Responding to racism in Italy

european network against racism
rete europea contro il razzismo
OVERVIEW OF RACISM IN ITALY

Migrants, asylum seekers and Roma populations experience racism and discrimination in almost all sectors of public life, in particular in housing, employment, education and access to services. Though a step forward was taken by opening an Office for the Promotion of Equal Treatment and by the removal of discriminatory acts based on race or ethnic origin (UNAR) systematic monitoring of racism and discrimination and support services for victims are missing. High profile politicians contribute to legitimising public expression of racist discourse; the war on Iraq and terrorism are often used as pretexts for overt racist and xenophobic attacks against Muslims and migrants. The increase in case law shows that, in spite of all the odds, an increasing number of victims are using legal instruments to combat discrimination; important rulings have also been issued, by the Constitutional Court. However, protection against discrimination remains far from satisfactory and the failure to introduce the shift of the burden of proof provided for in Directive 2000/43 is a hurdle against court action. Media reports can give an idea of the type of racist violence that occurred, though this cannot be used to estimate the real extent of racist violence; it seems reasonable to think that only a small number of racist incidents attract media attention, partly due to the fact that many victims do not report their experiences either for fear of retaliation or because they don’t consider the media as supportive. Besides, the media have their agenda, which often leads them to consider a case of racist violence as not being newsworthy even though it may be extremely serious.
ENAR ITALY

ENAR Italy has chosen, since 1998, to be a “loose network”, meaning a network which aims at establishing communications among antiracist NGOs, neither taking their place in individual or collective actions nor pretending to represent them at any level. ENAR ensured the dissemination among Italian NGOs of information about policy and legislative developments in the EU and the presence of a voice to the Italian antiracist movement at European level. Both ENAR Italy as such and over forty large and small member associations have promoted initiatives, campaigns and lobbying towards national and local institutions in order to strengthen the fight against racist discrimination and ensure protection to the victims. The national coordination has supported the action of both member and non-member antiracist NGOs.

OVERVIEW OF ENAR – EUROPEAN NETWORK AGAINST RACISM

ENAR promotes the cause of anti-racism and equal treatment for ethnic minorities and non-EU nationals residing in the European Union.

ENAR is a network of European NGOs working to combat racism in all EU Member States. The NGOs have formed National Coordinations (NCs), which constitute the membership of ENAR and include ethnic minorities, immigrants’ associations, information centres, advocacy groups, trade unions, faith based organisations and many others. Democratically elected representatives of each NC attend the Network’s meetings where they are consulted on policy and statutory issues. One of the representatives of each NC should belong to an ethnic minority.

ENAR is determined to fight racism, xenophobia, anti-Semitism and Islamophobia, to promote equality of treatment between EU citizens and third country nationals, and to link local/regional/national initiatives with European initiatives.
WHO IS EXPERIENCING RACISM?

Notwithstanding the shortage of systematic data on these phenomena, there is no doubt that immigrants coming from countries that do not belong to the European Union are those mostly affected by discrimination based on their ethnic origins and religion. It’s worth noting that public opinion and media still treat as “third country nationals” citizens coming from the new member states. The difficult situation of asylum seekers continues to exist: the obstacles in applying for and receiving refugee status, together with the shortage of protection and welfare measures, are the basis for the de facto denial of the right to asylum. Political discourse and international tension are the basis for the mistrust and prejudice towards people of Islamic religion, both Italian or foreign nationals.

The belief that a clash of civilisations is under way is continuously reinforced and is spreading through all layers of the population in a worrying manner. Whoever states that they are a follower of Islam is looked at with suspicion and the idea that Western culture is superior and should prevail leads to the negation of religious freedom of Muslims. Anti-Semitism, too, often finds its foundation in the international situation and in the public debate, and there is evidence of a tangible revival of anti-Semitic prejudice.

Finally, institutions continue to be totally absent in the struggle against discrimination and racist behaviours suffered by Roma. Both local and national authorities carry out the most obvious forms of racial segregation against this group of people. Policemen are continuously denounced by non-governmental organisations operating for the protection of the rights of the Roma people, due to their way of treating and abusing gypsies during searches in gypsy camps and in daily life.
Notwithstanding a clearly unfriendly political context, due to the presence in the Government of openly xenophobic parties, steps forward have been made on the subject of the participation of third country nationals in political life: some municipalities – Genoa, Venice, Turin among them – and Regions (Tuscany, Emilia-Romagna, Friuli-Venezia Giulia) have promoted initiatives aimed at extending the active and passive electorate in local elections as well as at ensuring equal rights and non-discrimination. However, Italy has not issued any national action plan, ignoring the insistence of numerous NGOs and ENAR.

Criminal-law provisions punish discriminatory and racist behaviour, and a general prohibition of racial discrimination is provided by the Constitution. The issue of discrimination “on racial, ethnic, national or religious grounds” has been dealt with by the 1998 immigration laws, which introduced a new remedy, the “civil action against discrimination”, though it is still little used. In general terms, only labour law provides effective penalties against discrimination. It’s worth noting that in January 2006 the Parliament adopted an act, requested by the xenophobic party Lega Nord, which significantly weakens the penalties against hate speech and instigation to racial discrimination. As regards specific anti-discrimination legislation, the main development has been (2004) the opening of the new Bureau for the promotion of equal treatment (UNAR) mandated to receive complaints of cases of discrimination, analysing them and giving qualified assistance to victims and to promote studies, research, training awareness raising and disseminating information on the struggle against racism.
Italy is characterised by the presence, in almost every sector of social life, of a strong web of associations across the whole nation. This is also the case in the field of the protection of human rights and the fight against racism and xenophobia: there are thousands of NGOs active in every part of the country. It is, of course, impossible to describe them all; we can only say that civil society action has been decisive in guaranteeing the social, cultural, political and legal protection of the victims of racism. As regards legal protection we recall the crucial role of the lawyers and magistrates member of ASGI (Associazione Studi Giuridici sull’Immigrazione); as regards policy every year since 1995 ARCI organises the International Anti-Racist Meeting, a week of initiatives, where public and private bodies working in the fight against racism and exclusion across Europe, can meet and exchange ideas and opinions, share information on good practice and organise training workshops.

The Migrants’ Social Forum and the Coordination of Immigrants in Italy lead a daily struggle, which has deep roots all over Italy, defending third country nationals against institutional and social discriminations, including entry and residence regulations and detention centres, a struggle which is shared and actively supported by hundreds of NGOs. This is also the case of the struggle for civil and political rights, including the right to EU citizenship or residence, for social rights (housing, employment, health) and for equal treatment and opportunities.

A web of church-based organisations, trade unions and NGOs today constitute the main barrier which challenges racism and xenophobia, achieving relevant though still insufficient success.
Many anti-racist NGOs have not traditionally engaged in legal processes, often this is for the simple reason that there was little law for them to refer to. However the adoption of the EU Race Directive (see section ‘EU and anti-racism’) and the development of national law, means that now more than ever litigation has the potential to lead to real change for those who are vulnerable to racism and discrimination.

As anti-discrimination is a relatively new field of law, NGOs have a role to play in raising awareness regarding its potential. Consequently the strategic litigation has come to the fore as a useful advocacy technique. NGOs can both directly engage in strategic litigation and support others to do so by gathering data, assessing victims and engaging in advocacy.

“Strategic or impact litigation uses the court system to attempt to create broad social change”

The primary focus of strategic litigation is law or policy change rather than redress for an individual, though these two objectives are not mutually exclusive. Strategic litigation intends to reach beyond an individual case or victim, to create a context of enhanced protection for everyone who is vulnerable to discrimination. By changing law or setting precedents an individual case can have a ripple effect leading to change on a much broader level.

The concept of strategic litigation encompasses the selection of cases, case planning and management, as well as ensuring that favourable outcomes are implemented.

Not every NGO has the mandate or skills to engage in litigation, nor will litigation necessarily be the right strategy in many cases. Nonetheless, it is essential for all anti-racism actors to recognise the importance of strategic litigation as a tool for generating change.
At the institutional level, services available for victims of racism and discrimination are very poor. The most recent change has been the creation of the UNAR centre, set up by the Department for Equal Opportunities of the Presidency of the Council of Ministers. Since December 2004 a Contact Centre has been started, which can be reached via a toll free number, charged with receiving complaints about cases of discrimination and providing victims with qualified and prompt assistance or legal support. As regards Regional Monitoring Centres charged with providing information and legal assistance for victims of discrimination on racial, ethnic, national or religious grounds, only few local administrations have actually set up any service.

Mostly, initiatives carried on by NGOs, charities, trade unions and associations fill the gap left by institutional services. Associations offer many fundamental services, which have important results particularly in the local context; nevertheless some organisations (ASGI, ARCI, Caritas, trade unions) provide support all over the country.
National NGOs working on anti-racism are already seriously overburdened in their work to confront racism and discrimination. Why then should they also be concerned with what is going on in other European countries, and in the institutions of the European Union itself?

Developing an understanding of racism in Europe is essential for two key reasons. Firstly, to promote learning and knowledge about what racism is and how to combat it and secondly to generate common tools across the European Union to combat racism. Experience over the last ten years has demonstrated that national governments can be convinced to take action at a European level, where they may not have been prepared to move forward alone.

Racism has a distinctly European dynamic. Europe’s colonial history underlines its role in fostering both historical and contemporary forms of racism; and the 20th century does not cast a positive light on the European legacy. Despite this long history Europe began to take racism seriously relatively recently. Europe has a responsibility both to the people living within its borders, as well as internationally to take a leading role in promoting a vision of a world free from racism.

In 1997, Article 13 of the Amsterdam Treaty gave the European Union a legal base on which to develop ‘appropriate measures to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation’. Using these powers the European Union adopted the Race Equality Directive in June 2000 (and later that year the Employment Equality Directive).

While the Race Directive was due to be fully implemented by July 2003, at the beginning of 2006 some Member States have failed to implement it. This reality raises questions about the continuing commitment of EU Member States to combat racism and discrimination. However
the Directive does have direct effect, which means that individuals can assert it before national courts, even where it has not been implemented.

The Race Directive gives protection against discrimination in employment and access to a range of good and services, including social protection, health, social security and education. It puts forward a number of important definitions including: direct and indirect discrimination, harassment, and victimisation. Other significant aspects of the Directive are that it allows for positive action measures, the sharing of the burden of proof, and the establishment of equality bodies.

The principles enshrined in the Race Directive need to become core elements of anti-discrimination law and practice across the European Union. Strategic litigation is a tool to ensure that this happens. To this end, it expressly allows for NGOs to engage in proceedings in support of or on behalf of victims.

While Article 13 of the Amsterdam Treaty provided the context for developments in the field of anti-discrimination, Article 29 of the Treaty on European Union included reference to preventing and combating racism. While the European Commission proposed a Framework Decision against racism and xenophobia (racism as a crime) in 2001, developments in this policy area have been disappointing; the Council has failed to adopt the Framework Decision. In addition the European Union has competence in other policy areas that either directly or indirectly impact on the fight against racism, including: social inclusion, migration and asylum, and education.

The European Union is also involved in a range of other activities, including awareness raising (through the ‘For Diversity. Against Discrimination’ campaign) and funding of anti-racism projects. In 1997 the EU Monitoring Centre on Racism and Xenophobia (EUMC) was established. While the Centre is likely to be expanded to become a Fundamental Rights Agency in 2007, it will continue to focus on the problem of racism in Europe.
KEY LINKS AND SOURCES OF FURTHER INFORMATION AT NATIONAL LEVEL

ARCI: www.arci.it
ASGI: www.asgi.it
CESTIM: www.cestim.org
COSPE: www.cospe.it
ENAR: www.enar-eu.org/en/info/ass_i.shtml
Giuristi Democratici: www.giuristidemocratici.it
UNAR: www.pariopportunita.gov.it/IL-DIPARTI/-Ufficio-
Osservatorio Immigrazione Regione Piemonte: www.piemonteimmigrazione.it
Progetto Melting Pot: www.meltingpot.org
Stranieri in Italia: www.stranieriinitalia.it

KEY LINKS AND SOURCES OF FURTHER INFORMATION AT EUROPEAN LEVEL

EU Monitoring Centre on Racism and Xenophobia: www.eumc.eu.int
European Commission - anti-discrimination and relations with civil society: www.europa.eu.int/comm/employment_social/fundamental_rights/index_en.htm
European Network Against Racism (ENAR): www.enar-eu.org
European Roma Information Office: www.erionet.org
European Union: www.europa.eu.int
‘For Diversity. Against Discrimination’: www.stop-discrimination.info
Strategic Litigation of Race Discrimination in Europe: from Principles to Practice: www.migpolgroup.com/documents/2498.html
Strategies on Litigation Tackling Discrimination in EU Countries: www.solid-eu.org
This leaflet was prepared on behalf of ENAR in Italy and by the ENAR European secretariat. Download this leaflet: http://www.enar-eu.org/en/publication/national_leaflets/

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