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The Italian Legislation on Roma and Sinti and its Compliance with European and International Standards

1. Introduction

Thomas Hammarberg, Council of Europe's High Commissioner on Human Rights, in a report issued on 7 September 2011, expressed grave concerns about anti-gypsyism widely diffused in the Italian society.¹

According to Mr. Hammarberg, policies adopted by the Italian government against criminality, and in particular forced evictions of Roma and Sinti from illegal settlements carried out in several Italian municipalities since 2008, raised some concerns about their compatibility with international human rights' law, and in particular with the right to an adequate housing, to the right not to be discriminated on an ethnic basis and with the right to education of children.

The aim of this paper is to analyze the compatibility of the Italian anti-discrimination legislation with European and international standards and if and in which degree Italy has violated or violates fundamental rights of Roma and Sinti.²

In this vein, it starts with a brief overview of international human rights' standards applicable to Roma and Sinti, with particular reference to economic, social and cultural rights. The survey will encompass the activity of the United Nations (UN) as well as of regional organizations, such as the Council of Europe (CoE) and the European Union (EU). The second part of the article is devoted to the Italian legislation, with particular reference to the legal status of Roma and Sinti and to the main legal measures adopted in response to violence committed by them against Italian citizens in 2008 and 2009 (the declared state of "Nomad Emergency"). Particular attention will be also paid to anti-discrimination existing laws.

2. Roma and Sinti and International Human Rights' Law

In recent years, issues related to Roma people have regularly come up in activities within international forums, such as the United Nations and several European institutions (namely, Council of Europe, OSCE and EU). The problem of Roma and Sinti is one of the most

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¹ Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Italy from 26 to 27 May 2011. Strasbourg, 7 September 2011, CommDH(2011)26.

² In line with OSCE documents, this paper uses the term Roma and Sinti in order to describe the population which in official Italian documents are commonly referred to "nomadi" (nomads) or "zingari" (gypsies).

delicate challenges posed to the human rights and institutional framework of the last decade and is strictly related to the rights of migrants. Far from showing a lack of applicable standards, the current international scene presents a large set of provisions relevant to the situation of Roma people, couched in a plurality of forms and reflecting varying degrees of legal significance. Although a specific treaty regarding Roma and Sinti does not exist, guidance on their rights can be mainly found in multilateral treaties concerning rights of minorities.

In this respect, equality and non-discrimination, well-established principles of international human rights law are also of particular importance to Roma and Sinti and their members. They are prescribed in the UN Charter (Art. 1 para. 33 and Art. 55 subpara. (c)) and the Universal Declaration on Human Rights (Art. 2). The International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights contain general and specific clauses to the same effect. Specialised instruments too, contain anti-discrimination clauses, including the ICERD (1965), the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief (1981), the UN Convention on the Rights of the Child (1989), ILO Convention No. 11 concerning Discrimination in Respect of Employment and Occupation (1958), the UNESCO Declaration on Race and Racial Prejudice (1978), and the UNESCO Convention Discrimination in Education (1960). Regional human rights instruments, such as the ECHR (Art. 14), include comparable clauses. As noted earlier, the Additional Protocol No. 12 to the ECHR embodies a general prohibition of discrimination, which provides a scope of protection broader than that of Art. 14 of the ECHR. The EU addressed specifically the topic of discrimination and xenophobia against Roma people in several documents. Among them, the Declaration on the Use of Racist, Antisemitic and Xenophobic elements in political discourse by the European Commission against Racism and Intolerance (ECRI)³ provides guidance to member States on how to improve their legislations in this field. Also, ECRI's General Policy Recommendation No. 11 provides extensive guidance on both improving the response of the police to racist offences and combating racially-motivated misconduct by the police.

The principles of equality and non-discrimination are also widely acknowledged, at least in racial matters, as forming part of customary international law binding all States. Support for this view comes from authoritative instruments such as those cited, authoritative legal institutions such as the UN International Law Commission and the ICJ *Barcelona Traction* case (Second Phase) (ICJ Reports 1970:32) and advisory opinion in the case concerning *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)* (ICJ Reports 1971: 56–57).

It is thus clear that any meaningful existence of minority rights, although “functionally” supported by physical existence and anti-discrimination standards, poses issues which are separated addressed by international law. In other words, physical existence and anti-discrimination entitlements are not “minority rights” but rather essential starting points to enable their protection. The first multilateral treaty specifically recognizing minorities’

³ *European Commission against Racism and Intolerance, The Use of Racist, Antisemitic and Xenophobic Elements in Political Discourse*. December 2005.

rights is the ICCPR (Art. 27).⁴ However, the most important treaty devoted to minorities' protection is the Council of Europe's Framework Convention of the Protection of National Minorities of 1995.⁵

The discussion on Roma and Sinti's fundamental rights is also focused on economic, social and cultural rights, due to their condition of poverty and illiteracy. Among them, the most prominent is the right to an adequate housing.⁶ International human rights law recognizes everyone's right to an adequate standard of living, including adequate housing. This right is often recalled in the debate on Roma and Sinti's fundamental rights because forced evictions of illegal settlements have been carried out in several EU Countries, such as Italy and France.

The UN Committee on Economic, Social and Cultural Rights has underlined that the right to adequate housing, although foresees exemption clauses for security reasons, should not be interpreted narrowly. Rather, it should be seen as the right to live somewhere in security, peace and dignity. The characteristics of the right to adequate housing are clarified mainly in the Committee's general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions.

In particular, the content of this right is quite clear: States Parties must make sure that evictions are justified and are carried out in conditions that respect the dignity of the persons concerned, and that alternative accommodation is available. The law must also establish eviction procedures, specifying when they may not be carried out (for example, at night or during winter), provide legal remedies and offer legal aid to those who need it to seek redress from the courts. Compensation for illegal evictions must also be provided.

More details on the issue are included in the Recommendation of the Committee of Ministers of the Council of Europe on improving the housing conditions of Roma and Travellers in Europe, which contains a series of recommendations relating to general principles, legal frameworks, preventing and combating discrimination, protection and improvement of existing housing, frameworks for housing policies, financing of housing and housing standards.⁷ The Strasbourg Declaration on Roma, adopted by the Committee of Ministers on 20 October 2010⁸ is also a significant document because contains an

⁴ Article 27 of the ICCIP states: "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of the group, to enjoy their own culture, to profess and practice their own religion, or use their own language".

⁵ See Pentassuglia, G.: *Minorities in International Law*. Strasbourg, 2002.

⁶ These include: the International Covenant on Economic, Social and Cultural Rights (ICESCR, Art. 11 para. 1); the International Covenant on Civil and Political Rights (Art. 17); the Convention on the Rights of the Child (Art. 27 para. 3); the International Convention on the Elimination of All Forms of Racial Discrimination (Art. 5e); and the revised European Social Charter. The UN Committee on Economic, Social and Cultural Rights has also emphasized that "the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one's head or which views shelter exclusively as a commodity. Rather, it should be seen as the right to live somewhere in security, peace and dignity."

⁷ Recommendation *Rec(2005)4* of the Committee of Ministers to Member States on Improving The Housing Conditions of Roma and Travellers in Europe, adopted by the Committee of Ministers on 23 February 2005.

⁸ *Council of Europe High Level Meeting on Roma, Strasbourg, 20 October 2010 "The Strasbourg Declaration on Roma"*, CM(2010)133 final.

“unequivocal condemnation of racism, stigmatization, and hate speech directed against Roma, particularly in public and political discourse”. The Council also called for “measures to foster knowledge of the culture, history, and languages of Roma and understanding thereof”.

3. Roma and Sinti in the Italian Legal Framework

The Italian legal framework encompasses special measures on public security specifically addressed to Roma and Sinti, as well as an anti-discrimination *corpus* of laws against xenophobia and racism which indirectly relates to the gypsies' community. Since May 2008, a number of government decisions have been issued concerning the Roma and Sinti communities, or “nomads”, as they are commonly referred to in Italy. These measures were in part justified by concerns regarding crime, because Romanian Roma migrants have attracted considerable public attention and negative media coverage due to a growing prejudice and link between Roma and Sinti migrants, criminality and threats to public security. In fact, data show an increase in the crime rate coinciding with the inflow of Roma and Sinti population into Italy, especially after Romania joined the EU. This policy is legally justified by the “margin of appreciation” enjoyed in principle by national authorities in the choice and implementation of security policies that allow a derogation to some fundamental rights for security reasons. However, in the last months, the government has realized that a policy specifically devoted to the social problems related to the presence of Roma people, supporting the anti-crime measures, was necessary. To this aim, the third Biennial National Plan of Actions and Interventions to protect the rights of individuals and children's development⁹ contains several measures to promote inter-culturalism, including measures to help Roma, Sinti and Travellers children.¹⁰

3.1. The Legal Status of Roma and Sinti

Groups of Roma and Sinti migrated to Italy during different periods, beginning in the 14th century and they have been discriminated and stigmatized in the past by the fascist regime. In fact, since 1940 the fascist regime interned many of them in concentration camps in Italy and many of them were deported to concentration camps in Germany.¹¹ Porrajmos is the Romani term introduced by Romani scholar and activists to describe attempts by Nazi Germany, the Independent State of Croatia, Horthy's Hungary and their allies to exterminate most of the Romani people of Europe as part of the Holocaust.

These events testify that many Roma people have been living in Italy since centuries and their offspring continues to live in Italy, but their descendants, in spite of having been

⁹ Adopted by *Presidential Decree* January 21, 2011, and published in the *Official Gazette N. 106 of May 9, 2011*.

¹⁰ In particular the attention has drawn to the following: Action for the foreigners' family reunification; action for support, education and employment for accompanying minors involved in criminal proceedings, including Roma, Sinti, Travellers children as well as minor migrants children; action for the prevention of school dropout of children, including Roma, Sinti and Travellers children as well as immigrant minors, and implementation of social inclusion interventions; action to protect the right to health for Roma, Sinti and Travellers children and teenagers; action for the promotion of intercultural trainings for teaching staffs and headmasters.

¹¹ In 2011, Pope Benedict XVI, during a meeting with Roma and Sinti's representatives, stated that the mass murder of Roma people by the Nazis was “still a little known drama”.

born and lived there all their lives are *de facto* stateless.¹² Furthermore, in the Italian legal framework, Roma and Sinti are not yet considered as a minority group and do not enjoy of the rights guaranteed to the minorities. In fact, Law No. 482/1999 promulgated on 15 December 1999 in order to put into practice the fundamental principle on the defence of minorities provided for by Art. 6 of the Constitution, recognizes 12 linguistic minorities at Art. 2 para. 1, but Roma and Sinti are not included in this list.¹³ According to the Italian legislation, Roma and Sinti cannot be given national minority status because they are not linked to a specific part of the Italian territory and therefore cannot be recognized as a historic and linguistic minority. The Italian government explained that: “The basic criteria for the label of “linguistic minority” depend on the stability and duration of the settlement in a delimited area of the country, which is not the case for Roma populations.” There have been efforts to recognize Italian Roma and Sinti as a minority, but they have not been successful. This would allow for the application of the specific juridical consequences established by the regulations and those that the jurisprudence of the Constitutional Court has tied *sic et simpliciter* to this status.

However, as outlined by many scholars, nomadism commonly considered as a distinctive label of Roma and Sinti populations, is no more a specific feature of this population: social and economical transformations of the last century have determined the disappearance or the drastic reorganization of many activities at the basis of nomadism; their language, the *Romanes*, is only spoken by few people that identify themselves as Roma, a common State such as a common religion do not exist (although many of them have the Italian citizenship); the same cultural traditions are different depending on the different migratory trajectories of every familiar group.¹⁴ The non-recognition of their status of minority implies that many of them are technically subjected to Italian migration law and their legal position varies depending on several factors.

The 150,000 Roma and Sinti resident in Italy, according to data provided by the Ministry of Interior, include Italian citizens, as well as citizens of both EU and non-EU countries,¹⁵ with three different legal status. After Romania’s accession to the EU in January 2007, the Romanian Roma became EU citizens and gained the right to free movement within the European Union. They enjoy therefore the rights related to their status of citizens of the European Union, including the right of free movement without the Italian territory and the right not to be expelled.

Among the non-European citizens, families belonging to different ethnic groups and religions were forced to flee to Italy because of the civil war in the former Yugoslavia, in the 1980s and 1990s. The *khorahané* of Islamic religion come from the southern and central

¹² To this regards, Mr. Hammarberg in his report of 7 September 2011, urged Italy to ratify the European Convention on Nationalities without apposing reservations.

¹³ Legge 15 dicembre 1999, n. 482, “Norme in materia di tutela delle minoranze linguistiche storiche”, published in the *Gazzetta Ufficiale* of 20.12.1999.

¹⁴ Due to this difficulty to get correct data on Roma people, some states, such as Romania and the United Kingdom, have proposed an ethnic census. Such a measure, according to the European Commission (2000/43/EC), is legal admissible only if its goal is to avoid any form of discrimination. In the United Kingdom the collection of ethnical information is mainly based on laws that in particular, the Law on Statistics, the Data Protection Act and the Race Relation (Amendment) Act of 2000.

¹⁵ On this issue see Loy, G.: *La condizione dei Rom in Italia* (The condition of Roma in Italy). In: Cherchi, R.–Loy, G. (eds): *Roma e Sinti in Italia* (Roma and Sinti in Italy). Roma, 2009.

regions of Yugoslavia, the *dasikané* Christian-Orthodox from Serbia, the *zergarja*, yet Muslims, from Bosnia, the *rundasha* from Montenegro.

Many of them have the status of asylum seekers and are resident on the Italian territory with a regular permit of stay, others are instead “irregular”, that means without a permit of stay.

Considered that Roma from Western Balkans are non-EU nationals, many of them have no documents providing their identity or places of origin rendering them *de facto* stateless (with particular negative consequences for children). They are therefore technically subject to Italian immigration legislation.

The Italian immigration law (Act 286/1998) is based on annual quotas for people who want to enter Italy to work. Prior to seeking citizenship, a non-citizen must obtain a permit of stay and then apply to the local municipality for a legal residence. Permits of stay are given to foreigners based on proof of a minimum level of income; in case of Roma this poses a challenge, as most Roma live in illegal settlements and they cannot or don't want to have job opportunities.¹⁶ In practice, it is very difficult to change one's status from illegal to legal; so many migrants remain without papers, accepting very bad working and living conditions. In 2009, Italy adopted Law No. 94 on public security,¹⁷ in response to the huge inflow of migrants from Northern Africa and Eastern Europe, which is one of the strictest laws on migrants in Europe. Law No. 94/2009 presents considerable amendments in matters concerning immigration, among which the most important is the introduction of the new crime of “illegal entry and sojourn in the territory of the State” (Art. 1, subpara. 16), entrusted to the competence of the Justice of Peace, which punishes the behaviour of a foreigner who enters or remains in the State. The offence is accompanied by the expulsion of the alien. These expulsions are “security measures” that can be imposed by a judge in cases where a non-citizen is found guilty of a crime and sentenced to at least two years imprisonment. Previously, 10 years was the minimum sentence required to enact this kind of measure. Failure to comply with a removal or expulsion order is itself a crime entailing imprisonment for between one and four years. Another new crime regards housing: renting homes to foreigners residing irregularly in Italy is a criminal offence and landlords may be sentenced to prison for between six months and three years, and face the confiscation of the home in the case of a final verdict. Another feature of the law provides increased powers to mayors. In particular, they can adopt urgent measures “for the purpose of preventing and eliminating serious dangers that threaten public safety and urban security”, ensuring also the cooperation of local police forces with the state police force. As outlined by Mr. Hammarberg, in his report of 2011, the security package, in combination with the “emergency legislation”, has considerably worsened the conditions of Roma people in Italy.

3.2. *The Nomad Emergency Measures and the Right to Housing*

Since May 2008, following the violent murder of an Italian woman in the suburbs of Roma by a nomad, a number of government decisions have been issued concerning the Roma and Sinti communities. The Prime Minister issued a decree declaring a “state of emergency” in

¹⁶ In Hungary, the government has foreseen a compulsory job placement for Roma and Sinti in activities with a relevant social impact.

¹⁷ Legge 15 luglio 2009, n. 94, “Disposizioni in materia di sicurezza pubblica” “on Public Security”. *Gazzetta Ufficiale*, N. 170 del 24 Luglio 2009.

relation to settlements of “nomad” communities in some regions (measure based on Law n. 225/1992 which deals with emergency situations arising from severe natural disasters), that together with the legislation and extraordinary powers flowing from it have provided the bedrock for forced evictions of illegal settlements. “Ordinances” introducing special and exceptional measures concerning “nomad settlements” in the three regions (Lazio, Lombardy, Campania) have also been adopted. The ordinances appointed the prefects of Rome, Milan and Naples as “delegated commissioners” empowered to “realize all the interventions needed to overcome the state of emergency” declared in the Prime Minister’s decree.¹⁸ Furthermore, in 2008 the Ministry of Interior signed security pacts with local authorities. They include references to security issues related to the presence of irregular migrants and nomads and issued related to illegal settlements and they give to the prefects various powers, including the power to establish working groups.

The state of emergency, which is still in force in five regions,¹⁹ brought to forced eviction of illegal settlements in several municipalities²⁰ that have raised concerns on the impact of these practices on the right to housing and other human rights of Roma people.²¹ The critics are not related to the measure itself, because the States have the right to pursue forced evictions if they are deemed as necessary due to security issues and constitute an adequate and proportional response to the issues of criminality related to Roma people. They concern mainly the lack of procedural safeguards, because they were often carried out with no prior notice and no possibility to file an appeal, and involving the full dismantling of the settlement and destruction of inhabitants’ personal belongings. In most cases, no alternative accommodation was provided.²²

It should be noted that according to the Ministry of Interior’s guidelines of 17 July 2008, forced evictions are not a punitive measure but an instrument for discouraging other Roma from settling illegally and providing them with better accommodations.²³

¹⁸ See Pavone, I. R.: *Italian experiences in combating hate crimes and hate speech in light of recent violence by and against Roma*. *Acta Juridica Hungarica*, 51 (2010) 3, 187–197.

¹⁹ A Decree of the President of the Council of Ministers of 17 December 2010 (Official Gazette No. 304 of 30/12/2010) extended the “state of emergency for the continuation of initiatives relating to Nomad communities settlements on the territories of the regions of Campania, Latium, Lombardy, Piedmont and Veneto” until 31 December 2011.

²⁰ For instance, in Rome, the local “Nomad Plan” of 2009 has foreseen the forced eviction of several illegal settlement in the city and the relocation of about 6 000 nomads.

²¹ See the *Memorandum of Thomas Hammarberg, Council of Europe Commissioner for Human Rights, following his visit to Italy, 19-20 June 2008, CommDH(2008)18; Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Italy, 13-15 January 2009, CommDH(2009)40*.

²² See OSCE, Office for Democratic Institutions and Human Rights, High Commissioner on National Minorities: *Assessment of the Human Rights Situation of Roma and Sinti in Italy. Report of a Fact-Finding Mission to Milan, Naples and Roma on 20-26 July 2008*. Warsaw, The Hague, March 2009, 9.

²³ Linee guida del Ministero dell’Interno, 17 luglio 2011, per l’attuazione delle ordinanze del Presidente del Consiglio dei Ministri del 30 maggio 2008, n. 3676, 3677 e 3678, concernenti insediamenti di comunità nomadi nelle regioni Campania, Lazio e Lombardia, Ministry of Interior, Rome, 17 July 2008. The report is available at the following website: http://www.interno.it/mininterno/exports/sites/default/it/assets/files/15/0095_censimento_campi_nomadi_le_linee_guida_pdf.

In 2010, the European Committee of Social Rights, the monitoring body foreseen by the European Charter on Social Rights, received a collective complaint against Italy.²⁴ In its decision of June 2010, the Committee established that the practice of forced evictions of Roma people as well as the violent act accompanying such evictions constituted an aggravated violation of Art. E (right not to be discriminated)²⁵ taken in conjunction with Art. 31.1 (on the reduction of homelessness) (paras 53–59); that the living conditions of Roma and Sinti in camps, which had worsened following the “security measures”, constituted a violation of Art. E taken in conjunction with Art. 31.2 (on access to housing of an adequate standard) and that the segregation of Roma and Sinti in camps, resulting from local and national housing policies which assume Roma to be nomads and fail to meet their needs, violated Art. E taken in conjunction with Art. 31.3 (on affordable housing) (paras 80–91).

The Committee adopted therefore a recommendation addressed to Italy in which it suggested some political and legislative measures aimed at improving the living conditions of Roma people in Italy.

It is worth mentioning that the same policy of forced evictions pursued in France in spring 2011 has raised some issues about its compliance with Art. 27.2 of Directive 2004/38/CE,²⁶ that establishes that: “Measures taken on grounds of public policy or public security shall comply with the principle of proportionality and shall be based exclusively on the personal conduct of the individual concerned”. In fact, this policy, according to its critics, would affect one particular ethnic group instead of examining the behaviour of the single individual.

3.3. Xenophobia and Intolerance in the Political Discourse

The principle of non-discrimination is one of the main pillars of Italian Constitution (Art. 3) upon which the domestic legislative system is based and enforced, particularly by the domestic Courts. The Criminal Code of Italy contains provisions that expressly enable the racist or other bias motives of the offender to be taken into account by the courts as an aggravating circumstance when sentencing. In particular, Sec. 3(1)(b) of Law 654/1975, as amended by Sec. 3 of the Law 205/1993 introduces a general aggravating circumstance for all offences committed with a view to discrimination on racial, ethnic, national or religious ground or in order to help organizations with such purposes. It is also worth mentioning that Legislative Decree No. 215 of 9 July 2003 established the UNAR (National Office

²⁴ The Complainant Organisation alleged that the housing situation of Roma in Italy amounted to a violation of Art. 31 of the Charter (right to housing). Article 31 states: “Everyone has the right to housing. With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed: to promote access to housing of an adequate standard; to prevent and reduce homelessness with a view to its gradual elimination; to make the price of housing accessible to those without adequate resources.”

²⁵ Art. E enshrines the prohibition of discrimination and establishes an obligation to ensure that, in the absence of objective and reasonable justifications, any group with particular characteristics, including Roma, benefit in practice from the rights in the Charter.

²⁶ *Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No. 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC*, OJ L 158/77 (30.04.2004).

against Racial Discriminations), as a monitoring body, with the competence of receiving and analyzing individual petitions of victims of racial discriminations.

The UNAR carries out in an autonomous and independent way activity of promotion against any form of racism and intolerance. In particular it provides judicial assistance, it carries out inquiries and it disseminates information and knowledge on this topic.

The Italian government considers that the fight against racism and xenophobia is a long-term process and that legislative and judicial measures had to be complemented by efforts at all levels, particularly through the education system, which is why the Ministry of Education, University and Research had developed specific educational programmes with a marked intercultural approach.²⁷

However, in spite of the completeness of the Italian legal framework on this topic, racist and xenophobic political discourse in Italy, targeting notably Roma and Sinti, is unfortunately, yet widely diffused. This type of discourse is a powerful vector of anti-Gypsyism in Italian society and as a result, it also offsets the benefits of social inclusion work for Roma and Sinti carried out in Italy. Several international bodies called on the Italian authorities to act urgently this phenomenon. The Committee on Social Rights, in its decision on a collective complaint against Italy referred to above, underlined that the use of xenophobic political discourse against Roma and Sinti violated Art. E (non-discrimination) of the treaty.²⁸ The Committee considered this as an aggravated violation, noting that “the racist misleading propaganda against migrant Roma and Sinti [was] indirectly allowed or directly emanating from the Italian authorities.”²⁹ Furthermore, in its October 2010 Opinion, the Advisory Committee on the Framework Convention for the Protection of National Minorities, was “deeply concerned” at the increasingly common presence of racially inflammatory public discourse targeting notably the Roma and Sinti, Muslims and migrants in the discourse of certain prominent political figures and considered this situation to be incompatible with Art. 6 of the Convention. Also, Mr. Hammarberg, in his 2011 report, continued to be concerned at the presence of racist and xenophobic political discourse in Italy, targeting notably Roma and Sinti.

As underlined by the Italian Observation on the Report by the reply drafted by the Italian Ministry of Foreign Affairs,³⁰ the Italian legal system already envisages a specific system of criminal protection to counter expressions of racism and xenophobia, which include expressions of thoughts aimed at disseminating ideas based on racial or ethnic superiority, hatred language as well as at the incitement to commit acts of discrimination or of violence for racial, ethnic and/or religious reasons.

4. Concluding Remarks

As outlined in the present paper, the Italian legal framework already encompasses principles and standards foreseen by multilateral treaties on human rights. With particular reference to xenophobia, intolerance and anti-Gypsyism in the political discourse, the Italy already

²⁷ See www.miur.it.

²⁸ *European Committee of Social Rights, Decision on the merits, Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009*, 25 June 2010, para. 136–140.

²⁹ *Ibid.* para. 139.

³⁰ *Ministry of Foreign Affairs, Inter-ministerial Committee of Human Rights. Italian Observation on the Report by the Commissioner for Human Rights of the Council of Europe, T. Hammarberg, following his visit to Italy (May, 26–27, 2011).*

complies with European and international standards. However, as underlined by international bodies, some shortcomings should be addressed. The UN Human Rights Council, as well as Mr. Hammarberg in his report of 7 September 2011, suggested Italy to re-establish adequate penalties against incitement to racial discrimination and violence, following the mitigation of the sanctions from these offences introduced in Italy through Law 85/2006. This is undoubtedly the most urgent legislative measure to be adopted.

Further improvements are however essential. First of all, the lack of a national strategy for the social inclusion of Roma people has been highlighted as the main flaw at international and at national level.³¹ It would provide coherence and support to the efforts carried out at regional and at local level. In fact, in Italy there are currently 11 regional laws concerning Roma, Sinti and Caminanti and several local and municipal ordinances, but coordination among this set of measures is missing.

Despite these criticisms, the Italian authorities are committed to adopting specific measures, to improve security for all citizens and to better address integration and/or immigration-related issues. Most recent measures, such as those included in the “security package”, are meant to curb criminal behaviours of individuals. No provision is envisaged against any community, group or class, nor is linked to any form of discrimination and xenophobia. The stigmatization of minorities has always been a source of concern, and the recent episodes of violence against Roma communities had been condemned by all political forces and were subject to judicial investigation. However, with regard to forced evictions of people living in unauthorized camps, Italy noted that they were sometimes necessary to ensure appropriate and legal living conditions and that, wherever possible, the persons involved were consulted in advance.

³¹ Senato della Commissione Straordinaria per la tutela e la promozione dei diritti umani. See, also, the special report presented in 2011 at the Italian Senate (Rapporto conclusivo dell'indagine sulla condizione di Rom, Sinti e Caminanti in Italia, 9 febbraio 2011).