



**ITALY'S DISCRIMINATORY TREATMENT OF THE ROMA BREACHES EU
RACE DIRECTIVE**

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Contents

Introduction and summary	4
Background on the situation of Roma in Italy	4
Stigmatisation and stereotyping.....	5
The legal and practical consequences of the “Nomad Emergency” persist.....	8
Adoption of the National Strategy for Roma Inclusion – does not reflect reality and needs to be translated into concrete action	10
Applicability of the Race Directive to forced evictions and other housing rights violations.....	11
Conclusions and Recommendations	17
Annexes.....	18

Introduction and summary

Amnesty International is submitting this briefing for consideration by the European Commission to review whether Italy should be the subject of infringement proceedings under the Race Equality Directive (2000/43/EC) for its discriminatory treatment of the Roma in relation to their right to adequate housing and related due process and other guarantees. The briefing focuses on practices and regressive laws and policies which violate Italy's obligations under the Directive, including continuing violations undertaken as a result of the "Nomad Emergency" legislation despite it being struck down by the Italian Council of State on 16 November 2011.

In light of the organization's own research, Amnesty International urges the Commission to start the infringement procedure according to Art. 258 TFEU by submitting formal notice to the Italian government for the following breaches of Articles 2 and 3(1)(h) of the Race Directive:

- a) Discriminatory denial of adequate safeguards and protections against forced evictions
- b) Perpetuation of segregation and sub-standard housing for Roma
- c) Discrimination in access to social housing
- d) Discrimination in access to effective remedies

Background on the situation of Roma in Italy

Accurate figures are not available on the numbers of Roma, Sinti and Caminanti (Travellers) currently living in Italy. Estimates indicate their numbers to be between 130,000 and 170,000, corresponding to about 0.2 per cent of the Italian population. These communities include Italian citizens (about 50 per cent) as well as residents from other European Union (EU) countries, mostly Romania, from the former Yugoslavia, and an undefined number of stateless people¹

A large number of Roma in Italy live segregated in camps on the outskirts of urban areas in poor living conditions, often without even basic infrastructure and services including access to sanitation and washing facilities, electricity and heating.

The camps where around 40 thousand Roma live in Italy fall into three main categories:

(a) Authorised camps: Residents usually have a degree of security of tenure, since the camps are located on public land and are authorised by formal decisions of the authorities. Usually the authorities are in charge of maintaining essential infrastructure for sanitation, electricity and water;

(b) "Tolerated" or "consolidated" camps are settlements that were built irregularly on private or public land. They have usually existed for relatively long periods of time and the owners of the land do not threaten the community with eviction. In some cases, the authorities provide some services, such as rubbish collection and transport of children to schools. The residents of these settlements have no security of tenure;

(c) Unauthorised camps are settlements that were built irregularly on private or public land and that are dismantled periodically. Such settlements are usually the most precarious, have no services and no security of tenure.

¹ See Senato della Repubblica, Commissione straordinaria per la tutela e la promozione dei diritti umani, *Rapporto conclusivo dell'indagine sulla condizione di Rom, Sinti e Caminanti in Italia*, 9 febbraio 2011, p. 18.

Instead of prioritizing measures to improve the housing and living conditions of Romani communities and addressing the discrimination that they experience, in recent years, and particularly since 2008, as some cases of crimes allegedly committed by Roma gained exceptional media exposure, Italian authorities have deliberately reinforced the idea of a close link between Roma and crime and have taken, in the name of security, retrogressive measures that have encouraged and aggravated discrimination against Roma.

International and regional human rights bodies have repeatedly urged Italian authorities to end the practice of forced evictions and develop strategies to fulfil the right to adequate housing of these communities.² They have also called on the authorities to address the widespread discrimination against Roma in access to housing, education, healthcare and employment, and the anti-Roma rhetoric used by some politicians and representatives of the authorities, who have often held Roma collectively responsible for alleged increases in crime rates.

In a decision taken in June 2010, the European Committee on Social Rights condemned Italy for the worsening “living conditions of Roma in camps ...following the adoption of the contested ‘security measures’ going on to find that “the measures in question directly target these vulnerable groups and... no adequate steps are taken to take due and positive account of the differences of the population concerned, the situation amounts to stigmatisation which constitutes discriminatory treatment.”³

The Committee of Ministers of the Council of Europe considered the decision in October 2010 and received assurances from the Italian government that it would “ensure the effective implementation of the rights deriving from the revised European Social Charter for every individual, including for persons belong to the Roma communities.”⁴ Yet, to date, as set out below, the Italian government has not met this commitment but has instead continued to carry out practices that violate both the Charter and the EU Race Directive.

Stigmatisation and stereotyping

(a) Politically driven stigmatisation

Anti-Roma rhetoric continues to be used by national and local authorities and politicians, often in the context of public debates regarding decisions to be taken that would affect the enjoyment of rights by Roma communities.

Repeated statements made by those in the public domain, according to the European Committee on Social Rights, “create a discriminatory atmosphere which is the expression of a policy-making based on ethnic disparity instead of on ethnic stability” leading it to conclude “that the racist misleading propaganda against migrant Roma and Sinti indirectly allowed or directly emanating from the Italian authorities constituted an aggravated violation of the Revised Charter”.⁵ The Committee took this unprecedented step of finding an “aggravated violation” given that not only were there human rights violations specifically targeting and affecting vulnerable groups but that this was compounded by the

² See, for example, UN Committee on the Elimination of Racial Discrimination, *Consideration of reports submitted by States parties under article 9 of the convention, Concluding observations, Italy*, 9 March 2012, paras 15 and 20 [CERD/C/ITA/CO/16-18]; UN Committee on the Rights of the Child, *Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations, Italy*, 31 October 2011, para 79 [CRC/C/ITA/CO/3-4], and the decision on the merits of the European Committee on Social Rights of 25 June 2010 on the case *Centre on Housing Rights and Evictions (COHRE) v. Italy*, Complaint No. 58/2009 (hereinafter, *COHRE v. Italy*).

³ See *COHRE v. Italy*, above note 2, para 58.

⁴ See Council of Europe, Committee of Ministers, *Resolution CM/ResChS(2010)8, Collective complaint No. 58/2009 by the Centre on Housing Rights and Evictions (COHRE) against Italy*, adopted by the Committee of Ministers on 21 October 2010 at the 1096th meeting of the Ministers' Deputies.

⁵ See *COHRE v. Italy*, above note 2, para 139.

passivity of the public authorities who failed to take appropriate action against the perpetrators and also contributed to such violence.⁶

Only in a few cases has the use of anti-Roma rhetoric been considered by the courts and judged illegal. In one such case, on 24 May 2012, the first civil section of the Milan court upheld a complaint lodged by the association NAGA against the Popolo della Libertà (PdL) and Lega Nord (LN) parties⁷ for a LN election poster, an "Appeal for Milan" produced by the PdL and for statements by their respective leaders Umberto Bossi and Silvio Berlusconi during the 2011 Milan mayoral election campaign. Such campaign materials and statements warned of the threat of Milan becoming a "zingaropoli" (lit. gipsyville) if the left-wing candidate Giuliano Pisapia was to win the elections.

Naga's complaint argued that these forms of expression constituted an offence under art. 3 of legislative decree no. 215 of 9 July 2003, which transposed the Race Directive into Italian law, and requested for the election posters to be removed, for the discriminatory nature of the conduct to be certified and for it to cease, and for publication of the court's decision. In upholding the complaint, Judge Orietta Micciché ruled that: "*The seriously offensive and humiliating character of this expression emerges clearly and does not just have the effect of violating the dignity of the Sinti and Roma ethnic groups, but also to favour an intimidatory and hostile atmosphere towards them.*"

It should be noted that during the same electoral campaign, the then Mayor of Milan, who was herself a PdL and LN candidate for re-election, brought forward to May the closure of the authorised Roma camps of via Triboniano and via Barzaghi, originally planned for the following June. The closure took place a few days before the elections. Without further warning, about 50 families still living there were given just 90 minutes to collect their belongings and leave.

A recent example of overt racism against the Roma occurred in the Pescara area between 6 and 9 May 2012. Following the killing of a 24-year old football supporter, Domenico Rigante, on 1 May, allegedly at the hands of an Italian citizen of Romani ethnicity, groups of fellow football supporters and friends of the victim demonstrated against the presence of Romani communities in Pescara. Demonstrations were not violent, but discriminatory remarks and threats of violence against Roma were widespread. During the following days, unidentified groups of people went to places generally frequented by Romani residents, in an apparent attempt to threaten or attack them. According to reports, Romani women had been insulted and made to go away from shops, and from the areas around the school gates where they were collecting their children. It was also reported that, during the night between 7 and 8 May, blank shots were allegedly fired by unknown people in the neighbourhood of Rancitelli, in Pescara, inhabited by a high number of Roma, apparently with the intent to frighten residents. The Pescara chief of police reported that Romani families were leaving the area or hiding in their homes, in fear of possible attacks.

Using this context, and referring to Roma families living in social housing, the Mayor of Pescara was reported by media suggesting that rules and procedures governing access to and expulsion from such housing should be reviewed to allow for a more flexible use of evictions. A few weeks later, on 22 May,

⁶ *Ibid.*, paras 76 and 77.

⁷ See Tribunale di Milano, Sezione I civile, *Ordinanza nella causa civile iscritta al n. 34318/11 del ruolo generale vertente tra NAGA Associazione Volontaria di Assistenza Socio-Sanitaria e per i Diritti di Cittadini Stranieri, Rom e Sinti ONLUS e LEGA NORD per l'Indipendenza della Padania e Movimento Politico "Il Popolo della Libertà"*, 24 May 2012. In its complaint, NAGA cited the following incidents: (i) statements by Umberto Bossi (leader of the Lega Nord party): "I will do my utmost against Pisapia, because he risks to transform Milan into a gipsyville"; "Pisapia risks to transform Milan into a gipsyville. The Lega [Nord] cannot afford to allow Milan to go down the drain. He wants to increase Roma camps and build the largest mosque in Europe."; "If Pisapia wins, Milan will become a gipsyville"; (ii) Lega Nord electoral posters stating: "Gipsyville Milan with Pisapia. + camps for nomads and the largest mosque in Europe"; (iii) claims by Silvio Berlusconi (then Italian Prime Minister and leader of the Popolo della Libertà party) in the so-called "appeal for Milan": "On the eve of the Expo2015, Milan cannot become an Islamic city, a gipsyville full of Roma camps and besieged by foreigners to whom the left would even grant a right to vote."; "I don't think that it is a priority for us Milanese to see a beautiful mosque built in our city".

giant posters were posted in Pescara by the PdL party (to which the Mayor of Pescara belongs), stating “PdL keeps its promises: Roma and criminals out of social houses”.

(b) Stereotyping

Stereotyping of Roma is common in popular discourse, especially with politicians, and often informs official policies by local and national authorities.

The most common official form of stereotyping is to portray all Roma as “nomads”, a term widely used in legislation and regulations in Italy, and also often used by the authorities, to refer to Romani communities who have been regarded as traditionally nomadic or semi-nomadic.⁸ For example, Amnesty International delegates observed during meetings with officials that they often used these terms as synonyms to refer to these communities.⁹ More generally, the terms “Roma” and “nomads” are used interchangeably in the media and in political discourse, leading to widespread public misconceptions.¹⁰ This is despite the fact that the overwhelming majority of Romani communities in Italy no longer follow a nomadic lifestyle.¹¹

Amnesty International believes that this is not just a question of semantics. If Roma are all deemed indiscriminately to be nomads, policies and decision-making will not address their real needs.

The European Commission against Racism and Intolerance (ECRI) has in various reports pointed to concerns that the Italian authorities tend “to approach all issues relating to Roma and Sinti from the assumption that the members of these groups live a nomadic lifestyle” and that “it was particularly urgent to change such an approach, since it had resulted, notably, in the forcible relegation of many Roma and Sinti into camps for nomads”.¹² The Advisory Committee on the Framework Convention for the Protection of National Minorities has also stated that it is “important that the authorities avoid, in the absence of appropriate consultation, considering all persons belonging to the Romani and Sinti communities as nomadic” and considered that “the various ways of life and specific situations existing within these communities require a more nuanced approach”.¹³

Several civil society organizations working with Romani communities believe the use of the term “nomad” by politicians and officials is deliberate and reflects the unwillingness of the authorities to address their real needs.

⁸ See, for example, Regione Lombardia, Legge regionale n. 77 del 31 ottobre 1989, *Azione regionale per la tutela delle popolazioni appartenenti alle etnie tradizionalmente nomadi e seminomadi*, in BURL, I suppl. ord. n. 52 del 27 dicembre 1989 (Lombardy Regional Law 77/1989 on *Regional action for the protection of populations belonging to ethnicities that are traditionally nomadic and semi-nomadic*), Regione Sardegna, Legge regionale n. 9 del 9 marzo 1988, *Tutela dell'etnia e della cultura dei nomadi*, in BURS n. 11 del 14 marzo 1988 (Sardinia Regional Law 9/1988 on *Protection of the nomad ethnicity and culture*).

⁹ The former councillor responsible for social policy and representatives of the local police in Milan, Mariolina Moioli, used the term “Roma” and “nomad” as synonyms during meetings held with Amnesty International delegates in April 2011. On 1 April 2010 a letter was sent to Rome’s citizens by the then councillor responsible for social policy, now deputy mayor, Sveva Belviso, announcing the closure of the “Roma camp of Tor de’ Cenci” as part of the “Nomad Plan” of her administration.

¹⁰ According to the report *‘Italiani, Rom e Sinti a confronto’, una ricerca quali-quantitativa*, published in January 2008 in Italy by the Institute for Public Opinion Surveys (available at http://www.interno.gov.it/mininterno/export/sites/default/it/assets/files/15/0963_Conferenza_Europea_sulla_popolazione_rom_sinti.ppt), 84 per cent of the Italian public believes that Roma are predominantly nomadic. See also above, note 1, p. 12.

¹¹ Only an estimated 3 per cent of Roma communities living in Italy are nomads, *Id.*

¹² See Council of Europe, European Commission against Racism and Intolerance (ECRI), *Third report on Italy, adopted on 16 December 2005*, 16 May 2006, para 95 [CRI(2006)19].

¹³ See Council of Europe, Advisory Committee on the Framework Convention for the Protection of National Minorities, *Third Opinion on Italy, adopted on 15 October 2010*, 30 May 2011, para 46 [ACFC/OP/III(2010)008].

The legal and practical consequences of the “Nomad Emergency” persist

The so-called “Nomad Emergency” was a state of emergency, declared by the Italian government on 21 May 2008, with the stated objective to confront the “extremely critical situation” allegedly caused by “the presence of numerous irregular non-EU citizens and nomads who have permanently settled in the urban areas”.¹⁴ The reference to “nomads” can only be read, also in light of the considerations included in the previous section, as a reference to Romani communities living in camps.

Under the “Nomad Emergency” decrees and ordinances, the delegated commissioners had the power, where necessary, to derogate from “existing norms in the fields of environment, landscape, hygiene and health, territorial planning, local police, road conditions and circulation”.¹⁵ The “Nomad Emergency” also authorised the delegated commissioners to adopt all “useful” and “necessary” measures to overcome the emergency and to derogate from “any other regional laws or regulations that are strictly connected to the activities foreseen by the ordinance”.

The “Nomad Emergency” also authorised delegated commissioners, where they deemed it indispensable, to derogate from specific laws that protect human rights. These include provisions of the Law on public security and the Law on expropriation for reasons of public interest and of legislation on health care, as well as several provisions of Law 241/1990 which provide fundamental guarantees for people affected by administrative decisions.¹⁶ This has meant that Romani communities living in authorised, tolerated and unauthorised settlements have been routinely denied basic due process protections and the ability to challenge arbitrary or unlawful administrative decisions – fundamental guarantees that apply to all in Italy. These protections are essential to prevent and challenge forced evictions.

The authorization to derogate from provisions of Law 241/1990 was of particular concern because of its impact on people’s rights to adequate housing, equal protection of the law and to an effective remedy. Specific rights violated included those of people affected by administrative decisions to be informed about the opening of an administrative procedure and to submit evidence, documents and briefs, together with the right of those with a public or private interest in any administrative proceedings to intervene in that process. These guarantees are important in the context of any administrative decision which has an impact on the exercise of people’s human rights, and they are extremely important in the context of decisions on evictions from homes or land. This is illustrated by the fact that lawyers in Milan who support Romani communities in challenging forced evictions highlighted to Amnesty International in July 2011 the difficulties of bringing successful claims in the absence of documentary proof of decisions of evictions.¹⁷

The above mentioned powers were used by delegated commissioners to adopt a number of acts, including new regulations applicable to authorised camps’ residents, the eviction of individuals and families living

¹⁴ Decreto del Presidente del Consiglio dei Ministri del 21 maggio 2008, *Dichiarazione dello stato di emergenza in relazione agli insediamenti di comunità nomadi nel territorio delle regioni Campania, Lazio e Lombardia* (Decree of the President of the Council of Ministers of 21 May 2008, *Declaration of the state of emergency in relation to the settlements of nomad communities in the territory of the regions of Campania, Lazio and Lombardy*); Ordinanza del Presidente del Consiglio dei Ministri n. 3676 del 30 maggio 2008, *Disposizioni urgenti di protezione civile per fronteggiare lo stato di emergenza in relazione agli insediamenti di comunità nomadi nel territorio della regione Lazio*; Ordinanza del Presidente del Consiglio dei Ministri n. 3677 del 30 maggio 2008, *Disposizioni urgenti di protezione civile per fronteggiare lo stato di emergenza in relazione agli insediamenti di comunità nomadi nel territorio della regione Lombardia*; Ordinanza del Presidente del Consiglio dei Ministri n. 3678 del 30 maggio 2008, *Disposizioni urgenti di protezione civile per fronteggiare lo stato di emergenza in relazione agli insediamenti di comunità nomadi nel territorio della regione Campania* (Ordinances of the President of the Council of Ministers Nos. 3676, 3677 and 3678 of 30 May 2008).

¹⁵ See Article 1(2) of Ordinances of the President of the Council of Ministers Nos. 3676, 3677 and 3678 of 30 May 2008, above note 14.

¹⁶ See Legge n. 241 del 7 agosto 1990, *Nuove norme in materia di procedimento amministrativo e di diritto di accesso ai documenti amministrativi* (Law 241/1990, *New norms in the field of administrative procedures and the right to access to administrative documents*).

¹⁷ See Amnesty International, *Italy: Briefing to the UN Committee on the Elimination of Racial Discrimination: 80th session, February 2012*, Annex A, 28 February 2012 [AI Index: EUR 30/001/2012].

in camps, and the development and implementation of plans foreseeing the closure of camps or the opening of new ones.

Since 2008 Amnesty International has researched and documented the impact of the “Nomad Emergency” on Roma in Italy, in particular in the cities of Rome and Milan.

In its 2010 report, *Italy: The wrong answer: Italy's 'Nomad Plan' violates the housing rights of Roma in Rome*, Amnesty International warned that Rome's Nomad Plan, adopted by the authorities following the declaration of the “Nomad Emergency”, would violate the housing rights of Romani communities in Rome. The plan foresaw the eviction of thousands of Roma and the resettlement of only some of them in refurbished or new authorised camps. The implementation of the plan in Rome continues to perpetuate a practice of segregation and results in living conditions for thousands of Roma which fall short of international standards for adequate housing.¹⁸

In its subsequent report in November 2011, *Italy: 'Zero tolerance for Roma': Forced evictions and discrimination against Roma in Milan*, Amnesty International described how the “Nomad Emergency” had exposed thousands of Roma to serious human rights violations. Amnesty International criticised the use of emergency powers and highlighted the lack of justification for the declaration of the Nomad Emergency, as well as its discriminatory nature, including through an analysis of the decree of the President of the Council of Ministers.¹⁹

On 16 November 2011, the Council of State, Italy's highest administrative court, ruled that the declaration of the “Nomad Emergency” had been unfounded and unsubstantiated, and that therefore the decree of the President of the Council of Ministers was unlawful, as were the ordinances which nominated the delegated commissioners and all the subsequent acts that they had issued.

Specifically, the Council of State found that the decree was unfounded and unlawful because it had not identified the specific facts which, for their intensity and magnitude, would have justified the use of extraordinary powers in relation to the alleged emergency caused by the ‘nomad settlements’. According to the Council of State, a thorough analysis detailing exactly how the presence of the ‘nomad settlements’ would constitute an exceptional threat to public order and security was lacking in the decree, while only a few specific and isolated criminal acts which had been widely reported in the media were mentioned. The result is that all related acts carried out under the Nomad Emergency were also declared unlawful.

The Council of State did not find, however, that the principal and sole aim of the “Nomad Emergency” had been to racially discriminate against the Roma community, even though some of the actions taken to implement it may have been motivated by discriminatory intent. However, Amnesty International considers that the implementation of the policies and administrative acts foreseen by the “Nomad Emergency” legislation could not be achieved without it being discriminatory in both intent and effect.

Despite the Council of State decision, the “Nomad Emergency's” legal and practical consequences continue to persist over seven months later and there is no indication to date they are being or will be remedied. Furthermore, plans devised in application of the “Nomad Emergency” continue to be implemented. As a result, Roma families and individuals continue to be systematically discriminated against and lack the same guarantees afforded to others in relation to forced evictions, lack equal access to social housing and are denied access to effective remedies.

¹⁸ See Amnesty International, *Italy: The wrong answer: Italy's 'Nomad Plan' violates the housing rights of Roma in Rome*, Annex B, 11 March 2010, [AI Index: EUR 30/001/2010].

¹⁹ See Amnesty International, *Italy: 'Zero tolerance for Roma': Forced evictions and discrimination against Roma in Milan*, Annex C, 29 November 2011 [AI Index: EUR 30/022/2011].

Adoption of the National Strategy for Roma Inclusion – does not reflect reality and needs to be translated into concrete action

On 28 February 2012, Italy adopted its National Strategy for the Inclusion of Roma, Sinti and Camminanti communities, within the European Union Framework (NRIS) covering four key sectors: education, employment, health and housing.

Italy's National Strategy emphasises from the outset (in bold) under the key guiding principles that: "The aim is to definitively overcome the emergency phase, which has characterized the past years, especially when intervening in and working on the relevant situation in large urban areas".²⁰ It reiterates this later in the document with the stated aim of "[m]oving away from dealing [with] the RSC phenomenon as an exclusively emergency issue which would be inappropriate politically and institutionally, besides being subject to emotional distortions and manipulations, in particular by the media."²¹

This latter statement is in fact an acknowledgement, by the Italian government itself, of the inappropriateness of the state of emergency that had been in force from May 2008 to November 2011. And the document continues, in its criticism of previous policies, by stating: [I]t is necessary to develop, starting from the awareness of the excessive use of evictions occurred in the past and its substantial inadequacy, start a new phase marked by the regional consultation, which is a program of actions involving local actors and institutional, ensuring the connection between the local planning proposals and policies, while respecting the fundamental rights and dignity of persons involved in the process of social integration.²²

The National Strategy also makes clear that it will fully consider "the international and regional human rights standards, including in particular Conventions, relevant legislation and case-law, Initiatives, Acts, and so forth"²³ whilst seeking to "promote equal treatment and social and economic inclusion of the RSC communities, while ensuring a lasting and sustainable improvement of their living conditions, making their accountability effective and permanent, as well as their participation in the social development, besides ensuring the enjoyment of citizenship-related rights, as envisaged in the Italian Constitution and international standards."²⁴

The Strategy also recognises that: "The old conception, which associated these communities with the solely connotation of "nomadism" has been overcome: this term is outdated both linguistically and culturally, since it does not portray correctly the current situation."²⁵

Amnesty International acknowledges that the adoption of the National Strategy, which states the national government's commitment to overcome discriminatory policies and practices, represents an important step in the right direction.

However, Amnesty International is questioning the commitment by the government to implement such strategy, at a time when local authorities continue to act in breach of their obligations under international human rights law: through ongoing forced evictions of men, women and children living in informal camps; through the implementation of plans, devised under the "Nomad Emergency", to close some authorised and tolerated camps without a genuine consultation of residents and without provision of adequate and long-term alternative housing; and through the construction of a new camp for Roma only, at the outskirts of Rome, resulting in further segregation of Romani communities in camps.

Amnesty International has yet to see any concrete evidence that the Italian government has begun to the implementation of measures aimed at translating the good intentions expressed in the National Strategy into reality.

²⁰ See Italy, Presidency of the Council of Ministers, National Office on Anti-Racial Discriminations, *National Strategy for the Inclusion of Roma, Sinti and Caminanti Communities - European Commission Communication No. 173/2011*, 28 February 2012, p. 3. Quoted extracts are from the official translation submitted by the Italian government.

²¹ *Ibid.*, p. 22.

²² *Ibid.*, p. 78.

²³ *Ibid.*, p. 5.

²⁴ *Ibid.*, pp. 21-22.

²⁵ *Ibid.*, p. 4.

On the contrary, some recent actions by the government seem to clearly contradict those commitments. For example, while in the National Strategy the government commits to abandoning the emergency approach, during the same month in which the National Strategy was adopted, February 2012, the same government filed an appeal to the Court of Cassation, asking it to overturn the ruling of the Council of State that had put an end to the “Nomad Emergency”. The case is still pending.

The lack of sufficient funds being made available by Italy for the implementation of the National Strategy also give cause for concern. In its initial assessment of Italy’s National Strategy, the Commission highlighted the fact that Italy was one of the majority of Member States that had failed to allocate sufficient budgetary resources for Roma inclusion. Specifically the Commission concluded in relation to Italy “[t]he quantification of financial resources is difficult to determine as there are no quantitative targets for future actions.”²⁶ Such concerns can only be aggravated by recent reports according to which, due to financial cuts imposed on several administrations, UNAR – the governmental anti-discrimination office, entrusted with coordinating the implementation of the National Strategy – is undergoing a restructuring that will lead it to lose up to 70% of its staff.

Applicability of the Race Directive to forced evictions and other housing rights violations

The European “Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin” was transposed into Italy’s national legal framework through adoption of legislative decree 215/2003. According to Article 3(1)(h) the Directive “shall apply to all persons, as regards both the public and private sectors, including public bodies”, in relation to “access to and supply of goods and services which are available to the public,... including housing.”

Although the Directive itself does not define access to housing services, it is submitted that it is inextricably linked to the right to adequate housing which is both extensively guaranteed and clarified under international human rights law to which Italy is subject to. It should also be noted that the European Union Agency for Fundamental Rights interprets Art. 3 (1) h of the Directive in the light of international human rights law, in particular Art. 7 of the EU Charter of Fundamental Rights guaranteeing the right to respect for one’s home and Art. 11 of the International Covenant on Economic, Social and Cultural Rights.²⁷ In turn the UN Committee on Economic, Social and Cultural Rights (CESCR) has emphasized that the right to housing as guaranteed under Article 11 “should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one’s head [...] Rather it should be seen as the right to live somewhere in security, peace and dignity”.²⁸

In this context, the right to adequate housing obliges governments to ensure that everyone has a “degree of security of tenure, which guarantees legal protection against forced eviction, harassment and other threats”²⁹. Member states, such as Italy, are also obliged under the International Covenant for Civil and

²⁶ See http://ec.europa.eu/justice/discrimination/files/country_factsheets_2012/italy_en.pdf.

²⁷ See European Union Agency for Fundamental Rights, *Handbook on European non-discrimination law*, 21 March 2011, p. 74.

²⁸ See UN Committee on Economic, Social and Cultural Rights, *General Comment No. 4, The right to adequate housing (Article 11.1 of the Covenant)*, Sixth Session, 13 December 1991 [E/1992/23], para 7 (hereinafter, CESCR, *General Comment No. 4*).

²⁹ *Ibid.*, para 8(a). See also UN Human Rights Council, *Basic Principles and Guidelines on Development-based Evictions and Displacement* (Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living), 5 February 2007 [A/HRC/4/18], para 13: “According to international human rights law, everyone has the right to adequate housing as a component of the right to an adequate standard of living. The right to adequate housing includes, inter alia, the right to protection against arbitrary or unlawful interference with privacy, family, home, and to legal security of tenure.”

Political Rights³⁰, the European Convention on Human Rights³¹ and the Revised European Social Charter to refrain from and prevent forced evictions.³²

Furthermore the right to adequate housing encompasses duties on states to ensure that everybody enjoys the same rights to housing without discrimination which is both habitable and suitably located for access to employment opportunities, health-care facilities, schools and other services such as water and sanitation.³³ In this respect States must not just refrain from discriminating against disadvantaged groups but are under an additional obligation to take into account through their laws and policies their special needs.³⁴

For this reason, Amnesty International believes that violations of the right to adequate housing, including forced evictions and the failure to ensure equal enjoyment to housing as defined under international law, on a discriminatory basis, fall within the scope of Article 3(1)(h) of the Race Equality Directive and can be the subject of infringement proceedings.

Forced evictions – continued use of discriminatory criteria lacking adequate safeguards

Italy continues to violate its obligations under international and regional treaties to which it is a party, by failing to ensure that all persons have equal protection against forced evictions.³⁵ These require the authorities to provide, among other safeguards, all persons who are affected by the evictions with information about the proposed evictions, adequate and reasonable notice prior to the eviction, adequate alternative accommodation and legal remedies to challenge eviction orders.³⁶ Authorities are also required to engage in a genuine consultation with affected communities to identify all feasible alternatives to the eviction, which will not be possible in the absence of information about administrative decisions and an opportunity to challenge and engage with such a decision.³⁷

By allowing authorities to waive the requirements under Law 241/1990 for evictions from 'nomad camps', the government excluded Romani communities from the equal protection of the law that is available to all other persons in Italy. Consequently, under the 2009 regulation of authorised camps in Lombardy³⁸ the management committee was not obliged to inform the household about the opening of an administrative procedure which may lead to a termination of their stay in the camp. They were also not obliged to ensure that the affected household had an opportunity to participate in the proceedings and to present their views. Moreover, in comparison to those living in social housing, the residents of authorised camps had a far shorter period of notice, which also had an impact on their ability to challenge the eviction legally. The lack of participation of individuals in administrative decisions that affected them also meant that when alternatives were provided to them in case of eviction they were inadequate.

³⁰ Article 17.1 of the International Covenant on Civil and Political Rights recognizes, *inter alia*, the right to be protected against "arbitrary or unlawful interference" with one's home.

³¹ The European Court of Human Rights has found numerous breaches of Article 8 guaranteeing the right to private and family life and the home through the use of forced evictions.

³² In respect of violations of Article 16 of the Charter guaranteeing the right to housing, see *COHRE v Italy* (above, note 2), and the decision on the merits of the European Committee on Social Rights of 11 December 2009 on the case *International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Greece*, Complaint No. 49/2008.

³³ See CESCR, *General Comment No. 4*, above note 28, para 8 (d) and (f).

³⁴ *Ibid.* para 8 (e).

³⁵ These include Article 11 of the International Covenant on Economic, Social and Cultural Rights; Article 17 of the International Covenant on Civil and Political Rights; Article 31 of the Revised European Social Charter and Article 8(1) of the European Convention on Human Rights.

³⁶ See UN Committee on Economic, Social and Cultural Rights, *General Comment No. 7, The right to adequate housing (Article 11.1 of the Covenant)*, Sixteenth Session, 20 May 1997 [E/1998/22, annex IV], paras 13 and 15 (hereinafter, CESCR, *General Comment No. 7*).

³⁷ *Id.*

³⁸ See Comune di Milano, *Regolamento delle aree destinate ai nomadi nel territorio del Comune di Milano*, 5 February 2009, available at http://www.interno.gov.it/mininterno/export/sites/default/it/assets/files/16/0845_regolamento20090205.pdf.

Despite the official end of the “Nomad Emergency”, as a result of the above mentioned judgement of the Council of State on 16 November 2011, violations under the state of emergency have not been addressed through the provision of effective remedies. Indeed, no mechanism has been put in place by authorities to redress the situation of those who were negatively affected by decisions taken through direct application of emergency powers, now recognised as unlawful. Examples of such violations include being evicted from an authorised camp in application of discriminatory regulations.³⁹

According to the Milanese municipal authorities, between 2009 and 2011 a total of 61 families were evicted from authorised camps in Milan, without being provided with any alternative housing, under the 2009 regulations for authorised camps.⁴⁰ As these regulations were adopted under emergency powers, they were considered unlawful by the judgement of the Council of State that ended the “Nomad Emergency”. However, to date no mechanism has been set up by authorities to redress the situation of affected families. Amnesty International has interviewed some of those families, who currently inhabit shacks in informal camps, in appalling health and safety conditions and at constant risk of eviction.

As recently as March 2012 the Committee on the Elimination of Racial Discrimination (CERD) ‘deplore[d]’ the “targeted evictions of Roma and Sinti communities which have taken place since 2008 in the context of the NED and notes with concern the lack of remedies provided to them despite the ruling of the Council of State in November 2011 annulling the NED. It is concerned that forced evictions have rendered several Roma and Sinti families homeless and regrets the ways in which security personnel and video-controlled access to some of these camps are used”⁴¹

Plans devised using the powers granted by the “Nomad Emergency” – such as Rome’s Nomad Plan, which involves forced evictions and segregation, and the plan for the closure of authorised camps in Milan, which does not foresee genuine consultation and adequate long-term alternative housing – continue to be implemented.

Informal camps, almost exclusively inhabited by individuals and families of Roma ethnicity, remain the target of constant evictions, particularly but not exclusively by local authorities. The procedures currently followed to evict residents of informal camps remain very similar, if not identical, to those applied under the “Nomad Emergency”. Normally, affected individuals are not provided with sufficient information about the eviction, consulted about alternatives to eviction, or given adequate notice and an opportunity to seek effective remedy. Evictions continue to be carried out without the offer of adequate alternative accommodation, as was the case when the “Nomad Emergency” was in force. Evictions from informal camps are usually accompanied by an offer of merely temporary shelter for women and small children – often refused because families want to stay together – thereby compromising their right to family life. Local authorities, particularly in Rome, consider themselves not to be obliged to make such an offer, or to make it to the whole family, only providing emergency shelter at their discretion and for an unspecified length of time, without regard to international requirements to provide alternative housing.⁴²

³⁹ Most of the circumstances that have led to the eviction of Roma from authorized camps would not normally lead to a loss of entitlement to social housing. The social housing legislation in force in the region of Lombardy, for example, does not make a criminal conviction grounds for withdrawing the allocation of social housing. The 2009 regulations, however, make a criminal conviction grounds to revoke authorization for the entire household to stay in the camp, inflicting a punishment for individual criminal acts on entire families, including children. The social housing legislation does not allow failure to ensure attendance at school by children of compulsory school age as grounds for losing entitlements to social housing, and does not impose adherence to rules such as those in the 2009 regulations. Where comparable provisions exist, those applicable to social housing beneficiaries are more favourable than those for inhabitants of the camps. For example, a household can lose the right to social housing if they abandon the housing unit for a period longer than six months, compared to only one month for residents in the camps. Indeed, representatives of the trade unions for social housing tenants reported that evictions from social housing units of families who lose the entitlement are extremely rare. Users of social housing are evicted only when they violate specific provisions of the social housing legislation by, for example, abandoning the unit for more than six months or by using it for illegal activities. However, even in these cases, the authorities rarely decide to start an administrative procedure to evict them and, if they do, this can take up to several years.

⁴⁰ Municipal authorities of Milan, written correspondence with Amnesty International, 28 September 2011.

⁴¹ See CERD, *Concluding observations on Italy* (above, note 2), para 15.

⁴² See the UN *Basic Principles and Guidelines on Development-based Evictions and Displacement* (above, note 29), para 43.

For many families, evictions result in homelessness, so they are forced to find an even more precarious and unsafe shelter. Their possessions are often destroyed during the eviction. Many families have experienced several evictions in the period of a few months or years. In addition to being often traumatizing, especially for children, forced evictions have disrupted education for children and work for adults. Children enrolled in education were often forced to change school at every forced eviction. Adults with a job could not justify to their employers their absence from work on the day of an eviction and often ended up losing their jobs.

(b) Perpetuation of segregated and sub-standard housing

Around 40 thousand Roma live in camps, whether authorised, tolerated or informal, in Italy. For most Roma living in a camp is not an option which they freely choose, but is the only one available. With very few and recent exceptions, for decades Italian authorities have implemented policies whereby the camps were the only housing solution offered by authorities to Roma in need. Based on the wrong assumption that all Roma were nomads, Roma families living in poverty and in need of housing were not provided with a range of housing options, including access to social housing. Instead, they were offered by default a place in a “nomad camp”. At the same time, authorities often failed to ensure that camps met international and regional standards on adequate housing.

Roma living in camps are discriminated against not only because they are segregated, but also because housing in camps has proved to be sub-standard and deeply inadequate. International bodies have reiterated for over a decade how Italy was failing to meet its international obligations leaving Roma in unsafe, unhealthy, overcrowded accommodation with no security of tenure.

This reality has recently been condemned by the CERD when it expressed concern that “the Roma, Sinti and Camminanti populations, both citizens and non-citizens, are living in a situation of de facto segregation from the rest of the population in camps that often lack access to the most basic facilities.

The Committee takes note of the statement of the delegation on the intention to apply a new housing policy in favour of Roma and Sinti (art. 3)”.⁴³

These concerns reflect the fact that since the CERD’s previous assessment in 2008 the Italian authorities have continued to fail in their obligations not to racially discriminate against the Roma in respect of their right to adequate housing

The Nomad Plan for the city of Rome was the first scheme to have been developed using special powers provided for by the Nomad Emergency. The implementation of the Nomad Plan continues at the time of writing, and has so far led to the resettlement of hundreds of Roma into pre-existing authorised camps⁴⁴ on the outskirts of Rome and the new camp of La Barbuta, which is not yet fully occupied (see box below).

Amnesty International has expressed its concern about the impact of the Nomad Plan on the human rights of Roma in the capital.⁴⁵ The Plan is forcing many further outside the city in isolated areas, thus further reducing their access to employment and essential services, in the absence of any genuine

⁴³ See CERD, *Concluding observations on Italy* (above, note 2), para 15.

⁴⁴ Authorized camps are not destined to house homeless people or families living in informal camps. When these people are evicted, usually they may be only offered provisional hospitality in a shelter for the homeless, if they are in a situation of vulnerability (women with children), and for a short time. Otherwise, they are not offered any alternative housing. The purpose of authorized camps, according to the Nomad Plan, is to re-house Roma previously living in camps that the authorities define as “tolerated”. Despite this name, some of these camps, including Tor de’ Cenci, were actually created by the authorities themselves, mainly to provide accommodation for Roma from the former Yugoslavia who migrated or escaped to Italy in the ‘80s and ‘90s. Some of these camps have been in place for 15 years or longer. During this time, although many residents developed a desire to move to flats, their intentions were hampered by the lack of support on the side of authorities. Under the Nomad Plan, some such camps have been dismantled already, while others are expected to follow suit. However, residents are not genuinely consulted, and the only re-housing option provided to them is the transfer to another camp, this time labelled as “authorized”, often even more isolated at the outskirts of Rome.

⁴⁵ See above, note 18.

consultation. More fundamentally, Amnesty International considers that the plan perpetuates segregation in housing, offering only camps as an option for housing the Roma, even though many of those interviewed by the organization said they would have preferred normal housing.

Between 2010 and 2012, Amnesty International visited five of the current eight authorised camps in Rome (Salone, Candoni, River, Cesarina, Castel Romano) and also the immediate surroundings of the new camp of La Barbuta. Amnesty International's delegates found during their visits and in interviews with local NGOs that living conditions have significantly deteriorated as a consequence of the relocation of hundreds of Roma under the Nomad Emergency. Structural improvements and the upgrading of infrastructures to accommodate the new arrivals have been insufficient or carried out with delays and in a reactive rather than systematic manner. Spaces for socialization, such as small areas for children to play, had to be given up to make room for the containers assigned to the new arrivals.

Amnesty International considers that the existing authorised camps as well as the newly built La Barbuta constitute racially segregated housing, prohibited under international law. The authorities place only people of Roma ethnicity in these camps and these individuals are also not offered any other integrated housing option. Most of these camps are fenced and controlled by security video cameras; entrance is through a guarded gate; access is possible only upon invitation by a resident or authorization by the municipality; most of the camps are in areas isolated from the majority population's residential neighbourhoods (for example by fast traffic highways with no pavements or public transport to connect them to shops, doctors' practices, schools and other amenities).

While segregated camps are by no means exclusive to the city of Rome, and are in fact present in several Italian cities, what is particularly concerning in Rome is the intention of the current administration to continue to propose housing in segregated camps as the only solution offered to Roma, in the absence of any attempt to look at other, non discriminatory and non segregated housing options. Such actions at the local level are not effectively countered by any concrete measures taken by national authorities to address such systematic discrimination. The national government remains ultimately responsible for the respect, protection and fulfilment of human rights and decentralisation is not an excuse.

Case study: Rome's Nomad Plan and the camps of Tor de' Cenci and La Barbuta

Local authorities have failed to incorporate the commitments made in the National Strategy into their own policies. One of the most blatant examples is represented by the current situation in Rome, where local authorities are continuing the implementation of the Nomad Plan.

At the time of writing, residents of the camp of Tor de' Cenci are under imminent threat of forced eviction by the municipality, which is refusing to provide them with any alternative housing other than relocation in more isolated camps – in particular the new camp of La Barbuta.

La Barbuta, constructed as part of the Nomad Plan and under the "Nomad Emergency", in derogation of ordinary legislation covering environmental, planning and health and safety standards, has been built with the specific intention to use it only to house people of Roma ethnicity, thereby creating a new racially segregated camp. Erected in an isolated area next to the runway of the Ciampino airport, the camp was opened on 18 June 2012 – four months after the submission of the National Strategy – despite the uncertainty over its legal status following the Council of State ruling. Authorities are planning to transfer there current residents of the Tor de' Cenci camp, whose closure has been repeatedly announced. Amnesty International has been and remains concerned about several aspects of this plan.

Tor de' Cenci was opened by local authorities in December 1995, in an area where residents have access to a range of services, including schools for children. In the past few years, however, local authorities started referring to Tor de' Cenci as a 'tolerated' camp, and have threatened to close it. Living conditions in Tor de' Cenci have progressively worsened, as the camp has been effectively abandoned by local authorities in view of its planned closure. The authorities have provided no compelling justification or legal basis for closure of the camp, and for transferring the inhabitants to another camp, rather than to other forms of accommodation such as social housing. They have not followed any of the steps that would have been normally taken if this were a social housing site rather than a camp for Roma.

The Tor de' Cenci Roma community has in the past two years expressed its opposition to the closure of

their camp on a number of occasions. This remains the case as confirmed to us in the numerous interviews Amnesty International conducted during our latest mission in June 2012. Indeed, many Romani families living in Tor de' Cenci, interviewed by Amnesty International, have stated that they don't want to move to La Barbuta, both in relation to security concerns and because of the isolation of the La Barbuta camp.

In June 2012, during an official meeting with Amnesty International delegates, representatives of the Municipality of Rome stated that, in order to determine which residents of Tor de' Cenci were eligible to re-housing in La Barbuta, they were using lists of residents recorded during the census, involving fingerprinting and photographing, that was compiled in 2010. This statement indicates that data gathered through that census is still available to Rome's local authorities. This raises questions regarding the official statements delivered by the Italian government in February 2012 before the UN Committee for the Elimination of Racial Discrimination, according to which data gathered through discriminatory censuses involving fingerprinting and photographing had been destroyed. Amnesty International is concerned that, despite guarantees by the national government, local authorities may still be using data gathered through discriminatory procedures in order to decide which residents of certain camps would be eligible for alternative accommodation in case of eviction.

(c) Lack of equal access to social housing

Although in principle Roma can rent or buy private accommodation and can apply for social housing, these options are extremely difficult to pursue in practice. In particular, access to social housing, which should be available to all, is restricted for the Roma on indirectly discriminatory grounds.

In particular, Roma who have only ever lived in camps (including Italian Roma) are de facto excluded from accessing social housing, as they are rarely in the position to fulfil all the requirements set by legislation. This creates a situation of indirect discrimination against Roma, since the effect of the formally neutral requirements is to disadvantage them disproportionately.

There are several requirements to be met by individuals and families who wish to get access to social housing in Italy. These must be met in order for the application to be processed. In the absence of one such requirement, the application cannot even be considered, however important and urgent the situation of the applicant may be. One such requirement is registered residency in the relevant municipality or region for a minimum length of time (for example, five years in Milan). A requirement of this kind creates a disparity of treatment negatively affecting migrants, including those of Roma ethnicity, despite the fact that migrants and Roma are over-represented among groups needing support in access to housing. Roma who live for the set number of years in an authorised camp, and are registered accordingly, are eligible. However, Roma who are homeless and therefore live in unauthorised camps – where it is impossible to register residency – are not eligible, despite being often among the most vulnerable.

Once the application has been proven to fulfil the requirements, it is placed on the waiting list for assignment of social housing. However, this is no guarantee that such housing will be assigned because there is little social housing available. A ranking system operates according to a set of criteria. Meeting one such criterion will give the applicant priority over others. One such criterion for the allocation of social housing is proof of prior eviction from private accommodation (so called "sfratto"). This criterion is so highly valued in the determination of the position of applicants in relevant rankings, that its absence normally means that an application will be unsuccessful. Roma who live in authorised or informal camps, irrespective of the number of evictions they have endured, are unable to produce a document of this kind. Eviction from a camp does not qualify as a "sfratto".

(d) Lack of effective remedies

Article 7 of the Directive states that "Member States shall ensure that judicial and/or administrative procedures, including, where they deem it appropriate, conciliation procedures, for the enforcement of obligations under this Directive are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them".

To date, more than seven months after it being declared unlawful, specific human rights violations committed under the "Nomad Emergency" have not been redressed through the provision of effective remedies to victims. Authorities have failed to proactively identify individuals and families subjected to discriminatory acts, including forced evictions and related abuses as documented in this briefing and to offer appropriate reparations including but not limited to compensation and guarantees of non-

repetition.⁴⁶ As a consequence, individuals and families are still suffering the unjust consequences of unlawful administrative decisions which discriminated against them.

Conclusions and Recommendations

The Italian government has, as part of the measures it has adopted under the “Nomad Emergency”, routinely denied Romani communities the equal protection of the law in relation to their right to housing and related guarantees. By waiving protections against administrative decisions for Romani communities who live in camps, it has reduced their protection against forced evictions and increased the impunity of local authorities who carried them out.

Furthermore, despite the end of the “Nomad Emergency”, following a judgement by the Council of State, the legacy of the state of emergency continues to impact in a discriminatory way on the housing rights of the Roma. Authorities have not taken any measures in order to provide access to effective remedies to those who suffered human rights violations under the state of emergency. At the same time, local plans for closing camps and evicting residents have not changed. The result is the continued active promotion and implementation of segregation by certain local authorities and forced evictions in blatant disregard of international standards on genuine consultation of affected individuals and provision of information, prior notice, effective remedy, and adequate alternative housing. The national government is failing in its duty to ensure that the right to housing is protected, respected and fulfilled for Roma and is failing to hold local authorities accountable for the violations perpetrated at local level.

All of these measures are discriminatory and breach Italy's obligations under the Race Equality Directive, in addition to various international and regional human rights treaties Italy has ratified, not to engage in any act of, create or perpetuate racial discrimination.

In these circumstances Amnesty International believes there is sufficient compelling evidence for the Commission to trigger the infringement procedure according to Art. 258 TFEU and submit formal notice to the Government of Italy based on breaches of the Race Equality Directive.

⁴⁶ The *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* (adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005 [A/RES/60/147]) recognise five main types of reparations – restitution, compensation, rehabilitation, satisfaction and guarantees of non repetition.

Annexes

Annex A: Amnesty International, Italy: Briefing to the UN Committee on the Elimination of Racial Discrimination: 80th session, February 2012, 28 February 2012 [AI Index: EUR 30/001/2012]

Annex B: Amnesty International, Italy: The wrong answer: Italy's 'Nomad Plan' violates the housing rights of Roma in Rome, 11 March 2010, [AI Index: EUR 30/001/2010]

Annex C: Amnesty International, Italy: 'Zero tolerance for Roma': Forced evictions and discrimination against Roma in Milan, 29 November 2011 [AI Index: EUR 30/022/2011]

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