



**MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL  
COOPERATION**  
*Inter-ministerial Committee for Human Rights*

*Italy's reply to the request of the  
Special Rapporteur on contemporary forms  
of racism, racial discrimination, xenophobia  
and related intolerance, Ms. E. Tendayi  
Achiume, for the preparation of the first  
thematic report on racism, racial discrimination  
and xenophobia in the context of laws, policies  
and practices relating to citizenship, nationality  
and immigration*

*March 2018*



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Following to the request of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Ms. E. Tendayi Achiume, for the preparation of the first thematic report on racism, racial discrimination and xenophobia in the context of laws, policies and practices relating to citizenship, nationality and immigration, Italian Authorities are in a position to provide the following information.

Aside from the ongoing parliamentary debate on reforming legislation on citizenship, in general, Italian citizenship remains the pre-condition for enjoying the active and passive rights to vote. Italians permanently living abroad or who were born abroad from Italians, enjoy the right to vote if registered in the electoral register (Art. 48 of the Italian Constitution) and EU citizens with permanent residence can participate in municipal elections. Recently ISTAT undertook a survey by which 72,1% of the citizens is favourable to granting Italian citizenship those children born in Italy from migrant parents. Similarly, the majority of respondents deems that citizenship should be granted to those migrants being resident in Italy for a certain period of time and wishing to apply for it. However, this positive note is not reflected when considering the extension of the right to vote for immigrants: only 42,6% declares to be favourable and only for the municipal elections.

- **Discrimination on grounds of race, colour, decent, or national and ethnic origin with regards to access to citizenship or naturalization**

The Italian legal system aims at ensuring an effective framework of guarantees, to fully and extensively guarantee the fundamental rights of the individuals, providing them with a wide range of protection means which have, as their core, the principle of non-discrimination set out at Art. 3 of the Italian Basic Law: “All citizens possess an equal social status and are equal before the law, without distinction as to sex, race, language, religion, political opinions, and personal or social conditions”. The main scope of the Basic Law emerges by its second paragraph that, in addition to establishing the autonomous principle of the so-called “substantial” equality and equal opportunities for all citizens in social, economic and political life, expresses a rule of interpretation to be reflected in the implementation of the principle of the so-called “formal” equality. In fact paragraph 2 describes the guarantee of non-discrimination *vis-à-vis* the results produced or to be produced in the concrete life relations, thanks to the primary constitutional imperative of removing the “de facto” limits to equality and to pursue the ultimate goal of the “full” self-determination of the individual along with the “effective” participation in community life.

Moreover Art. 16 of the Italian Constitution enshrines the right to freedom of movement. This right, together with the right to reside within State’s borders, the right to leave any country, including one’s own, and the right to return to one’s country and the right to nationality, is considered by the legislation on citizenship (Act No. 91/1992, Presidential Decrees No. 572/1993 and No. 362/1994).

Citizenship legislation applies to: Italians who have lost their citizenship and wish to reinstate it; descendants of Italian citizens claiming citizenship; and foreigners applying for Italian citizenship.

To give a comprehensive overview on the topic, Italian citizenship can be acquired in one of the following ways:

**(a) Automatic acquisition**

**Citizenship as a result of Italian parents/ancestors (“*iure sanguinis*”):** Children of Italian parents (mother or father) who are Italian citizens. Citizenship is passed on from parent to child without limitation of generation, on the condition that none of the ancestors has ever renounced their citizenship.

**Ascertainment of citizenship:** When a person claims to be of Italian parentage or ancestry but no proof of the fact can be found in Italian registers, it is necessary to provide proof that all ancestors have maintained, and thereby passed on, their Italian citizenship. The authority legally valid to ascertain these facts depends on the person’s place of residence: for foreign residents, the diplomatic-consular mission in the country of residence; for residents in Italy the official statistics office (Anagrafe) office of the city of residence.

**Citizenship granted to persons born on Italian soil (“*iure soli*”):** Italian citizenship is granted to persons born on Italian soil: whose parents are unknown, stateless or cannot pass on their citizenship to their child according to the laws of the State of which they are citizens; of unknown parentage found on Italian soil and whose natural citizenship is impossible to ascertain.

**Citizenship through judiciary ruling on natural paternity/maternity:** A child recognized or declared while a minor to be of Italian parentage. Persons of legal age recognised or declared as such must elect to become citizens within one year of that recognition. The following documentation must be annexed to the

declaration: birth certificate; act of recognition or authenticated copy of the ruling on paternity/maternity, or of an authenticated copy of a ruling that declares a foreign ruling binding in Italy, or an authenticated copy of a ruling acknowledging the right to child support or alimony; certification of parent(s)' citizenship.

**Citizenship by adoption:** The right to citizenship is extended to any minor child adopted by an Italian citizen by means of the provisions of the Italian Judiciary Authorities, or in the case of adoption abroad and rendered valid in Italy through an order issued by the Juvenile Court for enrolment in an official Italian statistics office (Anagrafe). Adoptees of legal age can acquire citizenship after 5 years of legal residence in Italy after the adoption (see naturalisation).

**(b) Acquisition by claim**

**Foreign descendants of Italians up to the second degree, or born in Italy:** Foreign or stateless descendants (up to the second degree) of Italian citizens can claim citizenship. Requirements include one or more of the following: service in the Italian armed forces; employment by the Italian Government, even abroad; residence in Italy for at least 2 years before reaching the legal age of 18. Claims must be accompanied by the following documentation: birth certificate; certificate of Italian citizenship of mother or father or a direct ancestor up to the second degree; certificate of residence, where requested.

**Foreigners, even those not of Italian descent, born on Italian soil** can claim Italian citizenship after continuous legal residence in Italy up to legal age, and upon declaration of their desire to do so. That declaration, to be presented within one year of reaching the age of 18, must be accompanied by the following documentation: birth certificate; certificate of residence.

**Citizenship by marriage to an Italian citizen:** The foreign spouse of an Italian citizen can claim Italian citizenship in the presence of the following requirements:

- (a) In Italy: two years legal residence (permit to stay and enrolment in an official statistics office (Anagrafe)) after the wedding; abroad: three years after the wedding; the timeframes are reduced by half in the presence of children born or adopted by the spouses;
- (b) Valid marriage certificate and permanence of marriage bond up until the issuance of citizenship;
- (c) Absence of convictions for crimes leading to a maximum penalty of 3 years in prison or convictions by a foreign judiciary authority of more than one year for non-political crimes;
- (d) Absence of convictions for any of the crimes listed in Book 2, Title I, items I, II and III of the Criminal Code (crimes against government personnel);
- (e) Absence of obstacles related to the security of the Republic;
- (f) Civil Union with an Italian citizen of the same sex.

Claims to Italian citizenship, addressed to the Ministry of the Interior, must be submitted to the Prefecture of the Province of residence, if in Italy; if residence is abroad, to the diplomatic-consular mission. Claims must include the reasons for claiming the right to Italian citizenship accompanied by proper documentation, duly legalized and translated. Pursuant to Ministry of the Interior Directive of 7 March 2012, as from June 2012 authority to issue citizenship decrees is assigned to: the Prefect for applications submitted by foreigners

legally residing in Italy; Head of the Department for Civil Liberties and Immigration in the case of a foreign spouse residing abroad; the Minister of the Interior in the case of reasons pertaining to the security of the Republic.

- **Gender discrimination affecting racial, ethnic and other minorities in access to citizenship and nationality**

The Support for Active Inclusion (SIA) is a measure promoted by the Ministry of Labour and Social Policies, to counter poverty by assisting financially families in economic difficulties. This is a national measure against poverty addressed to families in severe economic conditions where at least a member is: a child; son/daughter with disabilities; or a pregnant woman. The SIA combines two kinds of actions: ensuring an economic support paid into a personal electronic payment card that can be used for purchasing basic goods; activating a care project tailored on the specific households and involving its members.

In order to be entitled to SIA, it is necessary to meet the following requirements: to be Italian or EU citizen, or foreign citizen with a long-term EU stay permit, or to be resident in Italy for at least 2 years. The family is involved in an ad hoc project managed by the Municipal social services (coordinated at the territorial level) in coordination with other local services (i.e. job centres, health-care services, schools), third sector, and the community at large. The SIA-related action aims, in particular, at: empowering support schemes in order to strengthen the services dealing with the personal care planning of the household and to develop the integrated network of interventions involving other public agencies as well as not-for-profit organizations at a local level; ensuring measures such as training, internships, employment grants and social support actions, addressed to the members of the families that benefit from economic support.

- **Barriers to naturalization or access to citizenship of certain groups of long-term or permanent residents, of statelessness people and of other groups belonging to ethnic and racial minorities, including peoples with a specific migratory status**

As far as the naturalisation process legal residence in Italy is required for:

- 3 years for descendants of former Italian citizens up to the second degree and for foreigners born on Italian soil;
- 4 years for citizens of a European Union country;
- 5 years for stateless persons and refugees, as well as for adult foreigners over the age of 18 adopted by Italian citizens;
- 7 years for children adopted by Italian citizens before the entry into effect of Law No. 184/1983;
- 10 years for non-EU citizens.

No period of legal residence is required for foreigners who have been employed in the service of the Italian Republic for a period of at least 5 years, also abroad. Citizenship applications, addressed to the President of the Republic, must be submitted to the *Prefecture* of the Province of residence, accompanied by proper documentation.

With reference to the specific conditions of peoples from neighbourhood Balkan Countries, in particular those ones representing the Roma, Sinti and Caminanti Communities (RSC), they are under comprehensive monitoring and assistance for their social integration within the framework of the National Strategy for RSC inclusion 2012-2020, in compliance with the EU Commission Communication No. 173/2011. By recalling Art. 3 of the Italian Basic Law, ad hoc medium and long-term actions and measures have been provided for RSC Communities by institutional stakeholders as well as civil society in the field of education, health, labour, also deserving attention to countering racial discrimination, hatred and xenophobic social attitudes towards RSC.

- **Deprivation of citizenship on the basis of race, colour, decent, or national and ethnic origin,**

An Italian citizens can lose citizenship automatically or formally give it up.

*Automatic loss of citizenship:*

- Any Italian citizen who voluntarily enlists in the armed forces of a foreign government or accepts a government post with a foreign State, despite express prohibition by Italian law;
- Any Italian citizen who has served during a state of war with a foreign country, or held a government post or acquired citizenship in that State;
- Adoptees for which adoption is revoked by fault of their own, on the condition that he/she is in possession of or acquires citizenship in another country.

*Formal renunciation of Italian citizenship:*

- Adoptees of legal age following revocation of adoption by fault of their own, as long as they are in possession of or acquire citizenship in another country;
- Any Italian citizen resident abroad and that is in possession of, acquires or reacquires citizenship in another country;
- Anyone of legal age who acquired Italian citizenship as a minor following the acquisition or reacquisition of citizenship by one parent, as long as he/she is in possession of citizenship in another country.

A declaration renouncing citizenship is made before an official of the official statistics office (*Anagrafe*) of the Italian city of residence or, if residing abroad, before an authorised diplomatic-consular official, accompanied by requested documentation.

Minors do NOT lose Italian citizenship if one or both parents lose it or acquire foreign citizenship.

Women married to foreign husbands after January 1st 1948 who automatically acquired foreign citizenship did NOT lose their Italian citizenship.

### *Re-acquisition of citizenship*

Italian citizens who have lost their citizenship can reacquire it: Automatically one year from the date in which they established residence on Italian soil, unless they renounce it within that term of time.

By specific declaration:

- Serving in the Italian armed forces;
- By being or having been in the employ of the Italian Government, even abroad;
- If a foreign resident, once legal residence in Italy is established, within one year of the declaration for reacquisition submitted to the Italian consular authorities;
- Once legal residence in Italy has been established for at least 2 years, and it can be proven that the applicant has left the foreign government employ or military service undertaken despite express prohibition by Italian law.

With regard to all required documentation, whether for acquisition or renunciation of citizenship, Italian public administrations are officially obliged to acquire information, data and documentation already in possession of the Public Administration, pending submission by the party concerned of the elements indispensable to the retrieval of such information or data. Therefore, applicants (Italian, UE or non-UE citizens legally living in Italy) are not required to produce information or data already in the possession of the Italian Public Administration, but only the elements indispensable to the retrieval of such information or data. By Law Decree No. 69 of 21 June 2013, the application for Italian citizenship from a foreigner or stateless persons born in Italy could be completed by further documentation despite the non-availability by the Public Administration. The application can be monitored on an *ad hoc* website, following a proper registration by the private applicant. In 2013 a +54% of the applications has been granted (101,712), submitted mainly in northern Italy (72.2%), if compared with southern Italy and the islands (34.2% and 27.2% respectively).

### • **Statelessness resulting from discrimination on grounds of race, colour, decent, or national and ethnic origin in the granting, denial or removal of citizenship**

In addition to Act No. 91/92 and the recent ratification of the UN Convention on Reduction of Statelessness (Act No. 162/2015), relevant Ministry of Interior (Demography Services) Circulars, such as Circulars No. 14/2003 and No. 32/2004 are to be mentioned: some flexibility has been requested to the civil registry offices when considering the requirement of legal residence in case of failed registration of children by foreign parents. Plus, Bill A.S. 2148 specifically focuses on the recognition of statelessness and the situation of unaccompanied minors.

- **Laws, policies and practices restricting immigration on the basis of national and ethnic origin**

The beneficiaries of international protection have the same rights as Italian citizens; equal access to training courses, to job placing offices, housing services, health assistance, school for children and so on. In line with the EU Directive on reception conditions, Art. 22 of the Legislative Decree No. 142/2015 allows entrance in the labour market after only two months (before it was six months) once the application for international protection has been submitted, although it cannot be transformed into a work permit.

The beneficiaries of international protection are granted a residency permit for five years, which is renewable and can be transformed into work permit. They enjoy equal treatment as natives in term of paid employment, self-employment and inclusion on professional registers, vocational training and on-the-job-training. According to the agreement among State, Regions and Autonomous Provinces regulating access to the National Health system for foreigners, both applicants and beneficiaries of international protection can have access to the National Health System and are entitled to receive medical care regardless the domicile indicated in their permit of stay, being enough a self-declaration of place of stay or a declaration of hospitality. For asylum seekers and beneficiaries the Legislative Decree No. 251/2013 and its subsequent amendments, envisages equal treatment in terms of access to employment (for public employment are envisaged the same restrictions existing for EU citizens) welfare and housing.

Italy is adopting a National Integration Plan pursuant to Art. 29§3 of the Legislative Decree No. 251/2013. The National Coordination Board established at the Ministry of the Interior is working out the Plan that plays a fundamental role in defining, inter alia, a unified and comprehensive strategy and provides for effective tools to make it possible for beneficiaries of international protection to overcome their initial position of substantial disadvantage, promoting their real integration by offering equal opportunities to gain access to the economic and social system in Italy. The National Integration Plan, based on contributions offered by both national and local authorities, will focus primarily on aspects concerning methods for beneficiaries to achieve autonomy. The Plan should therefore provide the framework for national integration-oriented policies in the field of housing and job employment.

It is important to consider greater involvement by local authorities, and in particular social services, in the integration of individuals accommodated in reception centres. It therefore seems appropriate, on the one hand, to promote access to housing, in accordance with the applicable legislative provisions, and, on the other hand, to support the transition of asylum seekers and beneficiaries of protection through local volunteer activities, as indicated in the Circular of November 27, 2014 issued by the Head of the Department of Civil Liberties and Immigration of the Ministry of the Interior.

The National Integration Plan is also intended to stimulate the development of unified guidelines in the different regional contexts for measures intended to promote easy and effective access to medical care and vocational training. In this regard, in terms of job orientation, a useful support is given from specialised

operators in the labour market (in particular, the regional agencies with jurisdiction in terms of vocational training and job employment), who support migrants in their steps towards economic and social integration

On 22 June 2016 the Ministry of the Interior and the Confederation of Italian Industry (Confindustria) signed a Memorandum of Agreement (MoA) to promote vocational training and job-start schemes for beneficiaries of international protection which are hosted in the National Reception System for Refugees and Asylum Seekers (SPRAR). The MoA, a cooperative relationship between private and public sectors, aims at offering concrete opportunities to refugees to start a job-oriented pathway, by means of traineeships in enterprises and in-company placement. Confindustria committed itself to promoting and sponsoring the initiative amongst its associated companies which will offer — on a voluntary basis — their needs and availabilities, while the Ministry of Interior will identify the refugees (hosted in the SPRAR) eligible for the traineeship according to the geographical areas and in full respect of transparency and non-discrimination principles. The gradual inclusion of beneficiaries of international protection in the labour market, through the matching of specific manufacturing needs and job skills, is expected to make a vital contribution for the full integration of the refugees in the new country. Language courses for beneficiaries and applicants are organized at a local level and are financed by the AMIF (EU Fund for Asylum, Migration and Integration); in Italy all minors (both foreign unaccompanied and accompanied) have access to the national education system.

- **Racial discrimination with regards to the expulsion and deportation of non-citizens based on racial profiling**

As already above mentioned, the effective implementation of the principle of equality is one of the main pillars of our constitutional code, upon which the domestic legislative system is based: *“All citizens have equal social status and are equal before the law, regardless of sex, race, language, religion, political opinion, and personal or social conditions. It is the duty of the Republic to remove all economic and social obstacles that, by limiting the freedom and equality of citizens, prevent full individual development and the participation of all workers in the political, economic, and social organization of the country”* (Art. 3 of the Constitution). The Constitutional Court provides the evolutionary interpretation of the Constitution, which must be read jointly with other relevant instruments, such as Mancino-Reale Act, Legislative Decrees No. 215 and No. 216/2003 (by the latter Italy transposed Directives 2000/43/EU and 2000/78/EU), with the aim of prohibiting all forms of discrimination, including direct and indirect ones, based on race or ethnic origin, in any area or sector, both private and public; and regulating the prohibition of discrimination on grounds of religion or belief, disability, age or sexual orientation, with regard to employment and occupation.

The Constitutional Court stresses the equality between Italian citizens and non-Italian citizens in the enjoyment of basic human rights (Verdict No. 187/10) and that only the criterion of citizenship cannot be reasonable in itself.

On this matter, with regard to the right to freedom of thought, conscience and religion and the possible intersectionality of racial and religious discrimination, including the effects of anti-terrorism measures, which may lead to discrimination on ethnic grounds against members of specific religious communities, the applications against Italy for violations related to expulsions in front of the European Court of Human Rights might be mentioned to this scope.

The Strasbourg Court has handed down several judgments on this subject. In its judgments, the Court stressed the obligation to not return a person to a country where there is an actual risk of torture or ill-treatment, not only in the cases in which the expulsion has actually been carried out, but also if it has not, stating that, “[...] *dans l’éventualité de la mise à exécution de la décision d’expulser le requérant ..., il y aurait violation de l’article 3 de la Convention*”.

In light of the cases of *Ben Khemais; Trabelsi; Toumi and Mannai v. Italy* — who, *inter alia*, benefited from the safeguards contained in the European Convention — at the meetings of the Committee of Ministers 2010 (see Resolutions CM/Res DH 2010 82 and 83), Italy had already given assurance that, where it needed to proceed to the expulsion of a terrorist on which the Court had already issued an interim measure, it would preliminary request the Court to lift said measure and support the request with all the relevant documents (except for confidential documents) proving the dangerousness of the person concerned and the alleged danger for the security of the State in case of non-expulsion, or the absence of any risk in the Country of destination.

Moreover, subsequent to Mr. Mannai’s expulsion, a ministerial circular dated 27 May 2010 was issued in order to raise the judges’ of the peace [*giudici di pace*] awareness about the principles on expulsions laid down by the European Court’s case-law and notably on the need, when validating the relevant measure, to make a thorough judicial checking of it, verifying not only that it is formally correct, but also that it complies with international human rights law, or, specifically, with article 3 of the ECHR. That is to say that it has to examine the risk for a suspect terrorist of being subjected to torture or ill-treatment if s/he were expelled from the country.