ROMA OFF-IN
Work Package 2 - Data Collection

Guidelines for the analysis of National Standards

Reminder: Objectives of WP2 (Data Collection)

- Work package 2 aims at producing an **in-depth study of national legal norms** concerning **resocialization** and the **national specific policies for the social reintegration of offenders** and lastly the **relevant policies contrasting Roma discrimination** as well as the **European framework of standards** both on Roma social reintegration and offenders resocialization (European Prison Rules, CPT Reports, ECtHR case law).

These guidelines are a grid of data collection and analysis for the in-depth analysis of national legal and regulatory frameworks, including public policy on access to rights.

The objective of drafting common guidelines for all national studies on national standards is to ensure the harmonization and completeness of the analysis of domestic law.

By using the template please follow chapters and sub-chapters and make sure that the approximate length of the report is of circa 30-35 pages.
Preferred formatting: Document Word ; Police : Arial font, size 11, line spacing 1;

INTRODUCTORY PART: CONTEXTUALIZATION (3-5 PAGES)

The following elements are intended to clarify the context of detention, the prison system, the prison population and the gender perspective

i. Briefly describe the prison system in your country, highlighting the composition of the prison population (by gender, age, nationality and ethnicity)

The Italian prison system is regulated by Law n. 354/1975 (so called Penitentiary Law) and by the Presidential Decree n. 230/2000 (so called Enforcement Rules).
As one of its main principle, Italian penitentiary system is based on the principle of rehabilitative purposes of punishment, the principle laid down in the first place by the Italian Constitution.

The prison system is organized under the direct competence and responsibility of the Ministry of Justice, within which operates the Department of Penitentiary Administration (DAP), which deals with the organizational aspects of the prison system and the management of the administrative staff and prison officers. Operating at the district level, the Regional Superintendency of Penitentiary (PRAP) are the decentralized bodies of the Penitentiary Administration, which have competence within the region or multiple regions, in terms of staff, organization of services and institutions, intramoenia treatment and

probation. Directly depending from the PRAP are the Offices of External Penal Execution/Probation Offices (UEPE). These local authorities take care of services related to:
- The implementation of non-custodial sentences (outside of prison);
- The implementation of alternative measure to detention and Probation;

Currently in Italy places of detention are 207.

As far as the number of prison population is concerned, the total number of prisoners had dropped dramatically during the first year of the pandemic, rose again. It went from 53,364 at the end of 2020 to 54,134 at the end of 2021. At the end of March 2022, there were 54,609 inmates in our prisons (2,276 women, 4.2 per cent of the total , and 17,104 foreigners, 31.3 per cent of the total).

Prisoners - update as at 30 June 2022
Prisoners present and Ordinary capacity of penal institutions by region of detention

Region of detention	Number of prison Institutions	Ordinary Capacity (*)	Total number of Prisoners		Foreign prisoners
			Total	Women	
ABRUZZO	8	1.659	**1.824**	75	305
BASILICATA	3	420	**397**	0	50
CALABRIA	12	2.704	**2.774**	64	579
CAMPANIA	15	6.124	**6.726**	324	869
EMILIA ROMAGNA	10	3.007	**3.315**	139	1.584
FRIULI VENEZIA GIULIA	5	463	**598**	23	252
LAZIO	14	5.231	**5.667**	405	2.101
LIGURIA	6	1.133	**1.323**	61	731
LOMBARDIA	18	6.150	**7.962**	370	3.643
MARCHE	6	824	**808**	22	275
MOLISE	3	271	**346**	0	65
PIEMONTE	13	3.944	**4.015**	148	1.487
PUGLIA	11	2.896	**3.817**	183	567
SARDEGNA	10	2.575	**2.004**	31	422
SICILIA	23	6.447	**5.955**	199	904
TOSCANA	16	3.118	**2.994**	78	1.415
TRENTINO ALTO ADIGE	2	498	**426**	31	255
UMBRIA	4	1.336	**1.406**	48	420
VALLE D'AOSTA	1	177	**139**	0	86
VENETO	9	1.923	**2.345**	113	1.172

Total	**189**	**50.900**	**54.841**	**2.314**	**17.182**

Elaboration from data of the Italian Ministry of Justice

The official average overcrowding rate was 107.4%. Due to maintenance works, the real capacity of the institutions is often lower than the official one. It should also always be borne in mind that, if 107.4% is the official average crowding rate, in some regions the average overcrowding rate is decidedly higher (Apulia: 134.5%, Lombardy: 129.9%).

As of 31 March 2022, there were 2,276 women in Italian penal institutions, or 4.2 per cent of the total prison population. Over the last two decades, the percentage of women prisoners has always been around 4%. Looking at the trend of the percentage figure over the last thirty years, we see how significant variations occurred during the 1990s, reaching over 5% between 1991 and 1993 and falling to 3.8% in 1998. In the last two decades, the percentage of women prisoners has instead always been around 4%, undergoing some fluctuations but remaining constantly within the percentage point. Looking then at the rest of Europe, we see that the Italian figure this year is just over one percentage point below the European average of 5.3%, according to the latest statistics published by the Council of Europe.

Out of the 2,276 women prisoners, 576 are housed in the four exclusively female prisons in Italy. Exactly one quarter of the total. Specifically, in the two Rome Rebibbia and Pozzuoli prisons there are 321 and 146 female inmates respectively, while in the Venice and Trani prisons there are 64 and 45. The mitigated custody institution (Icam) for mother prisoners in Lauro houses eight women inmates together with their children under three years of age. The remaining three quarters of the women inmates were distributed among the 46 female sections in male prisons.

Mother-in-prison with accompanying children present in Italian penal institutions broken down by nationality

Region of detention	Prison Institute	Italian		Foreigner		Total	
		Women	Accompanying children	Women	Accompanying children	Women	Children
CALABRIA	**REGGIO CALABRIA"G. PANZERA" CC**	0	0	1	1	1	1
CAMPANIA	**LAURO ICAM**	6	6	4	4	10	10
LAZIO	**ROMA"G. STEFANINI" REBIBBIA FEMMINILE CCF**	0	0	2	3	2	3
LOMBARDIA	**MILANO"F. DI CATALDO" SAN VITTORE CCF**	0	0	4	4	4	4
PIEMONTE	**TORINO"G. LORUSSO L. CUTUGNO" LE VALLETTE 0 CC**	0	0	4	4	4	4
PUGLIA	**FOGGIA CC**	0	0	1	1	1	1
PUGLIA	**LECCE"N.C." CC**	1	1	0	0	1	1
TOSCANA	**FIRENZE"SOLLICCIANO" CC**	0	0	1	1	1	1
Totale		**7**	**7**	**17**	**18**	**24**	**25**

Note: Istituti a Custodia Attenuata per detenute Madri (ICAMs) are currently Turin "Lorusso e Cutugno", Milan "San Vittore", Venice "Giudecca", Cagliari and Lauro. When there are no mother inmates with accompanying children, the institute does not appear in the table.
Elaboration from data of the Italian Ministry of Justice

ii. Describe the state of the art of the relevant literature on Roma population in the penal and penitentiary system

In line with other European context, the Italian literature concerning Roma population has mainly focused on the historical and anthropological roots of the phenomenon of the presence of communities of Roma, Sinti and Travellers (RSC: Roma, Sinti, Caminanti).

One of the main study which shed light on the anthropological understanding of RSC is represented by the work of Leonardo Piasere, particularly in his comprehensive volume: Piasere L. (2004), *I rom d'Europa*, Laterza, Roma – Bari.

The work of Piasere represents one of the first and most in-depth deconstruction of the stigma attached to the Roma identity in Italy. Not only he describes the results of his lengthy ethnographic and ethno-historical research on Roma and Sinti communities in Europe, but he also attempts to describe the social stigma and discrimination faced by RSC population in Italy and Europe.

Among his various contribution to this field of research, some deserves to be cited here:
1991. *Popoli delle discariche. Saggi di antropologia zingara.* Roma: CISU. (Seconda edizione, 2005).
1999. *Un mondo di mondi. Antropologia delle culture rom*, Napoli, L'Ancora.
2004. *I rom d'Europa. Una storia moderna*, Laterza, Roma-Bari. (2a ediz. 2007; 3a ediz. 2008; 4a ediz. 2009; 5a ediz. 2016; ebook 2018).
2006. *Buoni da ridere, gli zingari. Saggi di antropologia storico-letteraria*, CISU, Roma.
2012. *Scenari dell'antiziganismo. Tra Europa e Italia, tra antropologia e politica*, Firenze, SEID. 2015a. *L'antiziganismo*, Macerata, Quodlibet. ISBN 9788874627332
2015b. *Mariages romanès. Une esquisse comparative*, Firenze, SEID. ISBN 978-888- 9473788
2018. *La Chiesa nomade. Per un'antropologia storica dell'evangelizzazione cattolica di Rom e Sinti in Italia*, Milano, Meltemi. ISBN: 9788883539473
(Edited by): 1991*. Europa Zingara, parte monografica di La Ricerca Folklorica*, n. 22.
1995. *Comunità girovaghe, comunità zingare*. Napoli: Liguori (con "Introduzione" pp. 3-38).
1996. *Italia romaní*, vol. I, Roma, CISU (con Prefazione).
1999. *Italia romaní*, vol. II. Roma, CISU (con Presentazione).
2000. *I significati della mendicità nelle culture zingare*, parte monografica di Polis. Ricerche e Studi su Società e Politica in Italia, XIV, 3.
2001 (with con M. Barontini), S. Caccini, La lingua degli Shinte rosengre e altri scritti, Roma, CISU. 11
2002. (with Stefania Pontrandolfo), *Italia romaní, vol. III: I Rom di antico insediamento dell'Italia centro-meridionale*, CISU, Roma.
2004. (with con Carlotta Saletti Salza), I*talia romaní, vol. IV: La diaspora rom dalla ex Iugoslavia*, CISU, Roma.
2004b. *I rom nella scuola italiana, parte monografica di Quaderni di sociologia*, n. 36.
2008 (with Massimo Aresu), *Italia romanì, vol. V: I cingari nell'Italia dell'Antico regime*, CISU, Roma.
2016. (with S. Pontrandolfo) *Italia romanì, vol. VI: Le migrazioni dei rom romeni in Italia*, Roma, CISU. Isbn: 9788879756297
2018. (with G. Solla) *I filosofi e gli zingari*, Roma, Aracne. ISBN 9788825509724.

One very important contribution to our field of study is the volume:
2014. (with Nicola Solimano and Sabrina Tosi Cambini*), Wor(l)ds Which Exclude. The Housing Issue of Roma, Gypsies and Travellers in the Language of the Acts and the Administrative Documents in*

Europe, Fiesole: Fondazione Michelucci Press, discussing the specific institutional discriminations and indirect discrimination perpetrated by the same language of administrative and legal acts.

Very few studies focused specifically on the legal aspect connected with this phenomenon. Particulrly relavant, in this context are the studies concerning the legal status of RSC in Italy and their particular relationship with the Italian legal order:
Simoni A., Stato di Diritto e Identità Rom, L'Harmattan Italia, Torino, 2005;
Bonetti P., Simoni A., Vitale T. (a cura di) (p.45 ss.), "La condizione giuridica di Rom e Sinti in Italia", Giuffré, Milano, 2011.

The creation in Italy of UNAR (Ufficio Nazionale Antidiscriminazioni Razziali), established in 2003 (with legislative decree no. 215/2003) following an EU directive (no. 2000/43/EC), which requires each Member State to activate a body specifically dedicated to combating forms of discrimination[1] constituted an important step to activate research on discrimination concerning RSC.
One relevant publication derived from these studies:
Catania D. e Serini A. (a cura di), *Il circuito del separatismo Buone pratiche e linee guida per la questione Rom nelle Regioni Obiettivo Convergenza*, Armando Editore, Collana UNAR, Diritti Uguaglianza Integrazione, Roma, 2011.

UNAR constitutes the National Contact Point of the Roma, Sinti and Caminanti Inclusion Strategy. The objective of the National Strategy for the Inclusion of Roma, Sinti and Caminanti (RSC) is to guide over the course of almost a decade (2012-2020) a concrete activity for the inclusion of Roma, Sinti and Caminanti, definitively overcoming the emergency phase that, in past years, had characterised action especially in large urban areas. The RSC Strategy was presented on 24 February 2012 in implementation of the European Union Commission's Communication No. 173 of 4 April 2011, in which member states were urged to develop national strategies for the inclusion of the Roma populations. For the implementation of the Strategy, in terms of governance, a rather complex structure was chosen, in connection with the Ministries of Labour and Social Policy, the Interior, Health, Education, University and Research and Justice, and with the involvement of representatives of regional and local authorities, including the mayors of large urban areas and the same representatives of the Roma, Sinti and Caminanti communities in Italy. From a methodological point of view, four axes of intervention were identified, which gave rise to as many tables and working groups: housing, health, education and work.

The text of the National Strategy[2], *Strategia nazionale d'inclusione dei rom, dei sinti e dei caminanti attuazione comunicazione Commissione Europea n.173/2011*, represents a very coprehensive analysis of the the condition of rom, sinti and caminanti communities in italy, presenting the international and domestic legal framework, the community debate, and analyzing their presence in italy (demographic issues; analysis statistics; migration flows and legal status).

The second part of the document present the principles, aims, objectives and commitments of the Italian government based on the human rights approach and human rights education, on preventing and combating discrimination, on a gender-sensitive approach. Finally the axes of intervention and the specific objectives are presented: education, training and promotion of access to employment, health and social services, housing and access to housing.
The National Strategy responds to the need not only to provide the European Union with the answers that have so far been lacking, but at the same time to "mark out a Strategy that can guide in the coming years, a concrete activity for the inclusion of the Roma, Sinti and Caminanti (RSC), definitively overcoming the emergency phase that, in past years, has characterised action especially in large urban

[1] In particular, UNAR is responsible for monitoring causes and phenomena related to all types of discrimination, studying possible solutions, promoting a culture of respect for human rights and equal opportunities and providing concrete assistance to victims.
[2] Available at : https://unar.it/portale/documents/20125/51449/Strategia-Rom-e-Sinti.pdf/2d0685a5-fdc5-d722-80d9-96914f46f148?t=1619795400688

areas. On the other hand, the main axes of intervention involve the roles, functions and competences of different Administrations, which must contribute in a coordinated manner to the objective that the Government has set itself in the EU framework."[3]

Another institutional publication deserves a mention: Senato della Repubblica – Commissione Straordinaria per la tutela e la promozione dei diritti umani, intitolata "Rapporto conclusivo dell"indagine sulla condizione di Rom, Sinti e Caminanti, in Italia", 9 Ferbuary 2011[4].

The national Institute of Statistics, ISTAT published another very important e-book documenting the presence, demographic issues; analysis statistics; migration flows and legal status of RCS population in Italy:
ISTAT, *Fonti di dati sulla popolazione Rom, Sinti e Caminanti*, Istat, April 2017.

Interestingly enough, very few studies can be found in Italy on the special condition of RSC population in the penal and penitentiary system in Italy. The main studies on this field concerns Juvenile prisoners or RSC minors facing the Juvenile Criminal System and even in this particular field, the analysis of prisoners of RSC origins does not represents the main subject:
Scivoletto C., *Il sistema penale minorile, dopo 30 anni, tra ritardi e nuovi slanci*, Carocci, Roma, 2001 and
Scalia V. 2004 (con Ettore Canavera) Detenuti minori, in Antigone in Carcere, (a cura di) Giuseppe Mosconi e Claudio Sarzotti, Carocci, Roma, pp.190-195.

One very important exception is the study of Scalia on the ethnic dimension in the juvenile justice:
2005 "Supporting and Sanctioning. Foreign juveniles in the Bologna juvenile justice court", in *Youth crime and juvenile justice. The challenge of ethnic diversity*, (eds.) N. Queloz-F.Butikofer Repond, R.7 Brossard, B.Meyer Misch, Staempli, Bern, pp.541-560.

An interesting study on Social Inclusion from a general perspective (not specifically concerning re-inclusion after a prison experience) is:
Strati F., "ITALY- Promoting Social Inclusion of Roma - A Study of National Policies", Studio Ricerche Sociali (SRS), 2011.

For its importance, the case-study on Italy that can be found in the Study of the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the LIBE Committee: *Scaling up Roma Inclusion Strategies Truth, reconciliation and justice for addressing antigypsyism*, February 2019, © European Union, 2019[5], deserves to be included in this report.

A very interesting publication, which is particularly relevant since many of the issues related to anti-roma discrimination concerns housing is:
Tosi Cambini S. (2013), "Accesso All'abitazione e Problemi Di Salute Delle Popolazioni Rom e Sinti," in *Stranieri e Disuguali Le Disuguaglianze Nei Diritti e Nelle Condizioni Di Vita Degli Immigrati*, ed. Chiara Saraceno, Nicola Sartor, and Giuseppe Sciortino Bologna: Il Mulino, Bologna, pp. 225–50.

[3] Ivi, p. 5.
[4]Available at :
https://www.senato.it/application/xmanager/projects/leg17/file/repository/commissioni/dirittiumaniXVII/RELAZIONE_FINALE_COMMISSIONE_DIRITTI_UMANI_SENATO.pdf
[5] Available on the internet at: http://www.europarl.europa.eu/supporting-analyses.

1. NATIONAL LEGAL NORMS CONCERNING RESOCIALIZATION AND THE NATIONAL SPECIFIC POLICIES FOR THE SOCIAL REINTEGRATION OF OFFENDERS (13-20 PAGES)

1.1 Please describe the national system of legal norms concerning resocialization

The Italian Constitution serves as the main legal source concerning resocialization resulting from a criminal sanction. Article 27 of the Constitution, third paragraph reads: “Punishment can not consist in treatment contrary to human dignity and must aim at rehabilitating the offender.”

In fact, the preparatory works of our Constitutional Charter show how, in the heated debate on the third paragraph of Article 21 (which later became Article 27 of the Constitution), there was a clash between a vision that wanted to avoid the introduction of a privileged perspective in the wake of the multifunctional theory of punishment, and one (which finally prevailed), which did not so much want to proclaim the superiority of the penological orientation of the Positive School, but, as Elvio Fassone recalls, to express a new political sensitivity:

“Many of the Constituents had experienced Fascist jails, had reversed their function as intellectuals in a long political praxis, and in a real contact with the kind of humanity living in prisons...the "re-education of the condemned" became the concept that best reconciled the need to preserve a response to crime with the objective of a growing integration of the masses in the State... Once the identity between State and citizens has been recovered, once sovereignty has been assigned to the people and the role of protagonists of political choices has been restored to them, the concept of re-education loses all paternalistic imprint and can become a vehicle not of 'human reclamation' but of promotion”[6].

In the articulated interpretative ridge followed, over time, by the Constitutional Court, the argumentation has been carried out, on the one hand, by enhancing the multifunctional notion of punishment, and on the other hand, by sanctioning a real right to “re-education”: for the first time with sentence 204/1974, on the subject of early release, the Constitutional Court states that: "The institution of conditional release represents a particular aspect of the executive phase of the punishment restricting personal liberty and is part of the ultimate and decisive aim of the punishment itself, that is, to tend to the social rehabilitation of the convicted person... On the basis of the constitutional precept there arises, consequently, the right for the convicted person to have the conditions laid down by the rule of substantive law verified, the prolongation of the realisation of the punitive claim reviewed in order to ascertain whether in fact the quantity of sentence served has or has not positively fulfilled its re-educational purpose; this right must find in the law a valid and reasonable jurisdictional guarantee".

In Italy, it is only with the penitentiary reform in 1975 (Law No 354 of 1975), that the legislator acknowledges and implements Article 27 of the Constitution. In a faithful implementation of the constitutional precept, Article 1 of Law No 354 of 197, labelled “Treatment and Reeducation”[7], states

[6] E. FASSONE, *La pena detentiva in Italia dall’800 alla riforma penitenziaria*, Il Mulino, Bologna, 1980, pp. 71-72.

[7] Art. 1 Treatment and re-education (1) :

1. Prison treatment shall conform to humanity and ensure respect for the dignity of the individual. It shall be characterised by absolute impartiality, without discrimination on grounds of sex, gender identity, sexual orientation, race, nationality, economic and social conditions, political opinions and religious beliefs, and shall conform to models favouring autonomy, responsibility, socialisation and integration.
2. Treatment tends, also through contacts with the external environment, towards social reintegration and is implemented according to a criterion of individualisation in relation to the specific conditions of the persons concerned.
3. Every person deprived of liberty is guaranteed fundamental rights; any physical and moral violence against him/her is forbidden.
4. In the institutions, order and discipline shall be maintained with respect for the rights of persons deprived of their liberty.

that "prison treatment must be in conformity with humanity and must implement respect for the dignity of the person".The principle of 'humanisation' - also taken up in art. 4 of the Charter of Fundamental Rights of the European Union, and subsequently by the Recommendation adopted by the Committee of Ministers of the Council of Europe- at the time of execution of the sentence, strengthens the protection accorded to the value of the person, whose inviolable rights must be protected in all cases, even in the very special prison condition. Thus the principle of humanity finds concrete application through the prohibition of particularly intense or degrading afflictive profiles of the executive discipline of the different types of punishment.

Article 13 of the 1975 Law[8] lays down the fundamental principle of the "Individualised treatment".

Regarding the concept of rehabilitation, it can not be identified with interior repentance, moral and spiritual amendment, theoretically possible in any condition. But it is intended as a relational concept, referring to a social life, and implies an active return of the person into the community. To rehabilitate the offender means to reactivate his respect for the fundamental values of social life; re-education must be intended as a synonym for "social rehabilitation" and "re-socialization".

It is important to note here that the notion of rehabilitation in Italy needs to be intended in line with the elaboration of the Europan Court of Human Rights. Starting with *Dickson*[9], the European Court made express reference to the English term 'rehabilitation' (or the French '*réinsertion*'[10]) in order to frame the

5. Restrictions may not be adopted that cannot be justified by the need to maintain order and discipline and, with regard to defendants, are not indispensable for judicial purposes.
6. Prisoners and internees shall be called or referred to by their names.
7. The treatment of defendants shall be strictly in accordance with the principle that they shall not be considered guilty until finally sentenced.

[8] Article 13
Individualisation of treatment:
Prison treatment must respond to the particular personality needs of each individual, encourage aptitudes and enhance skills that may be supportive for social reintegration.
Scientific observation of the personality shall be arranged for sentenced persons and internees in order to detect the psychophysical deficiencies or other causes that led to the offence and to propose a suitable rehabilitation programme.
As part of the observation, the person concerned is given the opportunity to reflect on the criminal act committed, the motives and consequences produced, in particular for the victim, as well as possible remedial action.
Observation is carried out at the beginning of the execution and continued during it. For each offender and prisoner, on the basis of the results of observation, indications are formulated as to re-educational treatment and the relevant programme is drawn up, which is supplemented or amended according to the needs arising in the course of execution. The first formulation is drawn up within six months of the commencement of execution.
The general and particular details of the treatment shall be entered, together with the judicial, biographical and medical data, in the personal file that follows the person concerned in his or her transfers and in which the development of the treatment carried out and its results are subsequently noted.
The cooperation of sentenced persons and internees with observation and treatment activities must be encouraged.

[9] *Dickson v. United Kingdom* [GC], no. 44362/04.

[10] The terminology is not neutral. The concept of 'rehabilitation' has been a source of controversy in the literature, during the 80's (See, F. Allen, *The decline of the rehabilitative ideal*, New Haven, Yale University Press, 1981, and, in general, D. Garland, *The Culture of Control*, Oxford, Oxford University Press, 2001) and has been superseded by terms (and concepts) like social reintegration or resocialization, especially in the continental European penology. Some authors have understood this different terminology as embedded in a different normative ideology: the Anglo-american concept of rehabilitation as opposed to the continental (mainly German, but also Italian made) concept of resocialization or social reintegration (See the excellent, L. Lazarus, *Contrasting Prisoners' Rights: A Comparative Examination of England and Germany*, Oxford Monographs on Criminal Law and Justice, 2004, explaining this different approach and assessing why when the 'rehabilitative model' was facing a crisis og political legitimacy, German penologists, as well as legislators, policy makers and reformers shared a

possible objectives of a prison sentence. If traditionally, scholars have considered retribution, prevention (deterrence), protection of the public (incapacitation) and rehabilitation as legitimate prison objectives, more recently, "there has been a trend towards placing more emphasis on rehabilitation, as demonstrated notably by the Council of Europe's legal instruments[11]". This shift is based on a different understanding of the concept of rehabilitation.

The Court is building its own, autonomous concept which is no more grounded on the Anglo-American (negative) version of mere rehabilitation "as a mean of preventing recidivism[12]", but rather as a positive "idea of re-socialisation through the fostering of personal responsibility[13]". The Court further clarifies "the legitimate aim of a policy of progressive social reintegration of persons sentenced to imprisonment"[14]. In its most recent case law on life sentences, the Court expanded the concept of social rehabilitation or resocialisation, indissolubly connecting it with human dignity. Drawing from the German Federal Constitutional Court's statement that "the prison authorities have the duty to strive towards a life sentenced prisoner's rehabilitation and that rehabilitation was constitutionally required in any community that established human dignity as its centrepiece"[15], the Court established the same link between human dignity and rehabilitation, referring to :

> the Convention system, the very essence of which, as the Court has often stated, is respect for human dignity (see, inter alia, Pretty v. the United Kingdom, no. 2346/02, § 65, ECHR 2002-III; and V.C. v. Slovakia, no. 18968/07, § 105, ECHR 2011 (extracts)).[16]

Subsequently, in *Murray*, the Court specified that the deprivation of liberty can be compatible with human dignity only if it strives towards rehabilitation[17]. This perspective has contributed to the elaboration of a case law which defines rehabilitation as a positive obligation for member states. The Court underlined that there is no obligation to rehabilitate, but an obligation to give prisoners a real chance to rehabilitate themselves. This obligation is, therefore, an obligation of means, not of result[18]. Nevertheless, it is a positive obligation which implies a State effort to enable prisoners to make progress toward their rehabilitation[19]. When the possibility of progress is undermined by an impoverished prison regime, coupled with deleterious material conditions of detention[20], the State has failed its positive obligation

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commitment to 'resocialization' as a substantive aim of imprisonment). More recently terms such as 'reintegration' have been used in order to potentiate the idea of a full legal position of the prisoner (See, Van Zyl Smit., S., Snacken S., *Principles of European prison law and policy*, cited). Finally the concept of (re)integration is used by Article 6 of the 2006 version of the European Prison Rules: "6 All detention shall be managed so as to facilitate the reintegration into free society of persons who have been deprived of their liberty". The Italian Constitution specifies that punishment shall aim to 're-educate' the person upon whom sentence is passed (see Article 27: 'Punishment cannot consist in treatment contrary to human dignity and must aim at re-educating the condemned.' See for references to case law of the Italian Constitutional Court , ECHR, *Vinter and others v. the United Kingdom* (§ 72). For an historical and theoretical account of the 're-educative' principle in the Italian constitutional history, see, A. Pugiotto, *Il volto costituzionale della pena (e i suoi sfregi)*, *Diritto Penale Contemporaneo*, 2014.

[11] *Dickson*, cited, §28.

[12] Ibidem.

[13] Ibidem.

[14] *Boulois v. Luxembourg* [GC], no. 37575/04, § 83, with further references to *Mastromatteo v. Italy* [GC], no. 37703/97, § 72, 2002-VIII; *Maiorano and Others v. Italy*, no. 28634/06, § 108, 15 December 2009; and *Schemkamper v. France*, no. 75833/01, § 31, 18 October 2005.

[15] *Lebenslange Freiheitsstrafe*, 21 June 1977, 45 BVerfGE 187 (Life Imprisonment case). For an English translation of extracts of the judgment, see D.P. Kommers, *The Constitutional Jurisprudence of the Federal Republic of Germany (2nd ed.*), Duke University Press, Durham and London, 1997 at pp. 306-313.

[16] *Vinter v. U.K.,* [GC], nos. 66069/09, 130/10 and 3896/10, §113.

[17] *Murray v. the Netherlands*, no. 10511/10, §101.

[18] *Harakchiev and Tolumov v. Bulgaria*, nos. 15018/11 and 61199/12, §264.

[19] *Murray*, cit, §104.

[20] *Harakchiev,* cit, §266.

towards rehabilitation and additional State action is required. As Snacken and van Zyl Smit put it:

> Indeed rehabilitation and social reintegration are only possible if prison regimes provide opportunities for prisoners, not only to better themselves in various ways, but also to participate in activities that limit the detrimental effects of the detention itself. This encompasses normalization of the prison regime and the full recognition and implementation of their fundamental rights.[21]

The scope of the positive obligation to provide the possibility of rehabilitation is further broadened when the Court affirms that the rehabilitation and reintegration penological paradigm "has become a mandatory factor that the member States need to take into account in designing their penal policies"[22]. Nonetheless, as noted in the joint concurring opinion to *Khoroshenko*, the Court failed to draw clearly and unequivocally the consequence from the *Vinter v. United Kingdom* judgment, by acknowledging the rehabilitative aim as the primary purpose of imprisonment[23]. At the same time, the opinion highlights the inconsistency of the Grand Chamber's statement on rehabilitation and reintegration as "mandatory factors" in designing penal policies and on "narrowing of the margin of appreciation left to the respondent State in the assessment of the permissible limits of the interference with private and family life in this sphere[24]", on the one hand, and the affirmation that "Contracting States enjoy a wide margin of appreciation in questions of penal policy[25]", on the other hand. In order to enhance the findings in *Vinter* and *Murray* and to give value to the concept of rehabilitation and social reintegration as defined in *Dickson*, an individualised sentence plan can be seen as the "cornerstone of a penal policy aimed at resocialising prisoners[26]". Thus, the individualised sentence plan "under which the prisoner's risk and needs in terms of health care, activities, work, exercise, education and contacts with the family and outside world should be assessed[27]" should be considered as another dimension of the State obligation deriving from a rehabilitation-oriented perspective grounded on human dignity and Article 3 of the Convention.

The rehabilitation-oriented paradigm stemming from the Strasbourg case law is an architecture that rests on Article 3 and ultimately on human dignity, which lays at the very basis of the construction. From human dignity originates the autonomous concept of rehabilitation as an idea of re-socialisation through the fostering of personal responsibility, as well as the States' obligation to give prisoners a real chance to rehabilitate themselves. This positive obligation has three components: firstly, to take into account rehabilitation and social reintegration perspectives as mandatory factors in designing penal policies, secondly, to recognize the rehabilitative aim as the primary purpose of imprisonment, and thirdly, last but not the least, to propose an individualized sentence plan under which the prisoner's risk and needs in terms of health care, activities, work, exercise, education and contacts with the family and outside world should be assessed.

1.2 Please mention the specific policies (both at a national and local level) for the social reintegration of offenders

With the reform of the prison system and in particular with the approval of the Presidential Decree no. 230 of 30.6.2000-Enforcement Rules (laying down rules on the prison system and on the measures

[21] Van Zyl Smit., S., Snacken S., *Principles of European prison law and policy*, p. 83.
[22] *Khoroshenko v. Russia*, [GC], no. 41418/04), § 121.
[23] Ivi, Joint Concurring Opinion of Judges Pinto de Albuquerque and Turković, §§ 2-8
[24] *Khoroshenko,* cit, §§ 121 and 136.
[25] Ivi, §132.
[26] Ivi, Joint concurring opinion, cited,§10.
[27] Ibidem. See also, *Murray*, cited, Partly Concurring Opinion of Judge Pinto de Albuquerque, §2 and *Tautkus v. Lithuania*, n. 29474/09, Dissenting Opinion of Judge Pinto de 2querque on the international obligation to provide an individual sentence plan.

deprivation and restriction of liberty) the social reintegration activity is based on the ability of motivating and empowering the detainee, with an program of individualized treatment prepared by assessing his/her personality characteristics. In order to foster social reintegration, the “scientific observation of the offender's personality”[28] is followed by a direct interview ascertaining the needs of each subject, connected to any physical, psychological, affective, educational and social deficiencies that have represented an obstacle to the foundation of a normal relationship life. In particular, the "first entry interview" allows to acquire all the information relating to the family and socio-cultural context of belonging, also in order to measure the opportunity to extend an individualized program towards family members.

The identification of the treatment is entrusted to the members of the GOT (Obervation and Tratment Group) who work with the help of a team of psychologists, criminologists, psychiatrists, who also devise guidelines for designing an individualized path suitable to the offender's personality. The Surveillance judge must decide on the basis of the indications provided to him/her, also deciding on the possible granting of benefits and alternative measures to detention.

In the penitentiary system created by the 1975 reform, scientific observation of personality represents the method by which the Administration must promote the social reintegration of offenders, by removing the causes of social maladjustment considered to be at the root of criminal deviance, according to the definition in Article 13 of Law no. 354 of 26 July 1975 (Penitentiary Regulations).

Observation is carried out, in accordance with the provisions of Article 28 of Presidential Decree no. 230 by the observation team, made up of staff employed by the administration: legal pedagogical officers, social service officers, prison police officers and, if necessary, also by the professionals indicated in Article 80 of the prison regulations: experts in psychology, social service, pedagogy, psychiatry and clinical criminology, under the coordination and responsibility of the director of the institution.

Article 27 of the Enforcement Rules specifies the methodology to be followed during observation, including documentary acquisition of judicial and penitentiary, clinical, psychological and social data conducting interviews with the subject under observation on the basis of the data acquired, aimed at stimulating the process of so-called critical review, i.e. a reflection on the unlawful conduct put in place, on the motivations and negative consequences of the same for the person concerned and on the possible actions to remedy the consequences of the offence, including compensation due to the offended person.
Observation is carried out at the beginning of the execution of the sentence and continued during it in order to record the evolution of the prisoner's or inmate's personality in relation to his or her degree of adherence to the treatment offers.

The observation team, formed by the persons indicated in Article 29(2), meets to draw up the summary report of the scientific observation of the personality containing a proposal for a treatment program to be approved by decree by the Surveillance judge.

The treatment program consists of the set of re-educational interventions that prison staff propose to implement in respect of the offender or prisoner during the execution of the sentence.
Distinct from the observation team, the Observation and Treatment Group (G.O.T.), defined by the circular of 9 October 2003 on Educational Areas. Compared to the team, the G.O.T. is an "enlarged group" to which all those who (in addition to the team members) interact with the detainee or who collaborate in the treatment of the detainee (prison police staff, teachers, volunteers, etc.) are or can be called upon to belong, under the coordination of the pedagogical legal officer.

[28] See Article 27, 28 e 29 of Presidential Decree 230/2000.

The G.O.T. meets periodically - always coordinated by the head of the educational area - both before and after observation, for checks and updates on the prisoner's situation.
It is also essential to foster the cooperation of the social community, local authorities and associations that can facilitate social rensertion after release from prison.

A successful treatment requires that each professional contributes to creating an atmosphere of human relations, trust and cooperation so that the subject actively participates in the process for his or her social reintegration, according to the provisions of Article 4(1) of Regulation No 230/2000.

Certainly the 1975 reform, in perfect harmony with constitutional principles, introduced positive innovations to respond to the main need to improve the conditions of life of prisoners and to decrease the distance between prison and free society.

Nevertheless, the analysis of the application of these norms provides disappointing data on the whole. The presence of inadequate and dilapidated penitentiary institutes, the conditions of prison overcrowding, together with the lack of economic and human resources have sanctioned the defeat of the constitutional principles aimed at rationalising and humanising the punitive treatment.

In this respect, the impact of the jurisprudence of the European Court of Human Rights has been significant, particularly on the issue of overcrowding and conditions of detention.

In Italian penal institutions, inmates are subjected to inhuman treatment due to the fact that they are forced to share, often, very small cells (each cell occupied by three inmates and for each one a living space of less than three square metres), in much smaller spaces than permitted by law, often without hot water and with insufficient light due to metal bars affixed to the windows. The situation of degradation of Italian detention institutions "is not the consequence of isolated episodes, but originates from a systemic problem resulting from a chronic malfunctioning of the Italian prison system which has affected and may still affect many people in the future", as the European Court stated in the *Torreggiani* Pilot judgment.

The situation in prisons turns out to be even more dramatic in the light of a general observation of the relationship that exists between the degree of afflictiveness of prison sentences and the overall living conditions of society in a given period. If the latter in the course of republican history have improved by far, in comparison, the level of afflictiveness of punishment has considerably increased.

1.3 Please describe how these norms and policies adapt (if so) to specific vulnerable groups, particularly considering the ethnicity and Roma population with a focus on the intersectional ground of gender

Please mention the major developments and trends in the national legislation regarding these issues to reflect the orientation of the relevant public policies.

Interestingly enough, Article 1 of the Italian Penitentiary Law express clearly the anti-discriminatory paradigm lying at the basis of prison treatment, by stating that:

“Prison treatment shall conform to humanity and ensure respect for the dignity of the individual. It shall be characterised by absolute impartiality, without discrimination on grounds of sex, gender identity, sexual orientation, race, nationality, economic and social conditions, political opinions and religious beliefs, and shall conform to models favouring autonomy, responsibility, socialisation and integration”.

The Italian penitentiary system is therefore open to include the perspective of the protection of vulnerable groups. Nevertheless the Italian system has not developed so far an integrated strategy for including the ethnicity as a relevant issue in developing a successful individualized treatment.

One of the main critical point being the endemic lack of linguistic and cultural mediators in Italian prisons. As the European standards highlight, a successful integration strategy will need to take into account the role of mediators, particularly including:
systematic consultation, participatory planning and evaluation allowing the members of Roma communities to express their needs and concerns, and to be actively involved in finding the most appropriate solutions to the problems facing their local community in co-operation with representatives of the public institutions;

intercultural sensitivity, non-violent communication and conflict mediation, based on good knowledge of the “cultural codes” of the community and of the relevant institutions;

impartiality: the mediator should work, and be able to work, in a balanced way with both the public institution and members of Roma communities to help overcome cultural and status differences and focus on improving communication and co-operation and on stimulating both parties to take responsibilities and engage with each other; legitimate interests of both parties should be recognised;

promote a favourable environment at local level for the work of mediators, notably by increasing the capacity of local and regional authorities to develop and implement effective policies for Roma integration.

Unfortunately, in spite of the the importance of linguistic and cultural mediation, the institutional response in terms of the implementation of resources in this area turns out to be totally lacking. Article 15 of the Penitentiary Law includes within the treatment plan 'education, work, religion, cultural, recreational and sports activities, facilitating appropriate contacts with the outside world and relations with the family'.

Given the confluence of these factors in the treatment plan, the linguistic and cultural mediator seems to be a crucial presence for the concrete implementation of these re-educational assumptions, both from an intramural point of view, facilitating the mechanisms of understanding and communication of the foreign detainee in the dynamics of everyday detention, both from an extra-curricular point of view, by fulfilling the task of intermediary for the maintenance and development of the network of social relations that affect the relationship between the inmate, the surrounding area and possible connections in the countries of origin.

Article 35 of Presidential Decree 230/2000 provides for the presence of mediators within the prison: 'the intervention of cultural mediators must be encouraged, also through agreements with local authorities or voluntary organisations'. Finally, the most recent provision on the subject can be found in the renewed Article 80 of the Penitentiary Law, which, following the amendment introduced by Legislative Decree No. 123 of 2018, saw the inclusion of the cultural mediator among the expert professionals the prison administration may use for observation and treatment activities.

The fact that the cultural mediation activity should only be favoured and that the prison administration can decide whether to make use of this resource explain why there are only 176 mediators officially working in detention facilities in Italy. Among these 176 mediators actually working inside the institutions there are many volunteers. In addition to these, there are also professionals who serve thanks to grants with public or private bodies on a regional or provincial basis.

2. RELEVANT POLICIES CONTRASTING ROMA DISCRIMINATION (3-5 PAGES)

2.1 Please describe the relevant policies contrasting Roma discrimination at a national level, highlighting relevant local experiences with a focus on the gender perspective and on the intersectional dimension of these factors

Introduction: Roma in the Italian society and culture:

Due to the relevance and insights, unique among the Italian literature, as stated above, it is considered useful to include the case study on Italy, developed by Silvia Cittadini in the *Study of the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the LIBE Committee: Scaling up Roma Inclusion Strategies Truth, reconciliation and justice for addressing antigypsyism*, February 2019, © European Union, 2019.

Societal and public policy context

The Roma minority in Italy represents a very limited portion of the total population. According to the Council of Europe's estimates, Roma in Italy amount to about 150 000 members, representing 0.25 % of the whole population[29]. Their presence, like in other western European countries, is characterised by strong differences between groups, both in cultural, socio-economic and legal terms. The National Roma Integration Strategy (NRIS) recognises three main groups: Roma, Sinti and Caminanti. The term Roma mainly refers to groups migrated from Eastern European countries since the '70s, but also to autochthonous Roma who have been historically present in the central and southern part of Italy. Sinti refers to another autochthonous macro-group living in the northern regions, while Caminanti are exclusively located in Sicily, particularly around the town of Noto. Sinti and Caminanti have commonly been associated to itinerant crafts that brought them to practise nomadism. Despite the progressive disappearance of these trades and their sedentarisation, the association between Roma in general and nomadism has deeply affected Italian policies and still today is reiterated in the public debate by use of the terms "Roma" and "nomad" as synonyms[30].

The condition of Roma in Italy is also characterised by their varied legal positions: while the majority have Italian citizenship and a great part of those migrated in the last 15 years come from EU countries, a good number of migrant Roma still suffer from the lack of documents. Especially complicated is the condition of those migrated from Yugoslavia before or during its dissolution, who lost the Yugoslavian citizenship, but did not acquire a new one, becoming de-facto stateless. This situation is partly the consequence of the complex bureaucratic procedures to acquire Italian documents, added to the condition of marginalisation and segregation that many Roma, labelled as "nomad", have to face within the nomad camps[31].

The "camp system" surely denoted the approach adopted by Italian authorities towards Roma for decades. Created through a series of regional laws with the aim of providing "nomad Roma" with halting sites, these structures very soon turned into segregated ghettos, where all Roma labelled as "nomad" were placed, without considering that the majority was sedentary. Consequently, these structures became the symbol of the segregation and marginalisation of Roma in Italy, attracting media attention, and reinforcing the association between Roma and social problems[32]. Nevertheless, the public perception on the share of Roma living in camps is often distorted, since, according to the

[29] 484 Council of Europe (2012), "Estimates on Roma Population in European Countries", https://www.coe.int/en/web/portal/roma?desktop=false

[30] 485 Sigona N. and L. Monasta (2006), "Imperfect Citizenship. Research into Patterns of Racial Discrimination against Roma and Sinti in Italy,"; Piasere L. (2004), I Rom d'Europa. Una Storia Moderna, Roma, Bari: Laterza.

[31] 486 Tavani C. (2012), Collective Rights and the Cultural Identity of the Roma, A Case Study of Italy Leiden, Boston: Martinus Nijhoff Publishers.

[32] 487 Tosi Cambini S. (2013), "Accesso All'abitazione e Problemi Di Salute Delle Popolazioni Rom e Sinti," in *Stranieri e Disuguali Le Disuguaglianze Nei Diritti e Nelle Condizioni Di Vita Degli Immigrati*, ed. Chiara Saraceno, Nicola Sartor, and Giuseppe Sciortino Bologna: Il Mulino, Bologna, pp. 225–50.

annual report of the Italian Associazione 21 Luglio, only 26000 Roma and Sinti, about 17 % of the entire population, live in camps [33]. The association between Roma and camps, and their stigmatisation, is the consequence of policies based on antigypsyism and, at the same time, it contributes to boosting anti-Roma sentiment. In this context, the most worrisome and relevant data are those provided by a study conducted by the Pew Research Center on anti-Roma and anti-immigrant sentiment in Europe. According to this study, Italy is the country with the highest share of the population with unfavourable opinions on Roma (85 %) among European countries, followed by Greece with the 65 %[34]. This unfavourable attitude towards Roma is considered by most of the institutions and organisations consulted by this study as one of the main obstacles to inclusion and is identified at all levels of society.

The unfavourable attitude of Italian society towards Roma is reflected in national and local policies often marked by a securitarian approach treating Roma as a problem of "public security", leading to illegal evictions and expulsions. For this reason, the adoption of the NRIS represented an important shift towards the recognition of the Roma minority and its integration. Nevertheless, the implementation of the NRIS has been hindered by a series of factors, which will be analysed in the following section, failing to achieve the expected results. Also the political debate on the recognition of Roma and Sinti as either a linguistic or national minority did not lead to the adoption of a law, despite the numerous proposals presented over the years.

Currently, implementation of the NRIS risks being further hampered by the new political environment. The League, one of the current ruling parties, has often presented evictions and expulsions of Roma as one of their main goals within electoral campaigns. In addition, after the first month of government, the Minister of Interior, Matteo Salvini, declared the intention of carrying out a census of Roma and expelling those who do not have not Italian citizenship[35]. The renewed securitarian approach has been reaffirmed by a series of actions addressing immigrants in general but affecting also those Italian Roma and Sinti living in conditions of insecurity. An example is a ministerial circular prompting local authorities to carry out evictions of illegally occupied buildings and lands, which resulted in a new wave of eviction of Roma camps and settlements[36].

The current situation is particularly worrisome also for the sharp increase in the number of hate crimes and speeches registered in recent months, which the Italian Roma civil society organisations cannot counter due to their lack of funds and their general under-representation within the public debate. In this regard, indeed, despite the efforts to improve the coordination and cooperation between Roma organisations and national institutions within the implementation of the NRIS, representation of Roma within political and media debate remains unsatisfactory, as emerged during the interview with one Roma organisation[37].

3.4.2. Implementation of substantive policies

Due to the impossibility, under Italian law, of collecting census data according to ethnic belonging, there is no official and sure statistical information regarding the presence, condition and composition

[33] Associazione 21 Luglio Onlus (2017), "Rapporto Annuale 2017," http://www.21luglio.org/21luglio/wp-content/uploads/ 2018/04/ Rapporto_Annuale-2017_web.pdf

[34] Pew Research Center (2014), "Views of Roma, Muslims, Jews," A Fragile Rebound for EU Image on Eve of European Parliament Elections", http://www.pewglobal.org/2014/05/12/chapter-4-views-of-roma-muslims-jews/

[35] Custodero A. (2018), "Salvini Shock: 'Censimento Sui Rom, Quelli Italiani Purtroppo Ce Li Dobbiamo Tenere'. Scontro Nel Governo, Di Maio: 'Incostituzionale,'" La Repubblica, 18 June. https://www.repubblica.it/politica/2018/06/18/news/salvini_rom_censimento-199319863/

[36] La Repubblica (2018), "Viminale, Stretta Contro Le Occupazioni Abusive Di Immobili: Chiesti Censimenti e Sgomberi. Scontro Con Il Pd," 1 September. https://www.repubblica.it/politica /2018/09/01/news /casa_circolare_viminale_sgomberi_censimento-205417322/

[37] Interview with Roma CSO, 29 September 2018 (via Skype).

of Roma groups in Italy. The collection of data in this regard is also hindered by immigration/emigration flows, which are not always registered by social services. Some studies on the condition of Roma in Italy have been conducted by national and international organisations, although it is not always clear how Roma have been identified and how data have been collected. Furthermore, these studies are usually conducted through surveys completed by local authorities/services/organisations on the presence of Roma on their territory, and consequently risk overlooking those 'invisible Roma' who do not have contacts with them.

In this context, some studies have been conducted on Roma persons living within camps or informal settlements, since these structures are usually registered and controlled by local authorities. As mentioned above, the media and political 'visibility' of the camps risks reinforcing the idea that all Roma in Italy live in these areas, while according to a study conducted by Associazione 21 Luglio, only 26 000 (17 % of the total) live in formal or informal camps. Among them, about 9 600 immigrated from ex-Yugoslavia and 3 000 risk to be stateless, while the majority of the inhabitants of informal camps are Romanians (86 %)[38]. Regarding the housing solutions of those living outside the camps, no clear data are available. Particularly relevant, but also challenging to acquire, are data regarding Roma living in so-called "micro-areas"[39], because of the debate over the possibility to legalise or favour this solution.

The European Union Agency for Fundamental Rights (FRA) in 2014 published a series of thematic reports on a survey conducted among Roma and non-Roma in 11 Member States, assessing the socio-economic situation, specifically in the areas of education and employment[40]. According to these reports, in Italy over 30 % of the Roma respondents of working-age declare they are completely unemployed; within this group, the results are particularly worrisome for the share of those between 16 and 24 years old who declare they are not in employment, in education or in training, amounting to 69 % (among the highest within the 11 EU countries). Still within the sector of employment, results are also relevant for the share of Roma individuals who declare they are self-employed, representing 73 % of all Roma employed respondents (highest share within the 11 EU countries). In the education sector, Italy appears to be in line with the situation of other countries, where the gap in school attendance between Roma and non-Roma is very wide everywhere. An example is the share of children of school age not attending school (data refer to the year 2010-2011), standing at 13 % for Roma, while for non-Roma this decreases to 2 %. Similar results are obtained if considering the share of respondents aged 16 or above declaring they are illiterate: in Italy 17 % of the Roma respondents declared they were illiterate, in contrast to the 0 % of non-Roma respondents.

According to the interviews conducted with national authorities and organisations, the main challenge in implementing the NRIS in Italy lies in the complex system of governance, which requires the commitment and cooperation between national and local level[41]. Under the Italian Constitution, the regions have competence in the administration of a series of social and economic sectors, such as housing and health[42]. For this reason, most of the practical implementation of the NRIS lies on the

[38] Associazione 21 Luglio Onlus (2017), Op.cit.

[39] The term "micro-area" commonly refers to an area where a Romani family live after purchasing the ownership of the land (usually meant for agricultural use). This housing solution is particularly common among Sinti in northern Italy who purchased these areas to permanently place their caravan and/or build shelters where to live with the extended family. Nevertheless, it is progressively becoming a solution also for those Roma who want to abandon formal or informal camps.

[40] FRA (2014), Education: The Situation of Roma in 11 EU Member States, 2014; FRA (2014), Poverty and Employment: The Situation of Roma in 11 EU Member States.

[41] Interviews with pro-Roma CSO, 22 of September 2018 (Rome, Italy), national authority in the area of Roma integration, 23 September 2018 (Rome, Italy), national authority in the area of Rule of Law, justice and equality, 23 September 2018 (Rome, Italy), Roma CSO, 29 September 2018 (via skype)

[42] See Title V of Part II of the Constitution of the Italian Republic https://www.senato.it/documenti /repository/ istituzione/ costituzione _inglese.pdf
National authorities interviewed confirmed the autonomy of the Regions in implementing policies in social sectors touched by the NRIS, preventing the intervention of the national institutions. Interviews with national authority in the area of Roma Integration, 23 September 2018 (Rome, Italy), national authority in the area of Rule of Law, justice and equality, 23 September 2018 (Rome, Italy)

local administrations, who were asked (but not obliged) to intervene with the creation of regional/local tables aimed at the elaboration and implementation of integration policies. This complex system resulted in a strong fragmentation of the interventions and a divide between local authorities that carried out policies in line with the NRIS and local authorities that did not intervene at all or continued carrying out interventions in contrast with it. According to the civil society organisations, the autonomy of the local authority nullifies the effectiveness of the NRIS, as the virtuous authorities that intervened would have done the same also without it[43]. According to most of the national authorities, another challenge in the implementation of the NRIS is the lack of funds and personnel working exclusively in this sector[44].

The issue of the lack of competent personnel emerged especially during the interview with one authority in the area of Rule of Law, justice and equality, having to deal with a series of other social issues and, consequently, not having resources and time to focus on implementation of the NRIS. Similar observations emerged during the interview with a civil society organisation, which highlighted how integration policies succeeded where the local administrators had sufficient knowledge and interest on the issues concerning the local Roma communities[45]. Another issue that emerged during the interviews with the authorities is the legal status of Roma, especially for those who are stateless. The lack of documents, indeed, is one of the main and most complex obstacles to integration and one of the main issues raised by international observatory bodies regarding Roma[46].

The Roma civil society organisation highlighted particularly the lack of a constant dialogue between Roma associations and implementing bodies as one of the main challenges, resulting in the realisation of policies designed without taking into account the real needs and possibilities of the beneficiaries. This top-down approach would lead to the implementation of actions that do not achieve the expected results. In this context, it is also important to highlight the limited number of Roma and pro-Roma organisations that have the resources to apply for funds and directly realise integration projects. It is therefore deemed necessary to invest in capacitybuilding strategies in order to provide Roma activists with the possibility to intervene in the design and implementation of the NRIS[47].

Finally, antigypsyism is unanimously considered as one of the main obstacles to the integration of Roma. Nevertheless, in this context divergences emerged regarding which should be the main target in addressing this problem: while national authorities mainly point to the media and public opinion, which would hinder the realisation of policies by the local authorities[48], civil society organisations identify as the main obstacle the systemic antigypsyism present within the authorities themselves[49].

Integration within the housing sector is considered by the Italian NRIS as the main priority towards the integration of Roma, in consideration of the segregation produced by nomad camps. In recent years, public debate in this sector has focused greatly on the individuation and provision of alternatives to the nomad camps and many projects have been realised in this sector at the local level. Nevertheless, in many cases, the closure of the camps has been achieved through the creation of other solo-Roma structures, which, despite being equipped with adequate infrastructures, may present issues of marginalisation and ethnic segregation. On the other side, the inclusion within the

[43] Interview with pro-Roma CSO, 22 September 2018 (Rome, Italy)
[44] Interviews with national authority in the area of Roma integration, 23 September 2018 (Rome, Italy), national authority in the area of rule of law, justice and equality, 23 September 2018 (Rome, Italy).
[45] Interview with Roma CSO, 29 September 2018 (via skype).
[46] Interviews with national authority in the area of rule of law, justice and equality, 23 September 2018 (Rome, Italy), national authority in the area of rule of law, justice and equality, 2 October 2018 (via phone).
[47] Interview with Roma CSO, 29 September 2018 (via skype).
[48] 3 Interviews with national authority in the area of Roma integration, 23 September 2018 (Rome, Italy), national authority in the area of rule of law, justice and equality, 23 September 2018 (Rome, Italy), national authority in the area of rule of law, justice and equality, 2 October 2018 (via phone).
[49] Interviews with pro-Roma CSO, 22 of September 2018 (Rome, Italy), Roma CSO, 29 September 2018 (via skype)

regular housing market is hindered by financial problems and the chronic lack of public housing prevents the possibility of providing this solution to all Roma in need[50].

The housing issue encounters diverging points of view, not only between authorities and organisations, but also between Roma and pro-Roma organisations. For instance, during the interview, the Roma organisation stated that the main problem in the housing sector is not the camps themselves, but rather the systemic causes that prevent the provision of alternatives (i.e. discrimination and antigypsyism). Furthermore, in their view, institutions and non-Roma organisations give too much attention to issues of desegregation, preventing the realisation of policies designed in cooperation with the local communities that may represent a valid solution to homelessness[51]. In this regard, a topic that is debated is the legalisation and/or creation of micro-areas, which was also foreseen by the NRIS. In the past years, a consistent number of Roma and Sinti have purchased agricultural lands on which to place mobile homes as an alternative to the camps.

Nevertheless, the latest legislation has prevented the possibility of placing such structures (although mobile) on agricultural lands, resulting in the eviction of families who chose this solution. According to the Roma organisation, the micro-area represents a feasible and adequate alternative to the camps, especially in consideration of the fact that such a solution is often requested by Roma and Sinti because it better responds to their specific needs (i.e. living in extended families). On the other hand, the pro-Roma organisation opposes such a solution because it considers it as a new form of segregation, although micro-areas are usually inhabited by only one or two families. Also, the national authority in the area of Roma integration does not consider the provision of micro-areas as a priority and it prefers the inclusion within the regular housing market[52].

The lack of sustainable solutions in the housing sector deeply affects also the inclusion in education. Indeed, housing insecurity and the consequent numerous evictions suffered by Roma in Italy are considered as one of the main obstacles to integration in the education system[53]. Despite the fact that access to education is universal and mandatory until the age of 16, the share of Roma children not attending compulsory education is still high[54]. Evictions affect this data as the continuous transfers and housing instability risk prompting early school drop-out. In this contest, another issue raised by national authorities is the lack of clear data regarding the presence and school attendance of Roma children, which prevents the development of policies aimed at countering school leaving[55].

The interviews with civil society organisations and national authorities did not produce comprehensive results on the challenges encountered in the implementation of projects in the specific sectors of health and employment, because of the fragmentation of the initiatives carried out in these fields at the local level. In the employment sector, the Roma organisation pointed to the incapacity of the project realised to respond to the specific needs and possibilities of the Roma beneficiaries, bringing the examples of training addressing unemployed Roma that did not lead to the effective inclusion of the beneficiaries in the job market[56]. In this context, the development of new strategies may be necessary, aimed at addressing the specific situation of those Roma who have been out of the regular job market for a long time. In the health sector, a national authority pointed to the lack of trust of Roma in the health services and to the lack of awareness of the problems connected to poor nutrition[57]. Nevertheless, it is also possible to suppose that the access to health

[50] This aspect especially emerged during the interview with Roma CSO, 29 September 2018 (via skype)
[51] Ibid.
[52] 7 Interviews with pro-Roma CSO, 22 of September 2018 (Rome, Italy), national authority in the area of Roma integration, 23 September 2018 (Rome, Italy).
[53] Interview with national authority in the area of rule of law, justice and equality, 11 October 2018 (via phone)
[54] See FRA (2014), op.cit.
[55] Interview with national authority in the area of Roma integration, 23 September 2018 (Rome, Italy)
[56] Interview with Roma CSO, 29 September 2018 (via skype)
[57] Interview with national authority in the area of rule of law, justice and equality, 11 October 2018 (via phone)

services, though universal, may be hindered by forms of discrimination and antigypsyism which transversally affect all sectors of society, as highlighted by most of the interviewees.

According to most of the authorities and organisations, the adoption of the NRIS had a positive impact in changing the approach and the perspective on the issues concerning the Roma and Sinti population in Italy. It highlighted the need to move from a securitarian approach that considers Roma as an issue of public security to an approach aimed at integration in the four sectors addressed by the NRIS[58]. In the housing sector, this change of approach resulted in the awareness by the national and local authorities of the need to provide alternatives to nomad camps, while in the education sector the adoption of the NRIS has emphasised the need to work also on school achievement, not only on formal school attendance[59].

In this field, the Ministry of Labour and Social Services is implementing a national project aimed at improving the inclusion of Roma children at the local level (Progetto nazionale per l'inclusione e l'integrazione dei bambini rom, sinti e caminanti) since 2013. The project aims to favour the inclusion of Roma children through a series of actions, with special attention to the education sector. It adopts a series of innovative methods, such as peer-to-peer learning, in order to improve the school achievements of the Roma children and the cooperation between teachers and families. According to the national authority, this project has achieved important results as school attendance has increased and the participation of the families in the education of the children has improved sharply[60].

Nevertheless, the Roma organisation presented a different point of view on this, stating that the initiative generally did not achieve the expected results – but in a municipality where the local administration was already very active in this field[61]. Furthermore, both parties highlighted the fact that participation in this project is left to the will of the local authorities and it is therefore implemented solely within those realities that are willing to implement projects in the sector of integration.

The fragmentation of the initiatives and the lack of comprehensive strategies implemented at the regional level within the framework of the NRIS prevent the individuation of promising practices addressing these issues in a systematic manner. The only exception in this field is the case of the Emilia Romagna region, which in 2016 adopted a Regional Strategy for the integration of Roma and Sinti and a law for the legalisation of the existing micro-areas. The Regional Strategy foresees the realisation of a series of actions in all sectors addressed by the NRIS with the adoption of different solutions, aimed at responding to the needs and possibilities of Roma individuals. It furthermore foresees actions aimed at countering discrimination against Roma and in enforcing their participation in the implementation of local policies. The Roma organisation considers this strategy a good example, especially in consideration of the fact that it has been designed in close cooperation with the local Roma associations. Nevertheless, it pointed to the fact that also in this case the adoption of the strategy remains nonmandatory and, consequently, dependent on the will of the local administrations[62]. In addition, although promising, the implementation of this strategy started only in 2017 and it consequently does not allow an early evaluation of its results.

3.4.3. Horizontal policies: anti-discrimination and antigypsyism Addressing discrimination and segregation

The fight against discrimination remains one of the main recommendations raised by international bodies when considering the situation of Roma in Italy. Specific concerns are raised regarding the bureaucratic difficulties encountered in the acquisition of legal documents, especially for those who

[58] Interviews with pro-Roma CSO, 22 of September 2018 (Rome, Italy), national authority in the area of Roma integration, 23 September 2018 (Rome, Italy), Roma CSO, 29 September 2018 (via skype)
[59] Interviews with national authority in the area of Roma integration, 23 September 2018 (Rome, Italy), national authority in the area of Rule of Law, justice and equality, 11 October 2018 (via phone)
[60] Interview with national authority in the area of rule of law, justice and equality, 11 October 2018 (via phone)
[61] Interview with Roma CSO, 29 September 2018 (via skype).

[62] Ibid

are stateless, and regarding the situation of Roma women and girls[63]. On the legal status of stateless Roma, Italian institutions engaged in a debate over possible solutions, especially within the legal table of the NRIS. As a result of this work, arrangements for the acquisition of citizenship by children of stateless individuals had been included in the law proposal on citizenship, presented at the time by the Ministry for Integration in 2013[64], but so far never approved by the Senate. At the same time, the Strategy launched a debate on the recognition of Roma as a minority.

In this regard, two proposals have been presented: the recognition of Roma as a linguistic minority and therefore its inclusion within the law on the protection of linguistic minorities[65]; a law on the promotion of specific norms for the protection and promotion of equal opportunities of Roma and Sinti minorities[66].This last proposal also foresees measures to facilitate access to documents by stateless Roma and is supported by the Roma associations[67]. In contrast, the pro-Roma organisation considers it counter-productive, because it would establish privileges that can increase antigypsyism[68]. Nevertheless, none of this legislation has yet been approved by the Italian Parliament.

Another issue often raised is the problem of the continuous evictions suffered by Roma and of the lack of adequate housing alternatives[69]. While the need to ensure housing security is broadly considered as a priority, the impact and relation with housing segregation are debated. On one side, the pro-Roma organisation and the national authority in the area of Roma integration in housing consider housing segregation as one of the main obstacles to integration[70]; on the other side, according to the Roma organisation, institutions should stop focusing almost exclusively on housing desegregation, because such an approach fails to consider the different situations and risks perpetuating conditions of homelessness[71].

The intersectional discrimination suffered by women and other groups, such as the LGBTIQ Roma community, has not been tackled specifically by the NRIS[72]. Nevertheless, special attention is always paid to the inclusion of Roma women, especially in the education and health sectors. Especially in this last field, actions have targeted women in order to improve their reproductive health and access to social services[73]. Nevertheless, issues concerning specific issues of intersectional discrimination still seem to be under-considered in the framework of the NRIS.

[63] Interview with national authority in the area of rule of law, justice and equality, 2 October 2018 (via phone)
[64] Interview with national authority in the area of Roma integration, 23 September 2018 (Rome, Italy)
[65] Bill for amendment to the law of 15 December 1999, n. 482, and other provisions regarding the recognition of the historical linguistic minority speaking the Romani language. http://www.camera.it /_dati/leg17/lavori/ schedela/ apriTelecomando_wai.asp?codice=17PDL0034400
[66] Bill for "Rules for the protection and equal opportunities of historical-linguistic minorities of Roma and Sinti" (3541)
http://www.camera.it/leg17/126?tab=1&leg=17&idDocumento=3541&sede=&tipo=
[67] Interviews with national authority in the area of rule of law, justice and equality, 23 September 2018 (Rome, Italy), Roma CSO, 29 September 2018 (via skype)
[68] Interview with pro-Roma CSO, 22 September 2018 (Rome, Italy)

[69] Interviews with pro-Roma CSO, 22 September 2018 (Rome, Italy), national authority in the area of Rule of Law, justice and equality, 11 October 2018 (via phone), national authority in the area of Roma Integration, 23 September 2018 (Rome, Italy)
532 Huffington Post (2018), "'Se Sei Nomade Devi Nomadare'. Meloni Dice Sì Al Censimento Dei Rom e Lancia Una Proposta,", 19 June. https://www.huffingtonp
[70] Interviews with pro-Roma CSO, 22 September 2018 (Rome, Italy), national authority in the area of Roma Integration, 23 September 2018 (Rome, Italy)
[71] Interview with Roma CSO, 29 September 2018 (via skype)
[72] Interview with national authority in the area of Roma integration, 23 September 2018 (Rome, Italy)
[73] Interview with national authority in the area of rule of law, justice and equality, 11 October 2018 (via phone)

The fight against antigypsyism is an issue upon which all counterparts agreed. In particular, the Roma organisation calls on further political support from the European institutions, especially in consideration of the worrisome growth of xenophobic and racist political parties in Italy and Europe. Civil society associations alone cannot fight such a widespread and growing phenomenon and, for this reason, strong institutional support is considered essential[74].

Combatting hate crime and hate speech against Roma

After some years in which hate speech and hate crime against Roma decreased[75], probably also because of the diminished media attention on issues concerning Roma, 2018 has marked a worrisome shift towards a new increase of these phenomena, supported by a political environment that is nourishing anti-Roma and antiimmigrant sentiment. Particularly alarming is the fact that such acts are finding legitimisation within the current political rhetoric, but this is not surprising considering that The League, one of the parties of the current government, has been the main protagonist of political hate speech against Roma in the past.

This worrisome shift has been marked by the declarations of the current Minister of Interior, who, a few weeks after the formation of the government, declared the intention of conducting a census of Roma present in Italy, stating that "unfortunately, we will have to keep the Italian ones!".[76] This declaration has since been supported by other political representatives of right-wing parties, who have reiterated old stereotypes against Roma. An example isthe declarations of the leader of the extreme right party Fratelli d'Italia, Giorgia Meloni, who supported the proposal of a census by stating that "if you are nomad you have to keep moving".[77]

Since then, summer 2018 has seen an alarming rise of hate speech and crime against immigrants in general, often also concerning Roma. On 17 July, a Roma family was shot in Rome with a compressed air gun, and one of the bullets seriously harmed their 15-month toddler[78]. This case is just one of a series of other similar crimes against immigrants that took place during those weeks. The ruling party always tried to minimise these acts, stating that they were not motivated by racism and that in Italy racism is not a serious issue. Another example, representative of the current political approach towards Roma, concerns a case in which a train conductor addressed Roma through the loudspeakers with the term "gypsy", asking them to get out at the next stop with a very offensive expression. In this case too, the main government representatives, instead of repudiating the act, defended the public officer, stating through social networks that it is more important to worry about the safety of the passengers[79]. The gravity of the situation moved the United Nations to announce the appointment of observatory envoys to investigate the rise of racism in Italy[80].

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[74] Interview with Roma CSO, 29 September 2018 (via skype)

[75] Associazione 21 Luglio Onlus (2017), Op.cit.; Associazione 21 Luglio Onlus (2016), "Rapporto Annuale 2016,", http://www.21luglio.org/21luglio/rapporto-annuale-2016/

[76] 531 Custodero (2018), "Salvini Shock: 'Censimento Sui Rom, Quelli Italiani Purtroppo Ce Li Dobbiamo Tenere'. Scontro Nel Governo, Di Maio: 'Incostituzionale.'"

[77] Huffington Post (2018), "'Se Sei Nomade Devi Nomadare'. Meloni Dice Sì Al Censimento Dei Rom e Lancia Una Proposta,", 19 June. https://www.huffingtonpost.it/2018/06/19/se-sei-nomade-devi-nomadare-meloni-dice-si-al-censimento-dei-rom-e-lancia-unaproposta_a_23462443/

[78] Sacchettoni I. (2018), "Bimba Rom Ferita a Roma: Indagato Un Italiano Che Ha Sparato Dal Balcone," Corriere Della Sera, 24 July. https://roma.corriere.it/notizie/cronaca/18_luglio_24/roma-bimba-rom-ferita-indagato-italiano-lesioni-gravi-e65853ca-8f47-11e8-84b6-8543850c3d94.shtml

[79] Bazoli G. (2018), "Trenord, Annuncio Razzista: «Giù Gli Zingari Dal Treno». È Bufera Sulla Capotreno, Rischia Il Posto," Corriere Della Sera, 9 August. https://milano.corriere.it/notizie/cronaca/18_agosto_09/trenord-annuncio-razzista-giu-zingari-treno-bufera-capotreno-rischiaposto-76efc558-9b96-11e8-928f-aca0fa0687aa.shtml

[80] La Repubblica (2018), "Migranti, Onu: 'In Italia Violenza e Razzismo'. Farnesina: 'Allarme Ingiusto e Infondato,'" 10 September. www.repubblica.it/politica/2018/09/10/news/onu_razzismo_italia-206054277/

Italy has often been criticised in the past for its lack of bodies in charge of monitoring hate crime and hate speech in the country. This gap has partially been plugged by the creation, in 2010, of the Observatory of the Security against Discriminatory Acts (OSCAD), which provides the possibility to report discriminatory acts anonymously. Furthermore, this institution, in cooperation with the National Roma Contact Point - UNAR (National Office against Racial Discriminations) and other international organisations, has developed a series of tools aimed at countering antigypsyism and ethnic profiling particularly among police forces, carrying out a series of training sessions on these topics with police officers[81]. At the same time, UNAR has adopted similar measures and organised a series of training sessions with Roma and non-Roma activists on the fight against hate speech online[82].

Despite the fact that Italian legislation punishes these acts and that Roma and pro-Roma associations in the past have successfully sued hate crime perpetrators, access to legal protection against these phenomena for Roma is still limited. The main obstacles are represented by the high level of discrimination and antigypsyism at all levels of society, by the complexity of the legal procedures and by the lack of resources necessary to support access to such mechanisms. Furthermore, Italy has often been criticised for its the lack of independent body monitoring and offering support against discriminatory acts. Indeed, both OSCAD and UNAR are established under the Ministries of the government. Consequently, their action, as also emerged during the interviews with national authorities, strictly depends on the political direction given by the Ministries[83].

Specific measures countering antigypsyism and promoting historical remembrance

In the last year, the National Roma Contact Point has particularly engaged in the promotion and support of initiatives aimed at remembering the Roma Holocaust, in order to improve the general knowledge of an aspect of the Nazi-fascist persecutions still under-represented and studied. The most important event in this context has been the national commemoration of 27 January at the Presidency of the Republic, in which the President remembered the Roma Holocaust and invited a delegation of Roma representatives to give a speech. Another initiative has been the commemoration of the Roma Holocaust and Resistance on the 16 May organised by Roma associations in cooperation with UNAR in Agnano, one of the Italian localities to which Roma were deported. On 2 August, a delegation of Roma with UNAR took part in the commemoration in Auschwitz and on 5 October the first monument of the Roma Holocaust inaugurated in Lanciano[84].

These initiatives represent an important response to the general lack of recognition of the persecutions suffered by Roma and Sinti under fascism. In recent years, Roma organisations have stood up for further recognition by the institutions and for the official inclusion of Roma within the national commemorations. The engagement of UNAR and of the President of the Republic in this sense is considered by the Roma organisation an important step forward, but they request the inclusion of Roma within the law establishing 27 January as Remembrance Day[85]. According to the national authority in the area of Historical Remembrance, the law establishing the Remembrance Day does not refer explicitly and solely to Jews, but to all Italians who suffered and died under Nazi-fascist persecutions[86]. It is, nevertheless, true that the government committee dealing with the organisation of Remembrance initiatives, although also cooperating with UNAR for the initiatives on

[81] Interview with national authority in the area of rule of law, justice and equality, 10 October 2018 (via phone)
[82] Interview with national authority in the area of Roma integration, 23 September 2018 (Rome, Italy)

[83] Interviews with pro-Roma CSO, 22 of September 2018 (Rome, Italy), national authority in the area of Roma integration, 23 September 2018 (Rome, Italy)
[84] Interviews with national authority in the area of historical remembrance, 19 September 2018 (via phone), national authority in the area of Roma integration, 23 September 2018 (Rome, Italy), Roma CSO, 29 September 2018 (via skype)
[85] Interview with Roma CSO, 29 September 2018 (via skype)
[86] Interview with national authority in the area of historical remembrance, 19 September 2018 (via phone)

the Roma Holocaust, deals specifically and solely with the Holocaust of the Jews. Furthermore, the date of 2 August is still little-known, and no commemoration is organised at the institutional level[87].

It is therefore considered necessary to enforce initiatives in this area, also as a means to fight the current high level of antigypsyism. As the Roma organisation also highlighted, the current President of the Republic is sensitive to these issues and it is therefore possible to hope in further institutional recognition[88]. It is considered important to invest in the knowledge production on these events, because, as a national authority emphasised, little is still known regarding the perpetrators and victims of the persecutions suffered by Roma[89]. In addition, it is necessary to enforce the visibility of the Roma Holocaust within school programmes: despite Roma starting to be included in the commemorations in schools, the inclusion of Roma persecutions in textbooks is considered unsatisfactory[90].

Policies contrasting Roma discrimination

The main norms and policies aiming at contrasting anti-tziganism derives from the national, international and European system of Anti-discrimination law.

Under international human rights law, the principle of non-discrimination constitutes the fundamental pillar of the human rights protection system, and therefore, also in the protection of minorities. Rules on non-discrimination are provided for by the UN Charter (Art. 1-55), by the Universal Declaration of Human Rights, by the two International Covenants on Civil and Political Rights and on Economic, Social and economic, social and cultural rights (Art. 2) and by other international human rights conventions, notably the European Convention of Human Rights.

At the UN level, the protection of minority rights derives in particular from Article 27 of the International Covenant on Civil and Political Rights and from the United Nations Declaration on on the "Rights of Persons Belonging to National or Ethnic Minorities, religious and linguistic minorities", adopted on 3 February 1993. The latter, although it falls under acts of so called soft law, is aimed at determining the essential standards, to be guaranteed to minorities.

In our legal system, the general notion of minority in Italy is linked to linguistic distinctiveness and is based on linguistic distinctiveness and finds its foundation in Article 6 of the Constitution: 'The Republic protects linguistic minorities with appropriate regulations'. Following a critical parliamentary debate, Law No. 482 of 15 December 1999 on 'Norms on the protection of linguistic minorities' recognises and protects twelve linguistic minorities: Albanian, Catalan, Germanic, Greek, Slovenian, Croatian, French, Franco-Provençal, Friulian, Ladin, Occitan and Sardinian (taking into account linguistic-historical criteria, but above all the criterion of territoriality/status - in practice, of localisation in a given territory). In the interpretation of Article 6, the principle of "territoriality" has prevailed, which in fact excludes from the norm, the Roma minority, as a "diffuse minority", i.e. without a recognisable territorial concentration settled.

An attempt at amendment was only made with Bill no. 2858, presented to the Chamber of Deputies in July 2007. The proposal, which then lapsed with the early end of the legislature, proposed the extension

[87] Interviews with Pro-Roma CSO, 22 of September 2018 (Rome, Italy), national authority in the area of Roma integration, 23 September 2018 (Rome, Italy)
[88] Interview with Roma CSO, 29 September 2018 (via skype)
[89] Interview with national authority in the area of Roma integration, 23 September 2018 (Rome, Italy)
[90] Interview with pro-Roma CSO, 22 of September 2018 (Rome, Italy)

of the provisions for the protection of linguistic-historical minorities linguistic-historical minorities, provided for by Law No. 482/99, to the Roma and Sinti minorities, implementing the principles of the 'European Charter for Regional or Minority Languages', which recognises 'non-territorial languages' such as Yiddish and Romani. The last legislatures, have been characterised by intense debates on the appropriateness of including *Roma, Sinti and Caminanti* (RSC) among the national linguistic minorities, according to Law no. 482/99, or rather to adopt *ad hoc* and/or *omnibus* national legislative measures. The most recent drafts and bills introduced during the current Legislature, the 16th are:
A.S. 2558 'Amendments to Law No. 211 of 20 July 2000 on the "Extension of the Day of of Remembrance to the Roma and Sinti people';
A.S. 2562 "Amendments to Law No. 482 of 15 December 1999, on the recognition and protection of the Roma and Sinti historical linguistic minority ";
P.d.L. No. 4446, for: "The school integration of young Roma".

There have also been various case law indications on this issue, including the most recent rulings of the higher, national courts:

Constitutional Court Judgment No. 159/2009 - which reaffirmed the importance of the Framework Convention on the Protection of Minorities, promoted by the Council of Europe; and the Judgments No. 170/2010 and No. 88/2011;
Council of State Order No. 6400 of 25 August 2009 and the very recent judgment of the Council of State no. 6050 of 16 November 2011, which intervened with regard to the so-called "Nomad Emergency".

The judgments of the Court of Cassation:
Judgment no. 151 of 16 January 2009;
Judgment No. 25598 of 24 March 2009;
Judgment No. 17562 of 24 April 2009;
Judgment No. 41819 of 10 July 2009.

In particular, the judgment of the Council of State no. 6050 of 16 November 2011 declared the illegitimacy of the Decree of 21 May 2008 of the Presidency of the Council of Ministers, having as its object the state of emergency in relation to the object the state of emergency in relation to the settlements of nomadic communities in the territory of the Campania, Lombardy and Lazio regions, also appointing delegated Commissioners, and consequently, the acts of exercising emergency civil protection powers.

In the light of the above, the need to adopt new initiatives, in agreement with the local authorities. In fact, the implementation of social policies for Roma inclusion is, and remains the responsibility of territorial authorities; therefore, municipalities, provinces and regions will continue their their commitment with the support of the Prefects at local level and the Ministry of the Interior.

The Ministry of the Interior should support the activities and projects to be implemented, at the local level, also by encouraging the use of the ESF and ERDF funds made available to them. ESF and ERDF funds made available by the EU, in favour of social integration policies.

At the European level, at the first EU Roma Summit in September 2008 in Brussels in September 2008, it was decided to create a European Platform for Roma Inclusion, comprising including national governments, the European Union itself, international organizations and representatives of Roma associations. Following this event, the EU countries invited the European Commission to encourage: "an exchange of good practices and experiences among the EU countries on Roma inclusion (Council Conclusions of 8 December 2008)".

The EU debate characterized by meetings, resolutions, analysis of specific documents on the subject culminated in the EU Framework for National Roma Integration Strategies - the so called EU Framework for National Roma Integration Strategies (5 April 2011), which provides an unprecedented commitment for all EU Member States to promote Roma inclusion.

2.2 Please describe how and if these policies impact the penitentiary system

So far, very few evidence of the direct impact of anti-discrimination policies can be traced in the Italian prison system. It must be nonetheless considered that

3. EUROPEAN FRAMEWORK OF STANDARDS BOTH ON ROMA SOCIAL REINTEGRATION AND OFFENDERS RESOCIALIZATION (EUROPEAN PRISON RULES, CPT REPORTS, ECTHR CASE LAW) AND HOW THEY IMPACT YOUR NATIONAL LEGAL SYSTEM (3-5 PAGES)

3.1 Please describe the framework of European standards on social reintegration of offenders and their impact into your national legal system with a focus on the gender perspective and the intersectional dimension of these factors

Social reintegration in Europe has been shaped by a set of soft law norms, following the international framework of the UN Mandela Rules, the recently revised European Prison Rules[91] (EPR).
Specifically concerning social reintegration or reintegration in society, the (EPR) are based on two principles. Firstly, the principle of normalisation which demands to manage life in prison in order to bring it as close as possible to life outside the prison walls. In order to prepare to reentry into society, life in prison must, as closely as possible, reflect life in the community. Secondly, the principle of responsibilisation, which aims to give to the inmates the opportunity to have personal responsibilities and autonomy in all possible aspect of life in prison.

Concerning the principle of normalization, life in prison should promote “as closely as possible the positive aspects of life in the community” (Rule 5) and that all detention should “be managed so as to facilitate the reintegration into free society of persons who have been deprived of their liberty”
(Rule 6).

In particular:
“the accommodation provided for prisoners, and in particular all sleeping accommodation, shall respect human dignity and, as far as possible, privacy, and meet the requirements of health and hygiene” (Rule 18-1)
“prisoners shall have ready access to sanitary facilities that are hygienic and respect privacy”
(Rule 19-3);
“adequate facilities shall be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily” (Rule 19-4)
“the regime provided for all prisoners shall offer a balanced programme of activities” (Rule 25- 1) and allow all prisoners to spend as many hours a day outside their cells as necessary for an adequate level of human and social interaction” (Rule 25-2).

[91] Recommendation Rec(2006)2-rev of the Committee of Ministers to member States on the European Prison Rules, Adopted by the Committee of Ministers on 11 January 2006, at the 952nd meeting of the Ministers' Deputies and revised and amended by the Committee of Ministers on 1 July 2020 at the 1380th meeting of the Ministers' Deputies (The European Prison Rules) https://www.coe.int/en/web/human-rights-rule-of-law/-/revised-european-prison-rules-new-guidance-to-prison-services-on-humane-treatment-of-inmates

In the commentary of the EPR, the Council of Europe states that "is unacceptable to keep prisoners in their cells for 23 hours out of 24" and that "the aim shall be that the various activities undertaken by prisoners should take them out of their cells for at least eight hours a day".

On the basis of those principles, the Council of Europe encourages the member states to develop social life in prison, to give priority to an "open" regime of detention which would create a certain degree of autonomy, to allow the inmates to enjoy activities involving their skills and to develop those activities in conditions as close as possible to the outside world (which includes, for instance, wages at the level one can find in the rest of the society). But also to allow inmates to develop regular contacts with the outside world, to take part in the elections, referendums and other aspects of public life, to be able to have a collective discussion – with or without the prison administration – about their general conditions of detention; and to create mediation mechanisms in order to solve disputes and discuss controversial issues and to give them priority over the disciplinary procedures and sanctions.

Concerning a gender perspective on social reintegration, it must be considered that both theCouncil of Europe and the European Union have developed important soft law norms directly addressing the issue of women in prison.

As a matter of fact, the general framework of international legal instruments for the protection of women in prison is designed to consider female specificity in a motherhood/biologically-oriented perspective, reading all other sociological aspects of female imprisonment under the lens of the universal nature of human rights in prison. Therefore, it could be argued that women in prison should be able to enjoy the protection of human rights, albeit with restrictions that are unavoidable in a closed environment[92]. This framework should work based on specific anti-discrimination provisions, as is the case with many international tools[93], in order to reduce potential gender inequalities in the protection of prisoners and their rights. This legal structure, based on the fallacy of the universality of human rights, rests on a highly problematic premise: identical treatment in prison means treatment tailored to the needs of the male prison population.

International treaties specifically designed for the protection of women's rights appeal to the anti-discrimination dimension of human rights and women's rights. In particular, the 1979 UN Convention on

[92] Several international soft-law instruments confirm the statement that prisoners continue to enjoy all rights compatible with detention. Principle 5 of the United Nations Basic Principles for the Treatment of Prisoners (1990) states: 'Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and [...] United Nations covenants'. The United Nations Standard Minimum Rules for the Treatment of Prisoners (1957) affirms in Rule 57 that 'the prison system shall not, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation'.The same principle has been reaffirmed by Rule 2 of the European Prison Rules 2006: 'Persons deprived of their liberty retain all rights that are not lawfully taken away by the decision sentencing them or remanding them in custody'. More specific is Principle VIII of the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas (2008)8: 'Persons deprived of liberty shall enjoy the same rights recognized to every other person by domestic law and international human rights law, except for those rights which exercise is temporarily limited or restricted by law and for reasons inherent to their condition as persons deprived of liberty'. And in the Kampala Declaration on Prison Conditions in Africa (1996) the second Recommendation on Prison Conditions declares 'that prisoners should retain all rights which are not expressly taken away by the fact of their detention'. Furthermore, those regional instruments demand, in various formulations, that the suffering inherent in imprisonment shall not be aggravated by the regime in prison. Rule 5 of the European Prison Rules 2006 even specifies: 'Life in prison shall approximate as closely as possible the positive aspects of life in the community'. This, along with the fact that these soft law principles have largely been affirmed in the international and regional case law on the main human rights conventions contribute to make a case for the hardening of soft law in this context.

[93] Such as Art. 3 ICCPR, Art. 3 ICESC, Art. 2 ACHPR, Art. 1 ACHR, Arts 1 and 2 ASEAN Human Rights Declaration, Art. 14 ECHR, but also Art. 15 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

the Elimination of All Forms of Discrimination against Women (CEDAW) makes no reference to women in prison, but constitutes a basis for implementing positive measures in order to guarantee the full development of women[94]. Again, these provisions aim at rights protection based on the protection afforded to the dominant group (Article 3: "…on a basis of equality with men").

General international tools for the protection of prisoners' rights used to include instruments specifically designed for women in prison. The 2015 UN Standard Minimum Rules for Prisoners (the Mandela Rules) [95], the 2006 European Prison Rules (EPR, drawn up by the Council of Europe)[96], and the 1990 UN Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules). The EPR and the Mandela Rules contain provisions relevant to women in prison.

The first international instrument specifically conceived to address the issue of women in prison, drawing from the general international tools that we have just examined, are the Bangkok Rules (BR)[97]. These rules, intended to complement the U.N. Standard Minimum Rules (now Mandela Rules), develop a new perspective, while trying to interpret the phenomenon of women in prison, describing the desirable treatment for women in prison.

In the Preliminary Observation, the BR rejects the illusion of the universality of human rights in prison, even when paired with principles of non-discrimination law:

> The Standard Minimum Rules for the Treatment of Prisoners apply to all prisoners without discrimination; therefore, the specific needs and realities of all prisoners, including of women prisoners, should be taken into account in their application. The Rules, adopted more than 50 years ago, did not, however, draw sufficient attention to women's particular needs. With the increase in the number of women prisoners worldwide, the need to bring more clarity to considerations that should apply to the treatment of women prisoners has acquired importance and urgency.

This shifting paradigm in the protection of female prisoners' rights requires to abandon the "equal protection" strategy and to describe pragmatically what the needs of women in prison are: not "special" needs, compared to the ones universally recognized for men, but the needs that are part of the common experience of everyday life in female prison institutes.

One very important tool, within the European penitentiary space, are the recommendations issued by the European Committee for the Prevention of Torture (also CPT) on the treatment of female prisoners[98]. The specific relevance of this body can be traced back to its monitoring activity, carried out in order to evaluate and discover situation of torture and inhuman or degrading treatment based on a case by case assessment. In this perspective, 'torture and inhuman or degrading treatment ' may be defined differently in the case of women in prison.

Taking a highly pragmatic approach, the CPT report opens with the claim that women in prison: "are characterised by having particular needs and vulnerabilities which differ from those of men", thus

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[94] See Article 3: U.N. Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979: "States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women , for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men."

[95] Introduced for the first time in 1955 and last reviewed in 2015, when they were dubbed "the Mandela Rules".

[96] Adopted for the first time in 1973.

[97] GA Res. 65/299 (16 March 2011). United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).

[98] Firstly drafted in 2010 and then reviewed last time in 2018: CPT/Inf(2018)5, available at: https://rm.coe.int/168077ff14

reformulating the issue of vulnerability. Men in prison are vulnerable, no less (or more) than women, but for different reasons. Particularly, the vulnerability of women in prison does not stem ontologically (or biologically) from the fact of being weaker even in the free society, but from the "fact that women are far fewer in number" and this "poses a variety of challenges for prison administrations, often resulting in less favourable treatment as compared to imprisoned men[99]". The response to this issue should not be found in the general "equal protection" clause, but rather in a "substantive equality" approach[100].

Another very important issue addressed by the CPT report concerns access to activities. In this respect, the CPT stresses the fact that all too often:

> female prisoners are offered activities deemed "appropriate" for them (such as sewing or handicrafts), and are excluded from far more vocational training reserved for men. The small number of women may mean that it is not considered viable to establish a workshop exclusively for them. However, such a discriminatory approach can only serve to reinforce outmoded stereotypes of the social role of women[101].

The CPT also stresses the need and importance of mixed-gender activities, supported with adequate supervision.

As to the specific issue of rehabilitation of female prisoners, Rule 29 of the Bangkok Rules specifies that staff should be trained to enable them 'to address the special social reintegration requirements of women prisoners and manage safe and rehabilitative facilities'. Rule 40 of the Bangkok Rules requires classification methods to be gender specific 'to ensure appropriate and individualised planning and implementation towards those prisoners' early rehabilitation, treatment and reintegration into society'.

It is important to note that female prisoners are subjected to intersectional forms of discrimination, based not only on ethnicity but also on sex, gender, sexual orientation, gender identity, age,disability, nationality (or lack thereof), residence status or religion. This involve relevant implications for the purpose of designing a successful strategy of social reintegration.

3.2 Please describe the framework of European standards on Roma social reintegration and their impact into your national legal system with a focus on the gender perspective and the intersectional dimension of these factors

As described above, European standards on social reintegration are based on the principles of antidiscrimination, as a result we can rely on norms concerning Roma antidiscrimination tools and social reintegration standards and adapt them to the Roma social reintegration perspective.

Many Council of Europe tools tries to tackle the issue of equal access to human rights and justice for Roma people, specifically:

- Recommendation CM/Rec(2017)10 of the Committee of Ministers to member States on improving access to justice for Roma and Travellers in Europe
- Recommendation CM/Rec(2012)9 of the Committee of Ministers to member States on mediation as an effective tool for promoting respect for human rights and social inclusion of Roma

[99] Ivi, p. 1.
[100] See ibidem: "The growing recognition of the benefits of fully embracing substantive gender equality in all areas of policy-making should extend to the prevention of ill-treatment in prison. Greater efforts are therefore needed in order to ensure a gender-sensitive monitoring of prisons, attuned to the potential compounding of problems women face in prison."
[101] Ibid.

- Declaration of the Committee of Ministers on the Rise of Anti-Gypsyism and Racist Violence against Roma in Europe
- Resolution 2153 (2017) Promoting the inclusion of Roma and Travellers
- Resolution 1760 (2010) of the Parliamentary Assembly on the recent rise in national security discourse in Europe: the case of Roma
- Resolution 1927 (2013) Ending discrimination against Roma children

From these text, we can try to select a set of measure that can represent useful tools for the successful implementation of social reintegration of Roma prisoners, particularly developing and maintaining an effective system of quality mediation with Roma communities based on:

a. the full enjoyment of human rights of members of Roma communities without any form of discrimination is an essential principle underpinning and governing such mediation; this implies that mediation should aim at empowerment of Roma to exercise their rights and increased capacity of public institutions to guarantee these rights in practice, not at rendering or keeping Roma or public institutions dependent on mediation;

b. systematic consultation, participatory planning and evaluation allowing the members of Roma communities to express their needs and concerns, and to be actively involved in finding the most appropriate solutions to the problems facing their local community in co-operation with representatives of the public institutions;

c. intercultural sensitivity, non-violent communication and conflict mediation, based on good knowledge of the "cultural codes" of the community and of the relevant institutions;

At the EU level, we can rely on the already cited EU Framework for National Roma Integration Strategies ('the EU Framework') and the Council Recommendation on effective Roma integration measures in the Member States ('the Recommendation').

Studying the different approaches and cases deriving from the EU Framework, we can note an interesting case study from Finland: Culturally sensitive service-package, resettlement support for Roma women. The 'Womens's turn' project developed a culturally sensitive service-package with practices that have been incorporated into the mainstream prison services. Roma women have been hired to work as mentors in prisons to support female Roma prisoners. The follow-up 'Time for change' post-release resettlement project supported the resettlement of Roma women. Targeted stakeholders include Roma and non-Roma NGOs and public authorities dealing with crime.

So far, the Italian system has not developed structural intervention, policies or norms on social reintegration of Roma people. As we shall see, our project intends to assess the level of discriminatory practices present in the penitentiary and post release treatment in order to discuss them in light of the European standards.