



European Network Against Racism
Réseau européen contre le racisme

ENAR Shadow Report 2012-2013

ENAR SHADOW REPORT

**Racism and related discriminatory practices in
employment in Italy**

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

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

Published by the European Network against Racism (ENAR) in Brussels, March 2014, with the support of the European Union Programme for Employment and Social Solidarity - PROGRESS (2007-2013), the Open Society Foundations, and the ENAR Foundation.

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Executive summary

This report, based on desk research and interviews to activists, researchers and professionals working in the field, tackles the situation of racism and discrimination in employment in Italy for the period of March 2012 to March 2013. Migrants and ethnic minorities are the focus of the report. The latter group in Italy is mostly formed by Roma and Sinti, who may be third country nationals, Italian or stateless. Foreigner will be the general term used in this report to include migrant and ethnic minorities. When specific information on Roma and Sinti is available it will be included and underlined in this report.

According to unofficial estimates, there are approximately 110,000 - 180,000 Roma and Sinti in Italy. Roma and Sinti in Italy continue to suffer intense popular hostility and are the groups that face most difficulties when entering the labour market. The census by the Italian Red Cross found that underemployment among the Roma and Sinti population reaches 72%.¹ The results of a Survey conducted by the Fundamental Rights Agency in 2011 show that in Italy, four to five times more Roma than non Roma said that they were unemployed.² A dearth of data characterizes further their situation and in the employment sector the scarcity of data and reports is extreme.

On 31 December 2012, foreigners represented 7.4% of the Italian population. Data available on the working population indicated that foreign workers are 9.8% of the total working population.³ The scarce data available clearly point to a peculiarity of the Italian segregated labour market: foreign workers are clearly over represented in a few specific sectors with low added value - the so called 3D sectors, dangerous, dirty and demanding. 34% of the foreign labour force are employed as unskilled workers against 7.8% of Italians. Foreign workers are usually "over-educated" having a much higher level of education compared to the requirements of their job. Furthermore, they experience no vertical and horizontal mobility. As for salaries, foreign men are paid at least 20% less than the average. For foreign women, the salary gap with national women reaches 30%.

The current legal framework does not protect the rights of foreign workers to equal opportunities and is actually one of the causes for their vulnerability to discrimination and exploitation in the labour market. Creating a link between employment and obtaining a residence permit, the current migration framework makes foreigners dependent on employers. Furthermore, the framework leaves the labour demands of the market unsatisfied and it pushes many foreign workers into having an irregular status and being exploited in the informal economy.

The unequal position of foreigners in the Italian labour market is not a new phenomenon. With the financial crisis, the situation has become even worse, with longer working hours for lower wages, no possibility to work overtime, greater risk of redundancy. Although evidence on these issues is scarce, information which has been collected indicate that foreign workers experience racism in all sectors, although to varying degrees. In the work place, discrimination includes, among others, professional under qualifications, higher levels of exploitation, victimisation due to repeated controls by the Municipal police, non-implementation of safety rule. Information by NGOs and the jurisprudence all point to discrimination in accessing highly skilled jobs for which there is already a high supply of

¹ Senato della Repubblica, XVI Legislatura, *Rapporto conclusivo dell'indagine sulla condizione di rom, sinti e camminanti in Italia*, 2011,

² European Union Agency for Fundamental Rights, UNDP *The situation of Roma in 11 EU Member States 2012*

³ In 2011 foreigners are 7.5% of the total population and 9.8% of the total working population. Data on working population are not available for 2012. Galossi E., Leonardi S., Carrera F. (IRES) *Combating discrimination against migrant workers* Solidar Ires 2012.

Italian nationals. Protectionist barriers to employment in the public sectors have the effect of treating migrant and ethnic minorities as “inferior”, which is a discourse legitimized and fuelled by the legal framework, public discourse and the media. No information on access to work in private companies is publically available.

In sectors which are strongly linked with the underground economy, such as agriculture, foreigners face heavy exploitation. They work in conditions of isolation and marginality, very poor housing and health hazard, with wages under the poverty line and 40% lower than those of majority Italians. Working relations tend to be characterised by excessive control by the employer or various forms of blackmailing and violence by gang-masters.

In sum, the shortcomings of the national legal and policy framework on migration, together with the global crisis, underground economy and public discourse, are the main interconnected forces leading to the discrimination of foreign workers in the labour market. Such intertwined forces also further the vulnerability of foreign workers, opening them up to abuse and exploitation in sectors such as agriculture and domestic care work.

Measures to counter racism and discrimination in the labour market have been inadequate, lacking a strategy or organic vision. The implementation of EU anti-discrimination directives is scarce. The main government initiatives to combat discrimination in employment at the public level were conducted by UNAR, the Equality Body. Although such activities were appreciable, they cannot be considered sufficient and their impact should be greatly enhanced. As for anti-discrimination litigation, it is still quite rare although the number of cases is on the rise, especially with respect to access to public employment. Civil society efforts in combating discrimination are also inadequate and not systematic. A few organizations, NGOs and trade unions, carrying out important work, especially with respect to litigation, moral suasion, training and awareness-raising, stand out. Yet their number, impact and level of coordination are still low.

Therefore, an anti-discrimination strategy shared by all relevant stakeholders and effective measures to tackle discrimination of foreign workers and Roma and Sinti in the labour market are strongly needed and should be promoted and implemented at all levels. The main recommendations especially to government and policy makers are:

- Encourage the systematic collection of disaggregated data on the labour market positions of different migrant groups and Roma and Sinti, specifically in access to private employment;
- Raise awareness of discrimination of migrants and Roma and Sinti in employment and read through the concept of discrimination available data in the labour market;
- Implement the National Strategy for the Inclusion of Roma, Sinti and Caminanti Communities;
- Recognize Roma and Sinti as a national minority, as a first step to ensure the protection of their culture and language, while also promoting their social inclusion and combating statelessness;
- Expand regular migration channels, treating migrants as active legal subjects with the possibility of granting residence permits for job search;
- Repeal the provision in the Security Package criminalizing “illegal entry and stay”;
- The National Equality Body (UNAR) should be strengthened in order to ensure its capacity to carry out its work, and to ensure its independence. In particular, make UNAR’s opinions public and binding, strengthen the role of UNAR in facilitating social dialogue in the employment sector, reinforce activities of discrimination-monitoring by making the Office more approachable to migrants and ethnic minorities;

- Strengthen and unify the provisions against racial and religious discrimination contained in the various laws⁴ into a single act and enforce them fully;
- Strengthen the national legal framework by transposing, fully implementing and enforcing EU Directives 2000/43/EC and 2000/78/EC, as well as Directive 2011/98/EU, including a common set of rights for third-country workers legally residing in a Member State, such as by enabling the recognition of their educational qualifications;
- Apply the European Law 2013, law n.97, 6 August 2013, regulating access to public employment, to all categories of foreigners;
- Enforce control and inspections in all sectors by relevant authorities, law enforcement authorities and labour inspectorate, especially against the exploitation of migrants and ethnic minorities in the agriculture and domestic sectors;
- The government and local authorities should approach the situation of seasonal workers with a strategy and test new mechanisms such as placement lists for workers;

To the Civil society:

- Increase awareness and the capacity to identify cases of discrimination among all staff and partners
- Reinforce monitoring activities with a systematic and organic approach to discrimination
- Facilitate involvement and participation of foreign workers in civil society organizations such as trade unions, associations, NGOs.

⁴ See Chapter 2 for an overview of the complex and uncoherent legal framework tackling discrimination. Laws are included in the Immigration Code but there are additional Legislative Decrees and provisions. For instance, Legislative Decrees 215/2003 was enacted by the Government in order to implement Directive 2000/43/EC.

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1. Introduction

Racism is a reality in the lives of ethnic and religious minorities in Italy, in particular of migrants and Roma and Sinti. The extent and manifestations of this fact are often unknown and undocumented, especially with regard to official data sources. As a consequence, it can be difficult to analyse the situation and to establish solutions.

The ENAR Shadow Reports have become a major tool for monitoring the situation of racism and xenophobia in EU Member States. Both ENAR's national and European Shadow Reports have proved to be an invaluable documented starting point for strategic and coordinated action, particularly for anti-racist civil society advocacy towards national governments, the European institutions, bodies and the media.

The aim of this report, therefore, is to contribute to knowledge and to provide insight from activists and professionals on the ground working to combat racism and discrimination in Italy as an advocacy tool by which to influence policy. This report takes on a more narrow focus than previous reports, by exploring the situation of racism and discrimination in the field of employment in Italy for the period of March 2012 to March 2013. It is based on desk research, web research and interviews to stakeholders (see list in annex).

The results will be used at national level to influence policy developments and will be further compiled into a European comparative report to influence European policies. With improved statistical and comparative data, the Shadow Reports will have a demonstrable impact for changing policy and bringing about necessary policy reforms.

1.1 Definitions

As said above the main victims of racism and discrimination in Italy are migrants and Roma and Sinti. In this report the word foreigner is used for both migrants and Roma and Sinti. When specific situations concerning Roma and Sinti are documented it will be indicated clearly in this report.

The definition foreigner is commonly used to include all non-Italians living in Italy.⁵ Legislation and policy documents use the category "EU citizens" and "third country nationals", the latter referring to non EU citizens. Another relevant definition concerns non-EU nationals with a long term residence permit. Ethnic minorities such as Roma and Sinti may be third country nationals or Italians, thus part of them are also foreigners.

In Italy there are no ethnic minorities legally recognised. However, the state recognises linguistic minorities, protecting them by means of ad hoc legislation⁶.

⁵ As discussed in previous reports, in Italy language and categories used to talk about foreigners are often strongly discriminatory and stigmatising. See for instance Redattore Sociale. *Parlare Civile*, Bruno Mondadori Milano 2013

⁶ Article 6 of the Italian Constitution: "The Republic protects linguistic minorities by means of appropriate measures". For Minority Rights « Despite a weight of legislation guaranteeing their rights, most indigenous minorities are not well protected. The small amount of government funding earmarked for school programmes and access to public services in minority languages has been disbursed with long delays. Bilingual status with Italian only exists in practice for German in Bolzano province (South Tyrol) and for French in the Valle d'Aosta." For more details see <http://www.minorityrights.org/?lid=1520#top>

1.2 Statistical overview

There are two main official sources which provide information on the number of migrants in Italy. The Ministry of Interior publishes data on the number of migrants with residence permits. The Municipalities through their local registry offices gather data on the presence of foreign residents. The demographic data used in the following paragraphs come from the National Institute of Statistics (ISTAT) and is based on data from the Municipalities, unless specified differently.⁷

According to ISTAT, the total population in Italy on 31 December 2012 was 59.685.227.⁸ On the 1st January 2013 the foreign population consisted of 4.387.72 people, representing 7,4% of the total population. 2.059.753 are males and 2.327.968 are females. For some nationalities there is a growing process of “migration feminization”.⁹ In 2012 the number of foreign residents increased by 8, 2%.¹⁰ Second generation migrants are foreigners until they turn 18 years old when they can then apply to obtain Italian citizenship.¹¹

The majority of the foreign population living in Italy consists of third country nationals with a long-term residence permit. By the 1st January 2013, 3.764.236 non-EU citizens have obtained a residence permit.¹² In 2012, the number of residence permits given for work-related purposes decreased by 43.1%.¹³ The number of residence permits given for asylum and humanitarian reasons has also decreased from 42.672 in 2011 to 22.916 in 2012.¹⁴ According to the same source, on the 1st January 2013 the most represented nationalities among third country nationals are Moroccans (513.374), Albanians (497.761), Chinese (304.768), Ukrainian (224.588) and Filipino (158.308). Minors are 24.1 % of third country nationals. Disaggregated data on EU citizens for 2012 are not yet available. In 2010, the main national groups of Europeans were from Romania (997.000), Poland (112.000), Bulgaria (53.000).¹⁵ The largest group of foreigners was from non-EU nationals who had long term residence.¹⁶

The distribution of foreign citizens in the country is not uniform, with 86% of foreigners living in the North and Central regions of Italy. 14% of the foreign population live in the Southern part of Italy.¹⁷

In Italy there is also a considerable presence of undocumented migrants. Estimates include their numbers between 380.000 and 500.000.¹⁸ Many of them are likely to have over-stayed their permits;

⁷ According to the ISTAT, data on foreign population for this year has to be taken with caution. Following the 2011 census, foreign population data from the local registry need further revision.

⁸ Caritas e Migrantes *Dossier Statistico Immigrazione*, IDOS, Roma, 2012.

⁹ Among others see Sarti R., *Quali diritti?*, Ediesse, Roma, 2010 and also Catanzaro R., Colombo A., *Badanti & Co. Il Mulino*, Bologna, 2009

¹⁰ ISTAT, archive Data on foreign population including EU citizen disaggregated by nationalities is not available yet.

¹¹ According to the existing law, contested by civil society and some political parties in power, second generations migrants may apply for Italian citizenship upon turning 18 and within a year by that moment. Granting of citizenship is not automatic and appliers have to give proof of having lived in Italy continuously since they were born.

¹² ISTAT, archive. Using the Minister of Interior data on the number of foreigners with residence permits.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Caritas e Migrantes *Dossier Statistico Immigrazione : xxii Rapporto*, IDOS, Roma, 2012.

¹⁶ Using data by ISTAT from 2011, IRES points out that the foreign population in 2011 consisted for 41.5% of non EU citizens with long residence permit, 38.1% of EU citizens, 20.4% of EU citizens. Ferrucci G., Galossi E. *Il Mercato del Lavoro Immigrato negli anni della crisi*, Osservatorio sull'immigrazione Ires-CGIL, Rome, 2013.

¹⁷ ISTAT, archive.

third-country nationals who entered regularly in Italy and had a valid residence permit, but upon expiration of their residence permit, and because they lacked regular employment which would have enabled them to renew their permit, they became irregular migrants. Others entered the country irregularly.

Since in Italy data are gathered on the basis of nationality but not on ethnicity, it is only possible to have unofficial estimates about Roma citizens. According to unofficial estimates, there are approximately 110,000 - 180,000 Roma in Italy- of Italian or other nationality.¹⁹ Roma may be migrant or autochthonous. For ERRC The figures are higher including those irregularly present in Italy and those who do not have any record of residency²⁰: “About 70,000 of the estimated Roma population are Italian Romani citizens that have been living in Italy for more than 600 years and are present across the country; about 90,000 are Roma born outside Italy or born in Italy to immigrant parents, mainly from Eastern Europe”.

Roma represent about 0.25% of the total population. Half of them are under 16 years old and only 0.3% are older than 60. A lack of data and information negatively impacts the development of appropriate policy responses to the needs and characteristics of this group²¹.

Linguistic minorities in Italy include Sardu-speakers 1.3 million (2%), Friulians 700,000 (1.2%), South Tyrolese German-speakers 290,000, Roma/Gypsies 80,000–150,000, French and Franco-Provençal-speaking Aostans 90,000, Slovenes 50,000–183,000, Occitans 50,000, Ladins 31,500–33,000, Catalans 28,500, Greek-speakers 2,500–20,000 and Croatians 2,000–2,400.²²

2. The context: labour market and legal framework

2.1 Outlook of the labour market

According to EUROSTAT, in 2012 Italy's GDP per capita was just below the EU-27 average.²³ 35% of the official GDP of the country, 540 billion Euros, is based on the underground economy. It has been noted that the informal economy is a structural element in the market economy. In other words the Italian market economy as it is could not function without the informal one.²⁴

¹⁸ Ferrucci G., Galossi E., *Il Mercato del Lavoro Immigrato negli anni della crisi* op.cit.

¹⁹ UNAR, *Strategia Nazionale d'inclusione dei rom, dei sinti e dei caminanti*, 24 February 2012.

²⁰ European Roma Rights Centre (ERRC). Italy. *A report by the European Roma Right Centre. Country Profile 2011-2012*. 2013. <http://www.errc.org/cms/upload/file/italy-country-profile-2011-2012.pdf> Accessed 20 December 2013.

²¹ Ibid.

²² For more details see the World Directory of Minorities and Indigenous Peoples - at: <http://www.minorityrights.org/?lid=1520#top>

²³ Eurostat, « Statistics explained »

[http://epp.eurostat.ec.europa.eu/statistics_explained/index.php?title=File:Volume_indices_of_GDP_per_capit a_2012_EU-27%3D100.png&filetimestamp=20130614085323](http://epp.eurostat.ec.europa.eu/statistics_explained/index.php?title=File:Volume_indices_of_GDP_per_capit_a_2012_EU-27%3D100.png&filetimestamp=20130614085323) Accessed 15 August 2013

²⁴ Perocco and Ferrero underline that the black economy is a structural part of the market economy. Ferrero M., Perocco F. (ed.), *Razzismo al lavoro, Il sistema della discriminazione sul lavoro, la cornice giuridica e gli strumenti di tutela*, Franco Angeli, Milano, 2011. The underground economy includes all those legal activities of production of goods and services which remain outside the official economy Eurispes *L' Italia in nero* (2012) Rapporto sull' economia Sommersa

In 2011, foreigners represented 7.5% of the total population and 9.8% of the total working population.²⁵ Foreign women represented 42.6% of foreign workers (in active employment) and 10.3% of the total working population (in active employment). Foreign workers are a young population, more than half of them are under the age of 44.²⁶

As a response to the financial crisis, the Italian labour market has undergone vast organisational and structural changes. Different forms of labour contracts are being applied and deregulation, subcontracting, outsourcing, casualization and work segmentation can be seen.

Undocumented migrants are an important part of the Italian underground economy, and their situation can be characterised by the lack of provision of any formal contract of employment, irregular use of the workforce, tax evasion, lack of social security protection and a high tax of informality.

A peculiarity of the segregated Italian labour market is the over representation of migrant workers in specific segments of the labour market. 37% work in the services sector, 19.2%, in construction, 13% in agriculture, 15.8% in tourism and 11.7% in transport.²⁷ Foreign workers represent 80% of all workers in the domestic sector.²⁸ On the 31st December 2011, the number of domestic workers and carers stood at 893,351, 88.6% were women. Data of 2011 indicate that at least 70% of domestic workers were from Eastern Europe, mostly Romania, Ukraine, Poland and Moldova. A considerable number are from the Philippines and South America.²⁹ In other sectors, foreign workers are mostly men, women are present in tourism and to a lesser extent in agriculture.

34% of the foreign labour force are employed as unskilled workers against 7.8% of Italians; eight out of ten foreigners are employed as clerks versus five out of ten Italians.³⁰ The data elaborated by the Fondazione Moressa shows that foreigners represent 0.4% of top managers, 0.8% of managers and 10.2% of clerical workers (semi-skilled workers). In other words, while only one foreigner out of ten works as a clerical worker, half of the Italian working population is employed as clerical worker.³¹

It can be said that foreign workers are put in a detrimental position because they have a much higher level of education compared to the requirements of their job.³² This results in the situation where there is a greater concentration of foreign workers in lower qualified jobs which does not reflect their level of education. Being employed in a position which reflects one's skills and experience does not seem to improve throughout foreigners' careers and or in relation to their years of residence in Italy.³³ Another characteristic of the unequal labour context is that most foreigners are employed in a position which requires a lower qualification than what they may have ('professional under-placement') or that their contracts include tasks and provisions of lower level than what they actual

²⁵ Fondazione Leone Moressa, *Rapporto Annuale sull'economia della migrazione*, Il Mulino, Bologna 2012. The report uses category and data of Istat, marking a difference between Italian vs non Italian, calling all the people without Italian citizenship foreigners. Data on the working population for the period covered by the report is not available.

²⁶ Ibid.

²⁷ Ferrucci G., Galossi E., *Il Mercato del Lavoro Immigrato negli anni della crisi*, op.cit.

²⁸ Leone Moressa, January 2013.

²⁹ Italian platform "30 years CEDAW: work in progress", Shadow Report, Italy 2011.

³⁰ Ferrucci G., Galossi E., *Il Mercato del Lavoro Immigrato negli anni della crisi*, op.cit.

³¹ 2.5% Italians are employed as top managers, 7.5% as managers and 49.3% semi-skilled workers. Fondazione Leone Moressa, *Rapporto Annuale sull'economia della migrazione* op.cit.

³² Ferrucci G., Galossi E., *Il Mercato del Lavoro Immigrato negli anni della crisi*, op.cit.

³³ Ibid.

do (occupational under qualification).³⁴ Such phenomena are becoming more relevant at a time of economic crisis, involving 42.3% of foreign workers against 19% of Italian ones.³⁵

With respect to salaries, foreign men are paid at least 20% less than average, with variations in the salary gap across the country and sectors.³⁶ In the first semester of 2012, the average difference between a foreign and an Italian worker is -344 Euros (26%).³⁷ For foreign women, the salary gap reaches 30%.³⁸ An article with the telling title “The Double Discrimination” shows that considering the number of hours of work, foreign women earn 7.4% less than foreign men and 27% less than Italian women. In other words, the gender wage gap makes worse the ethnic wage gap that all foreigners suffer³⁹.

Furthermore, the majority of foreigners, 54.6%, work in small firms (up to 10 employees), while only 15.7% work in firms with more than 50 employees. Considering small firms as local units with less than 20 workers, the percentage of occupied foreign workers rises even more. 70.4% of occupied foreign workers can be found in such small firms, against 46.5 % of Italians.⁴⁰ It is worth to underline that smaller businesses and firms tend to have a lower survival rate and tend to offer lower guarantees to workers, also because of the Italian regulations. This has had a considerable impact in terms of redundancy rates, employees’ access to social security, employee participation and support from trade unions.

With respect to groups more vulnerable to discrimination in employment, such as Roma and Sinti, there is a scarcity of available data. While more efforts have been put by international and civil society organizations in documenting the lack of access of Roma and Sinti to education or to housing, reports and cases documenting the situation of Roma and Sinti in employment are very few. The results of a Survey conducted by the Fundamental Rights Agency in 2011 show that in Italy, four to five times more Roma than non Roma said that they were unemployed.⁴¹ The census by the Italian Red Cross found that underemployment is very high among the Roma and Sinti population, reaching 72%.⁴² Those who work have precarious and occasional jobs. Men work as metal or construction workers, women as domestic workers.⁴³ Results of a research on Roma women conducted in 2011 and included in the CEDAW report does not differ significantly. Out of a sample of 79 Roma women responding about their employment status, 15 were in formal employment and 12 in informal employment. Women mostly worked as cleaners or in childcare. In percentage this means 19% were

³⁴ Cillo R., Perocco F., Scandolin P., « Challenging racism at work. Desk research report: Italy », Laboratory of research on immigration and social transformations at University of Venice Ca' Foscari, Project Craw funded by Dg Employment, 2013.

³⁵ Cillo R., Perocco F., Scandolin P., « Challenging racism at work. Fieldwork report: Italy» Laboratory of research on immigration and social transformations at University of Venice Ca' Foscari, Project Craw funded by Dg Employment, 2013.

³⁶ Fondazione Leone Moressa, *Rapporto Annuale sull'economia della migrazione*. op.cit.

³⁷ Ferrucci G., Galossi E., *Il Mercato del Lavoro Immigrato negli anni della crisi* op.cit.

³⁸ Fondazione Leone Moressa, *Rapporto Annuale sull'economia della migrazione*, op.cit.

³⁹ Pizzalunga Daniela, 15/11/2012, La doppia discriminazione delle donne immigrate.

⁴⁰ Ibid.

⁴¹ European Union Agency for Fundamental Rights, UNDP The situation of Roma in 11 EU Member States 2012.

⁴² Senato della Repubblica, XVI Legislatura, *Rapporto conclusivo dell'indagine sulla condizione di rom, sinti e camminanti in Italia*, 2011.

⁴³ Ibid.

in formal employment. 15% worked informally, 53% of respondents were housewives not working outside the home; 11% were involved in begging and 1% volunteered.⁴⁴

2.2 Legal framework

The current legal framework has a key role in the discrimination of foreign workers and ethnic minorities in the labour market and their vulnerability to abuse and exploitation. The instruments to consider are not coherent and can be found in the field of equality and among those regulating the entry and access to work of third country nationals.

The Italian legal framework tackling equal treatment is mainly based on statute law rather than case law. This means that it is based on “acts of parliament or acts of the same force that originate in a decision of the national parliament (legislative decrees). Case law has played quite a marginal role until recently.”⁴⁵

With respect to equality, according to Article 3 of the Italian Constitution, every citizen has the right to equal social dignity and to equality of treatment.⁴⁶ However, the Italian legislation lacks a specific law forbidding discrimination and implementing this principle of equality *per se*.⁴⁷ As underlined in the report of the European Network of Legal Experts in the non-discrimination field: « While clearly forbidding any discriminatory legislation, it is a matter of legal debate whether the constitutional principle has direct effect, i.e. if it is sufficient ground for an action by an individual who has faced discrimination. This has never been clearly tested in court⁴⁸».

The Immigration Code⁴⁹ can be considered as the first main provision addressing discrimination in employment.⁵⁰ Article 43 of the Immigration Act includes a comprehensive definition of discrimination, introducing a range of cases of discrimination in different contexts. Article 44 tackles civil actions against discrimination.

⁴⁴ European Roma Rights Centre (ERRC), Idea Rom Onlus and Opera Nomadi Reggio Calabria “Parallel Submission to the United Nations Committee on the Elimination of all forms of Discrimination Against Women”. 2011. Between February and May 2011 interviews were conducted with 88 Romani women in Turin, Rome and Reggio Calabria. <http://www.errc.org/cms/upload/file/italy-cedaw-submission-24-june-2011.pdf> . Accessed 20 August 2013.

⁴⁵ Favilli, C. Report on Measures to Combat discrimination. Directives 2000/42/Ec and 2000/78/EC Country Report 2011. European network of legal experts in the non-discrimination field. http://www.non-discrimination.net/content/media/2010-IT-Country%20Report%20LN_final.pdf. Accessed 20 August 2013.

⁴⁶ For a detailed table of key national anti-discrimination legislation see: Favilli, C. Report on Measures to Combat discrimination. Directives 2000/42/Ec and 2000/78/EC Country Report 2011. op.cit.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Law 286 1998. Consolidated text of provisions on immigration and the status of foreign citizens’ published in Gazzetta Ufficiale no. 191 of 18 August 1998 – S.O. n. 139, Articles 43 and 44. Testo Unico has been amended in different occasions, such as with the Bossi Fini Law (Law.n.189 o 30 July 2002). Last amendment with Law L. 28 June 2012, n.92 (cd. Riforma Fornero) and Legislative decree 28.06.2012, n.108 (G.U. 24.07.2012). Legislative decree 16.07.2012, n. 109 (G.U. 25.07.2012), transposing Directive 2009/50/CE e 2009/52/CE. See also Solidar IRES 2012 *Combating discrimination against migrant workers Making industrial relations work for decent work. Briefing on the situation in Italy*

⁵⁰ A ban on discrimination in labour law was provided by Article 15 of 1970 Workers Act, which was later amended to cover other grounds of discrimination such as sex, race, language, religion and political opinion. See also Galossi, Emanuele, Leonardi, Salvo and Carrera, Francesca, *Combating discrimination against migrant workers* Solidar, March 2012

Two subsequent essential provisions addressing equal treatment of Italian and foreign workers are Legislative Decrees 215/2003, which was enacted by the Government in order to implement Directive 2000/43/EC, and Legislative Decree 216/2003, which transposes Directive 2000/78/EC. The former Decree applies to discrimination on the grounds of race and ethnic origin and the latter Decree concerns religion and belief, disability, age and sexual orientation in the field of employment and occupation. Legal experts have pointed out that the transposition of the two Directives as they were, resulted in a lack of coordination between the two Directives and existing Italian legal norms.⁵¹ For instance, while the Immigration Act covers nationality discrimination, the Decree 215 does not cover the difference of treatment based on nationality.⁵² Decree 216/2003 does not mention the requirement of reasonable accommodation.⁵³ For this reason the Commission has referred Italy to the Court of Justice by the infringement procedure (C-312/11)⁵⁴. In order to correct the discrepancies between Decrees 215 and 216 and the EU Directives, some changes were introduced by a 2008 Act.⁵⁵ Although clear cut conflicts with EU law were removed, the modifications introduced did not improve the overall quality of the legislative framework, and even introduced at least one further inconsistency, such as the deletion of the reference to the use of statistics for evidentiary purposes from the Decree transposing Directive 78/2000, while keeping this provision in the Decree transposing Directive 43/2000.⁵⁶

Italy has, however, not yet ratified Protocol 12 to the European Convention on Human Rights⁵⁷, thus limiting the potential of the Convention as a tool for anti-discrimination litigation.

In Italy, labour is the main channel for entering the country. As highlighted by Emanuele Galossi⁵⁸, IRES “the Bossi-Fini Law can be defined [as a] law on employment rather than a law on migration”.

⁵¹ As noted by different experts, the issue is mainly relevant in relation to the legal standing of associations and organizations in judicial proceedings concerning cases of collective forms of discrimination. Favilli, C. Report on Measures to combat discrimination. Directives 2000/42/Ec and 2000/78/EC Country Report 2011. European network of legal experts in the non-discrimination field 2003

⁵² “The 1998 Immigration Act foresees a legal standing only in favour of trade Union organizations in alleged cases of discrimination in the field of employment only, whereas the 2003 Race Directive Implementation Act provides associations enrolled in a special registry for legal standing in judicial proceedings on behalf of the victims or directly in case of collective discrimination in all the fields covered by 2000/43 Directive”. ASGI, Citti W. “Some remarks about lack of proper implementation of Directives 2000/43 and 2000/78 in Italy” 27 January 2013

http://www.asgi.it/public/parser_download/save/remarks_implementation_directives_italy.pdf

⁵³ Moreover, a slight change in a sentence results in the fact that Italian law allows organisations that are not based on an ethos to discriminate on the ground of religion”. Favilli, C. « Report on Measures to combat discrimination. Directives 2000/42/Ec and 2000/78/EC Country Report 2011”. European network of legal experts in the non-discrimination field , 2012.

⁵⁴ Court of Justice of the European Union, press release n. 82/13 Luxembourg, 4 July 2013 “Member States must require all employers to adopt practical and effective measures for all persons with disabilities” <http://curia.europa.eu/jcms/upload/docs/application/pdf/2013-07/cp130082en.pdf> Accessed 20 December 2013.

⁵⁵ Legislative decree of 8th April 2008, n. 59 “Attuazione dell'articolo 1 della legge 3 agosto 2007, n. 123, in materia di tutela della salute e della sicurezza nei luoghi di lavoro » (Implementation of article 1 of 3 August 2007, n. 123, in terms of protection of health and safety in working environments).

⁵⁶ Favilli, C. “Report on Measures to combat discrimination. Directives 2000/42/Ec and 2000/78/EC Country Report 2011”. European network of legal experts in the non-discrimination field, 2012.

⁵⁷ Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, 4 November 1950, ETS 5, available at: <http://www.refworld.org/docid/3ae6b3b04.html> [accessed 27 December 2013].

⁵⁸ Interview to Emanuele Galossi, IRES.

The controversial law Bossi-Fini⁵⁹ regulates the entry of third country nationals, setting maximum quotas for different types of workers. One of the shortcomings of the law, which has proved ineffective and unfair in different ways, is that quotas have always remained below the effective demands of the labour market. The law is also based on the unrealistic assumption that employers in Italy would recruit migrant workers while they are still in their country of origin thereby forbidding the recruitment of irregular migrants who have entered Italy without an employment contract.

The provision also makes the residence permit dependent on the existence of a written contract of employment, guaranteed by the employer, who has absolute power.⁶⁰ The link between residence permits and job contracts, on the one hand 'forces' foreign workers to accept unequal working conditions. On the other, due to the existing legislative framework and the lack of regular migration channels, most foreign workers arrive in Italy irregularly or on a visa other than the one for contracted employment and are vulnerable to exploitation in the informal economy. The irregular status is criminalized by the provisions included in the so-called "Security Package" of 2008 and 2009 and subsequent amendments.⁶¹ Foreigners with an irregular status can become regular following an amnesty (*sanatoria*) and cannot be employed.⁶² The informal economy remains the only option available to them.⁶³ An immigrant worker quoted by Perocco describes the harsh and inhuman condition of foreigners with an irregular status, working in the informal economy in these terms "in the first years you have to live like animals, they make you live like a beast."⁶⁴ Perocco refers to the compulsory experience of informal work that all foreigners arriving in Italy have to go through as a "pedagogy of precariousness".

With respect to the focus of this report, it is also worth mentioning the relevant provisions on access to public employment, which unfortunately lack coherence and can be discriminatory. On the one hand, the equality of treatment between foreign workers with regular residence permit and nationals is established by Article 2 of the 286/1998 Immigration Code.⁶⁵ On the other hand however, the Decree entitled "General norms on subordinated employment in the public administration"⁶⁶ states that EU citizens can access all posts in the public administration that do not imply any exercise of public power or do not pertain to the protection of the national interest. As examples included in chapter 3 and 4 of the present document show, many local authorities or judges interpret this norm as barring third country nationals from such positions. As for the transport sector, Article 10 Attachment A to Royal Decree no. 148 of 1931 establishes that only Italian citizens can access employment in the companies that manage public transport services.⁶⁷

⁵⁹ Law n. 189, 30 July 2002 known as Bossi-Fini Law. Quotas are established by specific governmental decrees.

⁶⁰ The employer must commit to hiring the worker on an open-ended contract, or on a fixed-term contract lasting at least one year; See also Ferrero M., Perocco F. (ed), *Razzismo al lavoro, Il sistema della discriminazione sul lavoro, la cornice giuridica e gli strumenti di tutela*, Franco Angeli, Milano, 2011.

⁶¹ Law of 15 July 2009, n. 94 (Law 94/2009), Regulation on public security (Disposizioni in materia di sicurezza pubblica) criminalizing irregular migration. For further details see previous ENAR reports.

⁶² Foreigners can have an irregular status either because of overstaying or because of non authorised entrance. The last amnesty took place in September- October 2012.

⁶³ Ferrero M., Perocco F. (ed), *Razzismo al lavoro, Il sistema della discriminazione sul lavoro, la cornice giuridica e gli strumenti di tutela* op.cit.

⁶⁴ Ibid.

⁶⁵ Referring to the OIL Convention n.143/1975.

⁶⁶ Legislative decree n. 165, 2001, "Norme generali sull'ordinamento del lavoro alle dipendenze delle amministrazioni pubbliche".

⁶⁷ See Chapter 3 and 4 for examples of implementation of the provisions. The issue found a partial solution with the approval of the European Law 2013, law n.97, 6 August 2013. - Legge europea European Law. The

With respect to labour exploitation, in the period under review, Legislative Decree 109⁶⁸ introduces some aggravating factors to the crime of employing irregular migrant workers. The so called “Rosarno Law” includes the case of “particularly exploitative working conditions”, as well as the additional financial sanction of payment for the cost of return of the worker to his/her country of origin.

Article 603-bis of the Criminal Code⁶⁹ is relative to the crime of illicit intermediation and labour exploitation. The crime is punished with detention from five to eight years and with a fee ranging from 1,000 to 2,000 euros for each of the workers recruited. The concern raised by these provisions are summarised in chapter 4 of this Report.

Relevant provisions of the period under consideration include the transposition of the Directive on ‘Blue Card.’⁷⁰

3. Manifestations of racism and structural discrimination in employment

3.1 Perceptions of discrimination in employment

In a recent national survey by ISTAT, 61.4% of respondents were in favour of the statement “Foreigners are necessary to carry out the jobs that Italians do not want to have.”⁷¹ Discrimination and racism in employment are not acknowledged in the public debate, but rather the view of foreigners being second class citizens is considered as “natural”.

Trade unions and civil society organizations often have a more accurate perception of the issue of discrimination in unemployment and many consider migration policy as one of the core factors leading to structural discrimination.⁷²

The point of view of foreign workers varies and does not often find expression in the public arena. A research by the University of Venice among foreign workers in the construction sector reports the following:

“if immigrant workers in their countries have a certain qualification (for example, they are specialized workers), when they arrive in Italy, they are not hired with the same qualification: this is a form of discrimination. Unfortunately, it is somewhat difficult for immigrant workers’ education and

provision has its origins in the Observations of the European Commission in the context of the procedure EU Pilot 1769/11/JUST and 2368/11/HOME. ASGI “Pubblicare sulla Gazzetta Ufficiale la “Legge europea 2013” e la legge di “delegazione europea 2013”, 22.08.2013. The provision gives access to employment in the public sector also to long term residents, family members of EU citizens, refugees and citizens entitled to subsidiary protection but not all categories of third country nationals.

⁶⁸ Legislative Decree 109, of 16 July 2012 implementing Directive 2009/52/Ec amended article 22 of Consolidated Law on Immigration 286/98).

⁶⁹ Article 603-bis of the Criminal Code was introduced by Article 12, Law No. 148, 14 September 2011.

⁷⁰ Legislative decree n. 108 dd. 28.06.2012 implements the European Directive 2009/50/CE on the conditions of entry and residence of third Countries citizens who wish to engage in highly skilled employment (Directive on Blue Card’).

⁷¹ Stranieri in Italia, Istat: "Italiani aperti agli immigrati, ma la crisi crea competizione" 23.05.2013

⁷² For an overview of the efforts against discrimination and racism in employment see chapter 4 of this Report.

*qualifications to be acknowledged in Italy. Bureaucracy, Italian politics, do not want immigrants to be acknowledged with the Italians' same rights (sic the same rights Italians have)."*⁷³

Following the violent clashes and racist accidents, which took place between 2008 and January 2010 in Rosarno against African agriculture workers there is a wider public perception of extreme forms of exploitation in the agriculture sector. As documented below in section 3.6 and 4, foreign workers face in this sector inhuman living conditions, have low wages and long working hours.

As for Roma and Sinti, they face in Italy intense popular hostility. As it has been said above they can be both Italian and migrant or even stateless, yet the dominant misperception is that they are nomadic. As stated by ERRC "The dominant approach of the Italian authorities to Roma has been marked by the classification of these groups as "nomads", although almost all Roma in Italy are sedentary; just 3% are itinerant"⁷⁴. Being incorrectly considered nomadic fuels the perceptions of Roma as not apt to work or only apt to specific types of work.

3.2 Incidence of discrimination in employment

Notwithstanding the lack of a monitoring system on discrimination in the public and especially in the private sectors and the scarcity of comprehensive data, indicators presented in section 2.1 portray a context of structural discrimination and show some of the profound inequalities foreign workers face in the labour market in a number of sectors.

Although partial, a useful insight into the phenomenon is provided by the Ufficio Nazionale Antidiscriminazioni Razziali UNAR, (National Office Against Racial Discrimination, National Equality Body), through the data collected by its multilingual contact centre and web site. Data are relative to the portion of foreigners who have a good awareness of discrimination, know about UNAR and are in position to complain.

In the period between 1st January and 31st December 2012, UNAR, received 659 complaints of racial and ethnic discrimination (the number of complaints includes only cases considered pertinent)⁷⁵. Employment was the main field where ethnic and racial discrimination was complained of, with 18,2% of all complaints in this field.

Civil society representatives and researchers interviewed have suggested that the Roma population is the most susceptible group to discrimination in the job market. The representative of the Roma organization, 'Idea Rom', reported that employees are not willing to give jobs to Roma workers and in order to find a job, some workers of Roma origin had to deny their ethnic origin.⁷⁶ In the representative's words, "employers do not give them a chance ... We target employers such as restaurants and places that hire cleaners, since our associations are formed by Roma women. Their answers tend to be statements such as "send us a nigger rather."

⁷³ Cillo R., Perocco F., Scandolin P., Challenging racism at work. Fieldwork report: Italy, Laboratory of research on immigration and social transformations at University of Venice Ca' Foscari, Project Crow funded by Dg Employment, 2013.

⁷⁴ European Roma Rights Centre (ERRC). Italy. A report by the European Roma Rights Centre. Country Profile 2011-2012. 2013. <http://www.errc.org/cms/upload/file/italy-country-profile-2011-2012.pdf> Accessed 20 December 2013.

⁷⁵ Interview with Marco Buemi, UNAR.

⁷⁶ Interview with Giulio Taurisano, Idea Rom onlus.

The results of an ERRC research indicate that 48% of Romani women respondents who provided information about the reasons for their inability to access work reported ethnic discrimination.⁷⁷

Asylum-seekers, due to their lack of language competence and flaws in programmes aiming to assist *asylum seekers'* integration into the *labour* market, are also in a vulnerable position. Irregular workers are the main victims of exploitation and even forced labour, also because of the lack of access to the justice system.⁷⁸

For jobs involving contact with the public, those having more visible signs of difference in contrast to the majority population due to the colour of their skin or the wearing of religious symbols, such as people of African descent or Muslim workers wearing the veil, find themselves subject to more discrimination.⁷⁹ Among foreign workers, white European non-Muslim workers are preferred.

Foreign workers also suffer from what one could call “administrative racism”, which means having to cope with ineffective and lengthy procedures linked, for instance, to the “flow decree” system also known as quota system⁸⁰ or the regularisation programs (amnesty)⁸¹ or to the possibility of travelling during the renewal of their residence permit. In the words of the NGO representative Filippo Miraglia, “the badly functioning administrative machine is a cause of distress for migrant workers (...). Some (state officials) think that they have to create procedures with the main aim of preventing migrants from taking advantage of the law (...). During such long procedures foreign workers are often stuck and treated like criminals”.⁸²

Other forms of discrimination of foreign workers highlighted by civil society representatives include access to retirement funds.⁸³

3.3 Patterns of inequality over the course of time

The discrimination of foreigners in the labour market has been evident in Italy since the early 90s and the start of mass migration. With the crisis, the situation of foreigners in the labour market has deteriorated because the crisis hit sectors in which foreigners were employed more strongly, but also because, as Perocco and Ferrero assert, of an increase in mass anxiety which was channelled towards foreigners.⁸⁴

Between 2008 and 2011, the number of foreign workers unemployed has doubled, rising to 148.000. While in 2008 the unemployment rate for foreigners was 8.5%, in 2011 it rose to 12.1%. As for Italian

⁷⁷ European Roma Rights Centre (ERRC), Idea Rom Onlus and Opera Nomadi Reggio Calabria. “Parallel Submission to the United Nations Committee on the Elimination of all forms of Discrimination Against Women.” 2011.

⁷⁸ See further below section 3.6.

⁷⁹ Interview with Emanuele Galossi, Fondazione Bruno Trentin.

⁸⁰ As said above The Bossi-Fini Law regulates entry of third country nationals setting maximum quotas for different types of workers as established by specific governmental decrees.

⁸¹ The last amnesty took place in September- October 2012.

⁸² Interview with Filippo Miraglia, Arci. See also the case of the conversion of permit for “minor age” to permit for employment search, for which a citizen had to appeal to the Regional Administrative Tribunal, TAR Toscana. ASGI “Permesso per minore età e conversione al compimento del 18° anno ” 23.01.2013.

⁸³ Interview with Pietro Soldini, CGIL.

⁸⁴ Ferrero M., Perocco F. (ed.), *Razzismo al lavoro, Il sistema della discriminazione sul lavoro, la cornice giuridica e gli strumenti di tutela*, op.cit.

citizens, unemployment has increased from 6.6% in 2008 to 8.0% in 2011.⁸⁵ Between 2008 and 2012, also due to the economic and financial crisis which led to global recession, the number of part time foreign workers - dependent and self-employed - has increased to 78%. The number of foreign workers that have had to use the social security cushion (redundancy pay) has also been high. According to interviewees, such measures have been used more and in any case first by foreign workers and then by Italians.⁸⁶

For foreign workers, their working conditions have deteriorated, with longer working hours for lower wages, no possibility to work overtime, greater risk of redundancy payments. "Firms thought that it was easier to tell immigrant workers that their positions were no longer needed, rather than Italians."⁸⁷ The crisis also pushed a greater number of foreigners towards the black economy. Some migrant workers put into question their migratory project, considering returning to their country of origin or moving to another destination country.⁸⁸

The report by IRES Fillea on the construction sector⁸⁹ shows that in the period 2008-2011, foreign workers registered in the Construction Fund decreased by 21% while Italian workers decreased by 18%.⁹⁰ Given that foreign workers are 19% of the whole working population in the construction sector,⁹¹ in the first half of 2012, 33% of the workers to which redundancy benefits were paid were foreign.⁹² The IRES report also underlines that the wage difference with Italian workers has increased from 4.1% in 2009 to 10.5% in the first semester of 2012, with foreign workers earning 133 Euros less than their Italian colleagues.

The crisis has also led to an increase in irregular forms of work, such as "false" part time or "false" forms of independent work. With the former provisions, workers carry out a higher number of hours than those actually foreseen by their contracts: such extra hours may be paid as overtime or may not be registered and be irregular. With "false" forms of independent work workers are forced to register for Value Added Tax (VAT) like independent workers but it is just a fiscal trick in order to reduce fiscal costs for the company or for a boss for whom they actually work.⁹³ 65% of 100 foreign workers in the construction sector interviewed by Fillea declared to take a part of their wage outside the official salary (irregular work).⁹⁴ Since the escalation of the financial crisis, the majority of respondents highlighted that they were fearful of losing their job or of their working conditions worsening as a result.⁹⁵

⁸⁵ Fondazione Leone Moressa, *Rapporto Annuale sull'economia della migrazione*, op.cit.

⁸⁶ Interview with Maria Mora, CGIL, Interview with Emanuele Galossi, Fondazione Bruno Trentin, Interview with Eliana Cuomo, FIOM. See Cillo R., Perocco F., Scandolin P., « Challenging racism at work. Field research report Italy », op. cit. for specific examples.

⁸⁷ Ferrucci G., Galossi E. *Il Mercato del Lavoro Immigrato negli anni della crisi*.

⁸⁸ Ferrucci G., Galossi E. *Il Mercato del Lavoro Immigrato negli anni della crisi* op.cit.

⁸⁹ Ferrucci G., Galossi E., *I lavoratori stranieri nel settore delle costruzioni. VII rapporto Ires-Fillea CGIL*, Roma, 2012.

⁹⁰ By the end of 2013 the decrease in investment in the sector will be of 30% and it will touch lowest level of activities in the last 40 years. Ferrucci G., Galossi E., *I lavoratori stranieri nel settore delle costruzioni*. op.cit.

⁹¹ Ibid.

⁹² Ibid.

⁹³ Abuses by gang-masters illegally employing workers in exploitative working conditions and sometimes linked to mafia-type criminal organizations are also widespread in the construction sector. Amnesty International, *Exploited labour Migrant workers in Italy's agriculture sector*, Amnesty International, London 2012.

⁹⁴ Ferrucci G., Galossi E., *I lavoratori stranieri nel settore delle costruzioni*. op.cit

⁹⁵ Ibid.

3.4 Discrimination in access to employment

Marco Buemi of UNAR, the national Equality Body, underlined that access to employment is one of the main reasons of complaint since 2009 and especially 2010, when the effect of the financial crisis have become apparent⁹⁶. In the period 1st January 31 December 2012, 61,7% of the reported cases of racial and ethnic discrimination in the employment sector are relative to access to employment, 12,5 % discrimination among colleagues, condition of redundancy are 5.8% and mobbing is reported in 2.5%⁹⁷.

As it has been said above in this report, although Roma are the most vulnerable community to discrimination and racism, the availability of data and studies on the situation of Roma in employment is extremely poor and the information presented in this report were mostly gathered through interviews to civil society stakeholders working with Roma citizens. The representative of the organization 'Idea Rom' reported that employees are not willing to give jobs to Roma workers and show open hostility. In order to find a job, some workers of Roma origin had to deny their ethnic origin.⁹⁸ In the representative's words, "employers do not give them a chance ... We target employers such as mechanic and body shops. Their answers tend to be statements such as "send us a nigger rather."

A research conducted for the CEDAW submission reports the following episode of discrimination mentioned by a Roma woman: "One day I went to apply for a job as a shop assistant. One of the bosses wanted to hire me but he changed his mind after having talked with a colleague. This person said to him "Are you stupid! Have you noticed that she is a Romani girl?" They then told me they found another girl. I felt so discriminated against."⁹⁹

With respect to migrants more generally, the data in chapter 2 demonstrates that there is still strong reticence about "allowing" immigrants to access jobs for which there is a high supply of Italian nationals or are considered to be prestigious and highly skilled.¹⁰⁰ Regarding the preferential treatment of national and EU citizens over 3rd country nationals, whilst this is clearly discriminatory, it is legal under EU law.

The lack of situational testing methods or procedures for measuring discrimination result in a lack of data or concrete evidence of direct discrimination in access to employment in the private sector, while more examples are available with respect to public employment and transport, regulated by a complex and fragmented legal framework.¹⁰¹

⁹⁶ Interview with Marco Buemi, UNAR.

⁹⁷ Ibid.

⁹⁸ Interview with Giulio Taurisano, Idea Rom onlus.

⁹⁹ European Roma Rights Centre (ERRC), Idea Rom Onlus and Opera Nomadi Reggio Calabria "Parallel Submission to the United Nations Committee on the Elimination of all forms of Discrimination Against Women". 2011. Op. cit.

¹⁰⁰ Galossi E., Leonardi S., Carrera F. (IRES) *Combating discrimination against migrant workers*. Solidar Ires 2012.

¹⁰¹ As stated in section 2.2, art 2 of 286/1998 Immigration Code (referring to the OIL Convention n.143/1975) guarantees the equality of treatment between foreign workers with regular residence permit and nationals. Yet according to legislative decree 165/2001 (General norms on subordinated employment in the public administration), third country nationals are completely barred from posts in the public administration while EU citizens can access such posts in the public administration that do not imply any exercise of public power or do not pertain to the protection of national interest. As for the transport sector, Article 10 Attachment A to Royal Decree no. 148 of 1931 establishes that only Italian citizens can access employment in the companies that

Cases of discrimination include legally resident non- EU citizens barred from accessing the education sector, both for technical posts and teaching jobs. For instance, on the 1st March 2012, the University of Florence published a vacancy for one post under an independent contractor's agreement, reserving the participation only to EU citizens.¹⁰² On the 14th December 2012, the Tribunal of Rome declared the conduct of the Ministry of Education, University and Research discriminatory for not admitting a Croatian citizen, who was related to a EU citizen and who had a long term residence permit, for the public competition for teachers who had a long term residence permit.¹⁰³

Discrimination in access to employment or to specialization courses are also common in the health sector. For instance, in March 2012, ASGI sent a letter to the General Director of ASUR Marche to report the discriminatory features of the public competition for nurses convened by ASL Marche, which had as a pre requisite Italian or EU citizenship.¹⁰⁴ UNAR was also informed about the case. Another instance happened in Modena, where a Moldavian citizen was excluded from a public competition for obstetricians because of her citizenship. On the 19 December 2012, the Tribunal of Reggio Emilia cancelled the provision excluding non EU citizens.¹⁰⁵ As for specialization courses, anti-discriminatory legal action was taken and the NGO ASGI pointed to the discriminatory character of the competitions for postgraduate training in General Medicine published by most regional governments which were specifically reserved for Italian and EU citizens¹⁰⁶. Following this, on the 4th January 2013, UNAR published an opinion directed to the Valle d'Aosta Region with respect to one of these calls.¹⁰⁷

In the reporting period, non-Italian or non EU citizens have found obstacles in accessing other types of jobs in the public sector,¹⁰⁸ scholarships or training programs offered by the public administration or foundations. For instance, on the 3rd of May 2012, the Court of Appeal of Florence ordered the Ministry of Economy and Finance to admit an Albanian citizen to a public competition for an administrative post at the State Monopoly.¹⁰⁹ It is worth to note that in the first judgment, the Albanian citizen was excluded due to the tasks of control and regulation pertinent to the employee. As stated in chapter 2 of this report, legislative decree n. 165 excludes non-Italian citizens from posts which pertain the protection of national interest. Yet, the Court of Appeal ruled that the requirement

manage public transport services). As mentioned in chapter 2, new developments have taken place and on the 6 August 2013, Law n. 97, 2013.

¹⁰² www.Asgi.it, " Su segnalazione dell'ASGI l'Università di Firenze rettifica un bando per un incarico di lavoro occasionale ", 21/03/2012.

¹⁰³ Tribunal of Rome, ordinance n. 144550/2012, 14.12.2012. www.Asgi.it, "Il Tribunale di Roma dichiara la natura discriminatoria del concorso pubblico indetto per il reclutamento di personale docente" 16.12.2012. Note that technically, Croatian nationals were not considered EU citizens until July 2013, but the sentence was relative to being a family member of a EU citizen and having a long term residence permit.

¹⁰⁴ Cirdi, www.cirdi.org Marche " Rischio di discriminazione nel bando di concorso pubblico indetto dall'Asur Marche " esed 2/08/2013.

¹⁰⁵ Tribunal of Reggio Emilia, Decree R.G. 355/2012, Asgi, www.Asgi.it, "Tribunale di Reggio Emilia: I concorsi pubblici per le professioni sanitarie devono essere aperti anche ai cittadini stranieri di Paesi terzi" 21.03.2012.

¹⁰⁶ www.Asgi.it. "Tribunale di Udine: I cittadini di Paesi terzi non membri UE possono partecipare ai concorsi per le scuole di specializzazione in medicina generale".

¹⁰⁷ UNAR, Opinion dd. 04.01.2013 (rep. n. 1/2013) 07.10.2013.

¹⁰⁸ Asgi, www.Asgi.it, " Selezione di personale di azienda municipalizzata aperta solo a cittadini italiani e comunitari. L'ASGI: "discriminazione illegittima"24.12.2012.

¹⁰⁹ Asgi, www.Asgi.it, "Corte di Appello di Firenze: I cittadini extracomunitari possono concorrere alle selezioni per gli impieghi pubblici ove è previsto il requisito dell'obbligo scolastico " 11.05.2012.

of citizenship cannot be relevant to posts for which compulsory education is sufficient¹¹⁰. A further example concerns a scholarship for a traineeship abroad for young graduates reserved only to Italian citizens. ASGI sent an opinion highlighting the discrimination by the Foundations Cassa di Risparmio of Torino and of Forlì offering the scholarship, to the UNAR and the European Commission.¹¹¹ ASGI highlighted that the requirement of citizenship resulted in discrimination of all non-Italian graduates, both from EU countries and from third countries, violating the EU norms and Italian equality norms.

3.5 Discrimination in the workplace

Discrimination in the work place takes different forms.

As most of the cases presented above, there is usually discrimination at work based on the view that employers, institutions or law enforcement actors have of foreigners as being inferior and deserving less rights.

As already mentioned in section 3.3, research and studies offer evidence of discrimination in specific sectors, such as construction, where the presence of foreign workers is greater, 19.2%.¹¹² Research conducted by the University of Venice on the main forms of discrimination in the construction sector showed that broadly speaking, immigrant workers are not treated differently from majority workers¹¹³. Yet some areas of concern exist, for instance with respect to the non-implementation of safety rules at work, under-classification of professional qualifications, leading to a higher level of exploitation. As stated by one of the interviewees, “in an attempt to decrease production costs and intensify the productive process, firms tend to neglect training their employees and implementing safety rules at work¹¹⁴. This is detrimental for all workers, but it is even more critical for immigrants because, compared to autochthonous workers, they have less knowledge of anti-industrial accident measures and greater fear to claim their rights at work.¹¹⁵

A completely different case worth mentioning concerns discrimination of street vendors of clothing, jewellery, bags, gadgets. They are, by a large majority, non- EU citizens and, a Sicilian researcher, activist and University Professor,¹¹⁶ explained that they usually have a regular residence and selling permit. Yet, many Municipalities have issued ordinances forbidding the sale of items in busy areas and establishing strict parameters in specific areas of town where selling is allowed. In other words, being permitted to work in areas of the municipality where there are less people and where hence is not possible to making a living; vendors experience a form indirect discrimination. Street sellers attempting to sell in busy areas are invited to leave the place, are sometimes fined by the municipal police, or their merchandise may be confiscated. To give an idea of the impact of such controls, it is worth mentioning here the case of Nourredine Adnane, the Moroccan street seller who had experienced unjustified and repeated controls by the municipal police, and who put himself on fire as a sign of protest. He died in Palermo on the 19th February 2011.¹¹⁷

¹¹⁰ The sentence made reference to article 1 d) of DPCM 7.2.94 n. 174.

¹¹¹ ASGI. « Parere sui profili di illeggimità 21.02.2013 » (opinion by ASGI).

¹¹² Ferrucci G., Galossi E., I lavoratori stranieri nel settore delle costruzioni, op.cit ; also Cillo R., Perocco F., Scandolin P., Challenging racism at work. op.cit.

¹¹³ Cillo R., Perocco F., Scandolin P., Challenging racism at work. Craw Fieldwork report : Italy.

¹¹⁴ Ibid.

¹¹⁵ Ibid

¹¹⁶ Interview to Fulvio Vassallo Paleologo, University of Palermo.

¹¹⁷ In May 2013 street sellers organized a march in Parlermo to protest against the last provision forbidding sale in most areas of the city used by foreign street sellers. Cronache di ordinario razzismo, “ Palermo: un’ordinanza che colpisce gli ambulanti stranieri ” 8.05.2012.

Street sellers are also victims of frequent aggressive attitudes by deviant citizens. Specifically, in Palermo in June 2012, a Bangladeshi vendor on his way to the nearby beach of Mondello, was violently assaulted on a bus by two young teenagers. Nobody intervened to stop the aggression and actually the bus driver opened the door to let the violent crowd down.¹¹⁸

The ERRC report¹¹⁹ already quoted in previous sections of this report highlights that Romani women working as cleaners faced discrimination by co-workers and by clerks of the offices. Showing the impact of such accidents on the psychological wellbeing of women, the report includes the case of a Romani woman who was verbally abused by a government official and accused of having stolen a 5 Euro bill while she was cleaning a local government office.¹²⁰ The report quotes the woman: “(...) After I had finished my work [one day] a group of clerks accused me of having stolen a 5 EUR bill that they signed with a pen. They forced me to take off my shoes, to pull down my panties and to take off my bra. Although they did not find the money they kept torturing me saying I am a Romani thief”.¹²¹ The representative of the association “Idea Rom onlus” pointed to the same kind of accidents, saying that, Romani women have often been suspected or accused of theft without any proof¹²².

3.6 Economic sectors

Foreign workers face discrimination and especially exploitation in sectors which fall in the black or informal economy, with activities taking place outside the public sphere such as agriculture, construction, domestic work. The phenomenon is linked with the shortcomings of the national migration policy, the legal framework and the enforcement system set up to protect workers from labour exploitation.¹²³

Agriculture has, during the past few years, gained prominence through media reportage and research, and is considered a key economic sector in Italy.¹²⁴ Together with the food production sector, they count for 17% of the GDP, and the number of firms working in the sector is 1.6 million.¹²⁵ The quantity and intensity of production in the agriculture sector has been rising and profit has remained constant through a massive use of an underpaid foreign labour force. According to estimates, undeclared work involves 43% of dependent workers in the sector.¹²⁶ For Amnesty International, foreign workers work nearly a quarter of the overall days worked in this sector.¹²⁷ They

¹¹⁸ Ibid.

¹¹⁹ European Roma Rights Centre (ERRC), Idea Rom Onlus and Opera Nomadi Reggio Calabria. Parallel Submission to the United Nations Committee on the Elimination of all forms of Discrimination Against Women. 2011 http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/JointNGOReport_Italy49.pdf

¹²⁰ Ibid.

¹²¹ Ibid.

¹²² Interview to Giulio Taurisano, Idea Rom Onlus.

¹²³ See chapter 4.

¹²⁴ See Amnesty International, *Exploited labour Migrant workers in Italy's agriculture sector*, Amnesty International, London 2012. For a news review and analysis of the situation in Rosarno, see also the web site www.terrelibere.org/tag/rosarno See also [terrelibere.org](http://www.terrelibere.org) and the e-book Mangano A. *Gli africani salveranno Rosarno. Seconda edizione* terrelibere.org 2012.

¹²⁵ ISTAT, *Capitale umano e stratificazione sociale nell'Italia agricola secondo il 6° censimento generale dell'agricoltura 2010*, Roma 2013 Census of 2010 Istat Roma.

¹²⁶ FLAI Osservatorio Placido Rizzotto. *Agromafie e Caporalato Flai CGIL Roma 2012*.

¹²⁷ Amnesty International, *Exploited labour Migrant workers in Italy's agriculture sector*, Amnesty International, London 2012.

usually occupy the lowest and hardest jobs of the sector, especially seasonal picking of fruit and vegetables.

Migrants exploited in agriculture are often the most vulnerable groups needing money for subsistence. These groups are commonly irregular migrants, asylum seekers and asylum seekers whose application for international protection has been denied. Such vulnerable groups originate predominantly from Africa but also include EU nationals (Romanian Bulgarian, Polish) and non-EU nationals from South-East Europe (Albanian) or Asian (Indian).¹²⁸

The working conditions are characterised by isolation and marginality, very poor housing and health hazards. Furthermore, there is a lack of continuity and security, also in terms of safety or social security. A survey conducted in 2012 by Rete Radici among 150 African agriculture workers showed that 90% of them had no employment contract.¹²⁹ Wages of foreign workers in agriculture are under the poverty line and are usually 40% lower than those of Italians.¹³⁰

Working relations tend to be characterised by excessive control by the employer or various forms of blackmailing and violence. Employers sometimes prevent workers from leaving the work place and use coercive mechanisms, playing on the fears migrant workers have about losing their jobs and not being paid.¹³¹ Research by *Right Job*¹³² also highlights the violation of the right to personal liberty, with cases of sequestration, common reduction of the workers' freedom of movement, examples of migrants being treated as slaves. The right to trade union representation is also often violated¹³³. Being for the majority with an irregular status, workers whose rights are violated cannot start a legal action against their employers since they would risk deportation¹³⁴. In the agriculture sector, non-payment of wages, as well as delayed and/or partial payment are reportedly very common, also because the identity of the employer of the day is unknown and because of the irregular status of migrants.¹³⁵

Furthermore, the agriculture sector can be described as having a specific illegal system of recruitment and management of workers, known as the *caporalato*.¹³⁶ In other words, agriculture workers end up being often exploited by the land owner and by the gang master. The 'gang-masters', as they are more commonly referred to, recruit workers, organize their work from a distance and arrange the movement of workers to different parts of the country as needed. They control workers

¹²⁸ See Leogrande A., *Uomini e Caporali. Viaggio tra gli schiavi delle campagne del sud*. Mondadori 2008. About the exploitation of Indian workers See also De Filippo E., De Stefano D., Dolente F., Oliviero L., Pisacane L., Pugliese E., *Diritti Violati* Dedalus Napoli 2012.

¹²⁹ Amnesty International Report using data from a survey conducted by ReteRadici. ReteRadici and Fondazione IntegrAzione, *Dossier Radici/Rosarno: monitoraggio autunno-inverno 2011-2012*, Italy, 2012. Amnesty International, *Exploited labour Migrant workers in Italy's agriculture sector*, Amnesty International, London 2012.

¹³⁰ De Filippo E., De Stefano D., Dolente F., Oliviero L., Pisacane L., Pugliese E., *Diritti Violati op.cit*

¹³¹ Carchedi F., Dolente F. (ed.) *Right job. lavoro senza diritti. tratta e sfruttamento lavorativo degli immigrati a Roma e nel Lazio*, Sviluppo Locale Edizioni, Roma, 2011.

¹³² Ibid.

¹³³ Ibid.

¹³⁴ Ibid, Also in Amnesty International, *Exploited labour Migrant workers in Italy's agriculture sector*, Amnesty International, London 2012.

¹³⁵ Ibid.

¹³⁶ For an analysis of gang-mastery see: De Filippo E., De Stefano D., Dolente F., Oliviero L., Pisacane L., Pugliese E., *Diritti Violati* Dedalus Napoli 2012, See also Carchedi F, Dolente F. (a cura di), *Right job. lavoro senza diritti. tratta e sfruttamento lavorativo degli immigrati a Roma e nel Lazio*, op.cit.

and set prices (wages are usually in relation to the number of boxes of the particular product which had been collected). They organize the transportation of workers from the settlements where they sleep to the working place and provide food. In managing all these aspects of the workers' lives, they also impose their "taxes" using more or less violent means. According to the research completed on December 2012 by FLAI, the average fee for transport is 5 Euros, 3.5 Euros for a sandwich, 1.5 Euros for a bottle of water. Adding up these "taxes" for transportation, food and water, a worker may be forced to leave half of his scarce pay to a gang-master, who may be foreigner or Italian¹³⁷.

Experts underline that in the past the gang-master had a role of mere intermediation between demand and supply of work, between landlords and workers. Since when most of the seasonal work in agriculture is carried out by foreign workers, gang-masters have increased their sphere of power: they tend to control and decide for the whole life of foreign workers¹³⁸.

Amnesty International conducted research in the agriculture sector between February and July 2012 in the areas of Latina and Caserta, central and southern Italy.¹³⁹ Interviews showed a difference in wages between different geographical areas, but also between Italian and migrant workers. Unsurprisingly, foreign workers gained less than Italian workers. Irregular African workers interviewed in Caserta were the most discriminated in terms of wages and earned 20-30 Euros per day. Some would even accept 15-20 Euros per day. The Indian agricultural workers interviewed in Latina earned around 30-35 Euro per day, if they had no work permit, between 40 and 50 Euro if they had a residence permit. Italian nationals working alongside Indian nationals, had higher pay and better working conditions

The report *Diritti Violati*, as well as interviews conducted with a trade union representative, also point to the situation of foreign women in agriculture who may be expected or forced to provide *sexual services to the gang master* or landlord.

Another sector in which discrimination and racism are widespread is the domestic care sector. As aforementioned, domestic workers are the largest group among foreign workers and the segregation of foreign women in this sector is severe. Although no studies or specific cases relative to the period under consideration were identified for this report, it is worth underlining that domestic workers are exposed to discrimination and exploitation for multiple reasons, including the undeclared nature of their work, asymmetrical relationships with their employer, isolation, lack of clear legal protection and lack of recognition of their work. The CEDAW shadow report, in relation to carers in Italy, gives an estimate of 774.000 women carers, of which 700.000 are foreigners.¹⁴⁰ The sector is characterized by irregular contracts; with only 33% of foreign carers having a regular employment contract. Having an irregular legal status, together with living in the household in which they are working for, increases vulnerability to exploitation and abuse.¹⁴¹ As stated in the report:

¹³⁷ FLAI Osservatorio Placido Rizzotto. *Agromafie e Caporalato Flai* CGIL Roma 2012.

¹³⁸ De Filippo E., De Stefano D., Dolente F., Oliviero L., Pisacane L., Pugliese E., *Diritti Violati, op.cit* See also Carchedi F, Dolente F. (a cura di), *Right job. lavoro senza diritti. tratta e sfruttamento lavorativo degli immigrati a Roma e nel Lazio.op.cit.*

¹³⁹ Amnesty International, *Exploited labour Migrant workers in Italy's agriculture sector*, Amnesty International, London 2012.

¹⁴⁰ Italian platform "30 years CEDAW: work in progress", Shadow Report, Italy 2011 op.cit.

¹⁴¹ Ibid

*“More than the other foreign women workers in the domestic sector, carers undergo specific forms of discrimination which are typical of this sector and make them more vulnerable, including to sexual harassment and violence, just because they are women”.*¹⁴²

3.7 Geographical areas and relevant actors

Labour market discrimination of foreigners is widespread, across Italy, and reflects the presence of foreigners in the country.

Yet, as noted by one of the stakeholders interviewed, Fulvio Vassallo Paleologo, since employment falls within the competence of the Regions, discrimination is less frequent in regions which have the ability and capacity to integrate foreigners, such as for instance Tuscany.¹⁴³ In regions of the South of Italy, such as Sicily, foreigners are not socially included and are more vulnerable to exploitation and discrimination. Yet cases of exploitation¹⁴⁴ also in agriculture have been identified also in the North of the country.¹⁴⁴

4. Tackling the challenges

4.1 Public policies

As underlined above and also stressed by the civil society representatives who were interviewed for this report, the legal and policy framework is among the root causes of the unequal position of foreigners and ethnic minorities in the labour market.

During the reporting period, Italy’s government was led by Mario Monti. Monti resigned on the 22 December 2012 and a general election took place on 24–25 February 2013. Eventually, a coalition government was formed between the Centre-left, Centre and Centre-right parties was formed.¹⁴⁵

Such an unstable and complex political situation resulted in the enactment of austerity policies, soaring unemployment and weakening of the rights of all workers. The anti-discrimination Directives were poorly implemented and national strategies to contrast discrimination in employment continued to be absent or very scarce¹⁴⁶. In the period under consideration, neither organic policy nor any specific strategies to contrast racism in the labour market had been initiated by, for instance, the Ministry of Employment and Social Policy or the Ministry of Economy.¹⁴⁷

In the year under consideration, UNAR (Ufficio Nazionale Anti Discriminazioni Razziali), the Office for Racial Discrimination, was the main government body active in anti-discrimination in employment at the national level, and a description of its work is included in section 4.2.2.1

Since 2011, UNAR is the National Contact Point for the social inclusion of Roma people and it was given the task to guide and verify the progress of the “National Strategy for the Inclusion of Roma,

¹⁴² Ibid.

¹⁴³ Interview with Fulvio Vassallo Paleologo, University of Palermo.

¹⁴⁴ Mangano A. *“Saluzzo. Rosarno arriva in Piemonte”*, terrelibere.org, 18 settembre 2012

¹⁴⁵ Since April 2013, Cecile Kyenge is Minister of Integration. She is the first black woman to be a Minister in Italy.

¹⁴⁶ See ASGI, “Some remarks about lack of proper implementation of Directives 2000/43 and 2000/78 in Italy”. January 2013

http://www.asgi.it/public/parser_download/save/remarks_implementation_directives_italy.pdf

¹⁴⁷ Cillo R., Perocco F., Scandolin P., *Challenging racism at work. Desk research report: Italy*.op.cit.

Sinti and Camminanti” which was approved in 2012.¹⁴⁸ The Strategy raised concerns regarding its formulation; neither did it contain indications about resources for its implementation¹⁴⁹. Civil society representatives interviewed for this report, as well as the ERRC, noted that a year after its adoption, at the beginning of 2013, the Strategy still remained largely unimplemented.¹⁵⁰

With respect to policy linked to employment, in March 2013, UNAR launched a call of interest for the elaboration of a National Action Plan against racism, xenophobia and intolerance to be implemented in 2013-2015.¹⁵¹ It is too early to comment on any developments.

Other public projects or initiatives in this field were scarce.¹⁵² In the past, a limited number of regions and municipalities made some effort in tackling discrimination in employment through projects promoting social inclusion and also through provisions and regulations on the equal right of foreign workers to access public employment.¹⁵³ Disseminating information about examples of non-discrimination based on nationality, a publication by the Region Emilia Romagna¹⁵⁴ pointed to an increasing number of public administration offices which did not include Italian citizenship among the requirements for employment during the year under consideration. Among the good practices, the publication included for instance, the health service of Parma which in October 2012 opened a call for a permanent position for a health technician; in June 2012, a good example concerned an advertisement for the position of health manager in the Padova health service.¹⁵⁵

¹⁴⁸ As mentioned in the previous ENAR Report, on 24 February 2012, the Italian Government approved a National Strategy for the Inclusion of Roma Sinti (NRIS), implemented the communication of the European Commission n. 173/2011 and indicated in the EU Framework for National Strategies for Roma Integration up to 2020 (EU Framework). See: http://ec.europa.eu/justice/discrimination/files/roma_italy_strategy_en.pdf. It tackles education, employment, housing and health. See ENAR Shadow Report 2011-2012 Racism and related discriminatory practices in Italy.

¹⁴⁹ Interview to Luciano Scagliotti, CIE and ENAR.

¹⁵⁰ The European Roma Rights Centre in its submission to the European Commission on Italy stresses that the NRIS does not pay adequate attention to anti-discrimination, also in relation to employment. ERRC “Written Comments by the European Roma Rights Centre Concerning Italy” 2013.

¹⁵¹ In July 2013, the idea of the plan was presented in a conference explaining that a working group will define the plan in detail. The plan proposed to the working group suggests to focus on the following core axes: Employment, Housing, Instruction, Mass Media, Sport, Security.

¹⁵² In the previous years, a few initiatives based on a partnership between national stakeholders and civil society were launched. See Cillo R., Perocco F., Scandolin P., *Challenging racism at work. Fieldwork report: Italy* op.cit

¹⁵³ For instance the Region Emilia-Romagna drafted in 2002 regulations about access to employment in the Regional administration, in which it is clearly stated that the requirement for a foreign citizen is that he/she is regularly staying in Italy. Regolamento n. 35/2002. A resolution by the Regional Committee of the same region gives indications to employment centres about the fact that the equal treatment of foreign citizens has the priority. Resolution n. 810/2003 of the Regional Committee. Delibera della Giunta Regionale n. 810/2003.

Regione Emilia Romagna, *Discriminazione sul Lavoro L'accesso al pubblico impiego dei cittadini extracomunitari* “Quaderni contro le discriminazioni: n.4 aggiornato a novembre 2012”, 2012. Also Region Piedmont, Agreement 22 December 2005 between regional Health Department and trade unions representatives ; Province Council of Genova Resolution n. 414, 7 September 2004.

¹⁵⁴ Regione Emilia Romagna, *Discriminazione sul Lavoro L'accesso al pubblico impiego dei cittadini extracomunitari* “Quaderni contro le discriminazioni: n.4 aggiornato a novembre 2012”, 2012.

¹⁵⁵ Ibid.

With respect to labour exploitation, civil society representatives gave some positive feedback about the general efforts made by the government to combat irregular work and exploitation.¹⁵⁶ Yet, the actual provisions drafted and enforced in the period under consideration raise serious concerns and seem inadequate.¹⁵⁷ These are Legislative Decree 109 of 16 July 2012- transposition of Directive 2009/52/CE providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals- and Article 603-bis of the Criminal Code. With respect to former provision, ASGI, in a recent document drafted on the occasion of the visit of the Special Rapporteur on Trafficking in Persons delle Nazioni Unite,¹⁵⁸ stated that the :

“Legislative Decree 109 is too new to be considered objectively, even though the method of construction of the rules makes it really difficult for their implementation. In fact, the expected circumstances for the issue of the special residency permit in favour of workers do not coincide with the circumstances of labour exploitation observed in reality, and in this way, the purpose of the legislation is frustrated. For example, the rule subordinates the issue of the residency permit to “a specific labour exploitation”, without giving any parameter to determine the “specificity” of the exploitation, leaving it as a discretionary evaluation to be considered by the Public Prosecutor or the police commissioner. Furthermore, the new Article 22¹⁵⁹ does not make it explicit if, at the end of the criminal proceedings against the employer charged with exploitation, the residency permit can be renewed. As a result of this state of uncertainty, there is a risk that the foreigner worker is not pressing charges against the employer.”¹⁶⁰

Flaws in the application of the Directive 2009/52/CE also include the lack of any reference to the active role of trade unions and associations.

4.2 Access to effective remedies

4.2.1 Judicial remedies

Anti-discrimination cases are dealt with a fast-track civil procedure.¹⁶¹ As explained by Chiara Favilli: *“The competence to decide the case is vested in ordinary judges regardless of the legal nature (public or private) of the persons involved. Besides the fast track procedure, the equality principle and anti-discrimination laws can be applied by either ordinary or administrative courts; case law is therefore made by decisions of the Constitutional Court, ordinary judges and administrative judges, depending on whether the case concerns a constitutional review, a dispute among private persons, a dispute with public entities, or a specific action against discrimination.”¹⁶²*

¹⁵⁶ Filippo Miraglia, ARCI, underlined that with the previous government, under Minister Ricciardi, some positive steps were made in this field.

¹⁵⁷ Legislative Decree 109 of 16 July 2012 and Article 603-bis of the Criminal Code are the provision in force in the period under consideration. In September 2013, beyond the period considered by this report, civil society organizations and political parties presented a Parliamentary question to the Ministry of Justice about the lack of application and improvements in the decree against exploitation. Ciccarelli R. “Da Rosarno a Saluzzo, più diritti i migranti”.

¹⁵⁸ ASGI. “Main relevant issues with regard to the Italian legislation in defense of victims of trafficking” 20.09.2013.

¹⁵⁹ Legislative Decree 109/12 amended article 22 of Consolidated Law on Immigration 286/98.

¹⁶⁰ ASGI. “Main relevant issues with regard to the Italian legislation in defense of victims of trafficking” 20.09.2013.

¹⁶¹ General fast track procedure is regulated by Article 702-bis of the Civil Procedure Code.

¹⁶² Favilli C., *Report on measures to combat discrimination” European network of legal experts in the non-discrimination field* dop.cit

Organic data and comprehensive information about the number of court complaints is not available. Scholars suggest that the growth of the number of anti-discrimination cases is slow.¹⁶³ The most significant litigation does not formally deal with ethnic and racial discrimination, but with discrimination on the grounds of nationality or other legal categories.¹⁶⁴

With respect to the low number of other cases, in addition to the reasons explained in chapters 2 and 3, it is worth pointing to the limits in the implementation of the anti-discrimination Directive.¹⁶⁵ For instance, when the damage is not material, but a moral harm, the courts usually request for the effects of discriminatory acts to be proved in terms of psychological sufferings and with the support of medical declarations. As underlined by Walter Citti, such an approach may discourage victims of discrimination from initiating legal proceedings.¹⁶⁶ Furthermore, he said that economic compensation is not often given the dissuasive value that the EU Directive (and Decree 150/2011) would suggest.¹⁶⁷

Concerning legal standing,¹⁶⁸ different interpretations exist.¹⁶⁹ According to the prevalent interpretation, associations can also act in cases of discrimination on the grounds of nationality.¹⁷⁰

Examples of significant anti-discrimination civil actions are mostly on access to public employment and can be found in specific publications and articles. As illustrated in section 3.4 of this report, associations, such as ASGI, have information on judicial proceedings on access to employment online or in their publications. Still on access to employment, a publication by Region Emilia Romagna lists seven judgments which were delivered between 2010 and 2011.¹⁷¹ The cases presented reflect the current procedure. Once the discriminatory elements of a particular behaviour or act are ascertained, the judge will order the suspension of the discriminatory action or policy in question. The judge will also order appropriate measures to remove the effect of the discrimination and avoid its repetition. For instance, in relation to access to public employment, a public call for employment would have the requirement of EU nationality removed as an application condition. Court cases of “collective” removal of discrimination, such as opening the terms of a competition call, are considered particularly effective by civil society representatives since they have an impact on more

¹⁶³ Ibid.

¹⁶⁴ The European Network of Legal experts in the non-discrimination field made this comment about litigation in discrimination in general and it also applies to the field of employment. European Network of Legal experts in the non-discrimination field “Enforcing the law”.

¹⁶⁵ Directive 2000/43.

¹⁶⁶ Interview to Walter Citti, ASGI.

¹⁶⁷ Interview to Walter Citti, Asgi. Also Citti W., “La tutela contro le discriminazioni etnico-razziali e religiose. Guida alla normativa e alla giurisprudenza” op.cit.

¹⁶⁸ In cases concerning discrimination for race and ethnic origin, the Department for Equal Opportunities (*Dipartimento per le Pari Opportunità*) of the Presidency of the Council of Ministers keeps a list of associations and bodies which have standing to litigate in support of or on behalf of victims of discrimination.

¹⁶⁹ For some jurisdictions, associations can present an appeal only in cases of ethnic racial discrimination, as established by the EU Directives 2000/43 and 2000/78. Legislative decree. n. 215/2003 transposing 2000/43. For further details see Citti W., “La tutela contro le discriminazioni etnico-razziali e religiose. Guida alla normativa e alla giurisprudenza” op.cit. See also above chapter 2.

¹⁷⁰ Associations can also act in case of discrimination on the ground of nationality in line with the Consolidated Text on Migration d.lgs. n. 286/98, See for instance cases mentioned in chapter 3, in which ASGI represented victims of discrimination on the ground of nationality i in anti-discrimination civil action.

¹⁷¹ Regione Emilia Romagna, *Discriminazione sul Lavoro L'accesso al pubblico impiego dei cittadini extracomunitari* “Quaderni contro le discriminazioni: n.4 aggiornato a novembre 2012”, 2012. See also Citti W., “La tutela contro le discriminazioni etnico-razziali e religiose. Guida alla normativa e alla giurisprudenza” August 2013.

than one person. In one of the interviews conducted for the purposes of this report, civil society representatives as Walter Citti¹⁷² expressed the need for higher sanctions which would act as a deterrent. For instance, he mentioned a public body that had to publish the court's judgment in a local newspaper: the costs of publishing served as deterrent.¹⁷³

4.2.2 Non-judicial remedies

4.2.2.1 Ombudsman or equality body

UNAR is the Italian Office against Racial Discrimination. It was set up in 2003 within the Department for Equal Opportunities, under the Presidency of the Council of Ministry to promote the principle of equal treatment of individuals, independently of their race or ethnic origin.¹⁷⁴

Since 2011, UNAR is the National Contact Point for the social inclusion of Roma and Sinti people and it was given the task to guide and verify the progress of the National Strategy for the Inclusion of Roma, Sinti and Camminanti.¹⁷⁵ The Strategy has raised concerns regarding its formulation. Civil society representatives interviewed, as well as the ERRC, noted that a year after its adoption, at the beginning of 2013, it still remained largely unimplemented.¹⁷⁶ With respect to policy linked to employment, in March 2013, UNAR launched a call of interest for the elaboration of a National Action Plan against racism, xenophobia and intolerance to be implemented in 2013-2015.¹⁷⁷ It is too early to comment on any developments.

As for activities funded or carried out by UNAR in the field of employment, the UNAR expert on discrimination in employment, Marco Buemi, mentioned research, communication activities, training, debates and promotion of diversity management. For instance, UNAR funded a research project on the role of foreign workers in small and medium enterprises which had been conducted by CONFAPI, and a research project still ongoing on the profile of the "discriminated ones" in collaboration with CGIL-CISL-UIL on Campania Region.¹⁷⁸ UNAR's activities to combat discrimination in employment also include the coordination of a steering group, *cabina di regia*, formed by trade unions, associations, relevant stakeholders in the field of labour.¹⁷⁹

¹⁷² Interview to Walter Citti, ASGI.

¹⁷³ Interview to Walter Citti, ASGI.

¹⁷⁴ Legislative Decree, number 22, July 2003, as part of the European Directive 2000/43/CE. UNAR's competence covers not only discrimination based on race and ethnic origin but also discrimination based on all the grounds covered in Council Directive 2000/78.

¹⁷⁵ As mentioned in the previous ENAR Report, on 24 February 2012, the Italian Government approved a National Strategy for the Inclusion of Roma Sinti (NRIS), implemented the communication of the European Commission n. 173/2011 and indicated in the EU Framework for National Strategies for Roma Integration up to 2020 (EU Framework). It tackles education, employment, housing and health.

¹⁷⁶ The European Roma Rights Centre in its submission to the European Commission on Italy stresses that the NRIS does not pay adequate attention to anti-discrimination, also in relation to employment. ERRC "Written Comments by the European Roma Rights Centre Concerning Italy" 2013

¹⁷⁷ In July 2013, the idea of the plan was presented in a conference explaining that a working group will define the plan in detail. The plan proposed to the working group suggests to focus on the following core axes: Employment, Housing, Instruction, Mass Media, Sport, Security.

¹⁷⁸ "Stazione Mediterraneo" is a project of Lega coop sociali, of different media stakeholders as www.nelpaese.it, www.giornaleradiosociale.it, Redattore Sociale and the reportage Visioni Sociali.

¹⁷⁹ The group, formed by CGIL, CISL, UIL, UGL, Confindustria, Confartigianato, Confapi, CNA, Confcooperative, Legacoop, Coldiretti, Confagricoltura, Confcommercio, Confesercenti, meets once every three months to discuss and launch activities to contrast discrimination in employment. Interview to Marco Buemi, UNAR.

One of the main activities of UNAR to combat discrimination in the labour market is “Diversità al lavoro”(Diversity at work). The project, launched in 2008, intends to tackle the problems that migrants, disabled and transsexual/transgender people, face in accessing the labour market by creating a career day, an opportunity for vulnerable job seekers to receive training and support in job searching and meeting employers.¹⁸⁰ Marco Buemi of UNAR explained that the event also intends to offer a direct solution to the problem of under-qualification.¹⁸¹ For the year 2012-2013, the same concept for a career day had been used for the project “PARI MERITO”, in regions of the “Convergence objective” Puglia, Campania Calabria and Sicily.¹⁸²

All civil society representatives interviewed were informed about or had cooperated with the UNAR contact centre.¹⁸³ One can communicate with the contact centre via phone or email, and it takes on board relevant cases, assesses their pertinence and, if they are relevant, UNAR channels them to experts or to local anti-discrimination centres. Depending on the specificities of the case, UNAR may express an opinion on it. For instance, following a request by the NGO ASGI, on the 16th November 2012, UNAR expressed an opinion inviting the Health Service of Olbia to admit to the public competition 110 nurses who were third country nationals with a regular residence permit, in line with jurisprudence and Article 2 of the “Testo Unico” Consolidated Text on Migration, according to which third country national enjoy the same rights as Italian citizens. The opinion invited the Health Service to extend the deadline for the competition and stated that should the requests be ignored, the association ASGI would initiate legal action.¹⁸⁴

The local anti-discrimination centres are created *in some* of the Regions and Provinces with the support of UNAR, in collaboration with civil society associations. Some of the interviewees have complained about the lack of such centres in regions such as Sicily, where a lack of clarity in the mandate of regional bodies did not allow for the creation of any centre.¹⁸⁵

Civil society representatives interviewed for this report expressed appreciation for UNAR’s staff efforts but also raised many concerns about the body. It is worth stressing that the year under consideration has been peculiar since in July 2012 UNAR’s staff (with open ended contract) drastically decreased from 13 to 4 people and there was a change in management.¹⁸⁶ With respect to this situation, Filippo Miraglia of ARCI, noted that despite the financial cuts and the change in director, UNAR played a positive role.¹⁸⁷ Although some associations had access to funding through UNAR, he also noted that resources and actions throughout the country were not sufficient and not coordinated. As a matter of fact, a main concern raised by many interviewees was the lack of a general and effective national anti-discrimination action strategy. As highlighted in previous reports,

¹⁸⁰ The activities include among its target people with disabilities, transgender, non-Italian citizens.

¹⁸¹ In 2012, the career day reached its 9th edition and was repeated twice: in June in Milan and in November in Rome. In Milan in 2012, there were 31 firms, 70 were the vacancies published. 2700 people belonging to all vulnerable groups applied, 530 of them were selected and 410 were present at the event. For further information see: www.diversitalavoro.it

¹⁸² Interview with Marco Buemi, UNAR.

¹⁸³ Data provided by the contact centre, included in section 3, show that employment is the main field of the cases of discrimination reported to UNAR contact centre.

¹⁸⁴ See UNAR opinion 16/11/2012.

¹⁸⁵ Interview to Fulvio Vassallo Paleologo, University of Palermo.

¹⁸⁶ Although the skills of the director were publicly acknowledged by the Ministry Fornero, Employment and Social Policy, his contract was terminated in July 2012 and a new director was appointed- La Stranieri in Italia, “La spending review colpisce l’Unar. “Ci indeboliscono”” 12.07.2012.

¹⁸⁷ Interview to Filippo Miraglia, ARCI.

civil society organizations are also concerned about UNAR's lack of independence from the government, being placed within the Presidency of the Council of Ministry. For some interviewees¹⁸⁸, UNAR is not visible and approachable by actual victims of discrimination. Others¹⁸⁹ show that on the one hand UNAR puts great effort in communication campaigns for specific projects, yet it is hard for civil society members and for the public to have detailed information about its actual work. In relation to the focus of this report, the fact that UNAR does not participate in judicial proceedings and its opinions are not binding, should be also highlighted. As noted by Walter Citti, the educational impact of opinions is severely affected by the fact that they are not made public.¹⁹⁰ Civil society members interviewed put forward suggestions for improvements of UNAR such as taking a more proactive role in tackling discrimination and reaching its target groups, facilitating dialogue between the different actors involved in anti-discrimination at work. Monitoring recruitment by private employers would also be a necessary activity UNAR or other bodies could engage in.¹⁹¹

Marco Buemi said that moral suasion and conciliation are often viable solutions to tackle discrimination also in employment. "Giving an opinion is often enough to make another part change a call or its regulations (...). Being part of the government gives strength to UNAR, and its opinions have a stronger impact (...). In particular, we are introducing conciliation in the field of employment. It seems to be the approach with less negative side effects, including the loss of work or psychological ones."¹⁹²

4.2.2.2 Mediation or conciliation

UNAR is encouraging the practices of mediation but no information has been found.

4.2.2.3 Labour inspectorate

Labour inspectorates are not very active with respect to discrimination and no information has been found.

4.3 Civil society initiatives

Civil society and trade unions have been the main actors addressing discrimination and racism in the labour market, mostly reporting and denouncing single cases of discrimination or campaigning for change. Yet, the mobilization against the discriminatory system as a whole was absent and a lack of awareness of discrimination is widespread among all actors involved. All these factors, in the context of the economic crisis and of political instability hamper the identification of cases and the effective implementation of projects to combat racism and discrimination in the labour market.

4.3.1 Trade Unions

As noted by one of the interviewees, internal conflicts and tensions are common during a financial crisis also within the unions, reducing their capacity to defend the rights of foreign workers. There is

¹⁸⁸ Interview to Luciano Scagliotti, CIE and ENAR.

¹⁸⁹ Interview to Udo Enwerezeur, COSPE; Interview to Luciano Scagliotti, CIE and ENAR.

¹⁹⁰ Interview to Walter Citti, ASGI.

¹⁹¹ Interview to Walter Citti, ASGI.

¹⁹² Interview to Marco Buemi, UNAR.

often no consensus about promoting equal rights, since it means sharing the risk of losing one's job among all workers and not dismissing foreign workers first.¹⁹³

A representative of CGIL, one of the oldest and most active trade unions, noted that in the last ten years, their union has achieved good results with respect to the rights of foreign workers. Interviewed for this report, Soldini stressed that most collective contracts now include the possibility of having a break for praying, annual leave, having different types of food in employers' canteens. They have also been active with respect to welfare rights at the local level. Yet he noted that not much has been done so far with respect to structural discrimination, vertical segmentation or under qualifications. Acting on these issues would also require a stronger capacity of the trade union delegates within the firms to be aware of discrimination and be closer to the workers. He added that such changes are taking place in some of the unions of CGIL, such as FLAI, with the creation of «street trade union units» and his recommendations for better measures to combat discrimination appear to go in this direction.¹⁹⁴

CGIL, especially its sector unions FLAI (agriculture) and FILLEA (construction), played an important advocacy role in fighting against labour exploitation. In January 2011, CGIL, FLAI and FILLEA initiated a campaign with the aim of advocating for a bill introducing the criminal offence of gang-mastering. The campaign "stopcaporalato" (stop gang-mastering) included the creation of a website 'stopcaporalato.it', conducting research and studies on the phenomenon, organizing public events. The campaign was successful and, as explained in section 2.2, the crime of unlawful gang mastering was introduced in the Italian Penal Code.¹⁹⁵ Although the actual formulation of the law raises many concerns, it is worth underlining that the success of the campaign was also due to the fact that gang-mastering and exploitation in agriculture does not involve only foreigners but Italians too.¹⁹⁶

In July 2012, FLAI and CGIL initiated the project "Gli invisibili delle campagne di raccolta" ("The invisibles ones in the harvesting fields").¹⁹⁷ The project will run for two years and intends to reach workers in the fields with information and assistance.¹⁹⁸ Trade union delegates meet workers throughout Italy, informing them about their rights and gathering information and cases for litigation. As underlined by Jean René Bilongo interviewed for this report "going to meet workers where they work and live allows the trade union to have a better grasp of the actual situation and on how to protect workers. At the same time we are constructing cases of litigation throughout Italy"¹⁹⁹. Efforts to encourage the active involvement of foreign workers should be acknowledged and is noteworthy.

4.3.2 NGOs activities

NGOs actively working on monitoring discrimination, removing conditions leading to discrimination, providing assistance to victims are very few, even more so in the field of employment. The main ones are less than ten. For instance ACLI (Associazioni cristiane lavoratori italiani) manages the UNAR contact centre, collecting reports of discrimination, offering legal and psychological assistance to

¹⁹³ Interview with Luciano Scagliotti, ENAR and Centro d'Iniziativa per l'Europa del Piemonte.

¹⁹⁴ Interview with Pietro Soldini, CGIL.

¹⁹⁵ Art. 12 of Legislative Decree of 13 August 2011, n. 138. "Ulteriori misure urgenti per la stabilizzazione finanziaria e per lo sviluppo." (Further urgent measure for the financial stabilization for development).

¹⁹⁶ Interview with Jean René Bilongo, Flai CGIL and Interview with Pietro Soldini, CGIL.

¹⁹⁷ Interview with Jean René Bilongo, Flai CGIL and Interview with Pietro Soldini, CGIL.

¹⁹⁸ Ibid. See also www.flai.it

¹⁹⁹ Interview with Jean René Bilongo, Flai CGIL.

victims.²⁰⁰ Arci (Associazione ricreativa culturale italiana), among other things, organizes every year an anti-racism campaign “Il razzismo è una brutta storia” (“Racism is a bad story”) and advocates against the exploitative conditions faced by foreign workers.²⁰¹ COSPE manages an information centre on racism and discrimination and has been effective in promoting equal opportunities for foreign journalists.²⁰² Different associations, such as ANOLF/CESTIM, have organised training activities and information activities for workers at the local level.²⁰³

Between 2012 and 2013, different associations, large and small, have implemented interventions on labour exploitation, mostly in relation to research and monitoring activities. For instance, Amnesty International²⁰⁴ presented the results of its research activity on the report: “Exploited labour migrant workers in Italy’s agriculture sector”. The research on labour exploitation coordinated by the Cooperative Dedalus,²⁰⁵ resulted in the report “Diritti Violati”. Worthy of note is the association Terrelibere,²⁰⁶ which conducts and disseminates reports, carries out multimedia research and reports on news regarding different issues connected to the global South, criminality, migration, inequality. They also conduct campaigns promoting for instance the sale of oranges from “selected producers”: small land owners which employ workers through legal contracts. The web portal of the organization places great importance to the right of foreign workers and contains many investigative reports on the exploitation of foreign workers in agriculture but also in other fields, such as the logistics sector.²⁰⁷

As for good practices, it is also worth providing further information about the activities of the ASGI.²⁰⁸ Founded in 1990, the anti-discrimination association is formed by lawyers, university professors, paralegals and jurists. As stated in its project documents, ASGI tries to promote social change, going beyond the model of subaltern integration through lobbying, advocacy and litigation. ASGI also promotes research, analysis, dissemination of information, training on juridical problems relating to discrimination on grounds of race, ethnicity and national origin, immigration and asylum, statelessness and citizenship at the domestic, European and international levels. ASGI places great attention in the information and dissemination of results and cases relative to anti-discrimination, also in employment. Their web site is a reference point for associations and researchers working in this field.

ASGI has an anti-discrimination central office in Trieste and local focal points in other cities and regions, one of which is in Southern Italy. In the year under consideration,²⁰⁹ ASGI promoted and had positive results in 43 civil litigation cases. Eight of them were relative to the participation of foreigners in public competitions for jobs in the public sector or local urban transport firms. Some of the cases reported in section 3.4 were given a response or brought to the attention of the relevant

²⁰⁰ www.acli.it

²⁰¹ See www.arci.it

²⁰² See www.cospe.it. For further information on media and multiculturalism see <http://www.mmc2000.net>

²⁰³ Interview with Jean Pierre Piessou, Cestim.

²⁰⁴ Amnesty International, Exploited labour Migrant workers in Italy’s agriculture sector, op.cit. See also www.Amnesty.it

²⁰⁵ De Filippo E., De Stefano D., Dolente F., Oliviero L., Pisacane L., Pugliese E., Diritti Violati op.cit. See also : www.coopedalus.it

²⁰⁶ www.terrelibere.org

²⁰⁷ Mangano A, "La rivolta dei “conferiti”. Lo sciopero dei migranti contro Ikea", terrelibere.org, 21 febbraio 2013.

²⁰⁸ www.asgi.it

²⁰⁹ Information gathered covered the period may 2012- April 2013 and do not include the activities of the focal points of Rome and Florence.

authorities by ASGI. The association has also undertaken a constant activity of moral suasion, reporting cases, sending letters and opinions to the public administration, local bodies and private foundations. Some of the letters and cases were dealt in collaboration with UNAR. One of the members of the NGO underlined that administrations and foundations have often amended a discriminatory call just following a letter of complaint. Such results could therefore lead to the assumption that discrimination may often be due to mere ignorance.²¹⁰

Among the training and capacity building projects undertaken by ASGI, it is worth mentioning the one undertaken by the Rome local focal point in collaboration with the cooperative Dedalus, the municipality of Naples and the University Federico II.²¹¹ Covering all fields of discrimination, including employment, the project is an effective example of anti-discrimination monitoring and capacity building activity. A trained group of social workers and cultural mediators of the cooperative Dedalus (trained by ASGI in anti-discrimination), undertook a short field research in the municipality. A legal expert was asked to study all the public calls by the Municipality. The results of these two activities were presented in a report and discussed by the group of trainees, ASGI experts, staff and managers of the Municipality in two meetings, which proved effective in capacity building. Anti-discrimination suggestions were given to the Municipality and these included changes in forms, for instance of the employment centres and smoother bureaucracy.

4.3.3 Employers' organisations

No information was found.

4.3.4 Other civil society initiatives

No information was found.

4.3.5 Individual employers' initiatives

No relevant information was found.

5. Conclusions and recommendations

5.1 Political and societal developments related to racism and discrimination

In the year under consideration racism remained an unsolved problem. Like in the previous years the most affected groups were Roma and Sinti citizens and then Muslims, refugees and asylum seekers.²¹²

Institutional racism continued to be apparent in migration policy and administrative practices. As mentioned by civil society representatives²¹³ one of the main facts having an impact on the life of migrants in the year under consideration was the way in which the Italian Government managed the large number of asylum seekers who had arrived in Italy in 2011 when the Arab Spring and the Libyan

²¹⁰ Interview with Walter Citti, ASGI and Interview with Salvatore Fachile, ASGI.

²¹¹ Interview with Salvatore Fachile, ASGI.

²¹² See ENAR report Italy 2011-2012.

²¹³ Interview with Filippo Miraglia, ARCI.

civil war broke out²¹⁴. After declaring the state of emergency in 2011, in 2012 the Government adopted temporary measures of humanitarian protection in favour of asylum seekers from North Africa and established another parallel reception system for asylum seekers and refugees. Rather than using the official system of reception “Asylum seekers were housed throughout the country in hotels, NGO reception centres, wherever space could be found. (...) The plan placed the 22,000 asylum seekers, who arrived from Libya between 12 February 2011 and the end of 2012, in reception centres throughout Italy where they received beds and food until the centres closed on 28 February 2013 »²¹⁵ The management of the situation was rather confused and inefficient and many service providers, such as hotels and reception centres, took advantage of the situation, without putting in place any Integration and work insertion projects.²¹⁶

In many cases the general population witnessed the waste of money and poor management of the situation. Furthermore, many citizens wrongly perceived the arrival of migrants in their municipalities as a burden on their resources and services while as a matter of fact, resources were given by the central government. This situation paradoxically resulted in increased anti-immigrant feelings²¹⁷.

Another telling example of the link between inefficient procedures and discrimination was the mismanagement of the last amnesty for the regularisation of foreign workers in October 2012²¹⁸. The confusion around the procedures and flaws in its technicalities limited the rights of migrant workers to have a regular status or to leave the country while the procedure was taking place.²¹⁹

With respect to policy, in March 2013, UNAR launched a call of interest for the elaboration of a National Action Plan against racism, xenophobia and intolerance to be implemented in 2013-2015.²²⁰ It is too early to comment on any developments.

Compared to the previous reports, there were no significant changes or developments in relation to the inclusion of Roma and Sinti. Civil society representatives interviewed²²¹, as well as the ERRC, noted that the National Strategy for the inclusion of Roma and Sinti a year after its adoption still remained largely unimplemented.²²²

Forced evictions of Roma families from settlement camps have continued both in Rome and in Milan. In the first six months of 2012, 850 Roma people were forcibly evicted in Rome and beyond 400 in

²¹⁴ Ibid.

²¹⁵ Relief web, “Italy: stumbling from one refugee emergency to the next “ 24.04.2013 <http://reliefweb.int/report/libya/italy-stumbling-one-refugee-emergency-next>

²¹⁶ Ibid.

²¹⁷ Interview with Filippo Miraglia, ARCI.

²¹⁸ Interview with Filippo Miraglia, ARCI.

²¹⁹ The last amnesty took place in September- October 2012. While the Home Ministry expected at least 300.000 requests of regularization, 134.57 was the total number of requests presented, mainly by employers in the domestic sector. Corriere Immigrazione, “Sanatoria flop” 15.10.2012

²²⁰ In July 2013, the idea of the plan was presented in a conference explaining that a working group will define the plan in detail. The plan proposed to the working group suggests to focus on the following core axes: Employment, Housing, Instruction, Mass Media, Sport, Security.

²²¹ Interview with Giulio Taurisano, Idea Rom onlus, Luciano Scagliotti CIE and ENAR.

²²² The European Roma Rights Centre in its submission to the European Commission on Italy stresses that the NRIS does not pay adequate attention to anti-discrimination, also in relation to employment. ERRC “Written Comments by the European Roma Rights Centre Concerning Italy”, 2013.

Milan.²²³ Amnesty International report « Double Standards Italy's housing policies discriminate against Roma »²²⁴ highlighted how Rome's social housing system denies access to Roma people.

The public debate was dominated by the current economic and social crisis, as well as by the electoral campaign which took place after the last months of the technical government led by Monti. Racist declarations were not as open and apparent as in the past, mostly because right-wing parties, such as the Northern League, faced internal divisions. Yet, as noted by civil society representatives²²⁵ extreme right wing groups such as "Forza Nuova", came forward in the public arena, committing violent and racist acts. For instance a racist protest took place in Pontedera during a ceremony for symbolic certificates of Italian citizenship to children born from non-Italians²²⁶. Manifestations of racism continued to be visible also in sporting events and racist violence episodes occurred in different cities²²⁷.

Furthermore, just after the period under consideration, racist and anti-immigrant sentiments became apparent again in public discourse through the attacks, offenses and verbal abuses, addressed to Cécile Kyenge, a black woman from Congo, since her appointment as cabinet minister of Integration last April.

5.2 Conclusions and recommendations

Severe discrimination of foreign workers in the labour market result for instance in work segmentation, lower wages, severe exploitation, barriers in accessing employment for which there is a high supply of Italian nationals and in accessing qualified jobs. Independently from their qualification and experience foreign workers mostly have unskilled and demanding jobs.

Roma and Sinti find strong barriers in accessing all sorts of jobs, their occupation rate is very low and it is difficult to find information about their work experience.

Therefore, an anti-discrimination strategy shared by all relevant stakeholders and effective measures to tackle discrimination of foreign workers and Roma and Sinti in the labour market are strongly needed and should be promoted and implemented at all levels. The main recommendations especially to government and policy makers are:

- Encourage the systematic collection of disaggregated data on the labour market positions of different migrant groups and Roma and Sinti specifically in access to private employment;
- Raise awareness of discrimination of migrants and Roma and Sinti in employment and read through the concept of discrimination available data in the labour market;
- Implement the National Strategy for the Inclusion of Roma, Sinti and Caminanti Communities;

²²³ Amnesty International "Ai margini. Sgomberi forzati e segregazione dei rom in Italia" London 2012 <http://www.amnesty.it/italia-le-comunita-rom-ancora-segregate-e-senza-prospettive>

²²⁴ Amnesty International Double Standards Italy's housing policies discriminate against Roma London 2013 <http://www.amnesty.org/en/library/asset/EUR30/008/2013/en/dd9a2be2-5fd7-42ee-aa67-4679daf15e5e/eur300082013en.pdf>

²²⁵ Interview with Udo Enwerezeur, COSPE. See also Repubblica, "Pontedera, irruzione razzista dei militanti di Forza Nuova" 11.11.2012.

²²⁶ Repubblica, "Pontedera, irruzione razzista dei militanti di Forza Nuova" 11.11.2012.

²²⁷ For instance, Cirdi Nuovi episodi di razzismo nello sport 13.04.2012.

- Recognize Roma and Sinti as a national minority, as a first step to ensure the protection of their culture and language, while also promoting their social inclusion and combating statelessness;
- Expand regular migration channels, treating migrants as active legal subjects with the possibility of granting residence permits for job search;
- Repeal the provision in the Security Package criminalizing “illegal entry and stay”;
- The National Equality Body (UNAR) should be strengthened in order to ensure its capacity to carry out its work, and to ensure its independence. In particular, make UNAR’s opinions public and binding, strengthen the role of UNAR in facilitating social dialogue in the employment sector, reinforce activities of discrimination-monitoring by making the Office more approachable to migrants and ethnic minorities;
- Strengthen and unify the various provisions against racial and religious discrimination contained in the various laws²²⁸ into a single act and enforce them fully;
- Strengthen the national legal framework by transposing, fully implementing and enforcing EU Directives 2000/43/EC and 2000/78/EC, as well as Directive 2011/98/EU, including a common set of rights for third-country workers legally residing in a Member State, such as by enabling the recognition of their educational qualifications;
- Apply the European Law 2013, law n.97, 6 August 2013, regulating access to public employment, to all categories of foreigners;
- Enforce control and inspections in all sectors by relevant authorities, law enforcement authorities and labour inspectorate, especially against the exploitation migrants and ethnic minorities in the agriculture and domestic sectors;
- The government and local authorities should approach the situation of seasonal workers with a strategy and test new mechanisms such as placement lists for workers;

To the Civil society:

- Increase awareness and the capacity to identify cases of discrimination among all staff and partners
- Reinforce monitoring activities with a systematic and organic approach to discrimination
- Facilitate involvement and participation of foreign workers in civil society organizations such as trade unions, associations, NGOs.

²²⁸ See Chapter 2 for an overview of the complex and uncoherent legal framework tackling discrimination.

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List of experts interviewed

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Giulio Taurisano, Idea Rom Onlus	13/7	
Jean Pierre Piessou, Cestim	23/8	
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Salvatore Fachile, ASGI	22/8	
Udo Enewerezeur, COSPE	26/8	
Walter Citti, ASGI	22/8	

Email exchange

Fabio Perocco, University of Venice	5-6/8	
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