cultural and educational promotion activities, some regions have passed laws for the protection of the cultural and linguistic heritage of their linguistic minorities.

129. A number of provisions have also been introduced in recent years implementing the special Statute of the Trentino-Alto Adige Region. These contain regulations for the protection of the Ladin, Mochena and Cimbrian minorities as listed below:

- Legislative Decree No. 321 of 2 September 1997 containing “Provisions for the implementation of the special Statute of the Trentino-Alto Adige Region amending and supplementing Legislative Decree No. 592 of 16 December 1993 concerning the protection of linguistic minorities in the Province of Trento”;
- Legislative Decree No. 344 of 8 September 1999 containing “Provisions for the implementation of the special Statute of the Trentino-Alto Adige Region amending Legislative Decree No. 592 of 16 December 1993 concerning schools located in Ladin areas”.



130. The above-mentioned implementing provisions establish rules for the protection and promotion of the ethnic and cultural characteristics of the Ladin, Mochena and Cimbrian communities in the Province of Trento and also envisage the use of the Ladin language alongside Italian as a teaching language in kindergartens located in Ladin areas. The provisions also recognise absolute priority in the recruitment, placement and transfer of staff in these schools for teachers who are able to demonstrate their knowledge of the Ladin language and culture.

- Legislative Decree No. 487 of 15 December 1998, containing “Provisions for the implementation of the special Statute of the Trentino-Alto Adige Region amending Presidential Decree No. 691 of 1 November 1973 concerning initiatives for the reception of radio and television programmes in the Ladin language and the languages of other European cultural areas”, which lays down rules to enable reception of audio and video broadcasts in Ladin in the territory of the Provinces of Trento and Bolzano, is also worthy of note;
- Legislative Decree No. 283 of 29 May 2001 concerning “Provisions for the implementation of the special Statute of the Trentino-Alto Adige Region amending Presidential Decree No. 574 of 15 July 1988 concerning criminal and civil proceedings, and also concerning the allocation of notaries’ practices, as well as bilingual labels and explanatory leaflets for pharmaceutical products”. This provision also envisages special arrangements for access to the profession of notary in Trentino-Alto Adige.

131. Also noteworthy is Act No. 129 of 23 April 1998, concerning “The Ratification and execution of the Treaty between the Italian Republic and the Republic of Croatia concerning the rights of minorities, done at Zagreb on 5 November 1996”, and Act 38 of 23 February concerning “Provisions for the protection of the Slovenian linguistic minority in the Friuli-Venezia Giulia Region”.

132. In this respect, Article 8§3 of Act No. 38/2001 envisages that, in towns or districts where a Slovenian minority is traditionally present, and which are included in the table drawn up by the Joint Committee for the problems of the Slovenian minority, official documents and provisions of any type intended for public use and drawn up on specially prepared forms, including personal documents such as identity cards and registry office certificates, should be issued, at the request of the citizens concerned, in both Italian and Slovenian as well as in Italian alone (...).

133. As to the media sector, the service contract, agreed by the relevant Ministry (Ministero delle Comunicazioni) and RAI-Italian RadioTelevision Ltd and covering the period 2003-2005, was confirmed by Presidential Decree on February 14, 2003. This Decree envisages the implementation of Act No. 482/99, while committing RAI to provide a programming respectful of linguistic minorities’ rights in the territories where they reside.

134. In particular, in order to broadcast programmes in the protected languages, within the framework of its regional radio and tv programming service, RAI is in a position to promote and sign agreements, at the regional, provincial or local levels, with the concerned authorities. The financial charges of these initiatives will be totally or partially apportioned to these authorities.

135. Along these lines, the legislation under reference envisaged also the establishment of an ad hoc commission, composed by the Minister of Communications and RAI, in order to identify RAI local branches for the promotion of recognised minorities-related services.

136. As provided for in Act No. 103/75, RAI broadcasts, on behalf of the Presidency of the Council of Ministers and under ad hoc agreements, radio and television transmissions in German and Ladin for the Autonomous Province of Bolzano, in French for the French-speaking community of Valle d'Aosta Region and in Slovenian for the Slovenian speaking community located in Friuli Venezia Giulia.

137. At present, by adopting the cited Act, 171 projects were undertaken in the year 2001, while 294 in the year 2002. These projects mainly aimed at establishing linguistic information desks equipped with information systems, and staffed with interpreters and translators were launched in several municipalities. The aims and the outcome of these projects were included in the Second Ad Hoc Report, drawn up by the Ministry of the Interior in line the Framework Convention for the Protection of National Minorities.

### **3.2 Religious communities**

138. According to a CESNUR (Centre for Studies on new Religions) survey, 97,6% of the Italian Population is Roman Catholic (56.258.000). These figures shouldn't lead into thinking that the religious panorama of our country is homogeneous and undivided. The residual percentage, represented by citizens of other religious Denominations, is largely variegated and in continuous growth. A decisive boost in that direction was given by the increasing phenomenon of immigration in our country, especially of Muslims, Hindus and Buddhists. The overall estimate - there are no conclusive data since privacy laws hinder the assessment of religious affiliations - shows that Italian citizens professing other religions account for more than 1.100.000, 230.000 of which are Jehovah's Witnesses, 363.000 Protestants, 30.000 Buddhists, 30.000 Jews, 30.000 Muslims, only to name a few. There are also immigrated religious groups, that amount to 1.281.490 Catholics and other Christians, 824.343 Muslims, 110.000 of Asiatic religions affiliation, and more than 297.071 of other religions or not religious at all (source: Caritas 2004).

139. If we focus on religious discrimination, two particular aspects emerge: anti-Semitism and Islamophobia, both fed by prejudice against minorities living in Italy.

140. While anti-Semitism has its roots in long-standing racial persecutions, the emergence of prejudice against Islam has coincided with the growing numbers of immigrants arriving from predominantly Muslim countries.

141. Although it is not possible to quantify the phenomenon, on the basis of the available data the general characteristics of discriminatory behaviours directed against religious minorities can be identified.

142. When we speak of anti-Semitism, it is difficult to distinguish whether people are discriminated against because they belong to the Jewish faith or because they are in some way identified with the State of Israel. In both cases, anti-Semitism is generally linked with the presence of extremist political groups and "nazi-skins" mingling with extreme football

supporters' groups. The world of football is particularly prone to displays of racism, with the use of expressions denigrating the Jewish people and their history. Anti-Semitic conduct tends to be expressed through graffiti, with slogans and swastikas, and through episodes, small in number but serious, of violent aggression against symbols of the Jewish world (El Al, the Museum of the Liberation, a cinema showing a film on the Nazi persecution of the Jews). To prevent and combat this phenomenon, the Italian Government, at both the central and local levels, has taken many initiatives, often with a vital input from the Jewish community. It has been established by law that 27 January, the day the gates of the Auschwitz concentration camp were opened, should be dedicated each year to the memory of that and similar experiences in the history of mankind.

143. With respect to the Muslim community, it is said that in the space of a decade this has become the second largest religious community after the Christian-Catholic one. In terms of numbers, of course, the two are hardly comparable: a few hundred thousand against tens of millions. And yet this claim has been enough in itself to create a climate of suspicion and fear that has implications for the co-existence of people of different beliefs. The appalling acts of terrorism of 11 September 2001 reinforced many fears and prejudices, the immediate result of which was acts of aggression against things and people, which did not however compromise co-existence over the longer term. The European Monitoring Centre on Racism and Xenophobia, which monitored the situation in all European Member States, noted a harshening of language and an irresponsible instrumentalisation of the events of 11 September for political ends.

144. The representatives of the various faiths, on the other hand, conducted themselves with great responsibility by firmly condemning the terrorist attack and taking concrete steps to encourage inter-faith dialogue.

145. Still in relation to the Muslim faith in European territory, the recent question of the display of crucifixes in public buildings, to which the Italian press devoted a great deal of column space, prompted extensive reflection on the need to reinforce inter-faith dialogue in our country. This was the gist of the comments made by the Minister of the Interior, Hon. Pisanu, who pointed out that the government was working to set up an Islamic consultative committee in order to foster mutual respect between the different religious identities, along with a commission entrusted, within the European framework, with drawing up a charter for inter-faith dialogue between nations and peoples. The Consultative Body was set up this year.

**(a) The legislation on religious freedom**

146. The practice of collective religious rights is ruled by the Constitution and by ordinary laws.

147. The Constitution grants fundamental rights and, among them, "equal liberty" of expression for all religious Denominations: freedom of assembly, freedom of the organization of religious association, freedom of rites. In fact, in addition to the articles concerning inviolable human rights, the Constitution provides the following articles on religious matters: Article 3 which states the principle of non discrimination for religious motivations; Article 8 which restates that religious Denominations are equally free before the law; Article 19 which affirms that everyone is entitled to freely profess religious beliefs in any form, individually or

collectively, to promote them, and to celebrate rites in public or in private, provided they are not offensive to public morality; and Article 20 which forbids any special legal limitations or special fiscal burdens at the expenses of religious associations and institutions with confessional aims.

148. These Constitutional clauses are generally respected; individuals can profess their religion (or no religion at all) without suffering any disadvantage in the enjoyment of their civil and political rights. Freedom of religious expression is limited only when a certain practice is deemed a threat to public order or decency.

149. In applying the principles of the Constitution, during the over fifty years of the Republic's lifetime the Italian legislative system has continued to evolve, through rulings by the Constitutional Court and ordinary laws which in various sectors (employment, the burial of the dead, the slaughter of animals, places of worship, religious education) have introduced and extended increasingly specific measures guaranteeing the rights of freedom, including through the ratification of international provisions on human rights. In addition to a legislative framework that, by encouraging the exercise of the fundamental freedoms, contributes to preventing all forms of discrimination, the Italian legal system also envisages laws that expressly prohibit discrimination, including on religious grounds.

150. More specifically, the provisions envisaged by the New York Convention of 1966 on the elimination of all forms of racial discrimination was transposed and amended by Decree Law No. 122 of 1993, which extended the prohibition of discrimination on racial and ethnic grounds to include religious grounds, and introduced criminal penalties for the dissemination of ideas based on racial hatred and violent conduct inspired by racism.

151. Religious discriminations are also dealt with by the Consolidated Text No. 286/1998. Articles 43 and 44 define which behaviour from private citizens and public administrations can be considered discriminatory for reasons of race, colour, national and ethnic origin, religious practices and convictions and customs", and identifies civil actions that can be carried out to sanction such behaviour.

152. The Government Bill containing provisions on religious freedom and the repeal of the legislation on authorised religions is currently under discussion in the Chamber of Deputies (A.C. 2531).

153. In an appearance on 23 November 2004 in the Chamber's Constitutional Affairs Committee, in the session for consideration of the bills on religious freedom, the Minister of the Interior stated that from this provision "we should expect the identification of a set of principles and rules for individual and collective conduct in which is expressed individuals' conscience in religious matters, which are at the same time consistent with the values of the Italian Constitution and international agreements. The provision under consideration by the Chamber should moreover enable the Ministry of the Interior, which also carries out complex and delicate administrative work with respect to civil liberties and immigration problems, to increase its knowledge and understanding of phenomena connected with the social integration of the great majority of Muslim immigrants who come to our country solely to work, in full respect of our laws and values".

154. The Bill was drawn up by the Commission for Religious Freedom, which is part of the Prime Minister's Office and has been entrusted with the task of studying questions regarding the implementation of the principles of the Constitution and international conventions in matters concerning freedom of conscience, religion or beliefs.

155. The objective of the Bill is essentially the protection of religious freedom for individuals and religious associations and organisations. Another aim of the Bill is the repeal, with a view to harmonising the framework of Constitutional law, of the provisions on the exercise of faiths other than Catholicism that are defined as "admitted" (Act No. 1159 of 24 June 1929 and related regulations). The Bill also envisages the formal implementation of Article 8§3 of the Constitution by giving substantive form to the declaration of freedom for religious denominations and establishing effective relations between them and the state. The Bill consists of four chapters: the first regards freedom of conscience and religion, the second deals with religious denominations and their legal recognition, the third covers the procedure for drawing up the relative agreements, while the fourth contains final and transitional provisions.

156. Chapter I of the Bill is intended to implement in full the Constitutional guarantees of individual and collective rights to religious freedom, linking these guarantees with the provisions contained in international conventions on human rights that have been signed and ratified by our country but not always fully incorporated in our domestic legislation.

157. Chapter II, which is dedicated to religious denominations and associations and their legal recognition, explicitly affirms the recognition of the rights to which all religious faiths are entitled - implementing the guarantees of freedom and equality sanctioned by the Constitution - such as the right to: celebrate their rites; open religious buildings; propagate their faith; freely train and appoint ministers; freely disseminate doctrine on spiritual matters; provide spiritual assistance for their members; communicate and correspond freely with their organisations or with other denominations; and promote their cultural values. The Bill also provides for the necessary judicial instruments, starting from legal personality, in order to act in the various sectors of community life and proprietorship. The Bill also sets forth the procedure to be followed to obtain recognition of legal personality and to simplify matters keeps any checks and verification within strictly institutional limits.

158. Chapter III defines the procedure for drawing up agreements between the State and denominations other than Catholicism as envisaged by Article 8§3 of the Constitution by transforming an established practice into legislative form. The Bill envisages that an application to draw up an agreement may also be submitted by denominations that have not obtained legal personality, subject to more detailed investigation by the Ministry of the Interior.

159. In order to implement in full the Constitutional principles relating to religious freedom, including for denominations that have not entered into agreements with the state or do not intend to do so, a number of provisions contained in the various understandings already approved by law have been incorporated in the Bill. These will be valid for all denominations, with only those aspects linked to features specific to their faith being left to negotiation with individual denominations.

160. The census of religious organisations present in Italy, which was carried out with the cooperation of the Prefects' Offices, has been replaced by a publication entitled "*Confessioni*

*religiose, movimenti e altre organizzazioni di culto in Italia*” (“Religious Faiths, Movements and Organisations in Italy”). An important feature of this publication is that the religions featured have each contributed a section on their history and the religious principles from which they draw their inspiration.

**(b) Agreements with faiths other than Catholicism**

161. Prior to the Constitution’s adoption on December 1947, the country’s relations with the Catholic Church were governed by a 1929 Concordat, which resolved longstanding disputes stemming from the dissolution of the Papal States and established Catholicism as the country’s State religion. The Concordat of 1929 have been into force until the revision of 1984, which formalized the principle of a secular State but maintained the practice of State support for religion (catholic teachers paid by the State, civil effects of religious marriages, 0,8% of taxes devoted by citizens directly to the Churches).

162. Article 8§3 of the Constitution affirms that religious Denomination other that Catholic Church have the right to organize themselves according to their own Statute, and also that their relationship with the State is regulated by law, based on *Intesa*. The *Intesa* extends to the religious Denomination all the privileges recognized to the Catholic Church such as: spiritual assistance to all people living in hospitals, prisons or in the army by allowing their religious ministers automatic access to these institutions. The *Intesa* also allows for civil registry of religious marriages; facilitates special religious practices regarding funerals; recognizes special holidays and festivities of each Denomination; allows the voluntary donation to the Church of 0,8% from State taxes.

163. In the first phase of implementation (in the eighties) of this norm, after a long period of non-fulfilment, an experimental procedure has been carried out in order to verify the right instruments for the realisation of the Constitutional provisions. Only after the adoption of Act No. 400/1988, and later of the Legislative Decree No. 303 of 1999 (*concerning the Presidency of the Council of Ministers’ organization*), the procedure carried out by the departments of the Presidency of the Council of Ministers’ has been turned into law. This process of defining organisms and procedures to deal with this matter has been exemplified by the Bill AC 2531, which fully regulates the different phases of the agreements, albeit maintaining the principle adopted by the doctrine, that there is no need for the Government to reach an agreement since it is considered a political act, and therefore depends on the political evaluations and decision of the Executive.

164. Since the eighties, relations with non-catholic churches have been developed successfully, thanks to the will of Governments on force. For that purpose, a Commission has been set up at the Presidency of the Council of Ministers in the early eighties, and is still working today.

165. The “**Commission for *Intese* with Religious Denominations**”, based at the Presidency of the Council of Ministers’ and initially set up under the Presidency of Prof. Francesco Margiotta Broglio, has the task to draw up the operative guidelines for the implementation of agreements. Members of the Commission were initially academics and the Director General for Religious Affairs at the Ministry of the Interior. At present, Prof. Francesco Pizzetti heads the

Commission, and the composition has been enlarged to all the Government departments most involved in the procedure of “Intese”, such as the Ministry of Interior, Economy and Finance, Defence, Justice, Education, Health and the Ministry of Culture.

166. Before proceeding to an *Intesa* with a religious Denominations, the ad hoc Commission requests the opinion of the “**Advisory Commission for Religious Freedom**”, set up in 1997 in the Presidency of the Council of Ministers. The Commission for Religious Freedom, chaired by Professor Margiotta Broglio and composed of academics with expert knowledge in this field, is responsible, among others, for the examination of problems concerning the drawing up of agreements, working out general guidelines for each ratification.

167. To date, *Intese* have been implemented and approved by law, pursuant to Article 8 of the Constitution, with Churches represented by the “Waldesian Church”, the Assemblies of God in Italy, the Union of seventh day Adventist Christian Churches; the Union of Italian Jewish communities; The Evangelical Baptist Christian Union of Italy; The Lutheran Evangelic Church in Italy. *Intese* with the Christian Congregation of Jehovah’s Witnesses and the Italian Buddhist Union have been signed, but not yet approved by law.

168. According to the procedure followed to date, the Government has taken into account, in order to draw up the *Intese*, requests from Denominations which had acquired Legal Status in accordance to Act No. 1159 of 1929, and under positive advise of the Council of State. This, in fact, evaluates the compliance of each Denomination’s Statute with the Italian Legislation.

169. *Intese* signed to date are similar in content. In particular, every respective preamble contains general declarations, designed to show the positions of each Denomination on issues it considers as fundamental. Agreements generally include:

- Provisions for spiritual assistance in collective institutions, such as armed forces, hospitals, prisons;
- Provisions concerning education, aiming at guaranteeing the right for students not to participate in religious classes, and the possibility for the schools to respond to eventual requests by students and families, introducing the teaching of one specific religion and explaining its implications; the recognition of diplomas issued by theological institutes and the right to freely set up schools of any order or degree, and educational institutes, according to the Italian educational system;
- Provisions aiming at the recognition of civil effects of marriages celebrated before ministers of religion of the respective Denominations;
- Provisions ruling the recognition of every body belonging to Denominations, and its fiscal treatment;
- Provisions on financial relations between the State and the religious Denominations, along the lines of the system delineated by Act No. 222 of 1985, on the basis of the 1984 Concordat with the Catholic Church. According to such provisions, non-Catholic religious Denominations are entitled to a share of the 0,8 % of taxes

devoted by citizens directly to the Churches and their proselytes can deduct from taxes the offers to the Denominations, up to a ceiling of one thousand of euros, roughly;

- Provisions for the protection of buildings meant to be places of worship, and the protection and enhancement of assets belonging to the cultural and historic heritage of each Denomination, guaranteeing their cultural identities;
- Provisions for freely exercise their cult by ministers of religion appointed by the respective religious confession Denomination;
- Provisions for the recognition of religious festivities of each Denomination, including, for some, the sabbatical day of rest, guaranteeing arrangements for a flexible work organisation and the requirement to make up for the working hours not implemented;
- Provisions on funerals, in respect to every Denomination's religious prescriptions, provided that it is compatible with mortuary police's regulations.

170. Religious Denomination with Legal Status to date:

<ul style="list-style-type: none"> <li>– Chiesa ortodossa russa in Roma, R.D. 14/11/29 No. 2368</li> <li>– Comunità armena dei fedeli di rito armeno georgiano, D.P.R. 24/02/1956 No. 681</li> <li>– Ente patrimoniale dell'Unione Cristiana Evangelica battista d'Italia, D.P.R. 20/01/61 No. 19</li> <li>– Chiesa ortodossa russa a San Remo, D.P.R. 30/07/66 No. 895</li> <li>– Fondazione dell'Assemblea spirituale nazionale dei Bahai d'Italia, D.P.R. 21/11/66 No. 1182</li> <li>– Movimento evangelico internazionale Fiumi di Potenza, D.P.R. 10/09/71 No. 1182; D.P.R. 20/01/90 for transfer of premises and new Statute</li> <li>– Centro islamico culturale d'Italia, D.P.R. 21/12/74 No. 712</li> <li>– Congregazione Cristiana Evangelica Italiana, D.P.R. 26/10/76 No. 925</li> <li>– Chiesa di Cristo di Milano, D.P.R. 13/06/77 No. 702</li> <li>– Ente patrimoniale dell'Unione Italiana delle Chiese Cristiane Avventiste del 7° giorno, D.P.R. 13/04/79 No. 58</li> </ul>	<ul style="list-style-type: none"> <li>– Unione Buddhista Italiana, D.P.R. 03/01/91, D.P.R. 15/06/993 for transfer of premises and new Statute</li> <li>– Ente patrimoniale della Chiesa di Gesù Cristo dei Santi degli Ultimi Giorni, D.P.R. 23/02/93</li> <li>– Ente patrimoniale della Chiesa Apostolica in Italia denominato Fondazione Apostolica, D.P.R. 21/02/99</li> <li>– Associazione "Santacittarama", D.P.R. 10/07/95</li> <li>– Ente Cristiano Evangelico dei Fratelli, D.P.R. 13/11/97</li> <li>– Associazione cristiana ortodossa dei Santi Agapito Martire e Serafino di Sarov, D.P.R. 14/01/98</li> <li>– Fondazione di culto Ente della Chiesa della Fratellanza nella realizzazione del sé (S.R.F.), D.P.R. 03/07/98</li> <li>– Sacra Arcidiocesi Ortodossa d'Italia ed Esarcato per l'Europa Meridionale, D.P.R. 16/07/98</li> <li>– Istituto Italiano Zen Soto Shobozan Fudenji, D.P.R. 05/07/99</li> <li>– Chiesa Ortodossa Russa di Rom, D.P.R. 20/07/99</li> </ul>
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– Chiesa Cristiana Millenarista, D.P.R. 17/05/79 No. 279	– Fondazione religiosa buddista, denominata F.P.M.T. Italia
– Assemblee di Dio in Italia, D.P.R. 23/06/81 No. 430	– Fondazione per la preservazione della tradizione Mahayana, D.P.R. 20/07/99
– Congregazione Cristiana dei Testimoni di Geova, D.P.R. 31/10/86 No. 783	– Consulta Evangelica, D.P.R. 13/09/99
– Chiesa del Regno di Dio, D.P.R. 16/12/88	– Chiesa Cristiana Evangelica indipendente di Berea, D.P.R. 25/10/99
– Chiesa Cristiana Evangelica Missionaria Pentecostale, D.P.R. 16/12/88	– Istituto buddista italiana Soka Gakkai, D.P.R. 20/11/00
	– Unione Induista Italiana, D.P.R. 29/12/00

### 3.3 Roma populations in Italy

171. The Roma populations cannot be considered as a group which is practically segregated from the rest of the population, since the Italian legislation provides for specific measures in their favour, including enrolment in the registry office, freedom of movement, work licenses and education. In practical terms, Italian legislation does not provide for any distinction among citizens on the grounds of their ethnic, linguistic or religious origins.

172. The basic legislation on the protection of minorities, approved in the framework of the fundamental linguistic unity expressed by the Italian language, was adopted with the aim of protecting the language and culture of Albanian, Catalan, German, Greek, Slovenian and Croatian populations, as well as those of French - Provençal, Friulan, Ladino, Occitan, Sardinian - speaking communities. In practical terms, while enforcing Article 6 of the Constitution, which stipulates that “the Republic protects linguistic minorities by means of ad hoc legislation”, an organic legislation for the protection of historical linguistic minorities was adopted with the aim of fully implementing the general principles established by the European and the International Organisations to which Italy is a member. During the debate at the Parliamentary level, the situation of Roma populations was excluded from the cited legislation because of the opportunity of proposing and approving an ad hoc Act, in line with the specific aspects of this minority, if compared to the protection provided for the so-called “historical ethno-linguistic minorities”. In fact the basic criteria for the label of “linguistic minority” depend on the stability and the duration of the settlement in a delimited area of the country, which is not the case for Roma populations. The formulation of an appropriate legislative measure would enable to equalize the status of half of the approx. 150.000 Roma populations resident in Italy to that of the Italian citizens. As regards the remaining Roma populations - characterized in all cases by nomadism, they already enjoy the right to freedom of movement and circulation while, if composed from citizens of the European Union, they are under the rules regulating the stay of foreigners, if composed from no EU citizens.

173. As regards the specific issue under consideration, Roma **holding Italian citizenship** have the same rights and duties as other citizens: while those who are citizens of other European Union countries enjoy full rights of free movement. Roma who are citizens of other countries are subject to the provisions governing residence in Italy for foreign nationals. Specific initiatives have been adopted to enable Roma with Italian citizenship to enjoy certain fundamental rights, such as enrolment at the registry office, free movement, work permits and

education. The Minister of the Interior has, on several occasions, issued circulars drawing the attention of Prefects and Mayors to the situation of travellers and the need to foster their inclusion in society, with a view to overcoming all those obstacles that stand in the way of their participation in the life of the country. The Circular on the “Problems of Nomads” issued on 11 October 1973 (MIAC 17/73) alerted Mayors to the need to facilitate the registration of Roma families in the population registers and the delivery of health services and the issuance of work permits. Mayors were also alerted to the need to abolish any bans on encampments that apply only to nomads, since such bans are in clear contradiction of the principles of equality and free movement of citizens in the territory of the Republic established by Articles 3 and 16 of the Constitution. The establishment of settlements should be facilitated by setting up special campsites equipped with the essential utilities. The same principles have been reiterated in MIAC Circular No. 15185/85 of 15 July 1985, entitled “The Problems of Gypsy Communities”, which pointed out that the camp clearance orders issued by mayors for reasons of hygiene were not appropriate.

174. Those Roma populations **who do not have Italian citizenship** face some difficulties when applying for the release of stay permit or for their *naturalisation*. That is why the relevant legislation includes the release of a working contract among conditions and pre-requisites. Therefore, some difficulties are due to getting a job. They may also entail some difficulties as to the access to health-care services and to education. In practical terms, in order to obtain a stay permit, it is necessary to get a job. Thus, when Roma populations face difficulties when applying for the release of a stay permit, this is not a matter of discrimination but of lack of a basic condition, as envisaged by Act No. 189/2002.<sup>18</sup>

175. With regard to the circumstance that no stay permits are released for Roma populations, mention shall be made of the necessary conditions for their release, which do not differ from the rules set out for aliens, apart from the country or ethnic, linguistic or religious group of origin. The basic principles are: the evidence of the regular entry into the territory, a regular work contract, to have come for study and health reasons, or family reunification with a family member who is regularly resident in Italy. Moreover, domestic legislation provides for the possibility of challenging each decision regarding the release of stay permits, as well as the subsequent expulsion measures. The remark concerning the fact, that people of the Roma populations scarcely use the opportunity to regularize their own position on the territory, doesn't seem to show that there is a sort of discrimination against them. Employers were the main actors of the recent regularization too, which did not provide for any distinction among aliens. The fact that a scarce percentage of Roma populations has enjoyed this procedure, can only lead to the assumption either of the lack of an effective contract of work or of existing previous convictions.

176. With regard to **the improvement of living conditions** of the Roma populations, as laid down in Title V, Chapter III and IV of the Consolidated Text No. 286/1998 as amended and integrated by Act No. 189/2002, this is a competence of Local Bodies. Since 1984 many Regions, in compliance with the Recommendations and Resolutions of the Council of Europe in particular, have issued laws in favour or protection of Romanies and Sintes and their culture. These are, in chronological order: Veneto, Lazio, Autonomous Province of Trento, Sardinia, Friuli-Venezia Giulia, Emilia-Romagna, Tuscany, Lombardy, Liguria and Piedmont, while the Marche Region included them in a law of wider scope that also encompasses emigrants, immigrants, and refugees. Some Regions have amended their initial laws, either in part, as in the

case of Emilia Romagna, or in full, as with Tuscany, to better adapt them to the new situations following the immigration of foreign Roma and their increased propensity to settle in one place rather than travel. Furthermore it must be mentioned the creation of a Table of coordination on the issue Roma within the Department for Regional Affairs, in which representatives of all Ministries will take part with the purpose to draft a bill to regulate the presence and the situation of Roma populations in Italy. In this regard, local institutions are still proceeding with the adoption of all pertinent interventions, in particular those ones on the situation of the campsites. Within this framework, as a good practice, mention shall be made of the initiative agreed upon between the Prefecture of Naples and the relevant local bodies, aiming at setting up small camps: this is a positive trend which proves to be more functional and more bearable from the point of view of the housing arrangement. Similar initiatives are going to be implemented in Milan and in Rovereto. It must be pointed out the situation of the unauthorised “Casilino 900 camp”, and the outstanding efforts made by the Municipality of Rome to carry out rearrangement works of this area. The “Casilino 900 camp case” does not reflect all the integration initiatives, promoted by the Local Institutions, in tandem with the civil society (and positively started in several camps where the relevant structure and organization seem to meet the needs of the several communities). Within the framework of the “Permanent Conference”, as set up in the Territorial Government’s Office - Prefecture of Rome, several initiatives and projects have been planned, that have to be defined with the relevant Bodies and Agencies, and focus on integration measures for the Roma populations who live in several camp-sites of the capital.

177. As to the issues regarding the Roma children **access to education**, it has to be outlined that Roma students have the right and the duty to fulfil their scholastic obligation as all other students, according to the Italian legislation which does not discriminate between Italian and foreign students, legal or illegal ones. Moreover, proposals have been presented in the Chamber (A.C.225 and A.C.895 presented on 30 May 2001 and 19 June 2001 entitled “Protection of the right to nomadism and the recognition of gypsy populations as linguistic minorities” and “Recognition of the Romany, Sinte and Traveller communities”), as well as a Bill presented in the Senate (A.S.447, presented on 11 July and entitled “Framework Law to foster the education, occupational training, access to employment and housing of members of nomad communities and regulate their presence on Italian territory”). These instruments envisage, *inter alia*, the creation of equipped stopover areas and transit areas and place a particular emphasis on the question of school attendance by minors. To this end they envisage the creation of educational training courses designed to meet the needs of these populations. It is worth stressing that with the Legislative Decree adopted on March 2005 the scholastic obligation was extended to all the youth of 18 years old. However, even though the school institutions are willing to take care of them, this population actually shows a scarce inclination towards integration (including the school community) and, consequently, the inborn tendency to refuse the regular attendance at school in the places, in which they settle temporarily. In order to promote a relevant attendance at school, the Ministry of Education has allocated specific financial resources for the schools affected by high percentage of immigrants, including Roma students, in order to implement educational activities aiming at favouring their effective integration. Moreover, by means of cooperation measures with relevant Bodies, representatives of Associations, civil society at large, and schools organise all those extra-curricula activities with the aim of enhancing the attendance of Roma students. The Ministry of Education gives periodical instructions in order to finalise the use of the allocated funds. From data collected by the same Ministry, in the school years 2003-2004, a high number of Roma students attended school nation-wide, as follows:

1456 in the kindergartens; 5175 in the primary school; 2591 in the middle school; 84 in the secondary school. In particular, to boost the scholastic attendance of Roma children the Ministry of Education gives financial resources to schools where there are also Roma pupils in order to fund educational supplementary activities thus promoting a better integration of these pupils. Furthermore, in co-operation with authorities and representative associations, NGOs and other local bodies, the schools themselves organise all those collateral activities functional to the enhancement of the attendance of Roma children. An example can be the project of compulsory education for Roma children promoted by the Municipality of Rome from 2005 to 2008. During the hearing of January 2005 within the anti-discrimination and anti-Semitism Committee, after complaining about a situation of affliction and explaining the problems giving rise to feelings of discrimination among the Roma, the President of 'Opera Nomadi' had the opportunity to agree, directly with the representative of the Ministry of Education, a member of the Committee himself - on the resumption of the talks, once suspended, for the definition of a specific 'Protocol of Agreement' on schooling of Roma children: the relevant document has been signed recently, after having been discussed and adjourned in the previous legislature.

178. Employers have been the main actors of recent regularization procedures, which did not provide for any distinction among aliens. As to the issue of **employment**, Ministry of Labour and Social Policies concluded "Programme Agreements" with different Regions, with the main purpose of starting experimental projects and innovative methods to facilitate the integration of Non-EC immigrants, including the Roma populations, who regularly stays in our country. In particular, some funds have been allocated for projects to be implemented at the relevant information desks concerning the access of aliens to territorial services. Funds were allocated for the implementation of the project entitled "Initiatives against Social Exclusion and for women's empowerment". This consists of activities of reception, accompany, and cultural mediation, labs in Italian language, a legal service, workshops and vocational training and work orientation services.<sup>19</sup>

179. As to the **health** issues, this is to point out, that the specific rules in force regarding the health care in favour of aliens, set out in the Consolidation Act on immigration, provide for the obligation of registration in the National Health Service for those aliens having a regular permit of stay, as well as equal treatment and the same rights and obligations as the ones provided for with respect to Italian citizens; these rules also ensure the urgent or, in any case necessary, even if continuative, ambulatory and hospital treatments, on the grounds of illness and accidents, in the public and recognized structures, in favour of foreign citizens who are not in compliance with the rules concerning the entry and the stay; moreover, they ensure the extension of the programmes of preventive medicine protecting the individual and collective health.

180. With this respect, the following aspects are ensured:

- Social protection of pregnancy and maternity, on equal treatment with Italian citizens;
- Protection of children's health, in compliance with the Convention on the Rights of the Child of 20 November 1989;
- Vaccinations according to regulations, to be carried out in the framework of interventions included in campaigns of mass preventive treatment authorized by the Regions;

- Interventions of international prophylaxis;
- Prophylaxis, diagnosis and care of infectious diseases and drainage of any relevant epidemic focuses.

181. Moreover, in the framework of the various interventions that are requested to overcome the marginalization of needy immigrants, the National Health Plan for the years 2003-2005 emphasizes the crucial role played by the access of immigrant populations to the National Health Service. This can be achieved by adapting the public assistance supply so as to make it open, easily comprehensible, actively available and in line with the needs of these new population groups, in compliance with the provisions included in the above named single text on immigration. This regulation, as said before, extends to illegal immigrants the entitlement to urgent and essential care and to continuity of care. The National Health Plan 2003-2005 also stresses the need, in this field, for both information campaigns addressing immigrant users concerning the services offered by Local Health Bodies and the identification within each Local Health Body of staff members particularly skilled and fit for this sort of relations. The National Health Plan 2003-2005 also specifies some priority actions concerning the following aspects:

- Improvement of the assistance to foreign women in pregnancy and reduction of voluntary pregnancy interruption;
- Reduction of the incidence of HIV, sexually transmitted diseases and tuberculosis by means of prevention campaigns addressing these populations;
- Realization of the same vaccine coverage of the child immigrant population as the one obtained for the Italian population;
- Reduction of accidents at work among immigrant workers, by adopting the same interventions reserved to Italian workers for this purpose.

182. As regards interventions by **police forces** in camps, no violations of law regulations by officers involved in controls and operations are reported since their interventions consisted in identification, tracing and expulsions of illegal immigrants, checks on the lawfulness of property or repression of ascertained crimes.

183. It should be pointed out, moreover, that all the services supplied in camps, with the exception of judicial police interventions deriving from orders to be executed in cases of flagrancy or executed by the **Judicial Authority**, are always carried out in compliance with orders issued by the *Questori* according to activities planned in agreement with the local Government Territorial Offices and concerned Municipalities.

#### **4. Trafficking in human beings: system actions and social protection programmes**

184. Italy, the first country to equip itself with specific, systematic legislation concerning the trafficking of human beings (Article 18 of the Consolidated Text No. 286/1998), has set up, through Act No. 228/2003, a Fund for Anti-trafficking Measures administered by the Department for Equal Opportunities. Italy has also drawn up more detailed provisions governing the crimes of reducing human beings to a state of slavery or servitude or maintaining them in such a state, and the trafficking of human beings, thus further refining the provisions of the criminal code.

185. If we focus on the trans-national dimension of the phenomenon and the importance of international cooperation to achieve more effective preventive action, Article 14 of Act No. 228/2003 commits the Department for Equal Opportunities and the Ministry of Foreign Affairs to promoting meetings and information campaigns, including in the countries of origin of the victims of trafficking. In the light of these objectives, the provision also envisages that the Department for Equal opportunities, together with the Ministry of the Interior, the Ministry of Justice and the Ministry of Labour and Social Policies, should organise training courses for operators engaged in combating trafficking. These initiatives will be inserted in the Ministry's programmes for the coming three years.

186. It is worth noting that to provide a new impetus to the fight against trafficking between the two shores of the Adriatic, on 1 April 2005 the National Anti-Mafia Directorate signed a judicial cooperation agreement with the legal authorities in Macedonia.

187. With a view to implementing measures aimed not just at providing concrete support for the repression of this criminal activity but also at carrying out preventive actions and providing assistance for the victims of trafficking, the Ministry of the Interior - which as far back as 1995, in considering the question of initiatives to incentivise, encourage and protect those seeking to escape from the cycle of forced prostitution and slavery, devised and promoted Article 18 - has launched a number of innovative projects in recent years.

188. These are intended firstly to facilitate the voluntary return to their countries of origin of those victims of trafficking who, in the process of freeing themselves from the state of exploitation to which they have been subjected, collaborate with the police to help identify and capture their exploiters.<sup>20</sup> And secondly, they are intended to contribute - in cooperation with the authorities of the countries of origin and with the specific objective of providing accurate and targeted information to prevent the risks connected with clandestine immigration - to creating the necessary conditions in these countries for the protection of potential victims.

189. In the law under consideration, the provisions designed to provide social protection and assistance for the victims of trafficking are therefore of particular importance. To enable them to truly free themselves from exploitation it is vital to provide them with alternative forms of support, information and guidance.

190. One of the key instruments to achieve this end is the Fund for Anti-Trafficking Measures established by Act No. 228/2003. The fund brings together the sums allocated by Article 18 of the Consolidated Text No. 286/1998 and the proceeds of the seizures ordered in the wake of conviction or the enforcement of sentences and is intended for the funding of social integration and assistance programmes for the victims of trafficking, as well as the other protection purposes envisaged by Article 18.

191. An Inter-Ministerial Commission set up in 1999 in the Department for Equal Opportunities has been tasked with directing, monitoring and programming the resources now grouped under the new Fund for the implementation of the projects. In the Decree of 23 November 1999 the Minister for Equal Opportunities identified the two types of programme that are eligible for financing:

- Social protection programmes to provide assistance and protection for the victims of trafficking;
- “System actions” to support the protection programmes through awareness-raising initiatives, surveys and research on developments in this area, as well as training activities for operators, technical assistance and project monitoring.

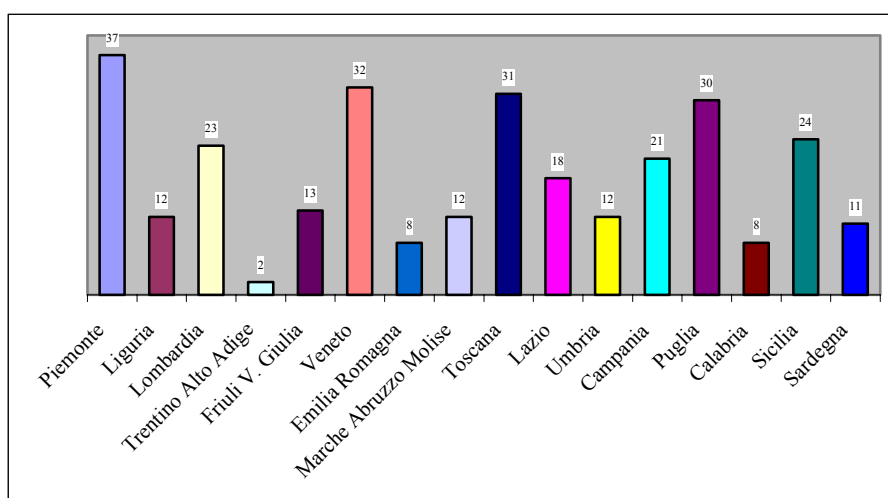
192. The various system actions that have already received funding from the Department for Equal Opportunities include the project coordinated by the Ministry of Justice for national monitoring of the activities and results achieved by the Public Prosecutor’s Office in its investigative activities.

193. More specifically, **from 1999 to 2005** the Department for Equal Opportunities issued **6 Notices**,<sup>21</sup> published in the Official Bulletin of the Italian Republic, for projects to be submitted in this context and co-funded **294** such projects countrywide from 1999 to 2004. In implementing the Ministerial Decree of 23 November 1999 containing information on the criteria and conditions for the selection of assistance and social integration programmes, the Department has co-funded three system actions and an information and awareness-raising campaign in addition to the above-mentioned projects.

194. The 294 social protection projects pursuant to Article 18 have been implemented by local authorities and private actors entered in section three of the Register of associations and bodies engaging in activities on behalf of immigrants, as envisaged by the Implementing Regulations (Presidential Decree No. 394 of 31 August 1999), Article 25 of which establishes that the projects “*shall be 70% funded by the State, with respect to the resources allocated to the Department for Equal Opportunities pursuant to Art. 58.2, and 30% by the local authority with respect to the resources for assistance*”. These projects have taken in and helped about **7,359** victims of trafficking, of whom **343** young people under 18 years of age.<sup>22</sup>

**Figure 1**

**Regional distribution of social protection projects - Article 18 of Legislative Decree No. 286/1998 (Total: 294 projects, 5 notices)**



*Department for Equal Opportunities*

195. The types of initiative implemented were particularly complex and delicate. This is especially true in view of the psychological isolation in which women victims of trafficking find themselves, coming as they do from situations of extreme social disadvantage and from circumstances marked by violence, marginalisation and abuse, and by high rates of unemployment, as in the case of the countries of Eastern Europe, and poor school achievement and attendance rates, in the case of Nigerian women.

196. In consideration of the diversity and differing degrees of difficulty of the psychological profiles of the victims of trafficking, each social protection project, which lasts on average one year, is adapted to the needs and requirements of the individual concerned and is generally intended to bring them to the highest possible degree of autonomy through a social-employment inclusion pathway.

197. Social protection projects are essentially divided into different related stages, which can be described in brief as follows:

- The first, mainly focusing on the physical and psychological recovery of the victim, envisages: a social protection and assistance pathway, which leads from the initial contact (through local “on-the-road” units, a toll-free phone number, police intervention, measures addressing clients, etc...) to forms of “protected reception” services in refuges, with families or in independent housing; obtaining a residence permit; legal aid; psychological support to regain their independence and social-cultural identity;
- The second stage, the main objective of which is integration and social inclusion, which envisages: actions designed for guidance and social-employment inclusion, through training courses, Italian language courses, “employment grants”, guided tutoring in firms, etc. In parallel with this the legal process can begin, with the victim bringing charges if appropriate.

198. During the first four years (from 2000 to 2004) we have seen the growth, not just in quantitative but also in qualitative terms, of projects to combat the trafficking of human beings by providing continuity not just in the projects themselves, but also in the experience acquired in the field, thus generating increased professionalism and expertise in the personnel involved.

199. The following table shows some of the most significant data concerning the victims of trafficking who were assisted and included in social protection projects from **March 2000 to March 2004** (Table 1):<sup>23</sup>

**Table 1**

No. of victims contacted and introduced to social services (health - psychological - legal)	No. of victims inserted in social protection projects	No. of victims started on training/literacy/study grants/employment	Job starts
29 097	7 359	5 865	3 734



### **How the initial contact takes place**

200. As shown in the table, the number of persons who came into contact with the projects over the period in question is fairly high. These initial contacts with the victims of trafficking, which are the first step in the social protection project, can take different forms. The most important are the “on-the-road” units, the toll-free phone number, the police, local institutions and other Article 18 projects. Of these, the “on-the-road” units play a key role. These contacts are important in laying the foundations for a relationship based on trust: operators working in the streets bring help, acceptance, assistance, information and someone to listen, without ever trying to force the issue but showing real interest in the individuals concerned. Another channel to establish contact with the social protection projects is through the police force, whose members have proved to be very effective not just in investigating and suppressing trafficking but also in the collaborative relationship that has been established between them and associations and other local actors. In the experience of the police forces, after an initial period of reception and assistance, the next step is informed participation in the social protection programme and effective collaboration with the investigative offices recording the charges and statements made by victims, and with the competent public prosecutors’ offices.

201. Another instrument for making contact with the social protection projects is the national toll-free number, which is intended primarily to guide and support the victims of trafficking to find a way out of their situation. The service not only provides information but also acts as a liaison with the local social protection services, in synergy with both public and private social services.

### **Accompanying victims in their contacts with the services**

202. The persons contacted by, or themselves making contact with, the projects, as described above, all receive an initial assistance, which in most cases takes the form of health, psychological and legal assistance. Very often, the victims need to be accompanied because they feel safer and more confident if there are operators acting as mediators with the services. For this reason, it is very important for operators to have the appropriate skills and the ability to communicate with the women and girls in question so as to foster a relationship built on trust.

203. In actual fact, accompanying victims in their dealings with the structures concerned is not just an assistance service but also an opportunity for meetings and dialogue by operators, cultural mediators and the people in need of help. During this process the conditions can be created to establish a deeper relationship, which can develop in various ways. These range from education to access to services, to requests for help to resolve more complex problems, such as how to find a way out of prostitution. Furthermore, as most victims of trafficking live in clandestine conditions, they do not turn directly to public health structures for fear of the legal consequences, or of reprisals by the traffickers. The services requested by the women are mainly for gynaecological check-ups and information on personal health and hygiene, contraception, abortion and sexually transmitted diseases.

204. The increase in requests for accompaniment by women and girls from the countries of the former Soviet Union, in part as a result of Russian language support and cultural mediation, is also worthy of note. Of particular interest is the progressive increase in the numbers of

Albanian-Romany girls seeking help, a difficult target group that presents many operational and methodological problems for operators and referents in the health service, linked mainly to cultural resistance and illiteracy.

205. As far as the national legislation is concerned, matters have improved in terms of health assistance for third country nationals not meeting the legal residence requirements. The STP Code (Straniero temporaneamente presente - Temporary Stay Foreigners) assigned by the Local Health Agencies (LHAs) enables foreign nationals to use the health service at no or reduced cost. An analysis of the data shows that, with respect to the past, health assistance for immigrants has come into line with the legislation, for example through the introduction of ad hoc contact points available even to illegal immigrants. However, there is still a lack of uniformity in the procedures for allocating and delivering services.

206. The other types of accompaniment envisage assistance with judicial-legal problems, and support and guidance in the regularisation procedure.

207. Psychological support and advice services consist primarily of guidance for the women in finding a way out of their situations and help in expressing and “processing” their experience, with a view to reviewing their emigration project.

#### **Nationality of trafficking victims taking part in the projects**

208. An analysis of the data for the first four years of the projects shows a more or less constant presence of women from Nigeria and the countries of Eastern Europe. More specifically, in recent years the trafficking in Albanian women has decreased while we have seen an increase in the numbers originating from other eastern European countries, particularly Rumania, Moldavia and the Ukraine.

209. Prostitution is by definition hidden and “unknowable”, and the recent tendency to use apartments and other private premises, rather than the streets, which are considered by the criminals involved in the trade as being less safe, makes it even more difficult to bring this underground world into the light of day. The girls live in conditions of illegality and the utmost psychological and physical dependence on their traffickers.

210. This is especially true for the girls of Eastern Europe, while the Nigerian girls are still put to work mainly on the streets. Prostitution “behind closed doors” also involves large numbers of South American women, and Chinese women have recently been noted too.

211. As regards the age of the women concerned, from 2003 to 2004 we saw not just a reduction in the average age of the victims but also an increase in the number of minors, to about 6.7% of the total. These younger girls are mainly from Eastern Europe, and Rumania in particular.

212. This trend emerges clearly and constantly if we compare the percentage figures for countries of origin in the projects implemented thus far (Figures 2 and 3).

Figure 2

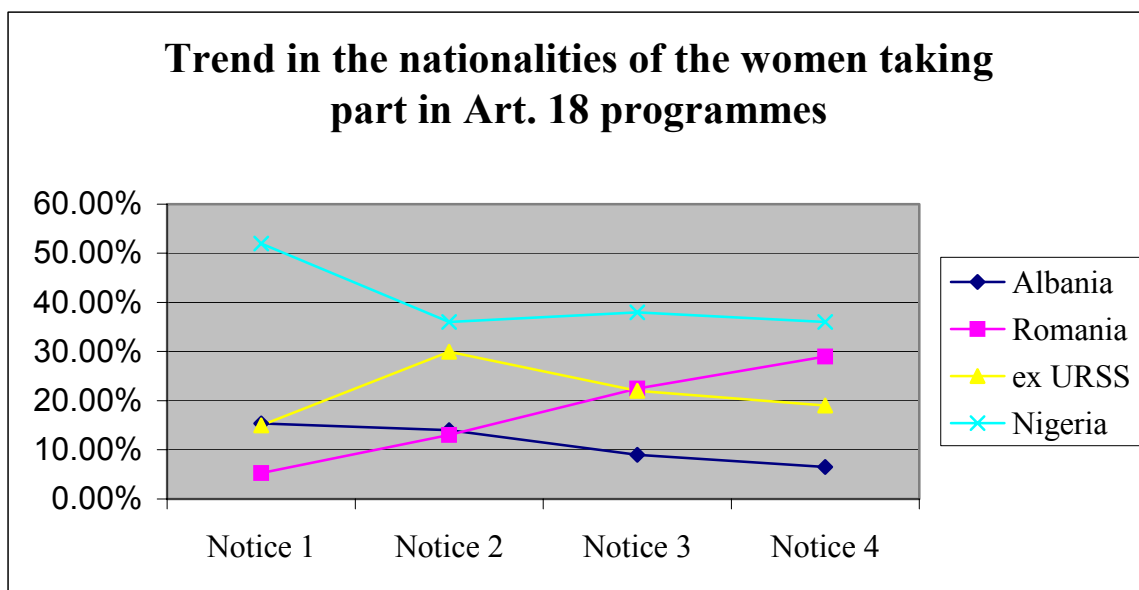
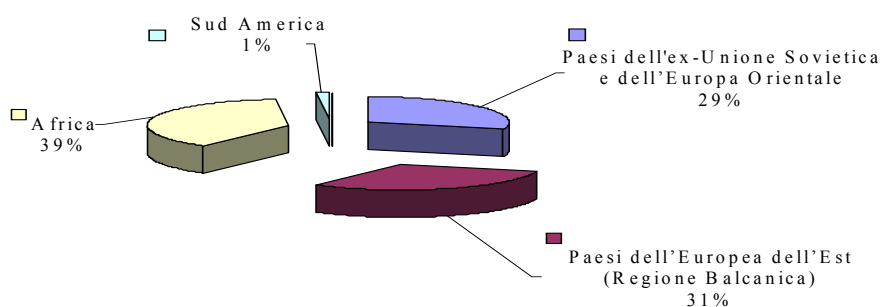


Figure 3

**Percentage breakdown of nationalities of women taking part in social protection programmes (2000/2004)**



### Types of reception services

213. As mentioned earlier, each social intervention is adapted to the needs and requirements of the individual concerned, in view of the diversity and difficulty of the psychological profiles of the victims. This is all the more true in the case of the various types of reception services (Figure 4).

214. Protected reception in refuges or initial intervention houses is the first and extremely delicate stage in the process of assessing and evaluating the victim's motivation in escaping from their situation.

215. From a methodological point of view, during this period various forms of psychological support are adopted, focusing on complementary objectives ranging from the motivational analysis of their “escape” from exploitation to an analysis of their needs, the recovery of individual potential, a re-elaboration of the traumatic experience they have undergone and their personal migration project.

216. Accommodation with families can be provided both in the initial “escape” stage or for longer periods, and is widely used for minors, for whom inclusion in a family environment is the most useful way of helping them attain independence.

217. These families are usually part of a network of volunteers and are aware of the problems involved. Even so, relations are not always easy.

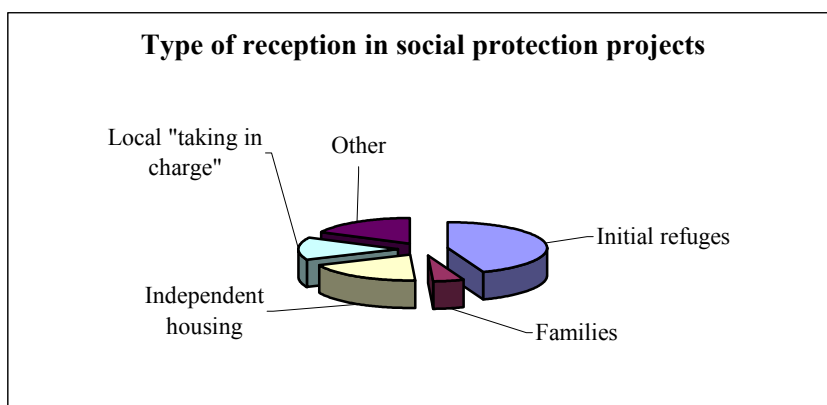
218. Independent accommodation usually takes the form of structures run by the women themselves for women who have completed their individual programme and/or who are using employment grants or awaiting job placement but are not yet economically independent. The transition to an independent house is envisaged when they enter employment. However, an analysis of the projects indicates that it is very difficult to find housing for girls who have attained some degree of independence, mainly because of the lack of cooperation by the local population, which is reluctant to rent accommodation to foreigners at reasonable rates.

219. A new form of reception, which was developed and tested in the first project notices issued, with good results, is “local taking in hand”. This is a form of semi-independent reception service: the women are not housed in a structure run by the association but live in the neighbourhood using their own resources, with constant support from an operator. This type of arrangement has proved to be particularly suitable for people who already have a degree of independence as a result of the social and emotional bonds they have established locally.

220. The women and girls “taken in hand” are supported and their circumstances monitored through regular meetings with cultural operators in special centres. Advisory, guidance, legal and social-psychological support services are also provided.

221. The women using this type of service are on average older than those in residential reception services or housed with families.

**Figure 4**



## Residence permits

222. In percentage terms, the number of residence permits granted saw a constant increase with respect to the number of permits applied for, in the course of the previous three Notices, with a slight dip in the latest year under consideration (Notice 4). It should be borne in mind that the data in our possession are not yet definitive, since some projects are still on-going (Table 2).<sup>24</sup>

**Table 2**

	Notice 1	Notice 2	Notice 3	Notice 4
Permits applied for	1 148	1 386	1 082	1 081
Permits issued	833	1 062	962	927
Percentage	73%	77%	89%	86%

## Social-employment inclusion

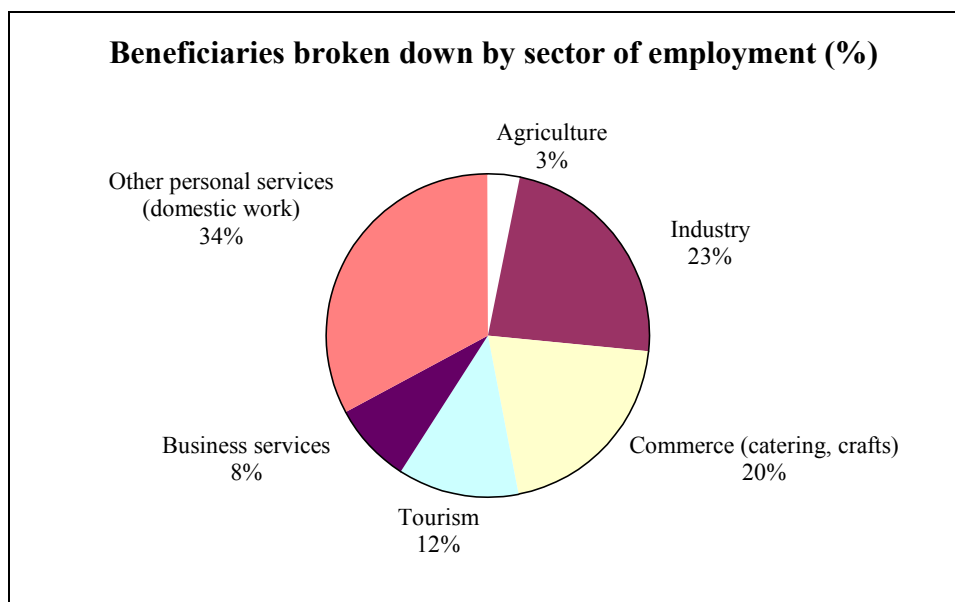
223. As shown in Table 1, a total of 5,865 people benefited from vocational training or educational services and employment grants. Those placed in employment amounted to 3,734 (Figure 4).

224. In general, it was found that the educational level of the girls and women from Eastern Europe was medium-high (senior high school), while that of Nigerian girls was low (compulsory schooling only, and in some cases illiteracy). This situation highlights the shortcomings in any vocational training they have initially received and the relative lack of skills immediately spendable in the local labour market. This is matched by a lack of general education and know-how, often at even the most basic level. In many cases vocational training is provided through personalised pathways of practical training through work placements (employment grants), for either short periods of 2-4 months or longer periods of a year or more. This arrangement offers the advantage of enabling the women to measure their capabilities in normal working environments, acquire the necessary knowledge and test their aptitudes and conduct. The effort to provide practical training through work placements, which helped a fair number to find jobs in industry or in commercial activities in the service sector, such as catering or crafts, brought particularly good results.

225. However, no small number of difficulties were encountered, both in finding firms willing to hire the women after their training period, and as a result of changes in the labour market that are making it increasingly difficult for people to be offered permanent contracts. The greatest difficulty, however, was in inserting the women concerned in a “normal” employment cycle, that is in a real, economically viable undertaking; they are often just “parked” in pseudo-jobs that can barely be distinguished from welfare and in most cases consist of domestic work or “personal services”. Overall, however, it was found that the main aim of the women taking part in the programmes is to find work, as they have their own migration projects aimed at attaining stability as quickly as possible so that they can provide support for family members in their countries of origin.

226. Moreover, the drive to find jobs in the shortest time possible is also dictated by the need to achieve “normal” status, in which case work becomes a means to rehabilitation. Once they find work, beneficiaries begin to see themselves as being able to perform a role other than prostitution.

**Figure 5**



### System-wide actions

227. In the context of the system-wide actions identified through the Ministerial Decree of 23 November 1999, issued pursuant to Presidential Decree No. 394/1999, the Inter-ministerial Committee has launched an awareness-raising campaign implemented initially through TV adverts broadcast on the RAI and Mediaset networks, radio ads, posters and stickers in the 10 languages of the major countries of origin of trafficking. This campaign also took the form of publicising the national Anti-Trafficking Toll-Free Number, which is a key instrument in enabling victims to enter into contact with people who can provide them with real, concrete help.

228. The Toll-free number (800 290 for callers in Italy) was formally launched at the end of July 2000 and is run from one national centre (with about 20 operators on call night and day) and 14 local bases (with about 80/90 operators working about six hours per shift).

229. The Department for Equal Opportunities has entered into agreements with the city councils of Naples, Palermo, Reggio Calabria and Cagliari and with Puglia Region, in which the “Anti-Trafficking Toll-free number” call centres will remain in place until 2006 (the agreements envisage overall funding of €420,000, of which 70% from the European Social Fund and 30% made available by national funding pursuant to Act No. 183/1997).

230. Local Toll-free call centres are therefore the responsibility of local authorities. To operate the centres, the local authorities call on the services of non-profit organisations and experts. The centres are located in a number of regional and inter-regional macro-areas where

social protections projects are also in place: this means that liaison and interconnection mechanisms can be put in place between services and victims. From July 2000 to December 2004 a total of 418,689 calls were taken.

231. The Department for Equal Opportunities also funded two other system actions, which will be described in more detail below. These are:

- **“The national monitoring of the results achieved by the public prosecutors’ offices in investigations arising from complaints regarding traffickers”**, coordinated by the Ministry of Justice with the help of Transcrime, the research institute based in Trento. According to this study, about 7,582 people were investigated/charged/convicted for crimes relating to trafficking for the purpose of exploitation from June 1996 to June 2001.<sup>25</sup>
- **“System-wide actions to encourage the voluntary return and re-integration of the victims of trafficking in their countries of origin”**, coordinated by the Ministry of the Interior, with the assistance of the IOM. The specific aim of this programme is to provide, in practicable form, the option of assisted voluntary return, as one of the protected social-employment re-integration pathways set up in the beneficiaries’ countries of origin. Since the start of the programmes in July 2001, to date, the programme has seen 160 cases of assisted repatriation.

## 5. Foreign minors in Italy

### 5.1 The population of foreign minors

232. In recent years the multi-ethnic and multi-racial nature of the population has become more marked in our country as a result of the increasingly strong migratory inflows. These have enabled the resident population in Italy to continue to grow in years that have seen a constant natural decrease (deficit of live births over deaths). The most rapidly growing component of the resident foreign population is composed of children. It should however be noted that Italy is in bottom place in Europe in terms of the number of resident foreign nationals, both overall and more specifically with respect to children.

233. At 2000 the 14<sup>th</sup> population Census, which provides the most recent data available, there were 284,224 foreign minors resident in Italy. In relative terms, they account for 21% of foreign nationals resident in Italy, with a fairly small regional variation: from 22.6% in the North-East to 22.3% in the North-West, and about 18-19% in the other parts of the country.

234. The geographical distribution of foreign children, as indeed of the foreign population as a whole, is concentrated in more economically developed areas of the country. For some years now, foreign nationals have been making up labour shortages in these Regions, especially in those sectors mainly requiring low-skilled manual labour, where the presence of Italian workers is becoming increasingly marginal.

235. The data for 2001 show that for every 1000 children resident in the North-East of the country, there are 49.6 foreign minors. The figure for the north-west is 46.3, followed at a short distance by central Italy with 38.8, with the South and Islands lagging considerably behind, at 7.3 and 8.7 per 1000.

236. At 31 December 2004 there were 91,170 children holding residence permits. If we examine the geographical distribution of minors with residence permits, their numbers are more concentrated in the Regions of the Centre-North (87%), against 13% in the South and Islands. The last available statistics on the reasons for stay, dating from 1 January 2000, show that over 70% of permits were connected with the presence of one or more family members on Italian territory.

237. If we speak of foreign children, however, or of immigrants in general, we risk portraying a uniform picture of a category that is, on the other hand, strongly heterogeneous.

238. Immigrant children come from a large number of countries of origin, while within immigrant families the presence of children, who may have come to Italy for family re-unification reasons, for example, varies according to nationality and reveals a range of different migratory strategies: for some countries the presence of significant numbers of adults is accompanied by a low proportion of children, a sign of temporary and less established migratory flows (as from Senegal), while for other nationalities the higher proportion of children is indicative of plans for longer or more settled stays in Italy (Morocco, Albania, China, CIS etc).

239. Most of the foreign children have ended up in Italy as a consequence of family decisions to migrate, resulting in the move of the entire family or else the birth of children in the destination country. There are also other reasons that can lead foreign minors to leave their country of origin after living there for several years, and move to Italy. This is often the case with unaccompanied foreign minors, to whom we will return later in this report.

## **5.2 Foreign minors and their right to integration**

240. The most recent legislative provisions (especially the Consolidated Text No. 286/1998 as amended and integrated by Act No. 189/2002), Prime Minister's Decree No. 535/1999 and Presidential Decree No. 394/1999 as amended by Presidential Decree No. 334/2004) point to a new model of integration that also has considerable repercussions on the circumstances of minors, both as the offspring of foreign nationals and as beneficiaries of specific protection initiatives. For the first time, the issue of immigration is being addressed from a different perspective that more closely reflects the reality of migration, which is now considered as a structural phenomenon in which minors, as such, are persons having rights and are probably those most in need of protection, so much so that Act No. 40/1998 devotes the whole of Title IV to them.

241. Moreover, the explicit reference to the Convention on the Rights of the Child of 20 November 1989 appears most timely, almost to demonstrate that the inspiring principle of our actions was to reinforce the universal nature of the rights of children. Article 28§3 of Legislative Decree No. 286/1998 (as amended) is illuminating in this respect. This provision, referring directly to Article 3§1 of the Convention, reiterates that in all administrative and judicial proceedings intended to implement the right to family unification and concerning



children, the greater interest of the child must be considered a priority. Another important new development is that the term “foreign child” refers not just to the legitimate or natural children of foreign parents, but also to any child entrusted to a foreign national under the terms of Act No. 184 of 4 May 1983.

242. Taking into account what have been defined the four key elements of the new policy governing migration, we can sum up the main new developments as follows, with the focus naturally on the status of children:

(a) Combating clandestine immigration. The new measures to combat clandestine immigration - as envisaged by Act No. 189/2002 amending and integrating the Consolidated Text No. 286/1998 - have placed more attention on foreign children, now considered as among the potential victims of illegal immigration, to the extent that increased penalties are envisaged in the event of illegal immigration specifically involving children. The legislator has taken into account the fact that foreign children are at risk of exploitation and enslavement, “prized merchandise” in our era’s new version of the trafficking in human beings. To protect the victims of exploitation involved in these forms of trafficking, the law envisages social protection measures and proposes protected insertion pathways (Article 18 of Legislative Decree No. 286/1998). On the issue of trafficking a new law, Act No. 228/2003, has recently been approved, which redefines the offences of enslavement, trafficking and the purchase and alienation of slaves. Act No. 228/2003 introduces stronger penalties for these offences, and envisages aggravating circumstances in the event that they involve children.

(b) Stronger guarantees for illegal immigrants, through respect for human rights. In this perspective, which encompasses many of the recommendations set forth in the principal international conventions, foreign children present in any capacity on Italian territory are guaranteed the fundamental rights such as health care and education during compulsory school-age. The upper age limit for the ban on expulsion has also been raised to 18.

With respect to unaccompanied foreign minors found on Italian territory, residence permits are issued following reports to the Foreign Minors Committee and are valid for the entire period required for inquiries to be carried out on the minor’s relatives in his/her country of origin (Article 28§1 (a) of Presidential Decree No. 394/1999 as amended by Presidential Decree No. 334/2004).

Again with respect to the situation of unaccompanied children, which will be discussed in greater depth later, the recent amendment of Article 32 of Consolidated Text No. 286/1998 (implemented with amendments by Act No. 189/2002) envisages that unaccompanied children who have been in Italy for not less than three years and included in social and civil integration projects for at least two years, on reaching majority age should, as long as no decision has been issued by the Committee for Foreign Children in their regard, be issued with a residence permit for reasons of study or access to employment (including self-employment), thus enabling them to stay in Italian territory even after reaching the age of majority.

In this respect, Presidential Decree No. 334/2004 amended Presidential Decree No. 394/1999, in that Article 22 (b) envisages the issuance, subject to the opinion of the Foreign Minors Committee, of a residence permit for the social and civil integration of the minor pursuant to Article 32§1-bis and 1-ter of Legislative Decree No. 286/1998 as amended.

(c) Foreign minors legally present in Italy for study, employment,<sup>26</sup> health, or family reunification reasons are also guaranteed full rights. With respect to family reunification, it is felt that the legislator's decision to recognise specific rights as applied to minors should be apparent from the provisions currently in force. More specifically, the law also envisages the possibility of applying for reunification with a natural parent for minors legally present in Italy.

Greater guarantees are also provided with respect to the issuing and renewal of children's individual residence permits, regardless of the legal status of, and choices made by, their parents. Of great importance is the introduction of a residence permit "whose holder may also be less than 14 years of age", which can be issued after 5 years of legal residence and which makes it possible to uncouple residence in Italy from economic activity, thus opening up more possibilities for inclusion (Article 31§2 of Consolidated Text No. 286/1998).

(d) Over and above the provisions specifically regulating immigration, one important national instrument with respect to foreign children's right to integration is Act No. 285/1997, through which a national fund for childhood and adolescence has been set up. This fund, which receives about €150 million per year to be divided amongst the Regions and 15 cities, is intended to finance projects to improve the quality of life of children and young people by activating comprehensive actions throughout the country. The law identifies different types of project within whose context actions for foreign children and adolescents have been introduced.

243. With the funding envisaged for the first three years of application of the law, 90 projects for foreign children have been set up, with the highest proportion (31%) implemented by the cities in question. These are led by Turin, with 8 projects, followed by Florence and Bologna, with 5 projects each.

244. A significant concentration of projects can also be noted in the Regions of Tuscany, Veneto and Lombardy, where there is a high proportion of foreign workers living and working legally in the area.

245. An analysis of all the projects dedicated to foreign children in the first three years shows that for 35.5% the principal aim is the educational inclusion of children, and for 8.9% a reinforcement of the educational provision on offer. 17.8% of the initiatives indicate support for Italian language instruction as their main purpose.

246. This tendency in the projects is particularly significant as it shows how the educational inclusion process is considered to be the key instrument through which to foster the integration of immigrant children.

247. As regards the projects envisaged in the second three-year application period of the law, the first summary data currently available show that 51 projects have been implemented, of which 9 directly by the cities holding funding (led by Bologna, with 3 projects). While there has been an overall decrease with respect to the previous three years in the initiatives designed for the integration of foreign children and adolescents, at the same time a significant concentration of such projects is found in northern and central Italy, where nearly all the projects have taken place: 18 in Veneto, 8 in Emilia Romagna, 4 in Friuli Venezia Giulia, Piedmont and the

Autonomous Provinces of Trento and Bolzano, 3 in Liguria, 2 in Tuscany and Lazio and 1 project in the Regions of Lombardy, Valle D'Aosta and Marche, making a total of 48. Southern Italy sees 2 projects in Campania and 1 in Calabria. This can in part be explained by the higher numbers of foreign children in the north and centre of the country.

248. Given that many of these projects have set themselves the objective of implementing a number of different initiatives at the same time by grouping several of the actions envisaged by Act No. 285/1997, it can be said that most of the projects (29) have been inspired by Article 4 in particular - which envisages services in support of the parent/child relationship, services to combat poverty and violence, and alternative measures to accommodating children in institutions - by setting up initiatives linked primarily to providing support for families.

249. Next come projects, 21 in number, implementing Articles 6 and 7, which envisage the creation of recreational and educational services for leisure time and actions to promote the rights of children and adolescents through initiatives to facilitate the enjoyment of urban spaces, and to promote the rights of minors - with citizens and public operators - and the active participation of children in the life of local communities. Projects inspired by the implementation of these provisions have mainly involved workshops to foster inter-cultural and multi-cultural relations.

### **5.3 The right to education**

250. The transformations affecting migratory flows in recent years, especially the growing impact of family reunification and the progressive establishment of immigrant households in Italy, have had a significant influence on the presence of foreign children in our country and in particular in Italian schools. There is a growing consensus that sees schools as representing the first and main channel for the integration of immigrant children in their host country and as an important arena for different cultures to meet and exchange views and experiences, as well as a place for the transmission and construction of cultural models. It is through our schools that we can gain an initial idea of the presence of foreign children and the increase in their numbers over the years (if children present illegally can also be included, schools become an environment to observe migratory phenomena as affecting the youngest age groups, since they give greater visibility even to those not registered officially).

251. The number of foreign schoolchildren has risen from just 6,104 in the 1983-84 school year to 232,766 in 2002-03. The latter figure is 50,000 higher than the total for the previous school year. 45% of these children are from European countries and the remaining 55% from non-European countries. The countries of origin of the migratory flows contributing to this increase are distributed fairly evenly throughout the five continents, although there is a more marked increase from the Americas (up 35% on last year) and from Asia (up 32%). If we examine the internal distribution of the continents by type of school, we find African children tending to predominate in early years schooling, while young people from European Union countries and America are more numerous in secondary schools.

252. For the 2002-03 school year the countries of origin most strongly represented are again Albania, Morocco and the former Yugoslavia, although it should be noted that a total of 189 nationalities are represented in Italian schools. The numbers of children from Rumania, at 15,509, and Ecuador, at 7,273, have almost doubled with respect to the previous year. Foreign

pupils account for 2.96% of the total school population, with the highest proportion in primary schools (95,346 pupils, 3.8% of the total) and the lowest in senior secondary schools (33,176 pupils or 1.5% of the total). At all levels, with the exception of senior secondary schools, boys slightly outnumber girls, although the proportion of girls for every 100 foreign pupils has increased from 45.8% to 46.3%. In terms of geographical distribution, Lombardy, Emilia Romagna and Veneto have the highest numbers of non-Italian pupils.

253. These differences are linked mainly to the fact that immigration is relatively recent in Italy and only in the last few years Italy has seen the entry of immigrant children to middle and senior secondary schools. A consideration of the place of birth of foreign children also seems significant in this respect.

254. Children born in Italy of foreign parents generally spend all of their school years in Italy and therefore are present from nursery school onwards (in such cases, since the migrations in question are relatively recent, we will need to wait some years for children to arrive in significant numbers at secondary school level, since at present they are proportionately more numerous in the nursery and primary school age-groups). It is mainly children born in other countries and coming to Italy at a later age who are entering primary or middle school directly: the fact that they tend to be older means that they are the first to reach secondary school level, where they are seen as "foreign pupils". The diversity of countries of birth is an important factor that affects the type of presence of these pupils in schools and the difficulties that they encounter and which their schools find themselves having to handle.

255. The presence of foreign pupils also differs from region to region, reflecting the more general features of trends in migratory flows, individual migration projects and the force of attraction exerted by individual regions.

256. Foreign pupils are concentrated mainly in the Regions of central-northern Italy, in which respect they reflect the direction taken by migratory inflows, while their numbers are very low in the South and Islands. The percentage of foreign pupils is particularly high in Lombardy, Emilia-Romagna and Veneto, followed by Lazio, Piedmont and Tuscany.

257. As noted in the analysis of the population of foreign children, the presence of these pupils is characterised not just by the quantitative increase that has taken place but also by the range of countries of origin, which clearly brings diverse cultural problems into the schools themselves. The areas of origin most strongly represented are, in descending order, non-EU European countries and Africa, followed by Asia and the Americas. An analysis of the first ten countries of origin of pupils not holding Italian citizenship shows the differing numbers at the various stages of schooling, which are closely connected with the characteristics of family migrations.

258. In the face of this growing presence of foreign children, in Italy as in other European countries schools have since the outset been a key place for reflection on the insertion of foreign boys and girls. In schools, these new arrivals are viewed in a positive light, although this approach is expressed through a series of circulars (the first dating from 1989) that have not yet been translated into a systematic legal framework.

259. In our country, the inclusion of foreign children in compulsory education has been regulated in different ways than those adopted in other European countries affected for some decades now by immigration. Italy has decided against creating special classes, and foreign pupils have always been included in the normal school programme. In this way, Italy has succeeded in ensuring the educational inclusion of many foreign children and preventing the risk of combining legislative restrictions with a negative view of the cultural diversity personified by foreign children and adolescents.

260. This choice has also created the need to overcome a series of administrative and political difficulties (we can only think to difficulties linked to the recognition of educational qualifications or comparisons of educational systems).

261. This approach is based on the right/duty of education for all children and adolescents in Italy, in accordance with the provisions of the New York Convention on the Rights of the Child, which were reiterated in Consolidated Text No. 286/1998 as amended.

262. The challenge to reception services posed by the “otherness” of foreign children has therefore been posed first and foremost with respect to educational policies and structures, which have become the first places that children of different nationalities attend side by side. From the various alternatives available, inter-cultural dialogue has progressively spread in schools as a possible model for integration, characterised by the recognition of each child’s own culture and the importance of respecting “different” children and their cultural identities in the day-to-day quest for forms of collaboration that are able to constructively overcome any situations of potential conflict or disagreement.

263. At the legislative level, the positive reception policies for immigrant pupils adopted by individual teachers, schools and educational authorities to cope with the new arrivals during the first immigration “emergency” were acknowledged by Ministerial Circular No. 205/1990, as subsequently developed by Circulars No. 5/1994 and No. 73/1994, where the issue of inter-cultural education was first raised. The focus in these Circulars, one that continues to guide educational practice, was on the promotion of dialogue and a “relational climate”, and on the inter-cultural elements of all subjects and inter-disciplinary activities.

264. Starting with these first pointers, the following are some of the most important new developments in educational laws and regulations in recent years:

(a) The recognition of education as a right and obligation for all children, even those not complying with the provisions concerning residence permits (Act No. 176/1989, Consolidated Text No. 286/1998);

(b) The identification of arrangements for the enrolment, reception and inclusion of foreign pupils, affirming their right/obligation to schooling and envisaging targeted provisions and resources to be activated for Italian language instruction to facilitate access to common structures and curricula, including through agreements with local authorities, communities and associations (Act No. 40/1998 and Ministerial Circulars No. 301/1989, No. 205/1990, No. 21/1991 and No. 400/1991; and Presidential Decree No. 394/1999);

(c) The recognition of children's right to enrol in the classes corresponding to their age (Legislative Decree No. 286/1998);

(d) The need to adapt teaching programmes to the ability of foreign pupils and the introduction of qualified cultural mediators, where necessary, to assist foreign pupils newly arrived in Italy.

265. The official documents point to inter-cultural education as the underlying integrating factor in the educational options provided by individual schools, where the term is taken to signify an approach applied to review curricula and communication styles, and to manage difference and learning needs in the educational context. The operational strategies adopted thus far have seen the realisation of inter-cultural events, additional activities for immigrant pupils (courses in Arabic, Chinese, Italian language workshops) or for all children, the teaching of subjects from an inter-cultural perspective and the review of curricula in an inter-cultural light. Such initiatives have in fact been implemented mainly on an experimental basis in schools with a significant presence of foreign pupils.

#### **5.4 Foreign children temporarily admitted to Italy**

266. Article 33 of Legislative Decree No. 286/1998 provided that a Committee for Foreign Children should be set up to oversee the residence arrangements for foreign children temporarily admitted to Italian territory and coordinate the activities of the public offices involved. Prime Minister's Decree No. 535 of 9 December 1999 set out the general provisions governing foreign children temporarily admitted to Italy, who are classified as: children who are not nationals of Italy or other EU countries, are over six years of age and who entered Italy under solidarity programmes for temporary admission promoted by bodies, associations or families. Under such programmes, the children are accompanied by one or more adults with generic functions of support, guidance and attendance.

267. Under the terms of Prime Minister's Decree No. 535/1999, the Committee also decides on applications from bodies, families and associations for the entry of children through solidarity programmes, and their temporary care and subsequent repatriation.

268. In recent years the practice of granting temporary admission for foreign children whose living conditions in their countries of origin are unsatisfactory in terms of both health and social care has seen a marked expansion. The initiative, introduced some years ago to enable children contaminated by the radiation caused by the nuclear incident at Chernobyl to spend some time in a healthier environment, was subsequently extended, albeit to a lesser extent, to children from countries other than Belarus and not necessarily in a poor state of health.

269. It follows that these projects encompass widely varying circumstances that consequently have very different features. While in some cases hospitality is linked to health reasons, in others it provides the opportunity for an initial encounter that is a prelude to more continuous and systematic reciprocal dialogue between local communities or religious groups with a view to helping Italian and foreign children get to know each other better.

270. The data held by the Committee for Foreign Children show that 78.6% of the children offered hospitality from 1994 to 2002 came from Belarus.

271. In 2002, over 27,000 children arrived from the areas affected by radiation from Chernobyl, over 2,500 from other Eastern European countries, and over 300 from Africa and the Middle East. That year, therefore, nearly 3000 children received hospitality for reasons other than medical rehabilitation.

272. 2003 saw a considerable increase on the previous year in the number of children receiving hospitality, with 35,542 admissions agreed by the Committee, of which 32,649 from Belarus and the Ukraine (radiation zone) and the remaining 2,893 from other countries of Eastern Europe. Only 25 children came from other areas, namely Palestine. It can therefore be said that although we have witnessed a considerable increase in the number of children arriving under this scheme, the increase has not led to a rise in the number of entrants for reasons other than health.

273. In any event, it is important to underline that the above data do not reflect the actual number of minors who entered the country: it often happens that the same child comes to Italy more than once, at different times in the same year (summer and Christmas, for example). According to the Committee, the estimated number of actual entrants is about 22-25,000 per year.

### **5.5 Unaccompanied foreign children**

274. As mentioned earlier, the legal status of “unaccompanied foreign children” is governed by Legislative Decree No. 286/1998 as amended and by Prime Minister’s Decree No. 535/1999 which, pursuant to Article 33 of Legislative Decree No. 286/1998, governs the functions and tasks of the Committee for Foreign Children. The Committee has responsibility not just for minors temporarily admitted but also for unaccompanied foreign minors, in terms of supervising the residence arrangements for the latter, as well as ascertaining their status and carrying out enquiries into their families with a view to arranging assisted repatriation and reunification with these families.

275. The definition of unaccompanied foreign minor is set out under Article 1§2 of the regulations referred to above,<sup>27</sup> which define unaccompanied foreign minors present on Italian territory as “minors who do not hold the citizenship of Italy or another European Union Member State and who, not having submitted an asylum application, find themselves for any reason on Italian territory without assistance and without representation by their parents or other adults legally responsible for them in accordance with the laws currently in force in Italy”.

276. Article 32 of Consolidated Text No. 286/1998 as amended and integrated by the recent reform of the legislation governing immigration, Act No. 189/2002, envisages that, once they reach majority age, residence permits may be issued to unaccompanied children who have been admitted to the country “for a period of not less than two years as part of a social and civil integration project run by a public or private body represented at the national level and entered on the register set up in the Prime Minister’s Office”. This is possible “as long as no other decision has been made by the Committee for Foreign Minors pursuant to Art. 33”.<sup>28</sup> The organisation running the project “must guarantee and prove through the appropriate documentation, when the foreign minor reaches majority age ... omissis ... that the individual concerned has been in Italy for not less than three years ... omissis ... that he/she has access to

accommodation and attends some form of study course or is in paid employment as envisaged by Italian law, or is in possession of an employment contract, even if such employment has not yet commenced".<sup>29</sup>

277. To ratify this, Presidential Decree No. 334/2004, which amended Presidential Decree No. 394/1999, at Article 11§1 (a) includes in the circumstances under which residence permits may be issued the integration of minors who find themselves in the conditions described at Article 32§1-bis and 1-ter of Consolidated Text No. 286/1998, subject to the opinion of the Committee for Foreign Minors.

278. Article 6 of Prime Minister's Decree No. 535/1999 provides that unaccompanied children should be guaranteed rights with respect to temporary stay, healthcare, education and other benefits envisaged by the current legislation (to this end the possibility is envisaged for the Ministry of Labour and Social Policies - formerly the Department for Social Affairs - to enter into agreements with the appropriate government departments and public bodies).

279. Article 28§1 (a) of Presidential Decree No. 394/1999, as amended by Presidential Decree No. 334/2004, envisages the issuance of residence permits for minors following recommendation to the Committee for Foreign Minors. Such permits would be valid for the entire period necessary to carry out enquiries into the minor's family members in his or her country of origin. As regards the possibility of obtaining a residence permit after reaching majority age, reference should be made to the above comments concerning Article 32 of Consolidated Text No. 286/1998 as amended and integrated by Act No. 189/2002.

280. As all reports notifying the presence of foreign children must be submitted to the Committee, which arranges for the data to be collected and processed, since 2000 it has been responsible for taking a "census" of such children. The figures available can only indicate the trend in the presence of foreign children in Italy and cannot be considered as fully reflecting the true situation, as some of the children are not reported and some remain "clandestine". Approximation is inevitable for another reason also: it can easily be the case that the child does not hold any documents and is travelling around the country giving different personal details whenever asked for identification. Any one child may therefore be reported on several occasions, under a different name each time.

281. Until December 2003, unaccompanied foreign minors were classified in two distinct databases, the first for reports of minors holding residence permits specifically for that age group and the second containing reports of all other foreign minors. At 31 December 2003, the first database contained 7,313 reports (compared with 5,883 at July 2003), most of relating to minors from Albania, Morocco and Rumania). The second held records for 881 minors (compared with 1157 at July 2003). There are a number of reasons for this decrease: the minors may have reached majority age or been subjected to assisted repatriation provisions or the conversion of their residence permits. In this case too, the areas of origin coincide with those of minors not holding permits.

282. As from January 2003, the Committee has seen the need to structure the databases differently, by including in the database for minors holding residence permits those minors who, although not holding a permit, do hold a valid ID document. The aim here was to bring all foreign minors together in a single database so that the Committee can follow them constantly



once their documentation is complete with a view to deciding which provisions can be adopted. Those foreign minors for whom the available information is not sufficient to allow any initiative to be undertaken by the Committee, and individuals who are no longer included in the Committee's sphere of responsibility, have been brought together in the second database. In the light of this reorganisation of the "census", at 30 June 2004 1892 minors, mainly of Rumanian, Moroccan or Albanian citizenship, were reported as holding residence permits specifically for that age group or another form of ID. Most of the reports concern the 16-17 age group. In the database of minors not holding the appropriate residence permits or another form of ID, 5949 had been surveyed at that same date, again mainly of Rumanian, Moroccan or Albanian citizenship and in the 16-17 age group.

### 5.6 Foreign minors in correctional facilities

283. The need to monitor and address the issues concerning minors present on Italian territory assumes particular significance in view of the possibility that, without a suitable programme in place, they may be drawn into the influence of criminal organisations. In the framework of measures to combat clandestine immigration, Act No. 189/2002 envisages increased penalties in cases of clandestine immigration involving minors. To prevent criminals from recruiting minors, an effort is being made to draw up a sort of protected pathway for them. Thus, the fundamental rights of minors, such as compulsory education and healthcare, are guaranteed, as is the possibility of using the right to stay on Italian territory until reaching 18 years of age. The possibility for minors in Italy to apply for reunification with a natural parent is also envisaged.

284. An analysis of the type of offence committed reveals the marked prevalence of property-related offences perpetrated by foreign nationals, especially those from Eastern Europe, who account for over half of all the foreign nationals concerned. Crimes against the person are, however, less frequent than amongst the Italian population.

285. In this respect an overview of the geographical areas of origin of foreign minors may be useful. Those from Eastern Europe (former Yugoslavia, Rumania and Albania) accounted for 59% of the average daily presence in the first half of 2003. African minors account for 36% (mainly from Morocco and Tunisia), and Asians for 4% (China and the Middle East).

286. An analysis of the data for the first half of 2003 shows a marked increase in the numbers of minors from Rumania, for whom the average daily presence reached 40 units, compared with 11 in 2001 and 17 in 2002.

287. Of particular significance is the figure for the geographical distribution of foreign minors, who are mainly held in *Istituti penali per minori* (Correction institutes for minors, IPMs) in the centre and north of the country (respectively 77% and 82% in 2002).

288. As regards the demographic features of the minors concerned, if we consider the age of the detainees it can be seen that foreign nationals are younger than Italians (the average ages being 17 and 18 respectively in 2002). With respect to their legal status, most of the foreign nationals (81%) were awaiting trial.

289. The number of foreign nationals in IPMs has increased. Act No. 185/1987 envisaged a funding allocation for projects to protect the rights of minors. 90 such projects have been implemented, 35% of which were designed to foster educational inclusion and 9% to boost the educational facilities on offer. 17.8% of the funds were invested in projects to teach inmates Italian.

290. The presence of cultural mediators is a valuable instrument both in the local authorities to which foreign nationals apply for information and with respect the situations of great disadvantage that can develop within compulsory structures such as detention centres for minors. Since the early 1990s, the Juvenile Courts have also seen the introduction of cultural mediators with a view to promoting better integration of non-EU inmates. These moves were prompted by the President of the Republic himself, who, with Decree No. 230 of June 2000, refers to the need for linguistic-cultural mediation to be included in penitentiary procedures.

291. More directly addressing the sphere of respect for personal freedoms, is the provision that pastoral care should be provided in IPMs for minors of religions other than Christianity-Catholicism.

## **6. Family reunification**

292. In accordance with the provisions already envisaged by other legal systems, Italy too recognises family reunification as a right: immigrants who have come to Italy, are engaged in employment and are able to provide their families with normal living conditions, are encouraged to have their family members join them as a means of fostering full integration within the society of their host country. This right, as exercised by immigrants, corresponds to a duty incumbent on the state to allow households to be brought together again.

293. The Italian legislation therefore envisages (Article 29 of the Consolidated Text No. 286/1998) that foreign nationals holding residence permits (or permits of stay) lasting not less than one year, issued for wage-earning or self-employment or for asylum or study purposes or for religious reasons, may apply for family reunification on condition that the accommodation and income requirements are satisfied.

294. This provision expressly provides that the greater interest of the child must be considered a priority, in compliance the Convention on the Rights of the Child of 20 November 1989 (given effect in Italy by Act No. 176/1991).

295. Family members for whom family reunification may be requested are: a spouse not legally separated; dependent children of minority age, including children of the spouse or born outside the marriage provided that they are not married or legally separated and the other parent, if still living, gives his or her assent; dependent children of majority age if they are not able to support themselves as a result of total invalidity; dependent parents who have no other children, or parents aged over sixty if their other children are not able for health reasons to support them.

296. The family reunification procedure is intended by the legislator to be streamlined and quick: if the competent Questura does not issue the authorisation for reunification within 90 days, then, by displaying a copy of the papers submitted to the Questura, the foreign national's family member may obtain an entry visa directly from the Italian diplomatic or

consular authorities in his or her country of origin, simply by presenting the receipt issued by the Questura testifying that the application has been submitted. This procedure makes it possible to reduce waiting times and overcome any bureaucratic hitches. If the Questura denies authorisation, the applicant may appeal at any time to the Pretore of his or her place of residence. The Pretore may then arrange for the visa to be issued even without the authorisation.

297. A family member coming to Italy to rejoin his or her family is entitled to a residence permit for family reasons for a period equal to that of the immigrant already resident. He or she is also entitled to the same rights and may register with the employment service or, if the opportunity arises, may enter employment immediately.

298. The National Coordination Body for Social Integration Policies for Foreign Nationals (CNEL-NCB) has commissioned two studies from the “Silvano Andolfi” Foundation on family issues: “*Domestic Helpers: family cultures compared*” (2003), and “*The Quality of Life of Immigrant Families in Italy*” (2001).

299. In the first of these two studies, the living conditions of immigrant families were analysed through interviews with immigrant families in their homes or communities. The second study analysed the way Italian families are seen in their domestic environment by the immigrant women to whom they entrust their domestic chores and the care of their children or elderly relatives.

300. Immigrants are not just workers, they are people in a world of personal relations in which family relationships, whether with the extended family of origin or the individual’s family unit, are of great importance.

301. We need to overcome the stereotypical view of immigrants, whether male or female, as individuals without family ties. Even when their families are far away, their migration project is always just one element of a complex tapestry of personal relations that have conditioned their present living conditions and prospects, and continue to do so.

302. Families play a decisive role in social and cultural inclusion processes. For this reason, integration policies should provide them with special support and focus on achieving an understanding of their dynamics, problems and needs. This approach should encompass the whole range of social policies with a view to increasing their effectiveness and achieving greater social cohesion for all.

303. The family brings the role of women immigrants to the fore. The family opens up, and enables us to focus on, the cultural dimension of immigration. Within immigrant families, in their relationship with the family of origin, and in relations between spouses, parents and children attending Italian schools (who may even have been born in Italy), the language, culture and traditions of the country of origin co-exist with all the new experiences arising from the integration pathways followed by the different family members.

## **B. THE NEW INSTITUTIONAL BODIES TO COMBAT DISCRIMINATION**

### **(a) National Office for Measures to Combat Discrimination**

304. With the Prime Minister's Decree of 11 December 2003,<sup>30</sup> a National Office for the Promotion of Equal Treatment and the Removal of Discrimination Based on Race or Ethnic Origin (known as the UNAR), was set up in the Department for Equal Opportunities. This was to implement EU Directive 2000/43/EC, which invited member states to set up bodies to ensure and promote equal treatment. The Directive was transposed into Italian legislation through Legislative Decree No. 215/2003.

305. In this respect, the EU legislation was based on the consideration that stronger protection against discrimination in each member state could only be achieved by setting up an ad hoc body specifically tasked with analysing problems connected with combating discrimination, studying and proposing possible solutions and providing concrete assistance for victims.<sup>31</sup>

306. As envisaged by Article 29§1 (i) of Italy's "Community" Act No. 39/2002, the aim in establishing the UNAR is to set up a body in the country's legal system to oversee and guarantee equality of treatment and the application of protection instruments.

307. The general function of the UNAR is to carry out activities to promote equality and work to remove any form of discrimination based on race or ethnic origin, taking into particular consideration the fact that, as pointed out in the first part of this report, forms of discrimination are often amplified when elements of diversity such as gender, culture or religious beliefs are added to those arising from race or ethnic origin.

308. The positioning of the UNAR within the Department for Equal Opportunities can be explained by two considerations: firstly, a concept of equal opportunities no longer linked solely to gender issues but extended to combat any form of discrimination; and secondly, the consideration that immigrant women are often the main victims of discrimination, and even of more dramatic phenomena such as the trafficking in human beings.

309. On this last point it should be remembered that the Department for Equal Opportunities is particularly active in anti-trafficking measures, as we shall see in more detail later.

310. With respect to the UNAR's function of overseeing and providing against discrimination, of particular significance are the tasks set out by Article 7§2, which envisages that the UNAR should: provide assistance to the victims of discriminatory conduct in administrative or legal proceedings undertaken by them; conduct investigations to ascertain whether discriminatory conduct has actually taken place; promote the adoption of positive action programmes; disseminate as much knowledge as possible on protection instruments through awareness-raising initiatives and communication campaigns; draw up recommendations and opinions on questions connected with discrimination on racial or ethnic grounds; draw up two annual reports for, respectively, the Parliament and the Prime Minister; and finally, promote studies, research, training courses and exchanges of experience and best practice, including in cooperation with NGOs operating in this sector, with a view also to drawing up guidelines or codes of conduct on the issue of combating discrimination.

311. As regards the operation and functioning of the UNAR, the Prime Minister's Decree of 11 December 2003 establishes that the structure of the office, funded by an annual allocation of about €2 million, will be divided into two "services": the service for the protection of equal treatment and the research and institutional relations service.

312. The UNAR is able to draw on staff from the public sector and can also count on a small group of five highly skilled experts specialised in legal questions and in the sectors of combating discrimination, material and psychological assistance for disadvantaged persons, social rehabilitation and public utility services. To this group should be added a further contingent of five magistrates and government lawyers whose remit is to prepare and study cases brought to the attention of the UNAR for further investigation.

313. The UNAR began operating in September 2004. Its primary objective was to ensure the functionality of the existing protection instruments in the sphere of effective integration policies, by providing concrete assistance to the victims of discrimination.

314. Its activity can essentially be broken down into the prevention of discriminatory behaviour, the promotion of equal treatment, the removal of discriminatory conduct, verification that the principle of equal treatment is being observed and reporting on these issues to Parliament.

315. As regards the prevention of discriminatory conduct, the UNAR addresses public opinion through awareness-raising and communication campaigns in the mass media and through education and information campaigns in schools and the workplace respectively. Its aim is to prevent discriminatory conduct from taking root and developing, and so ensure that the principle of equal treatment becomes part of the cultural and educational "baggage" of each individual.

316. The task of raising public awareness began with the organisation of the international event of 16 November 2004 (a conference entitled "All Different, All Equal: the new National Office to combat racial discrimination"). This event was organised to coincide with the Italian leg of the Truck Tour - a journey through the European Union in summer 2004 as part of the "For Diversity, Against Discrimination" campaign - the aim being to achieve the greatest possible impact on public opinion and on operators in the sector.

317. The event attracted a very high turnout from associations and bodies working in this sector and was widely reported in the mass media, thus achieving its aim of airing the issue of combating racial discrimination to as wide an audience as possible, including through testimonials from the worlds of journalism, sport, and entertainment whose representatives, for this occasion, were appointed "Ambassadors for Diversity".

318. For this event the Office published an information brochure and a shorter leaflet version containing information on the new developments introduced by Legislative Decree No. 215/2003, and on the Office's own remit and functions. The brochures were widely distributed and are available on the Office's Internet site, which can be accessed through a link on the home page of the site [www.pariopportunita.gov.it](http://www.pariopportunita.gov.it).

319. In the run-up to 21 March, the International Day for the Elimination of Racial Discrimination, the Department for Equal Opportunities also organised a Week of Action against Racism, with a series of initiatives in the worlds of sport, schools and universities with a view to attracting the attention of the public and media to the issue.

320. The Week began on Sunday 13 March with the Rome Marathon, for which a thematic section was set up with the slogan "I'm Running against Racism", again in partnership with the EU's "For diversity, against discrimination" campaign. It ended with the distribution of information material in the main Italian football stadiums on championship days 19 and 20 March 2005, when in collaboration with the Football League the First Division teams took to the pitch under the slogan "Score a Goal against Racism". Of great significance was the support that a number of players from the leading teams in the championship provided by lending their "faces" to the campaign.

321. The academic community was also keenly involved, with the organisation of specialist workshops and seminars in a number of Italian universities on the subject of "Equality in Diversity: the new instruments to combat racial discrimination". Schools too played a major role, with the distribution of a DVD containing information on the new anti-discrimination law and on the creation of the UNAR, and a competition in which all primary and secondary schools could take part with the aim of involving pupils on the subject of "A Meeting of Cultures in the World of School".

322. With the aim of stimulating a participatory and constructive debate in schools, all pupils were given ample freedom to express their thoughts, views and feelings through drawings, diagrams, writings, theatrical productions, audio-visuals and short films.

323. Other initiatives are also planned for the worlds of entertainment and television.

324. As part of this awareness-raising and information campaign, a Pubblicità Progresso advertising message linked to the Contact Centre initiative and designed to inform public opinion of the establishment of the Centre itself, was conceived, produced and broadcast on national TV channels. The information initiative is also being taken forward through a countrywide poster campaign.

325. As regards initiatives to promote equal treatment, the UNAR promotes projects and positive actions designed to eradicate situations of disadvantage caused by race and ethnic origin, and also encourages studies, research, training courses and the removal of discriminatory conduct. Strategies of action designed in concrete terms to achieve the full social integration of "weak" categories will also be drawn up. These will operate, for example, in the primary school sector, where disadvantage is often reported but not tackled and resolved. The aim is to help marginalised persons who have been subjected to racial discrimination to obtain equal access to all public and private services, and to the full and informed exercise of their civil and social rights.

326. The Office also intends to foster studies, training courses and exchanges of experience with other EU member countries, by promoting international projects that make it possible to address together the shared problem of combating racial discrimination. Of fundamental importance to this end is the contribution of associations, bodies and NGOs working in the

sector. Periodic hearings will be held with them, not just to report any situations of discrimination, but also to carry out an examination, staggered over time, of the achievement of the set objectives.

327. Alongside this participation, relations and dialogue with the social partners and local authorities could also be particularly useful in drawing up guidelines for operators in the sector or protocols of understanding that apply in the same way as codes of conduct. These would be used, in particular, in the employment context (both public and private sectors) and in the social services, where an awareness of the rights connected with the implementation of the principle of equality is often either inadequate or completely lacking. For example, UNAR signed on 18th October 2005 a 'Protocol of Agreement' with the most representative national labour organizations (CGIL, CISL, UIL and UGL) and with the associations of the employers (Confindustria, Confartigianato and Confapi) in order to plan measures against racial discriminations at work. They have all faced the problem of the cohabitation at work of persons of different ethnic origin, through instruments of training and awareness-raising involving workers, trade-union representatives, managers and employers, while promoting cultural diversity and training managers able to face with multi-ethnic workers with the aim of including them in the social context. All the contracting parties will work with UNAR to elaborate codes of conduct against discrimination at work; after a first experimentation in the Triveneto, a pilot project has started at national level. Information campaigns on the value of "diversity" from the ethical and marketing point of view, in collaboration with the employers whose companies are well organised and have an high number of foreign workers, will be promoted.

328. And lastly, the UNAR's remit, in coordination and collaboration with specialised statistical institutes, to conduct research on a national scale into the existence of discrimination within the public or private sectors, in the social, employment, health or educational sectors, is also worthy of note.

329. Again in the context of promotional activities, contacts are being established for the participation of UNAR experts and consultants in the organisation of Master's degrees on the protection of human rights, with teaching on the subjects specific to combating racial and ethnic discrimination.

330. The other line of activity concerns the removal of the effects of discriminatory conduct.

331. In the event of the UNAR being notified of discriminatory conduct or actions, its aim is to help resolve the situation by ensuring that the conduct in question ceases, removing any harmful effects that may have ensued and ensuring that damages are paid.

332. With respect to this function of providing protection and guarantees, the UNAR, with its experts and legal advisers and the high levels of skill and independence that they provide, with due respect for the functions and prerogatives reserved for the judiciary:

(a) Provides assistance and support in judicial or administrative proceedings, by accompanying victims of discrimination - or the associations acting on their behalf - during the legal process;

(b) Through its representative provides, on an optional basis, written or oral information, news and observations during legal proceedings;

(c) Conducts investigations on an independent and optional basis and with due respect for the functions and prerogatives reserved for the judiciary, with a view to establishing whether discriminatory conduct has taken place.

333. Closely connected with the above-mentioned primary objective is the need to set up a register of associations and bodies authorised to act during legal proceedings (which will be covered in more detail later). This is because Legislative Decree No. 215/2003, with due respect for the provisions of the EU Directive, envisages the possibility of recognising the legal capacity for associations and bodies included in a list approved by Decree of the Minister for Equal Opportunities and the Minister for Labour and Social Policies to take legal action in the name, on behalf or in support of the victims of discrimination.

334. The UNAR also intends to give a strong impetus to informal reconciliatory actions by putting forward solutions for the removal of discriminatory situations and thus avoiding, where possible, recourse to judicial action.

335. Of particular importance in this activity is the support and help provided by the Office through its Contact Centre. This service, which has been operating since 10 December, can be reached on toll-free phone number 800.90.10.10 from 10.00 to 20:00 hours every day and is available in Italian, English, French, Spanish, Arabic, Russian, Rumanian and Mandarin Chinese.

336. The contact centre has the task of gathering observations, complaints and testimony on facts, events, situations, procedures and actions that undermine or compromise equality of treatment on racial or ethnic grounds, by offering immediate help for victims of discrimination and providing information, guidance and psychological support.

337. It is an example of concrete assistance for victims as it handles complaints and puts together an initial level of immediate help for those who consider they have been subjected to discrimination on racial or ethnic grounds. The contact centre will provide prompt, skilled and expert help and, in collaboration with UNAR and under the supervision of UNAR experts, will take the appropriate steps to resolve the cases reported where possible, or to accompany the victim of discrimination during the legal process.

338. The service is divided into two levels. The first level deals with collecting and examining reports, and seeking information that can be used to solve the cases reported. In the case of telephone reports for which a solution is possible and available, the first level contact centre handles the case described by the user in real time.

339. If the problem cannot be solved in real time by the call centre staff, and for those requests for help that come in through channels other than the phone, first level staff send the report on to the second level, in the UNAR itself. The second level records the request and, with the coordination and under the supervision of UNAR experts, takes the appropriate action to solve the case.



340. The final stage for any request, whether first or second level, is a final response to the client.

341. The first few months of the Call Centre's operations provided useful information to achieve a better understanding of the most frequent forms of discriminatory conduct and to identify the main types of request from victims of discrimination and the more general needs expressed by Contact Centre clients.

342. The number of calls received by the UNAR Contact Center, during its first year of activity, represents a highly meaningful element: out of 3500 calls to the UNAR free number, 282 regarded complaints about cases of real racial discrimination, while the remaining calls were rather requests of general information on the service itself or complaints about alleged but not proved episodes of discrimination. In any case, this second group of calls is also of great importance since it represents an indirect source of information about the campaign lead by the UNAR as well as a useful indicator of the degree of awareness and interest existing with regards to the issue of racial and ethnic discrimination.

343. With reference to the social-demographic profile of the UNAR users, the first relevant element is the distribution according to gender criteria: 63,2% of calls were made by men, while the remaining 36,2% by women.

344. The average age is 40.

345. As regards the geographical origins of the users, the prevailing group is the African one: indeed, more than one third of calls were made by people coming from the African continent, whose number in Italy is particularly high and who are deeply rooted in the territory. Another interesting element is that regarding the period of permanence in our country: according to the data collected so far, users of UNAR free number have been living in Italy for over thirteen years and they seem to have acquired full awareness of their rights so that they decided to file a complaint for racial discrimination. Furthermore, the high number of Italian citizens (29,4%) who contacted the UNAR free number to inform about cases of discrimination, is to be considered a very positive element, since it gives account of a great public spirit as well as of a certain sensitivity towards phenomena of racial and ethnic discrimination.

346. Another fact to be taken into account in order to set up a preventive strategy to combat these phenomena, is the geographical distribution of the users on the Italian territory: most calls were made by users living in the North-Western (32,3%), North-Eastern (27,3%) and Central regions (28,5%) of the country. The fact that the percentage is definitely lower in the South and on the Islands (11,9%) is worth further reflection. Nonetheless, these data must be also read in the light of the fact that Southern Italy represents often just a transit area for irregular immigrants, who tend to move to the North in order to improve their working conditions and, above all, to regularize their status.

347. Two areas have been identified, where interethnic conflicts and racial discrimination seem to emerge with particular strength: the working environment (28,4%) and the neighborhood relations (20,2%). It is indeed in contexts of close coexistence when conflicts may easily arise and episodes of discrimination may take place.

348. In addition to the above, it must be pointed out that complaints about the hindered access to services, be it in shops (6,7%), public administration offices (9,9%) or public transport (4,3%) - which taken all together represent a big part of the overall number of complaints - reveal a society still unprepared and little sensitive to the issue of racial integration.

349. The UNAR has achieved considerable visibility throughout the country, not only amongst the immigrant communities but also amongst Italians themselves, many of whom have used the phone service. One effect of the promotional activities carried out was to concentrate a very high number of reports in those days when television or radio features were broadcast, after an early “running-in” period that saw peaks in call-traffic at the start of the year.

350. A high percentage of calls not directly relevant to the objectives of the office concerned requests for information on entry and residence requirements for third-country nationals, cases of discrimination not pertinent to the aims of the UNAR and general requests for help from Italian and foreign users. The operators provided a comprehensive reply to all questions, with information on services, contacts and local associations able to provide assistance for the needs described.

351. Instances of provocation on racial grounds have been recorded for some time to provide end-year data on active opposition to the service.

352. An analysis of relevant cases to date makes it possible to identify what are defined here as macro-areas of classification, or those spheres and places in which episodes reported as acts of racial or ethnic discrimination occur.

353. All the reports gathered to date by the Contact Centre can be grouped under this classification. Thus far, ten macro-areas have been identified:

- (a) Housing;
- (b) Employment;
- (c) Schools and education;
- (d) Health;
- (e) Public transport;
- (f) Police;
- (g) Delivery of public services;
- (h) Delivery of services from retail sector, hotels, restaurants etc.;
- (i) Delivery of financial service;
- (j) Associations.

### *Housing*

354. This macro-area includes all reports linked to rent or house purchase issues (including relations with intermediaries such as estate agents); participation in public bids for the allocation of local authority housing; and problems arising in relations with condominiums and neighbours.

### *Employment*

355. This category includes discrimination in the workplace or other places providing access to employment. In many such cases the problems need to be referred to employment tribunals as breaches of contractual agreements or mobbing, with the aggravating circumstances of discriminatory conduct on racial grounds.

### *Schools and education*

356. This category includes cases of discrimination against foreign users (children and their parents) by school staff or by other users. It also includes obstructions in access to the procedures for the recognition of educational qualifications arising from specific discrimination.

### *Health*

357. This macro-area includes reports of discrimination by hospitals, local health agencies (ASLs) and private health specialists against foreign nationals seeking to use public and private health services.

### *Public transport*

358. This includes reports of discrimination by public transport staff, which can sometimes go so far as staff refusing to provide the service to foreign users.

### *Police*

359. This category includes discrimination by members of the National and Municipal Police forces and by the Carabinieri.

### *Delivery of public services*

360. This category includes discrimination by public sector staff (local authorities, regions etc) in the provision of services (registry office, social services, etc).

### *Delivery of services from hotels, restaurants etc.*

361. This macro-area includes all cases of failure to provide normal service by a commercial concern (bar, restaurant, night-club etc).

### *Delivery of financial services*

362. This category include discrimination in the granting of loans, mortgages, funding and insurance policies.

*Associations*

363. This macro-area includes all reports of discrimination by associations or organisations providing a service protecting the interests of immigrants.

364. As a last line of activity, defined as monitoring and control, the UNAR draws up a report to Parliament each year on how the principle of equal treatment is actually being applied and the effectiveness of protection mechanisms, and a report to the Prime Minister on the activity carried out.

365. These annual reports provide an opportunity to draw up a “balance sheet” of activities and inform political bodies and public opinion of the progress made and problems encountered in combating racial discrimination.

366. These reports represent the close of activity for each year but are at the same time a starting point, since the systematic monitoring of discrimination through appropriate survey tools will make it possible to plan the appropriate information and awareness-raising initiatives for the following year with a view to increasing the public’s knowledge and awareness of social integration issues. At the same time, they also identify any gaps in the legal system to fill which, bills may need to be drawn up to amend the current legislation.

**(b) The Register of associations working to combat discrimination**

367. With respect to capacity to take legal action, Article 29§1 (e) and (f) of Italy’s Community Law envisages that, in cases of discrimination, associations and bodies representing the injured parties should also be considered competent to sue.

368. To this end, Article 5 of Legislative Decree No. 215/2003 granted associations and bodies working to promote social integration and combat discrimination competency to take legal action to safeguard equal treatment including in the name, on behalf or in support of the victims of discrimination.

369. More specifically, associations and bodies identified as eligible in the light of the programme aims and on-going experience are granted legal capacity to sue through the decree issued by the Minister of Labour and Social policies and the Minister for Equal Opportunities on 16th December 2005.<sup>32</sup>

370. Associations and bodies which, working in the field of social integration, are entered in the Ministry of Labour and Social Policies Register in accordance with Article 52§1 (a) of Presidential Decree No. 394 of 31 August 1999, or those which, working specifically to combat discrimination, are entered in the register set up for this purpose in the Department for Equal Opportunities, can obtain recognition of this capacity. Recognition, which is granted through an Inter-ministerial Decree, is therefore conditional upon inclusion in one of the two registers which provide a system of certifying the degree of reliability and organisational transparency of the bodies operating in the field of racial integration, as well as databases from which to obtain information on their structural characteristics, spheres of activity and geographical location.

371. At present (31.12.05), 393 associations and bodies are included in the Register of the Ministry of Labour and Social Policies. The minimum requirements for the insertion in the

above mentioned Registry are as follows: the establishment of the association or the body by public or private deed at least two years before its registration; biennial experience, on a continuous basis in the field of social integration of migrants and intercultural education; the drawing up of a biennial balance sheet.

372. Focusing in particular on the second register, requirements for inclusion are minimal: formal establishment of the association or body by public deed or authenticated private agreement, dating back at least one year; primary or sole purpose consisting of combating discrimination and promoting equal treatment; drawing up annual financial statements indicating the amounts paid by members, with proper accounting records; constant up-dating of membership lists; continuous activity throughout the year preceding registration.

373. To address the risk of duplication in the registration system, the legislator's aim was to group together those bodies belonging to not-for-profit associations and most directly engaged in fighting the ills of discrimination, that provide the closest link between the UNAR and the country as a whole for the implementation and development of policies to combat racial discrimination.

374. The capacity to take legal action thus granted to associations and bodies may apply to cases of either individual or collective discrimination. In the first case, the associations can act through delegated authority issued by the victim of discrimination. This must be in writing, on pain of nullity, in the form of a public deed or authenticated private agreement. In the second case, the associations may act even without delegated authority, in cases where the victims of the discrimination cannot be identified directly and immediately.

375. In recent months the Office has held about 40 meetings with associations in the sector to set out the reasons and objectives for which the Register was set up and has sent more than 300 associations countrywide a letter introducing the project, along with the required registration forms.

376. The creation of this register in the Department for Equal Opportunities responds not just to the need to recognise the active competency of associations or bodies operating in the sector, but also the need to achieve a working liaison between them and the UNAR with a view to initiating important synergies and joint projects.

377. The applications for entering the Register have been examined by an internal ad hoc Commission, whose task is that of verifying the applicants' possession of all the requirements envisaged by the Legislative Decree 215/2003. To date, 100 associations have been included in the cited Register.

### **(c) The Committee against Discrimination and Anti-Semitism**

378. The Committee against Discrimination and Anti-Semitism was set up in the Ministry of the Interior through the Decree of 30 January 2004. The Committee's remit is to "engage in constant monitoring of the dangers of regression to forms of intolerance, racism, xenophobia and anti-Semitism and identify educational instruments and penalties to effectively combat any conduct inspired by religious or racial hatred", in compliance with the provisions of Article 1 of the Decree.

379. The composition of the Committee was set out in the subsequent Decree of 20 May 2004. It is chaired by the Head of the Department for Civil Liberties and Immigration in the Ministry of the Interior and is composed of two representatives from each of the following Departments: Prime Minister's Office (Decree of 20 March 2004); Ministry of the Interior; Ministry of Foreign Affairs (with, along with the two delegates, the Chairman of the Inter-ministerial Committee of Human Rights); Ministry of Justice; Ministry for Economic Affairs and Finance; Ministry for Labour and Social Policies; Ministry of Education; Ministry for EU Policies and the Department for Equal Opportunities.

380. The Committee's operating arrangements are based essentially on periodic meetings to discuss the most important and urgent issues relating to discrimination in the widest possible sense. However, it can also draw on information and data sent directly to its attention by the Government's local Offices in the Prefect's Offices, and on the support and cooperation of public and private bodies, including in other countries. The Committee can also call on experts in this subject to take part in its proceedings, and arrange for hearings with a view to examining specific issues in greater depth. Generally speaking, the Chairman informs the Minister of the Interior of the work of the Committee on a regular basis.

381. The Committee met for the first time on 24 June 2004 in the Ministry of the Interior and at the session of 23 September 2004 approved its regulations unanimously. The Conference introducing the Committee was held in Rome on 16 November 2004.

382. Right from the outset, the Committee has proved to be an instrument that fosters synergies and exchanges of professional experience and individual awareness and knowledge and as such is able to detect current processes of social change. In terms of discrimination or racism, it deals with all those problems which arise on a daily basis in multi-ethnic communities - schools, religious symbols, the use of the *burqa* - and with the hopes of minorities and the dangers, evident or otherwise, of reactions by citizens and communities.

383. The most significant decisions taken thus far by the Committee are the monitoring of discrimination through the Prefect's Offices in Provincial capitals; the involvement of Educational Directors-General, through the Minister of Education, to establish collaborative relations with the world of education in order to gain a better understanding of problems related to intolerance and promote appropriate information; the use of the call centre due to be set up in the Department for Equal Opportunities to obtain a better awareness of reports by victims of discriminatory conduct; and the creation of a website to publicise the existence and activity of the Committee. To this purpose the Committee has promoted: the "training" of teachers at all levels; the acquisition of specific knowledge of historical events and of the latest international news by students through the choice of objective school textbooks and cultural activities promoting the richness of ethnic differences; the need of proper training of journalists and mass-media professionals, about which it has been reported to the Minister of the Interior for the necessary evaluation of merits; the training of State Police members who, while in the schools, will be given the text entitled 'Servizio di Polizia per la Società Multiculturale' - 'Police Service for the Multicultural Society'; the promotion of a fuller and better awareness of Shoah subjects by the Regional School Headquarters qualified on public education.

384. The Committee also deemed it useful to engage in a dialogue with religious bodies, linguistic minorities and NGOs throughout Italy, and in particular with Muslim organisations in

the country (proposing, in a circular issued by the Minister of the Interior on 23 September 2004, the establishment of a central consultative body whose aim would be to “open an institutional dialogue” with such organisations and “facilitate the emergence of an ‘Italian’ form of Islam that would be compatible with Italy’s laws and values”). The Union of Italian Jewish Communities, the Islamic Cultural Centre of Italy and “Opera Nomadi” were consulted in turn, following which the Muslim Religious Community (COREIS) and the Union of Muslim Communities and Organisations (UCOI) were invited to attend meetings along with any NGOs or bodies requesting to take part.

**(d) The inter-faith consultative bodies**

385. The Government has adopted new, more targeted actions to combat these phenomena within the more general framework of safeguarding individual and collective human rights and religious and cultural identities. In this, it has avoided separating anti-Semitism out from phenomena such as xenophobia and “islamophobia” which, although historically and chronologically diverse, still have similar features. The intention is to refer to the on-going task of monitoring, awareness-raising, analysis and data-collection as carried out by the Inter-ministerial Committee of Human Rights in the Ministry of Foreign Affairs. Italy also made a significant contribution in terms of inter-faith dialogue during the Italian six-month Presidency, a contribution that should lead to further concrete results.

386. At the EU Home Affairs Ministers’ Conference on inter-faith dialogue, which took place in Rome on 30 October 2003 and was open to contributions from representatives of different faiths, two proposals were launched: a “European Charter for Inter-Faith Dialogue” and a “European Forum for Inter-Faith Dialogue between European Governments and Religions”. These proposals were then presented to the EU Justice and Home Affairs (JHA) Council, which closed with a declaration on inter-faith dialogue and social cohesion, approved by the Ministries of the Interior and noted with great satisfaction by the Heads of State and Government. This declaration will open new prospects within the shared European space for the integration of legal immigrants, the peaceful co-existence of people of different origins and cultures, and the security of European society. Finally, Italy expressed the hope that the European Union would in future use this new instrument for peaceful co-existence and mutual awareness to support that open and transparent dialogue between different faiths that will help build a solid defence against all forms of intolerance, racism, anti-Semitism or xenophobia.

387. It is in this context that Italy announced the creation within the Ministry of the Interior of a Muslim Consultative Body made up - as Minister Pisanu pointed out - of “moderate” representatives of the Muslim community. To this end, a series of meetings were held in 2004 with members of the principal Muslim organisations in Italy, including the Council of the World Islamic Call Society, an NGO recognised by the UN and which has been operating in Italy since 1980. At these meetings the Council expressed its fullest appreciation of the work carried out by the Italian government during its European Presidency, with the approval of the European Charter on Inter-Faith Dialogue. By virtue of this climate of dialogue and collaboration with the Italian Government, the World Islamic Society chose the city of Rome as the location for the meeting of its World Council, the first time in its history that this meeting has taken place in a European country. The Consultative Body named “Consulta per l’Islam italiano” (Council for Italian Islam) was set up by Decree of the Minister of the Interior on 10<sup>th</sup> September 2005.

388. A significant example of the establishment of inter-faith consultative bodies at the local level is the creation of Rome City Council's Consultative Body for Religions, which was set up after a Protocol of Understanding was signed on 16 December 2002 between the City Council and the delegates of a number of religions present in the city (the Jewish Community of Rome, the Muslim Cultural Centre of Italy, the Italian Buddhist Union, the Soka Gakkai Institute, the Hindu Union, the Baptist Union, the Evangelical Church, the Valdese and Methodist Churches, the Lutheran Community, the Seventh Day Adventists, the Salvation Army, the Christian Scientists, the Ethiopian Orthodox Church and representatives of the Bahà'ì faith; the Jehovah's Witnesses expressed a reservation with respect to membership).

389. The establishment of this body is based on a key principle: "The recognition, in the spirit of equal dignity of each participant, a cornerstone of the Italian Constitution, of the important role played by the presence of religious communities, albeit in the diversity of their beliefs, in building a city that is truly pluralist and welcoming". The main tasks of the Consultative Body include "defining the map of places of worship, promoting suitable training for staff of the city council and other public structures in order to raise public awareness of the prerogatives of those who believe in certain religious values". It will pay specific attention to the media in the dissemination of information on the various religious creeds, promoting "meetings and seminars on the issue of religious pluralism and meetings for inter-faith dialogue in the spirit of dialogue between cultures and faiths" and "musical, artistic and cultural events designed to promote a culture of peace, dialogue and respect for human rights and the rights of minorities".

**(e) The International Task Force on the Shoah**

390. The Task Force for International Cooperation on Holocaust Education (ITF) was founded in Stockholm in 1998 at Sweden's initiative. Its purpose is to promote cultural, educational and academic initiatives in member countries and other countries associated with the ITF through partnership projects, with a view to keeping the collective memory of the Shoah alive by focusing on its unique characteristics within the context of universal suffering.

391. The ITF is made up of government representatives and organisations, and NGOs.

392. The Task Force currently has twenty member countries: Argentina, Austria, the Czech Republic, Denmark, France, Germany, Hungary, Israel, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Norway, Poland, Rumania, Sweden, Switzerland, the United Kingdom, and the United States.

393. Membership of the Task Force is open to all countries. Members must be committed to the Declaration of the Stockholm International Forum on the Holocaust (January 2000), and be committed to the implementation of national policies and programmes in support of Holocaust education, remembrance, and research.

394. The chairmanship rotates on an annual basis, from February to February. Italy held the chairmanship for 2004-2005, with Poland taking over for 2005-06.

395. The ITF operates through a number of working groups, principal of which are: Education Working Group, Academic Working Group, Memorial Working Group, Fund Working Group and the Information Working Group. These are coordinated by the Strategic and Implementation



Working Group, which acts as the driving force for the organisation and as the monitoring body, including with respect to financial matters. In December 2004 a new group was set up: the Special Working Group on Resistance to teaching and learning about the Holocaust.

396. The ITF is funded through annual membership subscriptions paid by each member state in order to co-finance cooperation projects. Sweden holds the fund, the use of which is decided by the current chair.

397. At the behest of the Prime Minister's Office and through a decree issued by the Minister of Education, the Italian delegation to the Task Force was set up in agreement with the Ministry of Foreign Affairs. The Delegation is chaired by Ambassador Giorgio Franchetti Pardo and was allocated €500,000 for the period of the Italian chairmanship. The Italian office of the Task Force is based within the Ministry of Education, and is supported by a Committee of Experts tasked with providing advice and consultancy services on cultural and academic issues. Its members are representatives of the Minister itself, the cultural community and the Union of Jewish Communities, as well as NGOs and ONLUS (non-profit (socially useful) organisations).

398. As testimony to its promotion of a wider reaching inter-cultural and inter-faith dialogue, the Government closed the Italian Presidency of the EU by promoting the approval at the last European Council of 2003 of a commitment by the EU as a whole to oppose all forms of extremism, intolerance and xenophobia, ills which still undermine peaceful and democratic co-existence. The government underlined its profound concern over the increase in episodes of anti-Semitic intolerance, both against places of worship and against individuals. This commitment had previously been highlighted by the Minister for Relations with Parliament, Hon. Giovanardi (November 2003), in response to the communication from Yad Vashem on the surveys on anti-Semitism and was subsequently reiterated with some force by the Deputy Prime Minister Hon. Fini, who expressed in strong terms his condemnation of all forms of racism and anti-Semitism, whether past or present, and of the racial laws.

399. In this spirit, on the occasion of the celebration of the "Day of Memory" (Giorno della memoria) on 27 January 2004, the Head of the Government issued a message in which he undertook to act with the greatest commitment to foster dialogue, respect and acceptance by and between different faiths and cultures. Also worthy of note is the initiative launched in 2003 under the High Patronage of the President of the Republic and in collaboration with the Italian Union of Jewish Communities. This involves projects (drawings, stories, fairy tales, posters, research projects and multi-media products by primary and secondary school pupils) on the issues: "The Period of the Shoah as Experienced by Boys and Girls Like You" and "Peoples and Persons during the Shoah. Different events, roles and behaviour: the victims, the persecutors, those who looked away, and those who reacted and took action ...". The winners received their prizes from a national commission set up specifically for this purpose and composed of representatives from the Jewish Communities and experts from the Ministry of Education. The award ceremony took place on 27 January 2005 - "Day of Memory", marked by a commemoration of the 60<sup>th</sup> Anniversary of the liberation of the death camp of Auschwitz.

400. Furthermore, the Prime Minister created a special Commission to recover the Jewish library looted during the raid of the Roma's ghetto in October 1943: a small contribution for the reconstruction of a great loss of culture aiming to trace back that execrable violence.

401. The Ministry of the Interior, moreover, has taken upon itself to give increasing relevance to the commemoration of the 'Day of Memory'. As a matter of fact, on the 5<sup>th</sup> Anniversary, a specific celebration, for the first time and with great relevance within the Institutional circles, was arranged in the 'Scuola Superiore' of the Ministry of the Interior - a post-graduate training school for officers and executives - in the presence of the Minister, the President of the Italian Jewish Committees' Union, Academics and, as a Speaker, the President of the said Committee, who is also the Head of the Civil Liberties and Immigration Department.

402. It was also decided that:

- The participation of the President of the named Committee, as a member of the Italian delegation led by the Minister of the Interior, in the tour of the Holy Land and the Yad Vaschem Museum, and the Italo-Israeli joint celebration to commemorate Giovanni Palatucci, the last Chief of Police in the city of Fiume who was granted the acknowledgement of 'Just of Israel' for his personal worthwhile activity against the racial discrimination laws of 1939, which he pushed to the extreme sacrifice of his own life - February 2005;
- Presentation ceremonies, on the 'Day of Memory' - January, 27<sup>th</sup> 2005 -, of acknowledgements of merits for civil values in favour of institutions which distinguished themselves for heroic deeds and acts of solidarity towards Italian-Jewish people during the Second World War - Nardò - Lecce: gold medal to the Town Council, Tora e Picilli, silver medal to the Town Council.

403. In particular, it must be pointed out that during the hearings decided by the said Committee, the President of the "Union of the Jewish Communities in Italy", Prof. Luzzatto, and the representative of the 'World Muslim League - Italian Section', as well as the Secretary General of the 'Islamic Cultural Centre of Italy' - an incorporated organisation since 1974 - acknowledged the active and tangible willingness of the national institutions at all levels to bring about the principle of equality, regardless of any religious, racial or sexual discrimination and reaffirmed their will to carry on the collaboration with those institutions.

404. In this sense the President Prof Luzzato, in October 2004 stated his opinion that:

- The anti-Semitism manifested in Italy is the result of poor culture and ignorance of historical events as well as of the ties that have always existed with citizens of Jewish faith who played an active role even in the history of the Italian Risorgimento;
- The level of anti-Semitism and the substance of the manifestations - graffiti, swastikas, vandalisms, telephone insults, letters and assaults on physical persons or their belongings - is generally decreasing except for occasional peaks as in the case of events related to the Middle-East conflict which encourage political exploitations and, seemingly, episodes of racism, anti-Zionism and anti-Americanism.

405. It should be said that the above mentioned "Union of the Jewish Communities in Italy" is a body with legal status whose relationships with the Italian State have been regulated through the stipulation of bilateral agreements, as foreseen in Article 8 of the Constitution.

406. The investigations undertaken by the Committee within the Prefectures confirm, on the contrary, the exploitable nature of the episodes of intolerance which occurred in the Universities of Pisa, Firenze and Torino against Jewish Diplomatic Speakers (the Ambassador of Israel Gol, the Embassy Councillor Coen and the Vice-Ambassador of Israel) who were prevented from speaking. The said episodes were firmly condemned by the Minister of Education in his speech on 25<sup>th</sup> May 2005 within the Senate of the Republic, in relation to the Motion No. 339 concerning 'episodes of anti-Semitism in the Universities'. The speech had been preceded by a clarification meeting between the Minister in person and the Rectors of the Italian Universities in the presence of the Ambassador of Israel Gol himself, with whom a number of joint cultural initiatives were agreed upon to be carried out within Universities and schools in general, in order to inspire a conciliatory climate for generating respect.

407. Likewise, the publication of Prof. Melis from the University of Cagliari was placed under constraint and condemned. This publication, in attacking the ideological foundation and the particular procedures of Jewish rituals of animal slaughtering included anti-Semitic declarations. The author was referred to the judiciary according to Article 3 of Act No. 654/1975 and E.O. No. 122/1993.

408. The Italian Presidency of the ITF (Task Force for International Co-operation on Holocaust Education) has given strong encouragement to Shoah education by promoting and realizing training teaching activities, distributing publications in schools, involving schools in research and materials production on the topic and promoting awareness of good practices. Moreover, to insure that the Holocaust is never forgotten, the Italian Parliament stated in Act No. 211/2000 that the 27 of January of each year will be celebrated as "the Day of memory". Since then, many initiatives have been organized all over the country every year, with the participation of institutions, schools, NGO, media and private citizens.

409. For example, a monitoring action has been undertaken on the item "Shoah, intolerance, racism, xenophobia, anti-semitism in the perspective of a multicultural society", through information collected by local school personnel involved - both teachers and experts - as members of a regional network.

410. After a first Workshop, which took place in Rome on the 10<sup>th</sup> of June 2004 about the work of Primo Levi, the results of the above mentioned monitoring action were illustrated in the Workshop of Montecatini (28 February - 2 March 2005) on the topic "Teaching the Shoah in multicultural societies", organized to face educational problems in all Europe deriving from an increasing internationalisation and the cultural complexity within societies. Beyond the ITF Sub-committee, co-ordinators from Regional Offices, teachers appointed by Local Administrators, groups competent in historical items of XX<sup>o</sup> century took part to this Workshop. In particular 82 persons were involved, facing social and historical items, focusing the origin of prejudices, the characteristics of anti-Semitism and several specific European cases. At the end of the first ITF plenary assembly, each participant described the situation, policy and educational approaches of his or her own country. Both these seminars have had an international scope, with the participation of expert speakers coming from many countries.

411. The privileged relationship with Yad Vashem, the Shoah documentation and memory centre in Israel, promoted during the year of ITF Italian Presidency, has given an added value to Shoah education, treating it as a specific advanced pedagogy. In September 2005, in the

International School of Studies on Holocaust in Jerusalem another Workshop was organized by the Yad Vashem, together with the Italian delegation of the ITF, for 25 Italian teachers coming from several Italian Regions to strengthen the above cited network to intensify and disseminate the acknowledgment of the Shoah and to promote strategies to prevent and fight against every new form of racism and anti-semitism.

412. These interventions are good examples for other countries such as France, Great Britain and Germany, where a research on teaching practices of the Shoah is being promoted.

413. Finally, two other initiatives may be mentioned: the first is that on 7 October 2005 the Regional School Office of Lombardy, together with the Rozzano Municipality and an ITF Italian delegation, held a daily Workshop for teachers and students on the topic “Shoah and multiculturalism in the school today: pedagogical strategies and proposals”. The second initiative is the annual prize offered by the Minister of Education and the Italian Union of Jewish Communities for drawings, stories, fairy tales, posters, research projects and multi-media produced by primary and secondary school pupils, according to the spirit of the Council of Europe in this field, as demonstrated in the European Workshop in Cracovia (4-6 May 2005) in which the ITF Italian Delegation took part along with its Co-ordinator Hon. Aprea.

**(f) The National Coordination Body (NCB) for social integration policies for foreign nationals**

414. As stated in Article 42 §3 of the Consolidated Text No. 286/1998 and Article 56 of the implementing regulations, the remit of the National Coordination Body for Social Integration Policies for Foreign Nationals (NCB), which has been set up within the National Council for the Economy and Labour (CNEL), is to:

- Accompany and support the development of local reception and integration services for foreign citizens and their representation and participation in public life; and
- Promote discussion to this end between institutional and social actors at the local level and also with key local actors in other European countries, to ensure that experiences are always set within the context of society as a whole, with a view to identifying and evaluating effective courses of action.

415. After over a decade of initiatives by institutions, civil society and the religious community to promote solidarity, the quality leap now required is to promote a systematic integration policy at the local level, with due respect for diversity where compatible with the fundamental principles and values of our democracy.

416. To this end, actions to accompany and support the initiative by local institutions and social services have a decisive role to play, as does engagement in inter-institutional collaboration.

417. The **working method**, which has been successfully tried and tested in the six years since the body was set up, continues to focus on the division of the NCB into working groups holding

monthly seminars (open to experts from public and private sector initiatives) to discuss and examine individual areas for action, and the promotion of and collaboration with local integration policy initiatives.

418. The **working pathways** on which the NCB continues to engage are: the promotion of representation; family and housing policies; cultural models and health, education, vocational training and intercultural policies; training and the use of cultural mediators; the cutting of red tape and the promotion of Single Desks; regional policies; employment inclusion; immigration and information.

419. Taking forward the initiatives of 2003 and the reports developed in these years with the working groups and seminars, in 2004 the NCB drew up a number of reports for the Government and Parliament.

420. The national reference framework will concern the legislative initiatives on asylum, citizenship and the right to vote; the issue of the Regulations implementing the Bossi-Fini Law (now the Consolidated Text on Immigration) and the three-year Immigration Policy Programming Decree; and the decrees on migratory flows, which however raise the question of more reliable regulation and programming. At the regional level, it will address the drafting of laws to come into line with the national legal system; and at the EU level, the completion of the legal framework and the entry of the ten new EU countries.

421. The NCB has resumed dialogue with the Regions on the new regional laws, many of which are still at the drafting stage or under consideration.

422. Once the Regulations are issued, the social monitoring of the application of the Bossi-Fini Law (now the Consolidated Text on Immigration) will be resumed through the 40 local offices, representatives of which have already been consulted in special hearings held in 2003.

423. The NCB will pay particular attention to collaboration with the Ministries of Labour and Social Policies, the Interior and Education, and with the Regions and local authorities. A number of national and local initiatives are already planned.

424. Specific research projects, working groups and seminars are envisaged on the following aspects of social integration policy:

- **Housing.** A sub-group has been set up as part of the “*Family and Housing Policies*” Working Group to monitor the experience of non-profit agencies and associations and to develop, from a comparison with existing good practice, a specific local model for the promotion of social housing and integration. The focus will be on “secondary reception” services, which are more critical and at any rate a key step in successfully initiating integration processes and achieving effective turnover in the initial reception centres, thus helping also to combat clandestine immigration and monitor this phenomenon more effectively;

Still in terms of the impact of housing policies on disadvantaged categories, attention is focused on cooperatives and the third sector in view of the importance attributed in initiatives to accompaniment and social integration services, which play a particularly

important part in reducing the latent scope for conflict with “native” residents in local communities. In addition to an up-dated mapping of the most firmly established and innovative models (which will provide the basis for ideas to be rolled out and implemented locally), the question of further examining the “state of the art” of their mediation system is felt to be of fundamental importance. Indeed, this is an essential condition for the successful promotion of local non-profit estate agencies. In the light of the promotion of the above-mentioned “agencies”, the local coordination of social housing construction cooperatives and non-profit bodies and immigration services could be the central plank of a new development model. This would not involve the creation of unnecessary superstructures or limiting the autonomy of the schemes being taken forward by individual associations in their districts, but rather, would provide new interlocutors as well as technical support and assistance services;

The outcome of this effort could include the possibility of promoting draft legislation, expanding and increasing employment by providing the knowledge base and proposals to address the problem of inadequate information sources and databases. This is especially important in evaluating the impact and success of the initiatives taken forward in the social housing construction sector and related intermediation services and accrediting new “sources” with the participation of the “private social sector”, given the limits of the “public sector”. These could be linked where applicable in a European-level network;

- **The family:** in line with the activities of the Working Group on the family, NCB-CNEL is promoting a research project on “*Foreign Adolescents and the World of Work: a trans-cultural study of the values inherent to employment*”, with the results being presented in a seminar in 2005. In recent years we have noted considerable changes in our schools: they now have pupils of 182 different ethnic groups who speak 78 languages and belong to 18 different religions. In 20 years, the numbers of foreign pupils have increased 20-fold, from about 6000 to nearly 233,000, or nearly 3% of the total. Moreover, the number of Italian pupils is declining, while the number of foreign pupils is increasing notably, except at senior high school level, where they account for just over 1% of the total. It therefore seems important to collect information on how these young people perceive their future working life and how central this is to their life experience. People perform different roles in life, and this is no less true of adolescents: they are members of a family, members of a class at school and of a group of friends, they occupy different roles in their free time and are nearing the stage where they will also have roles as workers. We are curious to discover what future immigrant adolescents about to leave secondary school here in Italy envisage for themselves, their image of themselves as workers and how they intend to enter the labour market;
- **Employment inclusion** is crucial to the proper governance of immigration and vital to civil co-existence;

The programming of quotas has been criticised by a number of parties in our country. In December 2003 the NCB-CNEL organised an important opportunity for debate on the social impacts of the different European systems for regulating migratory flows;

For 2004 the NCB-CNEL took up this issue again, focusing this time on how to improve the quota system to encourage the matching of employment demand and supply and link entry to the country with social integration;

- **The European Union’s approach to the management of economic migration**, through a seminar on the Green Paper (March 2005) drawn up by the European Commission. The aim of this event is to encourage debate to provide further input for the actors involved in responding to the questions posed by the Green Paper for an EU policy on managing economic migration to enable them to arrive at a considered viewpoint and independent evaluation of the issues;
- **The promotion of regional and local Observatories and national databases on immigration and their integration in system form**, through a number of hearings (February/March/April 2005) with the local and national heads of the various systems, including with reference to Presidential Decree No. 242 of 27 July 2004 entrusting the Minister of the Interior with responsibility for rationalisation and interconnection.

425. In December 2003 the NCB-CNEL Presidency Committee decided to produce the **first national database on immigrants**. To this end the Caritas/Statistical Immigration Dossier was entrusted with the project of providing and processing the statistical data available on immigrants from 1 January 2003, in addition to the data already held in the Statistical Immigration Dossier, following the recommendations of the NCB Presidency Committee. Reference to quantitative data, in today’s context, is considered necessary to developing an informational and knowledge-based approach that reflects reality as closely as possible: although they cannot take the place of qualitative study, statistics become the necessary foundation and support for it. In this way the CNEL has become the first statistical structure to take action by providing a systematic archive for consultation which should also enable new levels of interaction - with the OECD’s system for the continuing monitoring of international migration - as well as an initiative for dialogue promoting the development of the local observation system by the Regions and other local authorities. With this database, the NCB’s aim is to become a reference and coordination point for all the local Observatories, which have expressed strong demand for such an initiative. To this end the NCB-CNEL started with UNAR on July 2005 a national monitoring devoted to create a national and permanent network among these centres in order to promote the dissemination of data and remedies concerning discriminatory offences.

426. It should be added that the Statistical Immigration Dossier is working with the CNEL, again at the statistical level, on the “Report on local immigrant inclusion indicators”, the third edition of which was published in 2004. The research develops the lines of research already established in the previous reports:

- Indicators on the extent of the phenomenon;
- Ethnic-cultural multi-centre indicators;
- Stability indicators;

- Social inclusion indicators;
- Employment inclusion indicators.

427. To these indicators should be added those on health and education: a progressive survey is carried out at the provincial level to provide a snapshot summarising and comparing integration processes.

428. A specific emphasis is laid on the enlargement-immigration relationship, including in the light of the diverse decisions taken by the 15 with respect to mobility from the new member countries. One of the events to address this issue at an early stage was the initiative at the end of April 2004 during which a study by Caritas was presented on the subject of “**Europe: Enlargement to the East**”, which includes a specific contribution by the CNEL.

429. A focus on immigration issues will be further promoted in the meetings of the Economic and Social Committees (ESCs) of the Mediterranean area. The EuroMediterranean Summit of ESCs and similar institutions, which took place in Malta on 6-7 November 2003, identified the issues for discussion during the 2004 Summit in Valencia in November 2004.

430. One of these was devoted to “**Immigration and Cooperation by the Countries of the Region**” and was entrusted by the Malta Summit to a Working Group which sees the participation of the ESCs from Spain (topic leader), France, Greece, Tunisia and Italy.

431. Starting from an awareness of the fact that there are a range of integration models, one of the aims is to assess whether the conditions exist to propose a Mediterranean model of integration, starting from the premise that immigration and integration policies should be considered in terms not just of solidarity but also of development.

#### **(g) The National Monitoring Centre on Sports Events**

432. With specific respect to phenomena of discrimination and violence on racial grounds during sports events, and in particular football matches, it should be mentioned that such phenomenon is undoubtedly one of the themes of major concern of both public opinion and sports national and international institutions.

433. Against this background, it seems useful to outline preliminarily the mandate of the National Monitoring Centre on Sports Events that, based at the Ministry of Interior, is the Office tasked with devising and implementing the essential strategies of fight against phenomena of violence in the stadiums. The Centre, chaired by the Director of the Office on Public Order of the Department of Public Security, meets weekly and is composed of an officer of the Office on Public Order acting as the secretary and 4 officers working at the Central Direction of the Police of Prevention, the Traffic Police Service, the Railway Police Service and the Special Divisions Service of the aforementioned Department, respectively. Other members of the centre are: an official of the *Carabinieri* Service, a representative of the Minister for Arts and Culture, and on behalf of the world of sport there are qualified representatives of the CONI, the Inquiry Office of the Italian Federation on the Football, the National Professional League, the National League of Football Players of the third division championship and the sports societies concerned. In



addition to them, other bodies are involved in the assessment and the ensuing decisions made by the Monitoring Centre, such as the State Railways and the *Autogrill* Company that run the transport of the fans and the refreshment shops en route, respectively.

434. The activities of the Centre are three-pronged: 1. Analysis - Monitoring of phenomena of violence and intolerance in the field of sports and promotion of researches on these issues in Italy and abroad; studies on the problems relevant to football matches and to assess, also on the basis of information gathered, the levels of risk. On the basis of these outlooks, the following activities are carried out: weekly issuance of Directives to the Provincial Authorities of Public Security in order to adopt the necessary measures to guarantee the normal course of the sports events; monitoring of the sports stadiums in order to verify their conformity with the requirements provided for in the norms in force; constant updating and analysis of data on phenomena of violence in order to calibrate consequently the strategies of intervention and to promote researches both in Italy and abroad. 2. Activity of proposal - analysis of current legislation in order to harmonise implementation among the bodies and the institutions represented; integration and modification of directives and regulations on matters relating to prevention of violence in the stadiums; adoption of initiatives aiming at spreading the values of legality and fair sports competition, promoting meetings in schools, conventions and debates on "education to legality" in order to increase awareness-raising on the above mentioned issues, in particular among young people; exchange of information at both national and international level and harmonisation of the directives with the authorities of Public Security and the local bodies of the other Departments. 3. Documentation activity - drawing up of the minutes of the weekly meetings of the Centre; drafting of the yearly report of the Centre.

435. The necessity of running and managing sports events through a complex organisational model in order to attain the shared objective of the smooth course of the sports event has shown the importance of the experience of the Centre in the stages of both planning the measures and their implementation.

436. During the football season 2003-2004, important results were achieved: 5724 matches took place, of which 309 of the first-division championship, 526 of the second-division championship, 1584 of the third-division championship, 3154 of the fourth-division championship, over 81 matches of the Italy Cup, 15 of the Champions League, 13 of the UEFA Cup. Around 20 million people watched these matches and among them a million people followed their team away from home. On the occasion of the matches, 931 wounded among the Forces of law and order were reported compared to 1240 in the previous season, with a decrease of 25%. The number of wounded among civilians diminished as well: 282 as opposed to 473 during the 2002-2003 season, with a fall of 40%. The activity of repression went on: 335 decisions of arrest were adopted and 1330 persons were charged.

437. The work of the Central Direction of the Police of Prevention and of Football Teams Supporters (*Squadre Tifoserie*) over the last few years has pursued the aim of highlighting the preventive profile of Football Teams Supporters and in relation to it developing a deep and systematic information activity and analysis on structural features, organisational frameworks and strategies pursued by the supporters in order to understand promptly their levels of danger and to prevent them from carrying out actions disturbing the peace. The information activity focused on external trends of supporters, also taking account of the politicisation processes developed over the last few years. In this context, mention should be made of: infiltration by

individual militants or ultra organisations, participation with ultra supporter identity in political demonstrations, circulation of documentary materials or showing banners with political contents, reiteration of racist or xenophobic behaviours and initiatives not related to sports.

438. Special attention has been paid to the development of internal trends of the supporters, taking into account in particular the possible participation in existing aggregation processes, the existence of tense situations or cooperation among the clubs present in the stands of the stadiums, the motives linked to the origin of new alliances or the cessation of those already existing, the state of the relationships with sports societies, the global framework of alliances and rivalries at national and international level. In so doing, it was possible to outline an updated picture of the organised supporters, a phenomenon still little known that has great repercussions on the daily maintenance of order and public security and that, in order to plan an effective strategy of prevention, needs to be monitored constantly and carefully understood considering every aspect, avoiding any schematics and restrictive simplifications.

439. In this context, great attention has been paid to the analysis of the so-called “ultra mentality”, the main attempts at aggregation and the communication instruments employed by supporters’ organisations. It seemed also necessary to know deeply the phenomenon of “politicisations of the stands” that concerned circumscribed situations in the past and now is part and parcel of the complex and articulated world of supporters. All in all, after a first phase when groups of far-left supporters prevailed in the stands, as time passed groups of far-right supporters have been more numerous: the main feature common to all the extreme area is the existence of a “theory of violent opposition”, primarily directed against the overall “institutional system”.

440. From the same perspective, the “monitoring in the European context of the infiltration of political extremism among ultra supporters” was carried out. A document containing a synthesis of the situation of the phenomenon in the European context and the individual Member States of the EU was drafted on the basis of the contributions given by the Offices of the Polices of the EU. This phenomenon is not present in all the countries. In many situations the ultra supporters tend to behave influenced by far-right ideologies or in any case with a xenophobic or racist background, although in the majority of cases these attitudes are complemented neither by a real political awareness nor a direct link with organisations in this area. The aforementioned Document was presented at the meetings of the “group of experts on football” and the group “cooperation of police” that took place in Brussels on 14-15 December 2004. In this context, it should be borne in mind that Decree Law No. 28/2003, as confirmed by Act No. 88/2003, concerned the issue of offences committed through violence against persons or property on occasion of sports events and provided for arrest in the act of the crime, also on the basis of photographic video documentation or other objective elements from which the author of the offence appears clearly. Against this background, it should be mentioned that on 6 June 2005 the Minister of the Interior adopted 3 Decrees in order to prevent further phenomena with racial and violent background in the stadiums, further disposing that through circulars by the Police Chief, the following measures are envisaged: on the occasion of public shows - including football matches - when banners, placards, posters or other symbols punishable under Art. 2 of Decree Law No. 122/93, Police officials responsible for public order can decide either to delay the beginning of the event or to stop it.

441. With specific respect to phenomena of discrimination and violence on racial grounds during sports events, and in particular football matches, a relevant co-ordination has been

promoted by UNAR with National Federation on Football to increase awareness-raising on racist behaviours among sport societies and football team supporters and to suggest adequate measures against discrimination among both the general public and football players themselves. An ad hoc Working Group has been created, composed by all the concerned institutions, to verify or to adopt directives and regulations relating to combat racist violence in stadiums and to raise the awareness of football teams supporters in preventing this phenomenon. UNAR has supported some initiatives aiming at spreading legislative measures and sanctions for those ones who have racist behaviours (for example the duty of sport societies to alert the public before the game starts about eventual sanctions for slogans or banners of racist nature, or to give this message on the tickets) and at financing projects for the prevention of racist episodes. To this end a specific 'Protocol of Agreement' on the institution of a Fund for raising-awareness initiatives in this field by UNAR and the National Federation on Football is under study. UNAR has a representative within the above mentioned National Monitoring Centre on Sports Events based at the Ministry of the Interior.

## SECTION II

### 1. Racial discrimination and employment

#### (a) General considerations

442. Legal entry and residence in Italy for individuals holding employment contracts are a necessary condition to ensure that the rights of immigrant citizens are protected and to prevent forms of deviant behaviour and intolerance.

443. To this end, the Consolidated Text No. 286/1998 introduced a system for the programming of migratory flows to serve as a basis in guiding government actions in the adoption of measures to promote integration and combat discrimination.

444. The linkage between employment contracts and residence permits was further strengthened by the entry into force of Act No. 189/2002 amending and integrating the Consolidated Text No. 286/1998, which envisages the introduction of a "residence contract for employment", and by Decree Law No. 195/2002, as confirmed by Act No. 222/2002 containing "Urgent provisions concerning the legalisation of undeclared employment by non-EU citizens". This envisages provisions to combat undeclared employment and the exploitation it generates.

445. More specifically, Article 33 of Act No. 189/2002 envisages a process for the legalisation of employment relationships with non-EU citizens who do not hold the relevant permit of stay for employment purposes but who, in the three months preceding the entry into force of the law in question, started work in caring for non self-sufficient members of their employers' household or in domestic work as family helps. With Decree Law No. 195/2002, the legalisation procedure was also applied to non-EU workers employed illegally by firms in the previous three months.

446. Possession of a permit of stay for the reasons guarantees the right to study and allows access to university. Persons holding a permit of at least two years' duration have access to public housing and any intermediation services by social agencies that may have been set up by the region or local authorities, as well as to low-interest loans to build, renovate, purchase or rent their first home.

447. Turning more specifically to measures to combat discrimination, Act No. 189/2002 did not change Article 43 of Consolidated Text No. 286/1998, which defines discrimination as “any form of conduct that directly or indirectly involves a distinction, exclusion, restriction or preference based on race, colour, kinship or national or ethnic origin, beliefs or religious observances, and which has the aim or effect of destroying or compromising the recognition, enjoyment or exercise of the fundamental freedoms in the political, economic, social and cultural fields and any other sector of public life, in conditions of equality”.

448. Article 44 of the Consolidated Text No. 286/1998 also makes it possible to take civil action against private bodies or individuals and against the public administration, to bring an end to “prejudicial conduct and adopt any other appropriate provisions to remove the effects of discrimination”.

449. Also worthy of note are Legislative Decree No. 215/2003, which transposes Council Directive 2000/43/EC of 29 June 2000 on the principle of equal treatment of persons irrespective of their race or ethnic origin, and Legislative Decree No. 216/2003, which faithfully transposed and put into effect EU Directive 2000/78/EC establishing a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation in respect of employment and occupation. Legislative Decree No. 216/2003 contains the definitions of direct and indirect discrimination and provides for some exceptions. More specifically, in accordance with Article 4§2 of the Directive, Article 3§3 of the Decree establishes that a difference of treatment based on a person’s religion or beliefs, age, sexual orientation, or disability does not constitute discrimination when these differences are prerequisites to engage in certain occupations, by reason of the nature of these activities or of the context in which they are carried out. The Italian provision also adds a requirement to respect the principles of reasonableness and proportionality. Article 4 envisages the possibility of taking legal action to obtain recognition of the existence of the discrimination before the court. The procedure is very simple, swift, and favourable to the alleged victims. The victim may submit the application directly in person and the court is not required to carry out a complex inquiry. Judges are given the power to provide for recovering damages, including in terms of non-material assets; to order the cessation of the discriminatory acts or behaviour; and to adopt a plan to remove proven discrimination. The court may also decide to publish the judgement in a national daily newspaper. Local Trade Unions may represent the victim before the court, if the victim so agrees.

450. Within the legislative framework illustrated above, the Directorate for Immigration at the Ministry of Labour and Social Policies has introduced a series of actions to foster the integration of immigrants in Italy and combat discrimination.

451. The Minister of Labour and Social Policies has adopted on 25 January 2005 two Texts (*Circolari*) that provide for procedural modalities of presentation of requests from employers who want to employ foreigner citizens in conformity with defined quotas (not more than 79.500 entrances for seasonal workers and not more than 30.000 entrances for subordinated work - the half reserved to domestic work). Furthermore, to support both the employers and the foreign employees, the Ministry has improved informative tools to respond to numerous calls by phone and mail addressed to the Contact center when the decrees concerning quotas are

published. For extra EU or new EU countries immigrant flows to Italy is now in operation the “Extra EU and new EU countries workers Informative System - S.I.L.E.N.” which will incorporate the previous system within 2005.

452. Programme Agreements have been drawn up with the Regions to promote pilot schemes involving actions and good practice that can be reproduced at the national level, such as literacy and training projects, support for access to housing, cultural mediation, and integrated network services.

453. To support the processes involved in the integration of the immigrant population in Italy, increase our knowledge of migratory phenomena and develop adequate reception services, a series of initiatives, still on-going, have been implemented. These are financed by structural funds from the 2000-2006 Operating Programme for Security in the Development of Southern Italy, run by the Ministry of the Interior. These initiatives include the establishment of the Monitoring Centre for Migratory Movements, based in Bari, and the Anti-Discrimination Centre in Naples. The Naples Centre carries out actions to study, prevent and combat discrimination against immigrant citizens in the Regions of southern Italy, on the basis of an analysis of the phenomenon, and to promote effective policies in this respect. The Centre also draws on the support of cultural mediators for its research activities. Cultural mediation activities are designed primarily to enable a greater knowledge of immigration and reduce the distance between the institutions of the host country and the immigrant population, by interacting with them. Cultural mediation services have therefore been set up in the sectors of health, education, employment and the social services, through the use of 60 mediators in the local headquarters of the 6 southern Italian Regions.

454. On the subject of cultural mediation, in 2002 the Directorate for Immigration turned its attention to the figure of the cultural-linguistic mediator. In June 2002 a seminar was organised in Padua, during which a joint inter-ministerial paper was presented (Ministries of the Interior, Justice, Health, and Education). This paper analyses the demand for cultural mediation and the definition of this occupational profile.

455. The work of the Commission set up under Article 12 of Framework Law No. 328/2000 to define the occupational profiles operating within the social services system also continued. The Commission decided that cultural-linguistic mediators should be included with those social operators having a specific occupational profile, with a distinction being made as to whether or not they hold a university degree.

456. Finally, and again on the subject of cultural mediation, a number of projects have received funding since 2001.

457. One such project is the “Cultural Mediators Network”. This envisages initiatives by a group of 40 cultural mediators and the establishment of inter-culture workshops in schools; a linguistic-cultural mediation service for foreign citizens in the offices of the Police Department; and 39,400 actions in support of procedures relating to information, identification, notification of provisions, asylum application reports, and accompaniment to temporary detention centres.

458. To these should be added initiatives carried out at information helpdesks to encourage access by foreign nationals to the various local services. In particular, funding was provided for the project “Pathways to combat social exclusion and foster women’s autonomy”. This consists of reception, accompaniment and cultural mediation activities, Italian language workshops, a legal advice service, and vocational training courses, workshops and employment guidance services. During its second year of activity 636 women made their first visit to the centre. Many of these women went on to make return visits, with an average of about 20 contacting the centre each day.

459. The “Social-health advice and guidance helpdesk for immigrants accessing the migrants’ preventive medicine service” at the San Gallicano Institute in Rome is another interesting cultural mediation project. This service was contacted by 5,162 foreign nationals in the period under review and provided information on two priority aspects: other National Health Service (NHS) structures and the laws and rules governing immigration.

460. The IGI project “Legal Information Helpdesk for Immigrants” in Turin provided a legal support service for immigrants and Italian citizens dealing directly with cases and issues connected with immigration legislation. About 800 new users have visited the helpdesk, which has carved out a role as a filter and liaison mechanism in the relationship between immigrants, host society and the rights and duties of citizenship.

461. Also being set up, initially on an experimental basis, are 30 “self-service” information points for immigrants legally resident in Italy. These are designed to increase immigrants’ knowledge of their rights and duties and facilitate access to public services. The aim is therefore to foster the process of integration in society and the economy, and in the education and health systems and the services in general, through a greater engagement by the institutions. These information points will be located in Provincial Employment Directorates, with 30 cultural mediators also being employed to provide information.

462. Finally, bilateral agreements on employment have been used to foster access to the formal labour market through training measures for immigrant workers, with the aim also of creating mutually beneficial dynamics for Italy and the migrants’ countries of origin. Italy has concluded bilateral agreements with the countries of origin of the main inflows such as: Moldova, Egypt, Morocco and Romania. Negotiations are currently under way with a number of countries, among the others with Tunisia. Italy considers this kind of bilateral agreements an effective way of managing migration and of strengthening legal channels of entry for work reasons. Our agreements aim at ensuring the preconditions for the process of entry for work reasons. In particular they provide for: the exchange of information between the competent administrations concerning manpower availability, on the side of the country of origin, and the needs of the labour market as well as the professional profiles required in the country of destination, on the other; the visibility given on the Italian labour market to a list of nationals of the country of origin willing to migrate to Italy for work reasons; the development of cooperation with authorities of the country of origin in the pre-selection phase with the aim of, for example, adjusting the databases of candidate migrants in compliance with Italian standards in order to make them “readable” and “usable” by Italian entrepreneurs; the guarantee to foreign workers of equal rights and protection with the nationals of the host country.

463. Other information dissemination initiatives promoted by the Ministry of Labour and Social Policies in implementing the Community Action Programme to Combat Discrimination (Council Decision No. 2000/750/EC of 27 November 2000, Official Journal L. 303 of 2 December 2000), which is designed to promote and fund measures to prevent and combat discrimination based on race, ethnic origin, religion, disability, personal beliefs, age and sexual orientation, include:

- Three national seminars on this subject, with the involvement and active engagement of bodies such as local authorities, NGOs, universities and research institutes;
- The third European Conference on Discrimination: “Combating Discrimination: from theory to practice”, which took place in Milan on 21 and 22 July 2003. The event in question was a key moment for discussion at the European level of the development and application of legislative instruments and good practice in combating discrimination in all its manifestations, including in the light of the implementation of Directives 2000/43/EC and 2000/78/EC concerning equal treatment and the prohibition of discrimination.

464. In 2004 the Ministry organised a project in partnership with Confartigianato and Banca Etica, entitled: “New Instruments to Combat Discrimination: access to banking services and credit for immigrant entrepreneurs”. The aim of this project is to create new instruments for access to banking services that might develop into best practice that can be duplicated in other EU Member States. The project envisages the involvement of the parties directly concerned (immigrants, entrepreneurs, banks) and the organisation of a Conference, with the participation of immigrants from the business community, representatives of government departments, non-profit associations, trade associations and chambers of commerce, and representatives of banks. A paper will be presented at the Conference on the experiences and problems encountered in obtaining access to credit, as analysed before the event by three working groups drawn from a panel of 15-20 immigrants. The activities of the working groups were conducted in three nationally representative cities (Vicenza, Rimini and Naples) between January and September. The Plenary Conference was scheduled to take place in July, with the results being published in the autumn in a print-run of 1500 copies for distribution to a mailing list of interested parties at the European level.

465. Some problems concerning discrimination in the employment field have also been examined by the CNEL, and in particular by the National Coordination Body (NCB) for social integration policies for foreigners.

466. The tasks of the NCB, as envisaged by Article 42§3 of the Consolidated Text No. 286/1998 and Article 56 of its implementation regulations, are: to accompany the development of local processes for the reception and integration of foreign citizens, and their representation and participation in public life; and to this end, to promote dialogue between institutional and social actors at the local level, and with significant local actors in other European countries, in order to achieve a continuous socialisation of experiences with a view to identifying and evaluating effective pathways and models of action.

**(b) Access to social services**

467. In the case of education, foreign minors on Italian territory are subject to compulsory schooling requirements and to all provisions governing the right to education, access to educational services and participation in the life of the school community.

468. The actual observance of these rights and provisions is guaranteed by the state, the regions and local authorities, including by setting up special courses and initiatives for them to learn Italian.

469. Access to university courses is allowed, under equal conditions to Italian students, for foreign students holding residence permits or permits issued for employment or self-employment, for family reasons, for political or humanitarian asylum, or for religious reasons; for foreign nationals legally resident for at least a year and holding a secondary school educational qualification obtained in Italy; and for foreign nationals, regardless of place of residence, holding school leaving diplomas issued by Italian schools abroad or foreign or international schools operating in Italy or abroad, which are governed by bilateral agreements or special rules for the recognition of educational qualifications and which meet the general conditions required for entry to Italy for study reasons.

470. On the subject of housing, foreign nationals holding permits of stay, and legally resident immigrants who hold residence permits of at least two years duration and are in legal employment or self-employment, have the right to access, under equal conditions to Italian citizens, to public housing and to the intermediation services provided by the social agencies set up by each region or local authority to facilitate access to rented housing or to low-cost loans for the construction, renovation, purchase or rental of their first home (Article 40 of the Consolidated Text No. 286/1998).

471. The response adopted with the “National Fund for Rented Housing” envisaged by Act No. 431/1998 has fallen some way short of solving the problems and unfortunately has been further weakened by the reduction in the resources allocated - the government’s recent commitment with ANCI to restore them to the 2003 level needs to be verified. Ever since immigration first reached significant levels in Italy, local authorities have sought to respond to these needs, in collaboration with the voluntary sector and the third sector, by setting up a number of innovative initiatives and schemes: associations, the voluntary sector, foundations, cooperatives, for-profit companies, social agencies acting solely in the rented housing sector, guarantee funds and revolving funds, employers’ initiatives, etc, each with their own features, advantages and disadvantages, risks and potential. Responsibility for public action in housing policies lies solely with the Regions and Municipal authorities, while the very serious problems encountered in obtaining resources create a need, in view of the gravity of the problem, for top-up measures to supplement the national funding and measures to mobilise private resources.

472. It is worth mentioning that, in the field of EU Program of Action against discrimination, the General Directorate on Employment and Social Affairs of the European Commission has financed the project of the General Direction of Immigration of the Ministry of Labour and Social Policies “Promoting best practices for Immigrants' access to housing”, that focuses on the problem of the access to housing for foreign immigrants resident in Italy. The main objective of



the project is the elaboration of a strategy of policies to be implemented at local level by Regions and local authorities, also in collaboration with private entities, in order to solve this problem and to suggest it as a model both at national and European level.

473. With respect to housing, also the Regions, in cooperation with the Provinces and town councils and associations and voluntary organisations, set up reception centres - which may be in structures housing Italian citizens or citizens of other EU countries - to accommodate foreign nationals legally resident for reasons other than tourism and who are temporarily unable to meet their own accommodation and living needs.

474. Foreign nationals holding permits of stay and foreign nationals legally resident and holding residence permits of at least two years duration and who are in wage-earning or self-employment have the right of access, under equal conditions to Italian citizens, to public housing accommodation and to the intermediation services provided by the social agencies set up by Regions or local authorities to facilitate access to rented housing and to any low-cost loans intended for people seeking to build, renovate, buy or rent their first home (Article 40 of the Consolidated Text No. 286/1998).

475. As regards health, access to urgent or essential (but on-going) treatment in out-patient departments and hospitals is provided in the case of illness and accidents; preventive medicine programmes designed to safeguard the health of individuals and the community are also extended to foreign nationals.

476. The following safeguards in particular are provided:

- The social protection of pregnancy and maternity;
- The protection of the health of children under the terms of the Convention on the Rights of the Child of 20 November 1989;
- Vaccinations in accordance with the domestic legislation and as part of community prevention campaigns authorised by the Regions;
- International prevention and control measures;
- The prevention, diagnosis and treatment of infectious diseases.

477. Access to health structures by foreign nationals not legally resident in Italy does not lead to their being reported to the authorities, except for those cases where it is obligatory to submit medical reports, under equal conditions to Italian citizens.

478. The above services are provided free of charge when applicants do not have the necessary economic resources, apart from any co-payments that must be made, under equal conditions to Italian citizens.

479. The experience of the CNEL-NCB shows that requests for help and information on employment matters addressed by foreign workers to the social actors focus more on the need for early administrative-bureaucratic guidance to obtain access to the social services than on strictly job-related issues. The key issues regard life outside of work, with housing a prime concern. In

this respect, many firms are taking action rather than merely waiting for public initiatives, and are adopting a joint approach to the problem. A good number of employers realise that simply by offering workers the possibility of achieving stable living conditions and bringing their families together again, they can acquire a stable workforce who are even more likely to identify with their jobs.

480. In this framework, the CNEL has carried out a survey from which it emerges that workers' and employers' representative bodies are directly engaged - in various parts of Italy - in providing services to protect immigrants in employment insertion (70%), and direct help in accessing the rights of social citizenship (30%), especially as regards finding accommodation, educational guidance for their children, health services, currency remittances abroad, and family reunification. All these activities are carried out in close collaboration with local institutions and the associations representing immigrant workers. 33% of the social partner organisations declared that they wished to increase these activities in the near future. The data suggest that an estimated 600,000 legally present foreign workers have received direct assistance from the social partners in the last year, while the number of "illegals" receiving help was about 50,000. Public awareness-raising and information activity in local communities is so intense that on average one public initiative is promoted each week by at least one of the social organisations in each Italian province. This commitment sees an equal presence of trade unions and employers' organisations and highlights their role, of which they may not even be aware, as "cultural mediators" or factors for integration.

481. The question of housing has also been studied by a CNEL-NCB working group and an important conference on "*Housing: a question of civility. Solutions and experiences in meeting the needs of vulnerable categories*" was organised recently as a collaborative project with the Province of Modena and Emilia Romagna Region. To respond to the demand for rented housing at controlled rents that are accessible to low-medium income households, a "National Fund for Rented Housing" as envisaged by Act No. 431/1998 has been set up. The local authorities, in collaboration with the voluntary sector and the third sector, have set up a number of innovative initiatives and schemes: associations, the voluntary sector, foundations, cooperatives, for-profit companies, social agencies acting solely in the rented housing sector, guarantee funds and revolving funds, employers' initiatives, etc, each with their own features, advantages and disadvantages, risks and potential. Responsibility for public action in housing policies lies solely with the Regions and Municipal authorities, while the very serious problems encountered in obtaining resources create a need, in view of the gravity of the problem, for top-up measures to supplement the national funding and measures and incentives to mobilise private resources.

### **(c) The role of the social partners**

482. The activities carried out by unions and employers under social partner agreements in the context of collective bargaining focusing on the recognition of the rights of foreign workers and of local coordinated action for social integration policies, have been significant, albeit not yet fully implemented. A study of the CNEL's National Archive of Collective Contracts shows that issues concerning non-EU workers are being incorporated only slowly in national contracts. Of the 400 contracts examined, only 14 contain explicit reference to non-EU workers. This difficulty can also be found in company-level bargaining and local agreements. In most cases,

immigrant worker are included in the “socially disadvantaged” category (the disabled, drug addicts, etc), for whom special conditions are envisaged in training (including language courses); unpaid leave to enable them to take longer return trips to their countries of origin; the option of taking all their holiday leave consecutively, etc.

483. It should however be noted that the contracts in question mainly refer, as confirmation of a national trend affecting all workers recruited in recent years, to new forms of employment (part-time, set term, temporary contracts), thus developing a “parallel” labour market alongside the traditional Fordist model.

484. Two studies carried out in 2002 on behalf of the CNEL-NCB: “*In the Land of Work. Social and employment inclusion for immigrants in the North-East*”, by the Corrazin Foundation, and: “*Training for an Occupation or Educating for Work? The occupational needs of immigrants according to employers in the North-East*”, by the North-East Foundation, conducted in-depth analyses of trends in the employment insertion of immigrants in the Regions of North-East Italy, from the points of view of workers (Italian and foreign) and of employers. From the two reports, as evidenced by the Policy Paper drawn up by the Presidency Committee of the NCB, it emerges that recourse to non-EU workers appears to be “necessary” to the development of firms, in many cases to their very survival. This view emerges from the opinions expressed not just by employers but also by Italian workers themselves, who now realise that the presence of non-EU citizens, rather than being a threat to their professional future, is a resource without which their very jobs would probably be at risk. This viewpoint is held regardless of their overall views on immigration.

485. Therefore, the presence of non-EU labour in the economy of the North-East appears to be a structural factor rather than one arising from needs linked to ad hoc factors. In this respect, viewpoints that are hostile to migration, and those that would like to see immigration restricted to limited time periods in what would amount to “short-term immigration” programmes, both appear utterly anachronistic. The latter idea clashes with the conviction held by employers, even the most sceptical ones, that foreign workers are increasingly becoming a resource in which to invest, both inside and outside the business, which assumes an interest in their settling in Italy.

486. In this respect strong reference is made to the need to promote integration processes *inside the workplace*, where employers themselves are making an effort to facilitate insertion to ensure the quality and stability of the workforce (on-the-job support, work ethos, religious needs, holidays). The same employers sometimes seek to compensate for the shortcomings of public policies for social inclusion (e.g. housing) *outside the workplace*, with both employers and immigrants sharing an awareness that these shortcoming can lead workers to change their area of employment and residence.

487. The crucial issue is that of integration policies by the Regions and local authorities, both in general and sectoral terms (housing, health, education, family, multi-culturalism, associations), starting with the services, which need to be re-focused to take this new situation, of immigrant citizens with the same civil and social rights as Italians, into account.

488. With reference to the social services, to achieve positive employment insertion we need to reinforce the systems for matching labour market supply and demand, which are still strongly linked, as the studies show, to informal models. As emerges from the studies promoted by CNEL on the North-East (an industrial area where economic growth has been matched by a continuing growth in employment that has exerted a strong draw on foreign manpower (240,000 new jobs in recent years; unemployment rate of around 3% - lower than the European and American averages, of 8.3% and 5% respectively), 60% of new jobs created in this area between 1993 and 2000, as in the rest of the country, were on set term contracts.

489. A system of employment insertion is needed, especially of low-skilled labour, that corresponds more closely to the possibility - as perceived by employers - of assessing the true abilities of immigrant workers. Their presence, at least in this part of the country, is concentrated mainly in the industrial sector (15.6%) and is closely connected with the size of firm. Nearly 67% of workers in firms with over 100 employees are immigrants, with the figure falling to just under 37% for firms with 10 to 50 employees, and to 1% for those with less than 10 employees.

490. The greatest obstacles to their integration do not seem therefore to lie in firms, where organisational solutions based on the mutual interests of immigrant workers, Italian workers and employers are found. According to the responses given by employers in the area, the willingness of companies to be accommodating even extends to reviewing well-established internal rules (later return to work; longer holidays for immigrants, with the time being made up later in the form of longer working hours).

491. The climate inside firms in the North East and the relations between Italian and immigrant workers appear to be excellent. Only 1 in 80 report episodes of intolerance in recent years and 11 out of 80 speak of attitudes of latent, limited discrimination, while many refer to initial difficulties with insertion and distrust caused by prejudices that are not borne out by actual facts. There is no doubt that the occupational characteristics of workers from the countries of Eastern Europe are more favourable to their insertion in industrial companies than those of African workers. In actual fact, insertion does not appear to pose any significant problems.

492. Political responsibility for drawing up systematic regulations and strategies that are appropriate to the different geographical areas lies with central government and with the Regions, Provinces and Municipalities, as does the institutional commitment in operational initiatives (with due respect for the principle of subsidiarity). One feature peculiar to the Italian system is the strong commitment shown by the social actors and third sector bodies in identifying good practice in social solidarity initiatives. In addition to responding to repeated emergency situations, these have developed into a structured system of institutional and social responsibilities that is able to adopt and support systematic policies at the local level, with particular reference to increasing employment and available housing, and access to health services, education and training. A system of responsibility and good practice, therefore, that needs to be supported and implemented by all institutional and social actors as a conquest and collective resource for the entire country, and which is necessary to economic growth as a valid means of combating any attempt at racial discrimination, xenophobia or intolerance.

493. We can thus claim that an overall evolution of the system is under way, whereby the key aim of institutional policies is to ensure equal rights for foreign nationals, while

inter-institutional cooperation between the various levels and functional responsibilities is constantly intensifying. The practice of “concerted social action” driven by the social partners is also expanding: associations of foreign workers are showing a stronger capacity for representation and participation, while the third sector is carving out a more clearly defined role for itself in supplementing that of the other actors.

494. These organisations often act as a focal point for encounters between local communities and new immigrants, a role that tends to acquire implications that go beyond simple employment inclusion to encompass social inclusion issues. More specifically, it is important to underscore the emergence, alongside the well-established involvement of trade unions in integration policies inspired primarily by principles of solidarity, of a commitment in this respect by employers, who are increasingly aware of the economic as well as the social interests represented by the presence of foreign labour.

495. A tendency is emerging for employers to carve out a more complex and wider role for themselves in the field of integration and mediation between the local culture and the different cultures and traditions of immigrants working in local companies. Their decision to do so arises from an awareness that such a course of action is inevitable, since it is no longer possible, without the contribution of immigrant workers, to maintain the working and business models that have always been essential to the development of this part of the country. Tolerance, sensitivity, awareness, new ways of fostering employment inclusion, and a capacity for mediation all suggest that entrepreneurs are very sensitive to the dynamics of relations within their firms. With respect to the basic attitude of entrepreneurs, 32% of the sample had a realistically “positive” view that sees the problems but also the potential of the situation; 50% saw the phenomenon as being inevitable; 12% see immigration as a “necessary evil”; while 6% are indifferent to the presence of immigrants. Nearly 80% of entrepreneurs had an essentially positive view of the quality of the work performed by immigrants and about 78% saw career development as being possible for immigrant workers in their firms. The proportion of owners of medium-sized enterprises who would like to see an increase in inward migration was higher than that seeing immigrants as a danger.

496. In this context, an interesting project has been granted funding by the European Commission’s Directorate General for Employment and Social Affairs as part of the 2000-2006 Community Action Programme to Combat Discrimination. The aim of this project, as mentioned earlier, is to create new instruments for access to banking services that might serve as best practice for application in other EU Member States.

## **2. The education system**

### **(a) Religious freedom and the rights of minorities**

497. The framework of Constitutional provisions protecting religious freedom is a wide one, of which an overview is given below:

Article 2 recognizes and guarantees the inviolable rights of man, as an individual, and in the social groups where he expresses his personality;

Article 3: provides for non-discrimination, including with respect to religion;

Article 7: provides for the reciprocal independence of the State and the Catholic Church, each within its own order, independent and sovereign;

Article 8: provides that all religious confessions are equally free before the law;

Article 19: recognises the right of all individuals to profess freely their own religious faith;

Article 20: prohibits the imposition of special limitations in law, or special fiscal impositions in the setting up, legal capacity and activities of religious associations or institutions.

498. With particular regard to religious education, the new Concordat entered into by the Italian State and the Holy See on 8 February 1984 repealed Article 1 of the Treaty (according to which the Catholic, Apostolic and Roman faith is the only religion of the State). At the same time, it established a commitment by the State to provide for the teaching of the Catholic religion in non-university public schools, while guaranteeing each individual the right to choose whether or not to attend these lessons, without their choice giving rise to any form of discrimination. Persons choosing not to attend can follow other classes proposed by the teaching staff; spend the time in individual study or else take that hour as being free (Constitutional Court ruling 2003 of 11-12 April 1989 is of fundamental importance in this respect).

499. With respect to the other rights of minorities, and linguistic and cultural rights in particular, Act No. 482 of 15 December 1999 was issued in implementation of Article 6 of the Constitution.

500. Finally, in the case of education, Article 5 of this Law establishes that the Ministry of Education may, through decrees issued by the Minister itself, promote and carry out national and local projects concerning the study of the languages and cultural traditions of members of linguistic minorities and also authorised an annual expenditure of €1,032,614 for such projects. This sum is spent in full each year, to the immense satisfaction of the minorities concerned.

501. Furthermore, according to *Intese* which have been implemented and approved by law with some Denominations, provisions concerning education have been included aiming at guaranteeing the right for students not to participate in religious classes, and the possibility for the schools to respond to eventual requests by students and families, introducing the teaching of one specific religion and explaining its implications; the recognition of diplomas issued by theological institutes and the right to freely set up schools of any order or degree, and educational institutes, according to the Italian educational system.

502. Moreover, in the absence of conventional relation between the State and Denominations, (Concordat, *Intesa*.), Act No. 1159/1929 and the concerning enforcement regulation (Royal Decree of 28 February 1930, No. 289) apply, according to the supreme principles of the Constitution. It follows that the rule of Article 23 of this regulation is always enforceable. It states, among other things, that “ When the number of students justifies it and when a temple cannot be equipped for founded reasons, their fathers devoted to a religion that is different from the official one can obtain some school buildings for the religious education of their children. The request is addressed to the local education director who, once he hears the school council,

can act directly in a positive sense. Otherwise he can refer to the Minister of Education who decides with the Ministers of Justice and of the Interior. In this measure they have to establish the days and hours of the teaching and the necessary "precautions".

503. A small number of students (at least three children) can justify religious education in schools outside of curriculum hours. It is pointed out that teachers must be chosen by the applicant fathers (that is by the ones who have the parental authority) and must have the necessary requirements evaluated by the school authority.

504. As testimony to the above, a recent programme instrument - the Action and Funding Plan for the implementation of national and local projects for the study of the languages and cultural traditions of linguistic minorities - promoted by the Ministry of Education for academic year 2003-2004 is worthy of mention. Projects designed by schools within the scope of the Plan, in the context of their teaching programmes - were evaluated by a technical Commission (re-established through Ministerial Decree No. 113 of 23 October 2002). In this, priority is given to projects involving significant teaching activities for pupils, accompanied by related training initiatives for teachers engaged in minority language activities, and projects able to set up local networks that include not only the schools working in contact with minorities in their areas of reference, but also those schools in which other linguistic minorities are represented.

**(b) Equal access to education and equal treatment of Italian and foreign pupils in schools**

505. Without prejudice to the Constitutional principle that Italian schools are open to all, whether Italian citizens or foreign nationals (Article 34 of the Constitution), and without prejudice to all subsequent legislation, both primary and secondary (see below), which seeks to give effect to that principle, some preliminary statistical data may be of interest on this issue (Source: MURST, *Pupils with non-Italian citizenship - State and other schools - School year 2003-2004*, Rome September 2004). The number of non-Italian pupils in the school year 2003-2004 was 282,683, or 3.49% of the total a. school population. In the school year 1991-1993 the number was 30,547, but the increase (of 49,917) is significant even just with respect to the previous year.

506. The distribution of these pupils in the various types of school (again in school year 2002-2003) was as follows:

> Nursery school:	54,947	(3.83%	of the total school population)
> Primary school:	115,277	(4.47%	" " " )
> Junior high school:	about 67,000	(4.01%	" " " )
> Senior high school:	about 45,000	(1.87%	" " " )
TOTAL:	282,683	(3.49%	" " " )

507. Taking the above quantitative data, the following paragraphs provide an overview of some of the provisions intended not just to ensure equal treatment of Italian and foreign pupils, but also to achieve forms of co-existence and integration within the framework of inter-cultural education:

(a) Ministerial Circular No. 301 of 8/09/1989: “Inclusion of foreign pupils in compulsory education: Promotion and coordination of initiatives for the exercise of the right to study”;

(b) Ministerial Circular No. 205 of 22/07/1990 - “Compulsory schooling and foreign pupils - Intercultural education” (This Circular introduces the concept of *intercultural education* for the first time);

(c) Article 36 of Act No. 40 of 6/03/1998, which establishes the formative value of linguistic and cultural difference: “in the exercise of teaching and organisational autonomy, schools shall provide, for all pupils, intercultural projects that expand the range of teaching provision, with a view to properly valuing linguistic and cultural differences and promoting initiatives for inclusion and dialogue”;

(d) Legislative Decree No. 286 of 25/07/1998 - “*Consolidated text of provisions governing immigration and the status of foreign nationals*” which, in the matter of education, places a particular emphasis on the organisational aspects of schooling, the teaching of Italian as a second language, the maintenance of the language and culture of origin, teacher training and social integration;

(e) Presidential Decree No. 39 of 31/08/1999 - “*Regulations containing the implementing provisions of the Consolidated Text of provisions governing immigration and the status of foreign nationals*” (these Regulations also guarantee the right to education for foreign minors, regardless of their legal status);

(f) Ministerial Circular No. 155/2001, designed to support staff engaged in schools experiencing strong immigration processes;

(g) Ministerial Circular No. 160/2001, providing for language courses for non-EU citizens, whether adults or minors.

508. In terms of implementation, a useful indicator is to measure educational achievement rates (these data are derived from the publication by the Ministry of Education *Survey of the results of Pupils of non-Italian citizenship, School year 2003-2004*, Rome, January 2005). From an observation of the results achieved by Italian and foreign pupils, we can see that foreign pupils achieve consistently lower success rates in the different types of school. The gap between the pass rates for foreign pupils and Italian pupils increases progressively, from primary school to senior high school:

- In primary schools the pass rate is 3.36% higher for Italian pupils;



- In junior high schools the pass rate is 7.06% higher for Italian pupils;
- In senior high schools the gap is 12.56%, again to the advantage of Italian pupils.

509. The lower success rate for foreign pupils with respect to their Italian counterparts is therefore fairly marked (especially at senior high school level). This difference is, however, 0.96% lower than in the previous school year at primary school level, 1.55% lower at junior high school level and 0.56% lower for senior high school level. The Ministry recognises, however, that the negative results emerging from the above-mentioned publication provide food for further analysis and research.

510. We also need to consider that a tendency has been noted for foreign pupils to choose shorter educational pathways that provide qualifications that can be “spent” immediately in the labour market, such as the qualifications issued by vocational training institutes.

511. Also worthy of mention is the presence of foreign nationals in adult learning courses set up by the Ministry of Education through its Local Centres, which can be found throughout the country.

512. It can also be observed from the above-mentioned publication that in school year 2001-2002, 2,219 courses were held for foreign nationals with a view to fostering social and linguistic integration. These were attended by 42,885 people (22,158 men and 20,697 women), with the highest number of courses recorded in the northern Regions of the country (notably Lombardy, Veneto and Emilia Romagna).

513. With respect to teaching activity, the survey carried out by Ministry of Education in 2001 into the presence in the educational world of specific policies for the inclusion and integration of foreign pupils, is worthy of note (Source: *The multicultural transformation of society*, MURST - Automation Service and Educational Development Department, Rome, June 2001).

514. It is worth mentioning here that on the basis of the recent legislation, the distinguishing features of the policies put in place by individual schools are set out in the Formative Provision Plan (FPP), which provides the basic curricular, extra-curricular and organisational template drawn up by each school on the basis of the general guidelines established by teaching staff, joint educational bodies, local authorities and proposals from parents.

515. The above-mentioned survey, based on random samples, sought to analyse “how much” and “how” the projects designed to foster the integration of foreign pupils have been inserted in the FPPs of individual schools. It emerged that most schools (53.7%) have envisaged intercultural education initiatives in their annual plans. The highest figures are found in junior high schools (56.2%), followed by primary schools (54.7%) and joint primary-junior high schools (54%).

516. As mentioned earlier, the survey dates from 2001 and does not appear to have been up-dated. We can however assume that the above percentages will have increased, given the increasing commitment within the Ministry to organise multicultural training courses for teaching staff.

517. Interesting in this respect, not least in view of the outcomes it intends to pursue and which could up-date the data set out above, is the initiative promoted in November 2003 by the Ministry of Labour and Social Policies under the National Operational Programme “Security for the Development of Southern Italy”. This envisages a three-year research project addressed to schools of all grades and categories in southern Italy on the issue of “Schools and Immigration”. Funded by the European Union, the aim of the project is to set up a “Standing Observatory on the Status of Immigrants and the State of Reception and Integration Processes in Southern Italy”.

518. Partners in the project are the Ministry of Justice’s Juvenile Courts Department, which will provide the data on training and education for minors in rehabilitation centres, six Regions (Basilicata, Calabria, Campania, Puglia, Sardinia and Sicily) which have experienced substantial flows of immigration, very often involving people in situations of particular disadvantage, and bodies such as the MIP Consortium, the Information Engineering Training and Research Consortium (Politecnico di Milano), CENSIS, and the Psychoanalytical Institute for Social Research (IPRS).

519. Of particular interest, finally, is the action recently undertaken by Rome City Council with reference to the School Attendance Project for Romany children and adolescents, for the three school years running from 2005 to 2008. This project involves primary, compulsory and senior secondary schooling levels.

520. The aims of the initiative are:

- To create the conditions for the day-to-day co-existence of children and young people from different cultures;
- To meet the right of each child, regardless of their background, to have access to education and instruments for knowledge that enable them to develop their potential and interact constructively with others;
- To change the attitude to education that is frequently found in adult Roma and Sinti and ensure that schools become the key institution in the formation of the new generations, including for the Romany population.

521. The general objectives of the project are:

- (a) To foster the protection of the rights of children in concrete terms as enshrined in the International Convention on the Rights of the Child, by drawing up and implementing the project “Rights for the Camps”;
- (b) To facilitate school attendance, by setting up a service to accompany children to school;
- (c) To encourage adults to take responsibility for their children’s education by promoting actions that change their lack of interest in or opposition to education, and encouraging school-family-city council education pacts;

(d) To foster a positive attitude to education in Romany communities, by promoting initiatives in camps with the adults of the community;

(e) To improve conditions for learning, by promoting initiatives, including out of school hours, that foster the consolidation of learning and the pursuit of an individual study method;

(f) To foster mutual knowledge and integration between the world of education and the Romany culture, by taking part in initiatives promoted by schools to explore that culture, as well as in initiatives promoted by local institutions and bodies to promote mutual knowledge by each party;

(g) To encourage education for adolescents who have not attended school regularly, by drawing up individual educational projects which, using local training agencies or creating specific opportunities, enable young people to be included in the social context and in the world of work;

(h) To increase and “up-grade” attendance by young children at municipal and state nursery schools, by drawing up an education plan to promote their inclusion, in close liaison with the Educational Coordinators of Municipal Nursery Schools and state Nursery School Managers.

522. The total value net of VAT of the project tender was €5,832,974.55. The sums allocated for each “lot” of the project were divided thus: 75% for school attendance by Romany children and adolescents, and 25% for the “Rights for the Camps” project. The total number of beneficiaries of the project was 1,872.

### **3. The treatment of foreign nationals in prisons and similar institutions**

#### **(a) The provisions governing discrimination**

523. The implementation of Article 3 of the Constitution, with specific reference to § 2, takes the form of producing ordinary legislation and regulations and of specific action by government.

524. Act No. 205/1993 identified certain offences for “persons who in any way disseminate ideas based on racial superiority or racial or ethnic hatred, or who incite others to commit, or themselves commit, acts of discrimination on racial, ethnic, national or religious grounds” or for “those who, in any way, incite others to commit or who commit acts of violence or provocation to violence on racial, ethnic, national or religious grounds”. This law also prohibits any organisation, association, movement or group whose aims include incitement to discrimination or violence on racial, ethnic, national or religious grounds.

525. Persons who are members of such organisations, associations, movements or groups, or who assist them in their activities, are punished by imprisonment of six months to four years. Persons who promote or direct such organisations, associations, movements or groups are punished, for this alone, with imprisonment of one to six years.

526. General aggravating circumstances (i.e. applicable to all offences) are envisaged, with an increase of the penalty of up to half again, for all offences punishable by sentences other than life sentences that are committed for the purposes of discrimination or hatred on ethnic, national, racial or religious grounds, or to facilitate the activity of organisations, associations, movements or groups having the same purposes.

527. On the question of searches or sequestration, when legal action is undertaken for an offence subject to aggravating circumstances on the grounds of racial discrimination, the courts may order a search of the premises for which concrete elements suggest that the perpetrator has used them as a meeting place, storage area or shelter or for other activities connected with the offence. This provision enables a partial waiver to the general provisions in this matter, which makes it possible to carry out a search when there is sound reason to consider that it conceals the subject matter of the offence.

528. For offences with the aggravating circumstance of racial discrimination *ex officio* proceedings are undertaken and, in cases of *flagrante delicto*, police officers may, and in the most serious cases must, proceed to arrest the perpetrator.

529. For the above offences a particularly rapid procedure is envisaged.

530. When concrete evidence exists that suggests that the activity of organisations, associations, movements or groups encourages offences involving discrimination to be committed, the suspension of any form of activity by the organisation in question may be ordered as a precautionary measure.

531. Subsequently, when it is ascertained through an irrevocable judgement that the activity of an organisation, association, movement or group has contributed to an offence involving discrimination, the Minister of the Interior, subject to the decision of the Council of Ministers, issues a decree ordering that the organisation be dissolved and provides for the confiscation of its assets.

532. It should be noted in this respect that as far back as 1952 the legislator had envisaged provisions, with Act No. 645 (later amended by Act No. 152/1975), that, in implementing the XII transitional and final provision of the Constitution, prohibited, along with the organisation of the Fascist party, the production or dissemination of racist propaganda.

533. Article 1 of this law states that “for the purposes of the XII transitional and final provision (§ 1) of the Constitution, the organisation of the disbanded fascist party can be said to exist when an association, movement or group of no less than five people pursues the anti-democratic aims of that party, by extolling, threatening or using violence as a method of political struggle or advocating the suppression of the freedoms guaranteed by the Constitution or by discrediting democracy, its institutions and the values of the Resistance or by producing or disseminating racist propaganda, or dedicating its activities to extolling persons, principles, events and methods from that party and staging external events of a fascist nature”. The penalties envisaged for such offences (from five to twelve years of imprisonment for the promoters, organisers or leaders and from two to five years for participants) are doubled if the association, movement or group is armed or assumes the characteristics of a paramilitary organisation or has recourse to violence.

534. For example, in the case before the first instance Court of Verona concerning six local members of the Northern League found guilty of incitement to racial hatred in connection with a campaign organised in order to send a group of Sinti away from a local temporary settlement, these persons were sentenced to six month jail terms, the payment of 45 000 Euros for moral damages in favour of Opera Nomadi and individual victims - including costs for a sum of 4,000 Euros for each counsel - and a three-year suspended ban from participating in campaigns and running for national and local elections.<sup>33</sup>

535. The Italian legislators also addressed the matter of discrimination with reference to the provisions governing immigration (Consolidated Text No. 286/1998, as amended and integrated by Act No. 189/2002), in which they prohibited expulsion or removal to a state in which the foreign national might be subjected to persecution on grounds of race, gender, language, citizenship, religion, political opinions or personal or social status, or might risk being sent to another state in which he or she is not protected from persecution.

536. When the conduct of government or of a private party leads to discrimination on racial, ethnic, national or religious grounds, the judge may, at the request of the victim, order that such conduct should cease and adopt any other provision that may serve, according to the circumstances, to remove the effects of the discrimination. With the decision establishing the outcome of the trial the judge may also sentence the defendant to pay damages or provide some form of compensation, not necessarily economic. In this respect Decision 28/003 of 30 March 2000 of the Court of Milan and Decision of 30 March 2002 of the Court of Vicenza, both of which civil law decisions against discrimination pursuant to Articles 43 and 44 of Consolidated Text No. 286/1988, are worthy of mention. The first declared the system of allocating Milan City Council's public housing to be discriminatory, where it provides for the allocation of five points to applicants holding citizenship. The second concerned the rejection of an application for the recognition of political rights, submitted by a Nigerian citizen seeking to be entered in the electoral roll for the municipal elections. The Court of Appeal granted the appeal.

537. The legal framework has also implemented the Community Directive 2000/78/EC through Legislative Decree of 9 July 2003 No. 216, which extended the civil law protection of the person who undergoes discrimination taking place in the workplace. In particular, the law provided to extend in first place the sanction of nullity (already envisaged by section 15 of the Worker's Statute (*Statuto dei Lavoratori*) for discriminatory acts and agreements determined by religious grounds) to any act or agreement aimed at causing a discrimination, founded on personal beliefs, age, sexual orientation and so on. In second place, the law recognised and governed the right of any worker who believes himself/herself to be a victim of a direct and/or indirect discrimination to request that the judge order the cessation of the prejudicial behaviour, in addition to ordering compensation of the non-patrimonial damages suffered. Legislative Decree No. 216 has, therefore, extended the protection of victims of discrimination. The law, in particular, draws a distinction between direct discriminatory behaviour (involving treatments less favourable than other persons in a comparable situation) and indirect behaviour (involving a situation of particular disadvantage). The law also qualified as discriminatory behaviour the unwanted harassment or conduct carried out for one of the reasons indicated therein, having the purpose of creating a hostile environment.

538. For the protection of the right to non-discrimination in the workplace, the procedure of the deliberation in chambers is envisaged; as a matter of fact the law invokes Article 44 of the Consolidated Act No. 286/1998. Such Article envisages that a person who thinks to be a victim of discrimination on grounds of race, ethnic origin, religion and so on, may resort to the civil judge to obtain the cessation of the prejudicial behaviour and compensation of damage.

539. There are some judgements made by the civil judicial authorities on the application of Articles 43 and 44 of the Consolidated Text No. 286/1998, delivered during the years on the stipulation of rental agreements with non-EU nationals (Court of Milan, 30<sup>th</sup> March 2000), the access to public competitions by persons without the requirement of nationality (Court of Appeal of Florence, 2 July 2002), the participation of persons not belonging to the European Union in statutes of housing associations (Court of Monza, 27<sup>th</sup> March 2003), the grant of additional points to Italia nationals in the priority lists for the allocation of housing units (Court of Milan, 21st March 2002).

### Monitoring of incidents of a racist, xenophobic and anti-Semitic nature by province (September-December 2005)

Province	Racism	Xenophobia	Anti-Semitism	Denounced	Arrested
Ascoli P.	1			4	
Belluno	1				
Biella	1		1	6	
Brescia		1	2	2	
Bolzano					8
Cagliari	3			3	
Campobasso	1				1
Genova	1		1	5	
Gorizia	1		1		
Messina	1			4	
Modena		1			
Nuoro	1				
Oristano	1				
Padova	1	1			
Pistoia		1			
Ravenna		1			
Reggio Calabria			1		
Roma			4	2	
Treviso		1			
Total	13	6	10	26	9

### Monitoring of incidents of a racist, xenophobic and anti-Semitic nature - by crimes<sup>34</sup> (September-December 2005)

Crimes	Bombs for incendiary attacks	Damages	Homicides	Bodily harm, assault and battery	Insults, Threats (By phone, via e-mail, letters)	Offences ex Art. 1 Act 205/93	Other crimes	Graffiti	Persons reported to judicial authorities	Persons arrested
Anti-Semitism	/	1	/	/	5	1	1	13	2	8
Racism	2	1	/	3	1	2	/	3	22	1
Xenophobia	2	/	/	/	/	1	1	4	2	
Total	4	2	/	3	6	4	2	20	26	9

540. The State, Regions, Provinces and municipal councils, each within their remit, including in cooperation with associations of foreign nationals and organisations operating on their behalf, and in collaboration with the authorities or public and private bodies of their countries of origin, encourage:

(a) Activities undertaken on behalf of foreign nationals legally residing in Italy, including with a view to organising courses in the language and culture of origin by schools and foreign cultural institutions;

(b) The dissemination of any information that may serve to foster the inclusion of foreign nationals in Italian society, especially as regards their rights and duties, the various opportunities for integration and personal and community growth provided by government departments and associations, and the possibility of a positive re-insertion in their country of origin;

(c) A knowledge and due recognition of the cultural, recreational, social, economic and religious values of foreign nationals legally resident in Italy and all possible informational initiatives as to the causes of immigration and the prevention of racial discrimination or xenophobia, including through the collection in school and university libraries of books, periodicals and audio-visual material produced in the language of the countries of origin of foreign nationals resident in Italy or in any case from those countries.

541. Finally, the Regions, in cooperation with the Provinces and municipal councils, and with immigrants' associations and social voluntary organisations, should set up monitoring, information and legal aid centres for foreign victims of discrimination on racial, ethnic, national or religious grounds.

542. As concerns legal aid Act No. 217 of 30 July 1990, as integrated by Act No. 134 of 23 March 2001, it provided that any foreign citizen, even if he/she is not legally a resident in the country, can be granted legal aid (*gratuito patrocinio*) at the expenses of the State, without exception, on the basis of a simple affidavit/sworn statement (*autocertificazione*) endorsed by the Consular Authority. Any complaint on this matter receives due attention by the competent Italian Authorities.

543. This system was amended by the relevant Legislative Decree No. 115/2002, with the aim of ensuring adequate legal defence. More specifically, this Decree simplifies and extends the access to legal aid in civil and administrative proceedings. Access to this institution is guaranteed to whoever has an income under 9.296,22 Euros per year (in particular, as to criminal proceedings, Act No. 134/01 envisaged the self-certification of the income for the defendant, including the foreigners with income abroad; in this regard, ad hoc information desks have been established at Bar Associations); the right of the defendant to an interpreter and to the use of an understandable language (as it was the case with Ladin and German-linguistic minorities living in Italy - Presidential Decree No. 574/88).

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

545. As reported in the fires report to Parliament by the Ministry of Justice in July 2005, the “function attributed to the Bar Councils by the legislator is really important as, in order to make the jurisdiction protection of the poor more effective, it is not sufficient that the State provide the financial resources required, by taking on the costs of the defence, but it is also important to inform adequately the public on the existence of such instrument and the conditions requires for having access to this kind of benefit... as well as on the opportunity to take a case to court. In conclusion the Bar Councils are required to carry out a service of real and proper ‘pre-legal’ advice”.

546. As regards criminal proceedings: since the last report to Parliament, submitted by the Ministry of Justice, relevant to the years 1995-2004, it emerges that the phenomenon relating to the number of persons seeking free legal aid is rapidly increasing, going from 16,500 persons granted free legal aid in 1995 up to 86,000 persons applying for it in 2004. The costs are also rapidly increasing, going from 5,000,000 Euros for 1995 up to over 60 million Euros in 2004 (see Report, p. 11 - if requested). Foreigners admitted to free legal aid are 13% of the total. If we take into consideration the date referring to minors, it emerges instead that in 2004 27% of the persons admitted of free legal aid were non Italian citizens.

547. Moreover, it has to be recalled that as regards non EU citizens, free legal aid is automatic - and not upon request - in proceedings instituted against deportation orders and in proceedings relating to temporary stay and assistance centres for foreigners. In civil matters, in 2004 alone the State spent 3,310,118.35 Euros for free legal aid against 789,934.73 Euros spent in the second semester of 2003.

548. With reference to the issue of the poor access of non-nationals to measures alternative to detention, it must be noted that the Supervisory Court, body of the ordinary Magistracy, orders the relevant provisions, which is independent and autonomous from the Penitentiary Administration.

549. However, most of foreign non-EU prisoners are illegal. This means that they do not have a residence permit to stay in Italy. This situation prevents the Supervisory Magistracy from granting them measures alternative to “detention”, since those prisoners do not fulfil one or more requirements provided for by the law (for instance, a permanent address or a permanent job). It is not therefore possible to make any comparison between the number of foreign prisoners and the number of non-nationals living in our Country, since the latter are legal immigrants (whose percentage among the prison population is very small), whereas most foreign prisoners are illegal; there are no definite data as for illegal non-nationals in liberty.

550. The high number of illegal immigrants in our Country also affects the number of non-nationals in Italian prisons. Indeed, the clandestine immigrant has precarious economic conditions, lives a poor affective life, is socially excluded: these conditions, together with very poor schooling level, lead them to have deviant behaviours and to be easily involved in organised crime activities, performing tasks of low-cost unskilled “labour”. As a consequence, the non-national involved in criminal activities is easily arrested and is held in prison, pending trial, because s/he has neither permanent address, nor identity papers, nor means of subsistence. As a matter of fact, these subjects, due to their condition of clandestine offenders live in prison, as this is the only possible place to stay for them until the end of their trial.



551. The law provides that the foreign prisoner is informed, in a language that can be understood by him, of the penitentiary rules, of his/her rights and duties and of the possibility to be assisted by an interpreter. They are also entitled to contact their consular authority in order to inform it of their status of “detention” and to request assistance. To facilitate them the Penitentiary Administration has provided for the translation (into English, French, German, Croatian and Arabic) of some excerpts from penitentiary rules and regulations as well as of an handbook relevant to the main rights of the prisoner (into French, English, Spanish and Arabic); the Administration has also drawn up a convention with CIES (a non governmental organisation for the linguistic-cultural mediation and integration) aimed at facilitating the process of integration of foreigners, in particular non-EU persons.

**(b) The prison system**

552. The presence of foreign nationals in prisons, which has increased considerably in recent years, accounts in some cases - prisons in big cities in Northern Italy - for 50% of the total prison population. This poses new problems for the prison administration, which require the adoption of new instruments to provide adequate responses in terms of the treatment and social rehabilitation of prisoners.

553. In relation to the high number of foreign prisoners in Italian prisons, it has to be pointed out that on 31/12/2005, 19.811 foreign prisoners were present out of a total prison population of 59.542, equal to 33,27%.

554. It has to be pointed out that a great number of foreign non-EU prisoners are irregular immigrants, that is, persons who entered Italy illegally or who are however without a residence permit in Italy. This condition of illegality is often accompanied by an economic precarious situation, affective deprivation, social exclusion which, together with a widespread condition of scarce or inexistent schooling, leads to have deviant behaviours; *the illegal immigrant* is therefore easily involved in criminal activities organized in low-cost unskilled labour.

555. The foreigner involved in criminal activities, if arrested, has access to less serious precautionary measures (house arrest) with more difficulty, because he is without a fixed domicile, without documents, and without means of support. In reality, these persons, owing to their condition of *illegal immigrants* who committed a crime, enter prison since it is the only place of stay until the judicial proceeding is completed. This situation prevents the Supervisory Court from granting foreign prisoners measures alternative to detention, after their conviction, since these prisoners do not have, in general, that family and social context representing the requirement of alternative measures.

556. With reference to the abovementioned situation, the first Criminal Division of the Supreme Court (*Corte di Cassazione*), by its judgement No. 30130 of 17 July 2003, provides that: “the assignment to the Probation Service and, in general, all measures alternative to detention, cannot be applied to the non-EU foreigner who is in Italy under illegal conditions, taking into consideration that this condition makes his stay on the Italian territory illegal and that, on the other side, it cannot be allowed that the execution of the sentence take place with modalities entailing the infringement and the elusion of the rules making said illegality possible”.

557. Notwithstanding the above mentioned difficulties for foreign prisoners to find out valid and verifiable living/working points of reference outside prisons, such as to allow the granting and putting into practice of a measure alternative to detention, it has to be outlined that the results of a monitoring, just completed, relating to foreign persons under alternative measures referred to the first six months of 2005, show the overall data (2015 foreign prisoners to whom measures alternative to detention have been granted) which are not at all negligible.

558. It must be highlighted that any lawbreaking - in terms of violence, abuse of authority, or harassment towards any prisoner (both national and not national) - is a disciplinary infringement. It always results in a disciplinary sanction (up to the removal from office) in addition to causing an intervention of a criminal court where the facts can be considered crimes. Along these lines, in order to prevent any act of violence towards any prisoner (both alien national and Italian), and to facilitate the prosecution of any act of violence perpetrated, some special circulars have been issued providing that:

(a) When the physician of the prison, during any medical examination, ascertains that the subject concerned presents injuries, he/she has to record in the Register “model 99” (register of examinations, preservations and proposals of the physician) both the objective outcome of the examination and what the examined subject may declare about the circumstances of the violence suffered and about persons who have committed the violence. The physician has also to write his/her evaluation whether the injuries are compatible with the relevant causes declared by the subject concerned;

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

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

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

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

562. Italy has taken action most notably in the field of communication, since both language skills and an understanding of the cultural context are key requirements in adapting to the day-to-day aspects of prison life and in taking full advantage of the services and opportunities provided. Linguistic-cultural mediation was the first objective pursued by Italy.

In this respect the implementing regulations for the law governing prisons, Presidential Decree No. 230 of 30 June 2000, which at Article 35 introduced the role of cultural mediator, is worthy of note. This measure also envisages specific agreements with local authorities and voluntary organisations.

563. In this respect, a regional cultural-linguistic mediation project, “IMMINTEGRA”, drawn up by Tuscany’s Regional Prisons Superintendency, is worthy of mention. This project is intended to supplement and complete linguistic-cultural mediation initiatives already activated by local authorities and specialised associations on behalf of male and female prisoners, detainees and foreign nationals serving sentences. Starting from a survey of current problem areas and needs, a centralised plan has been developed to allocate 10 prisons and 5 Adults’ Social Service Centres (CSSAs) in Tuscany (Florence, Livorno, Massa, Pisa and Siena), from those selected in relation to the actual shortfall in resources and target size, with a number of hours for allocation to recognised and accredited linguistic-cultural mediation organisations, professional linguistic-cultural mediators and voluntary organisations with specialist expertise in the new subject of immigration and the management of inter-cultural issues.

564. Italian language and literacy courses have also been introduced in nearly all prisons. One example is the prison in Naples, which has set up a “Literacy Workshop for Foreigners”. This is a working group which, taking into account the diverse regions of origin of non-EU prisoners enrolled in cultural literacy courses, provides them with the possibility of achieving greater integration both during their time in prison and afterwards. The work carried out with prisoners on the issue of health is also very important. In this respect, the establishment of a health education course in the prison in Trento is worthy of mention.

565. Again in the communication sector, the initial reception of foreign detainees entering prison for the first time poses numerous, specific problems. To respond to these problems many prisons have used funding from local authorities to produce information leaflets (that also contain the relevant forms) in English, French, Spanish and Arabic. In addition therefore to the gradual insertion of cultural mediators, “service charters” designed to inform prisoners of the system of rights and duties, translated of course into the above languages, have also been created.

566. The reporting and exchange of information between foreign nationals and local actors is a key and vital element. In this respect, a number of initiatives activated in prisons, for example in Emilia Romagna, are particularly significant. These see the participation and contribution of the Region in opening “information desks” which, with the presence of internal and external operators, provide information and concrete help with red tape, such as registration with the employment service or the renewal of residence permits, for those detainees in possession of one when they entered. Guidance services are also provided, with a view to the prisoners’ future integration in society. Bologna leads the way in this respect.

567. All prisons with a “notable” presence of foreign prisoners run Italian literacy courses set up by the Ministry of Education’s Local Centres. As mentioned earlier, this is a key factor for interaction and integration. In the women’s prison at Rebibbia, for example, only foreign nationals were enrolled at the primary school level (at July 2004), while at junior high school level (150 hours tuition) foreign prisoners accounted for half of participants and at senior high level, 30% of those enrolled. Rome City Council has undertaken, through the Standing

Programme for Prisons, to take action in the health, social, training, employment, cultural and equal opportunities spheres on behalf of detainees, including foreign nationals, in prisons or under the responsibility of the CSSAs in the territory of the Council and Province.

568. Again with respect to the right to education, the question of enrolment in university courses by foreign prisoners is worthy of note. At present the Minister of Education regulations governing this issue require not just an educational qualification recognised under Italian law but also a valid residence permit. This problem is being studied by the two departments involved, with the aim of arriving at a solution.

569. Italy does not under-estimate the problem of social and employment rehabilitation. In this respect, the work of the Marche Region is worthy of note. In terms of entry to employment and vocational training the Region has set up a number of courses and activities for the entire prison population. These include IT courses at the prison in Ancona and book-binding courses in Ascoli. In the prison in Lecce, in Puglia, the protocol of 10 November 2003 is now operational as part of the EQUAL project with the CIES in Rome, for the establishment of a "Linguistic-Cultural Mediation Service for the Social and Employment Inclusion of Migrants", for non-EU detainees.

570. Furthermore, in compliance with the fundamental principles stated with solemnity by the Italian Constitution, and acknowledged by the Penitentiary Act, the fundamental rights of all the prisoners are protected, among which the freedom of religion. In particular, the Penitentiary Administration assures the prisoners who practice a faith other than the catholic one the right to meet, on their request, the ministers of their own religion as well as to attend relevant celebrations. Therefore, ministers of religion belonging to several creeds are allowed to enter prisons and to freely meet those prisoners who spontaneously state they want to benefit from that right. Moreover, ministers of religion and prisoners are allowed to celebrate their rites, according to times and modalities provided for by their creed.

571. The possibility is also foreseen to prepare and to eat meals, according to the modalities and the rules provided for by the religion they belong to. To this purpose, every year, on the occasion of the Muslim feast of the Ramadan, the Penitentiary Administration gives appropriate instructions in order to allow prisoners, where they require so, to enjoy hot meals in times different from the usual times, so that they can observe the religious rule of the day fast.

572. A picture clearly emerges from the above examples, where Italy's commitment to communication and the inclusion of detainees stands out clearly and visibly.

573. It is also worthy of note that the Prison Administration devotes special attention to issues relating to human rights, by including this issue in all staff training, refresher and specialisation courses. In the Annual Training Programme for 2005, the strategic objectives of the prison administration include a growing dissemination amongst operators of a professional approach inspired by respect for human rights and ethical principles, in the light of the mission of the service and the evolution of the organisational and social context, as set forth in the current legislative provisions and in the various European recommendations governing this issue.

574. When cases involving the problems under consideration have been brought to the knowledge of the national courts, they are treated with full respect for the principles espoused by

our domestic legal system and in conformity with the objectives of the Durban World Conference on Racism. In support of this, the data shown below illustrate the trend in criminal conduct since 2000 in this sector, and point to a marked reduction in the number of offences (the figures to 2003 also include slogans and graffiti of a racist, anti-Semitic or xenophobic nature, while for 2004 this figure has not been included since the data collection methods were not directly comparable).

#### **4. Measures to safeguard health**

575. The Minister of Health recently approved the National Health Plan for 2003-2005. The Plan recognises that the social and political scenario has radically changed, with legislative decentralisation from State to regional level taking the form of a true devolution inspired by the criterion of subsidiarity, understood as the participation of different actors in the management of services, starting with those closest to citizens. Without prejudice to the protection of health, which the Republic guarantees in accordance with Article 32 of the Constitution, the determination of the essential levels of health service provision with respect to the civil and social rights that have to be guaranteed throughout the country fall within the exclusive competence of the State (Article 117 of the Constitution). In other words, the State formulates the fundamental principles but does not intervene in the way these can be implemented by the Regions, which assume sole competence for them.

576. In health matters, therefore, the role of the state is changing from organiser and operator of services to guarantor of equity throughout the country.

577. One task of the National Health Plan is to define which objectives are to be achieved to implement the Constitutional guarantee of the right to health and other health-related social and civil rights.

578. The Plan also refers to EU objectives in the health arena and, in this way, provides the necessary coordination with other health programmes in the European Union.

579. To respond to the requirements created by the new scenario, the National Health Plan (NHP) is divided into two parts, the first of which specifying the strategic objectives and the second identifying the lines of development for other health protection objectives.

580. The efficacy of the Plan depends on the implementation of a fruitful collaboration between the various levels of responsibility.

581. The new vision of the transition from “health services to health” is based primarily on the following essential principles by which the National Health Service (NHS) must be inspired:

- The right to health;
- Equity within the system;
- The accountability of the actors involved;
- The dignity and involvement of all citizens;

- Service quality;
- Social-health integration;
- The development of knowledge and research; and
- Citizens’ “health security”.

582. The National Health Plan for 1998-2000 already envisaged that:

- The vaccination cover provided for Italian citizens should also be extended to the immigrant population; and
- Access to health care should be guaranteed for all resident immigrants on Italian territory.

583. The vaccination cover objective was achieved through the Prime Minister’s Decree of 29 November 2001, which extends compulsory vaccination to non-resident non-EU children. In the case of health care for the immigrant population, the key provisions derive from Act No. 40/1998.

584. The Consolidated Text No. 286/1998 and related implementing regulations (Presidential Decree No. 394 of August 1999) provided a stable, clear framework for health care for foreign citizens in Italy. The implementing provisions were further clarified in Minister of Health Circular No. 5/2000.

585. In terms of health protection for non-EU citizens who do not hold valid entry or residence papers, under the terms of Article 35§3 of the above mentioned Consolidated Text No. 286/1998 access to urgent or essential treatment in out-patient departments and hospitals accredited with the National Health Service is provided for foreign nationals, as described above in the section on Access to social services. This section also describes the safeguards provided for pregnancy and maternity and for children, and vaccination and prevention measures.

586. All the services are provided through the STP code (Straniero Temporaneamente Presente, Temporary Stay Foreigners).

587. Services to persons without sufficient financial resources are provided free of charge, except for the co-payment where applicable. The STP code is valid for six months and is issued when assistance is first provided by hospitals and local structures set up by Local Health Agencies, and when the applicant submits the declaration stating his or her state of poverty. The code is recognised countrywide and can be renewed if the foreign national remains in the country.

588. The health structure must register the details provided by the individual receiving assistance, even if he or she does not have identity papers. Access to health structures does not result in any type of report to the public security authorities, except in cases where reports of related findings are obligatory.

589. In cases where the patient fails to pay for urgent or essential and on-going hospital treatment, funding is provided by the Ministry of the Interior. The costs of preventive medicine and services provided under Article 35§3 of the Consolidated Text No. 286/1998 are covered by the National Health Fund.

590. Under the NHP for 1998-2000, the subject of health care for immigrants was underscored by a National Objective Project specifically addressing their needs, entitled "Immigrants and Health". The aim is to provide legal immigrants with full cover in the health care system delivered by the NHS, on an equal footing with Italian citizens. With this in mind, a number of obstacles have been removed, including the residency requirement, which in the past prevented certain immigrant citizens from taking up this entitlement. The right to health care has also been recognised, with some limitations, for "illegal" immigrants. In addition to urgent and essential treatment, they are also guaranteed access to preventive medicine programmes (see vaccination).

591. From the health point of view, the immigration "event" is accompanied initially by the trauma for immigrants of leaving their country of origin and the extremely disadvantaged conditions they experience while looking for housing, a job, social relations, emotional attachments and legal recognition. During this phase, immigrants experience conditions of extreme disadvantage similar to those suffered by the Italian homeless.

592. During the next stage, the difficulties posed by integration or interaction and co-existence with the host culture and with the system of services become more significant. Any difficulties encountered in learning the language also increase the barriers to the use of services and to the satisfaction of daily needs.

593. If we observe the take-up of certain health services by foreign nationals, we find a substantial lack of elasticity in the services available compared with the health needs of these new groups.

594. For example, the 25,000 babies having at least one immigrant parent present higher rates of prematurity, low birth-weight and neo-natal mortality, while vaccination programmes are carried out late or in an incomplete manner, especially in traveller populations.

595. With respect to women's health, the main themes to emerge are the high rate of miscarriages and abortions, the lack of information available to immigrant women (with consequent low take-up of care during pregnancy) and the practice of female genital mutilation. A survey conducted by the *Istituto Superiore di Sanità* showed that the number of abortions by foreign women rose from 4,500 in 1980 to 20,500 in 1998, with the trend decreasing sharply from younger to older women.

596. The percentage of foreign citizens affected by tuberculosis is also rising steadily. According to data from the *Istituto Superiore di Sanità*, the rate rose from 8.1% in 1992 to 16.6% in 1998. This trend is confirmed by other European epidemiological studies conducted by the IOM's International Centre for Migration and Health. This disease affects illegal immigrants living in worse conditions, in terms of hygiene and housing, than the general population or legally resident immigrants.

597. On the basis of data taken from hospital discharge forms, the higher frequency of hospitalisation as a result of traumatism in the immigrant population compared with the Italian population (5.7% for foreign nationals, 4.8% for Italians), may well indicate a higher number of workplace accidents involving immigrant workers. An analysis of the discharge forms also shows that the most frequent causes of hospitalisation include pregnancy-related illness (7.3% of hospital admissions for foreign women, 3.2% for Italian women), respiratory infections (3.1% for foreigners, of which 0.8% for tuberculosis, and 1.8% for Italians, of which 0.1% for tuberculosis) and abortions (1.7% for foreign women, 0.5% for Italians).

598. Of the many actions that are required if the marginalisation of needy immigrants is to be overcome, one important step is to facilitate access to the NHS by the immigrant population, by improving the public assistance on offer in such a way as to make it visible, easily accessible, actively available and in line with the needs of these new population groups in conformity with the provisions of the Consolidated Text No. 286/1998 as amended and integrated by Act No. 189/2002. This sanctions the right to urgent and essential treatment and to continuity of treatment, including for clandestine immigrants. In this context, actions are required to provide information to immigrant users regarding the services provided by the Local Health Agencies (LHAs) and the identification within each LHA of units of expert personnel particularly suited to interactions of this sort.

599. The level of collective health care in life and working environments, including all prevention activities addressed to the population and to individuals, concerns: the protection from the effects of pollution and industrial-accident risk, veterinary public health, food hygiene control, prophylaxis for communicable diseases, vaccination, early diagnosis programs, forensic medicine. At the district health care level, including the health and social care services distributed throughout the country, are guaranteed: primary care, pharmaceutical assistance, local emergency, specialist day-hospital services, services for disabled and prostheses, home care services for the elderly and chronically ill people, mental health care services, semi-residential and residential structures for the elderly, disabled, terminal patients, substance abusers and alcoholics, HIV-positive person, hydrothermal treatments. The hospital care includes: first-aid & emergency response, ordinary hospitalisation, day hospital and day surgery, long term hospital stays, rehabilitation hospital as well as home based services provided by hospital staff, blood and transfusion services, tissue for grafts and transplants.

600. The quality of health services can be measured through high-level permanent training in medicine ECM, the implementation of clinical practice guidelines (evidence based medicine), clinical performance measures (es. bypass, hip prostesys) and reduction of the clinical risk, the Health Technology Assessment, the reduction of disparities in health status and access to care.

601. A recent local initiative by the Bambino Gesù Paediatric Hospital is worthy of mention in respect of the above: the hospital has produced a Guide to Health Assistance, available in five languages (Italian, English, French, Spanish and Arabic). The Guide provides detailed information for foreign nationals, from EU member states or otherwise, and for stateless persons, along with guidance on entry to and stays in Italy for medical treatment.



### Notes

<sup>1</sup> The Recitals of the Directive - especially No. 12 - underline the requirement that action to combat the various forms of discrimination should go beyond the traditional protection provided by employment law, in order to encompass a growing range of areas of civil and social co-existence such as education, health care and social protection, in the name of the priority objective of an “increasingly close cohesion among the peoples of Europe” as referred to in the Treaty of the Union.

<sup>2</sup> Consolidated Text of provisions governing immigration and the status of foreign nationals as adopted through Legislative Decree No. 286 of 25 July 1998, then amended and integrated by Act No. 189/2002 of 30 July 2002.

<sup>3</sup> Worthy of note in this respect is the contribution made by the European Commission, which has set up an ad hoc Legal Working Group on the implementation of Directives 2000/43/EC and 2000/78/EC. The Group is composed of representatives of national governments and EU institutions and its aim is to discuss problems concerning the implementation of the Directives.

An interesting Report, drawn up at the initiative of the European Commission in May 2002 in the context of the Community Action Programme against Discrimination (2001-2006), provided a basis for study and debate on specialist bodies. The Report, entitled “*Specialised bodies to promote equality and fight against discriminations*”, examines the functional and structural profiles of 21 national bodies set up in Member States to address the fight against racial and other forms of discrimination, and conduct a detailed comparative analysis of their judicial nature, competencies, structure and resources.

<sup>4</sup> Article 9 of Directive 2000/43, as taken up by Article 29§1 (h) of Italy’s “Community Law”, requires the adoption in the system of protection of such measures as are necessary to protect individuals from any adverse treatment or adverse consequence as a reaction to a complaint or to proceedings aimed at enforcing compliance with the principle of equal treatment.

<sup>5</sup> With ruling 222 of 15 July 2004, the Constitutional Court declared that part of Article 13§5-bis of Legislative Decree No. 286 of 25 July 1998, introduced by Article 2 of Decree Law No. 51 of 4 April 2002 (urgent provisions containing measures to combat illegal immigration and guarantees for persons subject to expulsion orders), as confirmed with amendments by Act No. 106 of 7 June 2002, that fails to provide for the validation ruling to be issued under due process with the benefit of a defence before the expulsion order can be enforced, to be constitutionally unlawful since it violates foreign nationals’ right to freedom and the right to a defence as constitutionally guaranteed. The Constitutional Court therefore deemed it to be unlawful for immigrants to be expelled after appearing before the courts for the validation of the provision without due process and guarantees of an effective defence.

With ruling 223 of 15 July 2004 the Constitutional Court also declared to be constitutionally unlawful, for violation of Articles 3 and 13 of the Constitution, Article 14§5-quinquies of Legislative Decree No. 286/1998, inserted by Article 13§1 of Act No. 189/2002, where it establishes that for the offence referred to in the above-mentioned Article 14§5-ter, it is obligatory to arrest the perpetrator. The Constitutional Court therefore

deemed the above-mentioned article to be constitutionally unlawful since it violates both Article 3 of the Constitution, which declares that citizens are equal before the law, and Article 13, which legitimises the adoption by the administrative authorities of provisions that affect personal freedoms only in exceptional cases of necessity and urgency. The Constitutional Court has also pointed out that the obligatory arrest imposed by the “Bossi-Fini” Law does not stand up in terms of due process since the law prohibits recourse to preventive detention in prison for a technical offence such as that envisaged by the law on immigration.

<sup>6</sup> The make-up of Territorial Commissions for the Recognition of Refugee Status, including also a United Nations High Commissioner for Refugees representative ensures that applications are processed fairly and effectively. It should be stressed that the implementation of Act No. 189/2002 is showing the effectiveness of a system made up by territorial bodies which are linked to reception centres managed by the State (Identification Centres), which prevent applicants from scattering throughout the territory.

<sup>7</sup> The Single Desk is operated by a representative of the Prefect’s Office, a representative of the Provincial Employment Directorate and a representative of the Police. It is set up by decree of the Prefect, who may also “identify more than one basic operational unit”. This decree also provides for the appointment of the director of the Single Desk. In Special Statute Regions and the autonomous Provinces of Trento and Bolzano “forms of liaison between the Single Desk and the regional and provincial offices are envisaged to organise and carry out administrative functions concerning employment [...], including the issuance of the relevant authorisations”.

<sup>8</sup> Along these lines, it is worth noting the increasing acknowledgement of the importance of training activities, including HRE courses, for the entire category of law and order enforcement officers. All Italian forces pay the utmost attention to humanitarian and human rights law within the framework of the vocational training and educational activities performed at ad hoc Institutes. In particular, the Inter-forces Institute of Advanced Studies under the umbrella of the Ministry of the Interior was established to train all the Police forces. In this regard, in all relevant courses specific attention is paid to humanitarian and human rights law.

As regards the specific drilling and training of police bodies mention should be made of the increased time that - in the various training courses for all levels of police officers - is devoted to the study of languages and cultures of the different foreign ethnic groups settled on the Italian territory. In this framework, a number of ‘police trainers’ attended post-degree specialization courses in the field of human rights at Italian Universities. Likewise, police managers and officers who participate in peace-keeping operations abroad are encouraged to attend specializations courses in International Humanitarian Law.

Moreover, attendance of the numerous seminars on the subjects at issue should be considered. They are organized by the various Police Training Institutes both independently and in partnership with similar European institutes. Mention should also be made of attendance of ad hoc meetings promoted by international organizations such as the United Nations, OSCE and, mainly, the Council of Europe.

Last but not least, attention should be devoted to the participation of the Italian Police Forces - that are represented by an officer of the Public Security Department - in the “Network of Police and Human Rights Coordinators”, within which various initiatives are promoted with a view to optimizing the efforts of security officers to adapt themselves to the changing conditions brought about a multi-ethnic society.

<sup>9</sup> The measures taken following the landings of huge flows of illegal immigrants in Lampedusa that took place in October 2004 and March 2005, respectively, and had been organized in the slightest details by powerful criminal groups located in Libya were the basis to strongly blame the national Administration. Italy was accused of serious violations of the international (and domestic) legislation on the treatment of foreign nationals, mainly as regards “respingimento” to Libya according to Article 10 of the Consolidated Text on Immigration.

<sup>10</sup> As a matter of fact, they are “Non-governmental Reception Centres” established in compliance to Article 2 of Legislative Decree No. 451/1995 as turned into Act No. 563/1995 (the so-called “Legge Puglia”) in order to ensure a first aid to immigrants illegally arrived in Italy.

<sup>11</sup> The CPTA for immigrants are aimed at the stay of Non-EU citizens, as envisaged by the Consolidated Text on Immigration No. 286/1998 (Article 14) as amended and integrated and integrated by Act No. 189/2002 (Article 12), so as to contrast the irregular migration within the domestic borders, by proceeding with the enforcement of the expulsion measures. At present, there are in use the following Centres: 1. Agrigento-Lampedusa; 2. Bologna; 3. Brindisi; 4. Caltanissetta; 5. Catanzaro; 6. Lecce; 7. Milano; 8. Modena; 9. Roma; 10. Torino; 11. Trapani; Crotone; Ragusa. As to the living standards and, more generally, to the respect for human rights at the Centres, they are set by the cited Consolidated Text and by the Ministerial Decree, the latter renamed “the Bianco Directive (30/8/2002)”.

<sup>12</sup> In this field, for example, steps were taken to provide CPTAs with container modules for the care of patients suspected to be suffering of transmissible diseases and a cooperation was started with the Agency “Medici Senza Frontiere” in order to assist medical and personnel of manager bodies in case of landings of illegal immigrant on the coasts of Lampedusa and Ragusa.

<sup>13</sup> The “Guidelines” obligate the Managing Bodies to ensure, in the framework of the personal general care services to be indicated by law in all Agreements, “information on the legislation concerning immigration and the rights and duties of aliens. This regulation assimilates the contents of Directive 30 August 2000 (the so-called “Direttiva Bianco”) providing, among the civil rights ensured to hosts in CPTAs, the right to information on the aliens’ legal and stay conditions, to avail him/herself of private or free legal aid, as well as general information on the character of the structure where a third-country citizen is detained and on the rules of civil living together applied in it.

<sup>14</sup> In order to further improve the security level of CPTAs, on 15 May 2005 a Directive was issued by the Minister of the Interior, containing ad hoc “Guidelines concerning fire prevention and other risks in Multifunctional Centres for immigrants”. This Directive was published on the website of the Department ([www.mininterno.it](http://www.mininterno.it)).

<sup>15</sup> By visiting several Centres, the CPT-CoE declared that such Centres were in line with the respect for human rights, except for Agrigento - ASI B9 CPTA, which was subsequently closed by the cited Department. The Agrigento Centre is under restructure. The Head of the Department for Civil Liberties and Immigration at the Ministry of the Interior, on occasion of the last CoE-CPT visit to Italy, decided, on December 3, 2004, in accordance with the recommendation of the Committee, the immediate closing down of the Agrigento Centre. Along these lines, on 30.3.2005, at the expiry of the Memorandum with the managing body of the Centre, the CPTA "Regina Pacis", located in Meledugno - Lecce, was also closed.

<sup>16</sup> Worthy of mention in this respect is Decree Law No. 35/2005 of 14 March 2005 containing "Urgent provisions concerning the Action Plan for Economic, Social and Local Development", Article 1§5 of which provides for a "special fund to be set up in the Ministry for Economic Affairs and Finance of €34,180,000 for 2005, €39,498,000 for 2006, €38,700,000 for 2007 and €42,320,000 from 2008, for requirements connected with the establishment of the Visa Information System, with a view to combating organised crime and illegal immigration through the exchange of visa data by European Union Member States, pursuant to Council Decision 2004/512/EC of 8 June 2004".

<sup>17</sup> In the communications sector, the service agreement signed by the Minister of Communications and RAI-Radiotelevisione Italiana S.p.A. for 2003-2005, approved through the Presidential Decree of 14 February 2003, provides for the implementation of Act No. 482 of 15 December 1999 and commits the RAI to provide programmes that respect the rights of linguistic minorities in their areas. More specifically, Article 12§5 of the contract establishes that the public broadcasting service is required to provide the conditions for the protection of recognised linguistic minorities in their areas by undertaking and promoting initiatives to enhance the minority languages present in Italy, in cooperation with the competent local institutions. RAI also promotes agreements, with the related costs being borne fully or in part by the local authorities concerned, at the regional, provincial or municipal levels, for programmes or news broadcasts in the protected languages, as part of its regional TV and radio broadcasting schedules. It is also envisaged that a committee should be set up between the Minister and the RAI, with a view to identifying which branches of the company should have responsibility for initiatives to protect recognised linguistic minorities, as well as the minimum forms of protection envisaged.

<sup>18</sup> Similar considerations on the provisions applied to the Roma and the legitimacy of the actions carried out by the Police against Roma populations living in the centres of Rome, Milan and Verona were made and represented through the Ministry of Foreign Affairs with respect to the accusations made against Italy of racial segregation suffered by the Roma and about which see the Collective Complaint 27/2004 (E.R.R.C.) presented to the European Committee for Social Rights, within the European Council, by the European Roma Rights Center. The complaint deals with discriminations which prevent to enjoy legal rights and with the non-issue of residence permits and illegal methods and behaviours by Italian authorities. In this respect it must be emphasized that, in terms of both procedures and conditions, current regulations do not differentiate citizens from other countries depending on their ethnic origin.

<sup>19</sup> See, for example, the projects for the employment of Roma populations (spaces in all the markets for the junk dealers of the social cooperative ‘phralipe’; recycling of metals; ordinary and permanent maintenance of the cycle track by the social cooperative ‘phralipe’; involvement in cultural programs sponsored by the Municipality of all numerous Roma artistic groups; project for Roma and Sinti gardeners; course of maglieria for rumria’ from Abruzzo and Camminanti from Sicily), the project involving some Roma associations for waste collecting in campi, the creation of a network of équipes - GIPSY 2000/2002 - between Therapeutic Communities operators and Roma and Sinti Mediators, who, two times a week, support Roma drug addicts, the training projects for cultural mediators in detention centres and for the constitution of a legal office within the Opera Nomadi - Lazio Section.

<sup>20</sup> Worthy of mention in this respect is the Italian Government’s drive during Italy’s Presidency of the European Union to encourage the drafting and adoption of a directive that would provide for all member states to grant residence permits to those victims of trafficking who cooperate and help identify traffickers in human beings.

<sup>21</sup> Notice No. 6 was published on 3 February 2005.

<sup>22</sup> These data refer to projects relating to the first 4 notices (March 2000/March 2004), since those relating to Notice 5 are still being processed.

<sup>23</sup> These data refer to the first four Notices.

<sup>24</sup> According to the data from the Ministry of the Interior, 4,287 residence permits for social protection reasons were granted from 1998 to 31 August 2004.

<sup>25</sup> Concluding report summarising the research project on “The trafficking of human beings for exploitation and the trafficking of migrants” carried out by the Transcrime Institute in Trento on behalf of the Ministry of Justice and the Department for Equal Opportunities (pp. 143-146).

<sup>26</sup> In this respect, and in keeping with the activities of its working group on the family, the NCB-CNEL has commissioned a research project on “*Foreign adolescents and the world of work: a trans-cultural study of the values inherent to work*” from the Andolfi Foundation. The results of the research were due to be presented in a seminar at the end of May 2005.

The aim of the investigation was to explore the expectations and attitudes to employment of secondary school pupils of non-EU origin and discover whether their diverse ethnic origins influence the values they attribute to work.

The data provide a composite picture of young people who, to all effects and purposes, can be considered as immigrants and not as second-generation children. Nearly all the young people in question were born outside Italy and for many their family’s migration plan is not yet complete, so they do not know if they will be staying in our country or not. Their parents generally have reasonably high educational qualifications (school-leaving diploma or degree) and, following their migration, most of them have had to “roll up their sleeves” and resign themselves to a position in the medium-low bands of the labour market. For many of these

young people their educational career prior to their arrival in Italy is not recognised in full. As a result, they too find themselves, like their parents, having to accept compromises. They have also discovered all too soon that it is not particularly easy to find work in Italy either. Most of these young people say they consider a good education to be of great importance and intend to continue their studies as they see a degree as being a key factor to entering the labour market. They also feel that their being “different” will not be a problem. They tend to speak from two to five languages, are familiar with at least two different countries, and as a result already have experience of different ways of life and different points of view. For nearly all of them, the most important thing is to “do something important for others”: indeed, the professions they most aspire to are medicine and law. It is extremely interesting to observe how these young people aim through their career choices to “repay” their parents’ expectations at much deeper levels.

They all see work as a “possibility of doing something useful for others” and attribute little importance to earning power. They all, therefore, give work an expressive rather than instrumental value. Over and above any cultural differences, the common ground that foreign young people share with their Italian counterparts is time: the period of adolescence. They appear to readily accept the living standards and behavioural models of their host society, and in this experience less difficulty than their parents did.

In the second part of the research, which viewed schools as “launching pads”, it can be seen that teachers do not always have a clear perception of the “legal” position of these boys and girls and of the very real difficulties they encounter when they arrive in our country.

<sup>27</sup> Prime Minister’s Decree No. 535 of 9 December 1999.

<sup>28</sup> Article 32§1-bis of Legislative Decree No. 286/1998.

<sup>29</sup> Article 25 of Act No. 189/2002. The residual nature of this provision, which does not limit the possibility for children reaching majority age to obtain residence permits to these cases alone, is borne out by the Committee for Foreign Children’s interpretative note of 14 October 2002.

<sup>30</sup> Published in Official Bulletin of the Italian Republic No. 66 of 19 March 2004.

<sup>31</sup> Some questions were raised as to the proper insertion of the Office in a government structure, such as the Prime Minister’s Office, when it would perhaps have been preferable to set up a body endowed with greater independence from the political authorities (see EUMC, Migrants, minorities and legislation: Documenting legal measures and remedies against discrimination in 15 Member States of the European Union, 2004, p. 58). In this respect, some commentators have made the critical observation that: a) the repetition of the adjective “independent” contained in Article 13§2 of the Directive called for the adoption of a different institutional model, one more respectful of the “Paris Principles” drawn up in 1991 by ECRI (European Commission against Racism and Intolerance) in the Council of Europe; b) the same provision referred explicitly to “bodies that are part of agencies charged at the national level with the defence of human rights or the protection of individual rights”. However, it should be noted in this respect that this choice was not made by the Government in drawing up the enabling decree, but by the Parliament when approving the “Community Act” (see Article 29§1 (i)). Moreover,

“independence” should not be interpreted only as implying a structural concept but also as a criterion informing the performance of the Office’s role. It is for this reason that the Decree specifies that the Office must carry out its tasks in an “autonomous and impartial manner”. It must also be considered, therefore, that the legislator’s intention in this respect was not to repeat a typical rule of public office (Article 97 of the Constitution) but rather, and above all, to place a particular emphasis on the delicate nature of the interests protected.

<sup>32</sup> The Inter-ministerial Decree (jointly approved by the Minister of Labour and Social Policies and by the Minister for Equal Opportunities on December, 16 of 2005) containing the list of all the associations authorized to act on behalf or in support of victims of discrimination, was published on the Official Bulletin of the Italian Republic on January, 12 of 2006. The above mentioned list includes to date 320 associations.

<sup>33</sup> The training on the discrimination issue is the object of some recent courses for Magistrates, held by the C.S.M. (*Consiglio Superiore della Magistratura*), devoted to: “Freedom of religion and multi-culture”, “The protection of human rights and fundamental freedoms in the jurisprudence of the European Court of Human Rights”, “Criminal proceedings - effectiveness and guarantees”, “The right of globalization and the role of jurisdiction”, “Immigration and criminal law”.

<sup>34</sup> See the Decision adopted by the Court of Bolzan of 2 December 2005 concerning eight persons responsible of conducts of incitement to discrimination or to commit violence on ethnic, nationalistic and racial grounds as aggravating circumstances, according to Arts. 3§1 and 3§3 of Act No. 654/1975.

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