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**ECRI CONCLUSIONS
ON THE IMPLEMENTATION OF THE RECOMMENDATIONS
IN RESPECT OF ITALY
SUBJECT TO INTERIM FOLLOW-UP**

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¹ Unless indicated otherwise, any developments which occurred after 9 August 2018, the date on which ECRI received the reply from the Italian authorities to its request for information on the measures taken to implement the recommendations subject to interim follow-up, have not been taken into account in this analysis.

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FOREWORD

As part of its fifth round of monitoring work, ECRI has renewed its process of interim follow-up with respect to two specific recommendations made in each of its country reports.

In line with the Information Document on ECRI's fifth monitoring cycle brought to the attention of the Ministers' Deputies on 14 November 2012¹, not later than two years following the publication of each report, ECRI addresses a communication to the Government concerned asking what has been done in respect of the specific recommendations for which priority follow-up was requested.

At the same time, ECRI gathers relevant information itself. On the basis of this information and the response from the Government, ECRI draws up its conclusions on the way in which its recommendations have been followed up.

It should be noted that these conclusions concern only the specific interim recommendations and do not aim at providing a comprehensive analysis of all developments in the fight against racism and intolerance in the State concerned.

¹ CM/Del/Dec(2012)1154/4.2.

1. In its report on Italy (fifth monitoring cycle) published on 7 June 2016, ECRI reiterated its recommendation to the Italian authorities to ensure that UNAR's (*Ufficio nazionale antidiscriminazioni razziali*) full independence is secured both in law and in fact; to extend its powers so that the relevant legislation clearly covers discrimination based not only on ethnic origin and race but also on colour, language, religion, nationality and national origin; and to grant it the right to bring legal proceedings. The authorities should also ensure that any move to merge UNAR with an independent body with a broader remit guarantees the full implementation of the above recommendations and provides for all the human and financial resources necessary to fulfil its mission.

In its last report on the country, ECRI had considered that, with regard to its General Policy Recommendations No. 2 on equality bodies and No. 7 on national legislation to combat racism and racial discrimination, UNAR still did not comply with the principle of independence and that its powers provided for by law were incomplete.

Regarding the powers of UNAR, the Italian authorities have informed ECRI that in its day-to-day work UNAR continues to deal with grounds of discrimination other than those expressly provided for by law (ethnic origin and race), such as religion, skin colour, sexual orientation and gender identity. In addition, the authorities state that the law provides that UNAR's remit also covers the fight against manifestations of "racism of a cultural and religious nature".¹ In addition, since it was set up, UNAR has also been able to use Article 43 of the pre-existing Single Text on Immigration (Legislative Decree 286/1998), which prohibits direct and indirect discrimination on the grounds of race, colour, descent, national or ethnic origin, and religious beliefs and practices.

These considerations could suggest that there is no particular need to extend UNAR's remit more explicitly in order to clearly cover discrimination based not only on ethnic origin and race but also on colour, language, religion, nationality and national origin.

However, ECRI reiterates its opinion that, although in practice this remit has been considerably broadened (with the extension of protection against almost all forms of discrimination) – especially in the context of the 2015 National Action Plan against Racism, Xenophobia and Intolerance – the absence of a clear legislative framework has an impact on the effectiveness of UNAR's action. This view is also consistent with the general analysis regarding the main provisions in civil and administrative law to combat racial discrimination contained in ECRI's report on Italy of 7 July.²

According to the information available to ECRI, UNAR is still not able to bring legal proceedings; moreover, its structure is still under the responsibility of the Department for Equal Opportunities of the Presidency of the Council of Ministers. Consequently, this body does not comply with the principle of the independence of national bodies specialised in the fight against racism and intolerance.

Lastly, the information available to ECRI suggests that there is currently no draft legislation to merge UNAR with an independent authority with a broader remit. The only bill introduced in the Chamber of Deputies to establish an independent Human Rights Commission (AC855),³ does not provide for such a merger, despite the fact that the setting-up of such a Commission – which has been constantly postponed since 1994 – could be one of its possible outcomes.

¹ Article 7 of Legislative Decree No. 2015, 9 July 2003.

² Paragraphs 18-22.

³ Proposta di legge: Quartapelle, Procopio e altri: "Istituzione della Commissione nazionale per la promozione e la protezione dei diritti umani fondamentali" (855). (*Bill: Quartapelle, Procopio and others: "Establishment of the National Commission for the Promotion and Protection of Fundamental Human Rights"*)

In the light of the foregoing, ECRI concludes that the part of the recommendation concerning the formal extension by law of the powers of UNAR, its independence in law and the right to bring legal proceedings has not been implemented.

2. *In its report on Italy (fifth monitoring cycle), ECRI recommended that the authorities implement in schools at every level, be it in the framework of the implementation of Act No. 107/15 “on good schooling” or in the context of the continuing National LGBT Strategy, measures to promote mutual tolerance and respect at school, regardless of sexual orientation or gender identity. In particular these measures should provide all pupils and students with the information, the protection and the support they need in order to be able to live in harmony with their sexual orientation and their gender identity.*

The Italian authorities have informed ECRI of a number of measures adopted since 2016 as part of the implementation of Act No. 107/15, “on good schooling”, aimed at promoting mutual tolerance and respect at school.

However, all the measures to provide pupils and students with the information, protection and support they need to be able to live in harmony with their sexual orientation and gender identity remain completely voluntary and, in most cases, are based on the initiative of non-governmental associations, although it is true that those associations may receive ministerial and local funding for the promotion of these activities.

Furthermore, this type of extracurricular activities continues to meet with strong resistance from some parents, schools and regional authorities that are responsible for the provision of training. Initiatives to promote tolerance and respect among genders have often been openly criticised and consequently abandoned.⁴

As already pointed out in the 2016 report on Italy, given this situation, extracurricular programmes involving teachers and children solely on a voluntary basis cannot suffice to rise to the challenge and may even be counterproductive.

In conclusion, ECRI considers that its recommendation has been partially implemented.

⁴ ILGA Europe – Annual Review 2019.

