

# Franet National contribution to the Fundamental Rights Report 2020

**Italy**

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## Contents

<b>Franet country study: policy and legal highlights 2019.....</b>	<b>3</b>
<b>Chapter 1. Equality and non-discrimination .....</b>	<b>4</b>
<b>Chapter 2. Racism, xenophobia and related intolerance .....</b>	<b>8</b>
<b>Chapter 3. Roma integration.....</b>	<b>11</b>
<b>Chapter 4. Asylum, visas, migration, borders and integration .....</b>	<b>15</b>
<b>Chapter 5. Information society, data protection .....</b>	<b>19</b>
<b>Chapter 6. Rights of the child .....</b>	<b>25</b>
<b>Chapter 7. Access to justice including crime victims.....</b>	<b>28</b>
<b>Chapter 8. Developments in the implementation of the Convention on the Rights of Persons with Disabilities .....</b>	<b>34</b>
<b>Annex 1 – Promising Practices .....</b>	<b>37</b>
<b>Annex 2 – Case law .....</b>	<b>49</b>

## Franet country study: policy and legal highlights 2019

<b>Issues in the fundamental rights institutional landscape</b>	No important development in 2019.
<b>EU Charter of Fundamental Rights</b>	<b>Constitutional Court confirms the constitutional nature of EU Charter dispositions:</b> On 23 January 2019, the <a href="#">Italian Constitutional Court issued its decision No. 20</a> , confirming that EU Charter dispositions and principles must be considered by national Courts as constitutional parameters when both interpreting national legislation and assessing its legitimacy.
<b>Equality and non-discrimination</b>	<b>Homophobia and Transphobia might become a specific criminal offence.</b> On 24 October 2019, the Italian Chamber of Deputies kicked off the debate on Reform of Articles 604a and 604b of the Criminal Code that punish propaganda and incitement to crime based on racial or religious hatred and discrimination. The reform aims to extend these offences also to violence and discrimination on grounds of sexual orientation and gender identity.
<b>Racism, xenophobia &amp; Roma integration</b>	<b>A new Committee was established to combat racism and intolerance.</b> On 30 October 2019, the Senate approved the establishment of the <a href="#">Special Committee to Combat Intolerance, Racism, Antisemitism, and Incitement to Hatred and Violence</a> ( <i>Commissione straordinaria per il contrasto dei fenomeni di intolleranza, razzismo, antisemitismo e istigazione all'odio e alla violenza</i> ). Its mandate is to monitor and investigate incidents of intolerance, racism, antisemitism, and incitement to hatred and violence targeting social groups because of their ethnic origin, religion, nationality, sexual orientation, gender identity, and other physical or psychological features.
<b>Asylum &amp; migration</b>	<b>Reception policies for unaccompanied children were clarified.</b> After the introduction of a stricter legislation governing immigration and asylum at the end of 2018, on 3 January 2019, the Ministry of the Interior issued a <a href="#">circular letter</a> clarifying the situation of reception facilities for unaccompanied children. Second-level reception facilities (SIPROIMI) must receive unaccompanied children (including those who are not asylum applicants). Moreover, the circular letter also addresses the situation of children turning 18, clarifying the reception measures they are entitled to in the transition to the adult age.
<b>Data protection and digital society</b>	<b>The Italian Data Protection Authority expressed its concern on the new legislative disposition governing vehicle-for-hire services (<i>Noleggjo con Conducente</i>, NCC).</b> <a href="#">A formal letter</a> was sent to the Italian Government, warning about the risks caused by the Law No. 12 of 11 February 2019, imposing the massive collection of personal data of NCC services' clients. The DPA suggests this might cause a breach of the proportionality principle enshrined in the GDPR.
<b>Rights of the child</b>	<b><a href="#">The Italian Authority for the Protection of Childhood and Adolescence calls on a legislative reform on restorative justice</a>.</b> The Authority addressed a plea to the Parliament and the Government to foster a reform strengthening restorative justice and mediation for children involved in criminal proceedings as offenders.
<b>Access to justice, including victims of crime</b>	<b>The so-called "<a href="#">Red-Code Law</a>" was approved on 19 July 2019.</b> The law is aimed at reinforcing protection for victims of gender-based violence. Priority must be given in Courts to the criminal proceedings concerning domestic violence, stalking and sexual violence. The criminal offence of revenge porn was introduced in the Italian Criminal Code.
<b>Convention on the Rights of Persons with Disability</b>	<b><a href="#">The new Coordinator of the National Observatory on the Situation of Persons with Disabilities was appointed in January 2019</a>.</b> The Observatory also adopted its internal regulation and the Action Plan for the upcoming three years of activity.

# Chapter 1. Equality and non-discrimination

## 1. Legal and policy developments in 2019 relevant to combating discrimination based on gender identity, religion or belief, disability, age or sexual orientation

Legislative Decree No. 96 of 7 August 2019, Provisions supplementing and modifying Legislative Decree No. 66 of 13 April 2017 containing provisions for the promotion of school integration of pupils with disabilities, pursuant to Article 1, paragraphs 180 and 181, letter c) of Law No. 107 of 13 July 2018,<sup>1</sup> was approved based on close cooperation between governmental authorities and the most representative organisations of people with disabilities, such as the Italian Federation for the Overcoming of Disability (*Federazione italiana per il superamento dell'handicap*, F.I.S.H.) and the National Association of Families of People with Intellectual and/or Relational Disabilities (*Associazione Nazionale Famiglie di Persone con Disabilità Intellettiva e/o Relazionale*, ANFFAS). This act reformed the existing legislation and practices governing school integration of children with disabilities. More specifically, the decree modified the composition of the commission of professionals in charge of assessing the disability condition of children: according to the previous discipline, this commission consisted of the same professionals – mainly occupational physicians – in charge of assessing the disability condition of employees. Following the reform, the commissions assessing the disability of pupils will include professionals with specific expertise in paediatrics and child development, i.e. a paediatrician, a child neuropsychiatrist, a specialist dealing with the specific disability of the considered child, a social worker based in the area where the child lives, as well as a psychologist working for the local healthcare and social services. The associations representing people with disabilities – such as ANFFAS – will have the possibility of integrating the commission with their own specialists. These commissions will be not only in charge of assessing the disability condition of children, but also of defining their functional profile in the school context, stressing their weaknesses but also assets and skills. These assessments are crucial to developing each child's 'individual educational project' (*progetto educativo individuale*, PEI). The latter needs to be designed and submitted to the school authorities by 30 June of each school year, in order for school headmasters to have enough time to recruit the necessary staff to support the child in the following school year. Such reform – which was welcomed by the abovementioned associations –<sup>2</sup> might strongly contribute to combatting stigma and discrimination targeting children with disabilities in Italian schools: these pupils shall no longer be considered merely as people in need of services and assistance but as human beings that interact with their social contexts and that can contribute thereto if they are enabled to make the most of their peculiarities, skills, and specific assets. However, the associations have also stressed some critical points of the decree. Firstly, in order for it to be effective, some implementing decrees still have to be adopted by the Ministry of Education, University, and Research: until that moment, the new approach adopted by the decree will remain just a concept on paper. Secondly, the recruitment of the staff pointed out in PEI will depend on the financial resources available to the Municipalities where the school and social services are located: this might result in an illegitimate curtailment of the fundamental rights of children with disabilities, as well as in unlawful discrimination among pupils with disabilities on grounds of their place of residence.

On 25 November 2018, the Differenza Donna association – a women's association combatting gender-based violence – established the National Observatory on Violence against Women with Disabilities (*Osservatorio nazionale sulla violenza contro le donne con disabilità*), the first-ever observatory in

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<sup>1</sup> Decreto legislativo 7 agosto 2019, n. 96, *Disposizioni integrative e correttive al decreto legislativo 13 aprile 2017, n. 66, recante: "Norme per la promozione dell'inclusione scolastica degli studenti con disabilità, a norma dell'articolo 1, commi 180 e 181, lettera c), della legge 13 luglio 2015, n. 107"*, available at: [www.gazzettaufficiale.it/eli/id/2019/08/28/19G00107/sg](http://www.gazzettaufficiale.it/eli/id/2019/08/28/19G00107/sg). All hyperlinks were accessed on 2 December 2019.

<sup>2</sup> Cf., for instance, F.I.S.H. (2019), 'Decreto sull'inclusione scolastica: approvato. Ora nuova fase', 1 August 2019, available at: [www.fishonlus.it/2019/08/01/decreto-sullinclusione-scolastica-approvato-ora-nuova-fase/](http://www.fishonlus.it/2019/08/01/decreto-sullinclusione-scolastica-approvato-ora-nuova-fase/).

Italy focusing on the double discrimination of gender and disability. The association – which boasts solid expertise in supporting survivors of gender-based and domestic violence – decided to set up the observatory since Italy generally lacks services targeting – as well as awareness about – the specific form of violence these subjects can be subjected to as both women and people with mental and/or physical disabilities. The observatory’s goal is to monitor and provide data on this specific type of violence on an annual basis (in November of each year, when the International Day for the Elimination of Violence against Women is celebrated). Thanks to the association’s experience in the field, these data will also include the involvement of women with disabilities as witnesses thanks to the support provided by the association through its facilities and professionals.<sup>3</sup>

On 24 October 2019, the Italian Chamber of Deputies kicked off the debate on Chamber of Deputies Draft Law No. 569, Reform of Articles 604a and 604b of the Criminal Code concerning violence and discrimination on grounds of sexual orientation and gender identity,<sup>4</sup> which had been lodged in May 2018. These two provisions – introduced through Legislative Decree No. 21 of 1 March 2018, Provisions to implement the principle according to which any new provisions setting forth crimes can be introduced only provided they amend the Italian Criminal Code, or are included into acts that govern a specific matter in a comprehensive way, pursuant to Article 1, paragraph 85, letter q) of Law No. 103 of 23 June 2017 –<sup>5</sup> punish propaganda and incitement to crime based on racial or religious hatred and discrimination. The draft law aims to extend these offences also to discrimination based on sexual orientation and gender identity. Such legislative initiative was welcomed by the National Office against Racial Discrimination (*Ufficio Nazionale Antidiscriminazioni Razziali*, UNAR), as reported on its website.<sup>6</sup>

In the framework of LGBT policies, the general directive for administrative action and the management of the Equal Opportunities Department (2019) specifically confirmed the UNAR’s mandate to combat discrimination against LGBT people. In particular, art. 8 of Decree of the President of the Italian Government of 8 April 2019<sup>7</sup> - concerning the Equal Opportunities Department internal organization - included, among the UNAR guarantee functions, the competence in the matters of equal treatment for LGBT people, as well as the protection against discrimination based on sexual orientation and gender identity. In pursuing its mandate UNAR was concretely engaged in the actions of preventing and fighting discrimination and violence based on sexual orientation and gender identity, gathering reports of discrimination received through the Contact Centre and providing a wide-ranging strategic plan. With reference to above, a permanent dialogue with LGBT NGOs was set up in October 2018, through the constitution of the Table for the promotion of LGBT rights. The LGBT Board, articulated into plenary sessions and sectorial working tables, involved 48 LGBT associations that applied for a public

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<sup>3</sup> Differenza Donna [2018], ‘Differenza Donna istituisce Osservatorio Nazionale sulla violenza contro le donne con disabilità: il primo in [I]talia’, available at: [www.differenzadonna.org/differenza-donna-istituisce-osservatorio-nazionale-sulla-violenza-contro-le-donne-con-disabilita-il-primo-in-italia/](http://www.differenzadonna.org/differenza-donna-istituisce-osservatorio-nazionale-sulla-violenza-contro-le-donne-con-disabilita-il-primo-in-italia/).

<sup>4</sup> *Proposta di legge n. 569, Modifiche agli articoli 604-bis e 604-ter del codice penale, in materia di violenza o discriminazione per motivi di orientamento sessuale o identità di genere*, available at: <http://documenti.camera.it/leg18/pdl/pdf/leg.18.pdl.camera.569.18PDL0012340.pdf>.

<sup>5</sup> *Decreto legislativo 1 marzo 2018, n. 21, Disposizioni di attuazione del principio di delega della riserva di codice nella materia penale a norma dell’articolo 1, comma 85, lettera q), della legge 23 giugno 2017, n. 103*, available at: [www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2018;021](http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2018;021). The principle is aimed at streamlining criminal law and at avoiding its fragmentation by prohibiting the introduction of new crimes through several acts with limited scope.

<sup>6</sup> Italy, UNAR [2019], ‘Proposta di legge contro l’omotransfobia, al via l’iter in commissione Giustizia alla Camera dei Deputati’, available at: [www.unar.it/proposta-di-legge-contro-lomotransfobia-al-via-liter-in-commissione-giustizia-alla-camera-dei-deputati/](http://www.unar.it/proposta-di-legge-contro-lomotransfobia-al-via-liter-in-commissione-giustizia-alla-camera-dei-deputati/).

<sup>7</sup> Decreto del Presidente del Consiglio dei Ministri, 8 aprile 2019, “Organizzazione del Dipartimento per le pari opportunità”, available at: [http://presidenza.governo.it/AmministrazioneTrasparente/DisposizioniGenerali/AttiGenerali/DpcmOrganizzazione/Decreto\\_20190408.pdf](http://presidenza.governo.it/AmministrazioneTrasparente/DisposizioniGenerali/AttiGenerali/DpcmOrganizzazione/Decreto_20190408.pdf).

call of interest<sup>8</sup>. Meetings of the LGBT Board were held at Palazzo Chigi (the Italian Government's headquarters) in November 2018 and February 2019. In May 2019, sub-working groups on specific issues (transgender, communication, parenthood, training, data collection, digitalization of LGBT archives) were implemented. The aim is to build a shared national strategic plan of actions to increase LGBT rights. More specifically, anti-discrimination measures have concerned the following social-policy fields: employment, health, detention conditions, training of civil servants. In the framework of this strategic line of action, an institutional cooperation was strengthened through meetings – aimed at programming joint initiatives in specific areas of interest - with the Ministry of Justice and the Prison Administration Department, the Ministry of Health and the Higher Institute of Health, the Ministry of Public Administration, the Ministry of Education, as well as the OSCAD and the Conference of Italian University Rectors (C.R.U.I.).<sup>9</sup>

On 31 October 2019, the Advocate General (AG) delivered her opinion on 31 October, in a discrimination in employment case before the Court of Justice of the European Union started after a request for a preliminary ruling from the Italia Court of Cassation. The AG's opinions are not binding, however very influential and followed in most cases. As for the facts, during a radio interview held in Italy on 16 October 2013, a senior lawyer stated he would never hire a homosexual person to work in his law firm. The Italian Court of Cassation requested the Court of Justice of the European Union to clarify European anti-discrimination Law's application to such statements. In her opinion, the AG considers such remarks to be likely to hinder access to employment, thus falling within the scope of the Directive on equal treatment in employment and occupation (EU Directive 2000/78/EC). Besides, she explains why prohibition of such statements doesn't violate freedom of expression. Furthermore, associations with a legitimate interest may be granted standing to bring proceedings and claim damages in the absence of an identifiable victim, like in the case at stake. The Court's ruling is expected to be delivered within a few months.<sup>10</sup>

## **2. Research findings, studies or surveys on either experiences of discrimination or rights awareness**

On 28 February 2019, on the eve of the Zero Discrimination Day, Save The Children Italia Onlus released the findings of a survey carried out by SottoSopra – its branch focused on young people – with the support of the National Institute for the Assessment of the Educational and Training System (*Istituto nazionale per la valutazione del sistema educativo di istruzione e di formazione*, INVALSI), in the framework of the 'UP-prezzami' campaign, which was aimed at combatting stereotypes and discrimination among adolescents and people aged between 14 and 22. The survey involved 2,000 pupils of Italian secondary schools: three in five students reported having been victims of discrimination, stigma, violence, and/or threats perpetrated by their schoolmates. Nine in 10 students directly witnessed discriminatory behaviours against their peers. Sexual orientation, belonging to the Roma community, body weight, and ethnic and national origins are the most common discrimination grounds (for more than 80% of the participants). Other relevant discrimination grounds are the Islamic faith, poverty, and disability (for 70% of the participants). The participants were also asked to list the risk factors that might expose a student to discrimination: 88% of them mentioned sexual orientation; 85% belonging to the Roma community, and overweight; 82% the fact of being Black; 76% the fact of

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<sup>8</sup> Information on the LGBT Board is available at the UNAR website: [www.unar.it/bandi/costituzione-del-tavolo-di-consultazione-permanente-per-la-promozione-dei-diritti-e-la-tutela-delle-persone-lgbt/](http://www.unar.it/bandi/costituzione-del-tavolo-di-consultazione-permanente-per-la-promozione-dei-diritti-e-la-tutela-delle-persone-lgbt/).

<sup>9</sup> The information reported in this paragraph was provided by UNAR through a written interview of 20 December 2019. The hyperlinks were added to sustain the provided information.

<sup>10</sup> The AG opinion is available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62018CC0507&from=EN>. This paragraph is taken from the analysis of the case published by ILGA Europe in its November 2019 Rainbow Digest: <https://ilga-europe.org/resources/rainbow-digest/november-2019#Equality%20and%20non-discrimination>.

being Muslim; 71% poverty; 67% disabilities; 67% the fact of being of Arabic ancestry; and 53% the fact of being of Asian or Jewish ancestry. Sixty one per cent of the participants directly suffered some type of discrimination in the school context: 19% reported being excluded from the group of peers, 17% were victims of negative rumours, and 16% reported having been taunted, whereas one in 10 students was victim of threats, physical violence, and/or theft of personal belongings. Out of those who suffered discrimination, 32% resorted to friends, and 31% did not report the episode to anyone. Only one in 20 respondents who suffered discrimination decided to resort to teachers. As to the cases of witnessed discrimination, 45% of them occurred at school, 30% in the street, and 21% on social networks.<sup>11</sup>

On 27 March 2019, the Organization for Economic Co-operation and Development (OECD) released a focus on the discrimination suffered by LGBTI people in Italy, titled *Society at a glance. A spotlight on LGBT people*.<sup>12</sup> According to the focus, Italy performs worse than the OECD average regarding acceptance of homosexuality. Only 37% of the respondents would feel comfortable with a transgender or transsexual person in the highest elected political position, as a colleague, or as a son-in-law or daughter-in-law. LGBTI people are more at risk of discrimination in the workplace, and face barriers in accessing the labour market: in case of job vacancies, with the same experience and qualifications, homosexual Italian applicants are about 30% less likely to be invited to a job interview than heterosexual Italian applicants.

On 25 November 2018, F.I.S.H. and Differenza Donna launched an online survey titled *Violence Emergence, Recognition, and Awareness* (VERA), which focused on the double discrimination affecting women with disabilities. The survey – which is still ongoing and available online –<sup>13</sup> is anonymous, and aims to better understand how the stigma affecting people with disabilities intersect with the oppression and violence women experience in their daily lives. Some preliminary results of the survey were disseminated in May 2019 during a public conference organised in Rome by some female deputies of the Democratic Party (*Partito Democratico*, PD). As of May 2019, 476 women with disabilities – aged between 16 and 81 – had replied to the survey. As many as 153 of them reported suffering violence (32%). If all the forms of violence are considered (including psychological violence, sexual harassment, isolation, etc.), the number of victims rises to 314 (66% of the sample).

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<sup>11</sup> Save the Children Italia Onlus (2019), 'Infanzia: più di 3 ragazzi su 5 vittime di discriminazioni, emarginati o derisi dai loro coetanei; 9 su 10 testimoni diretti di episodi contro i loro compagni', 28 February 2019, available at: [www.savethechildren.it/press/infanzia-pi%C3%B9-di-3-ragazzi-su-5-vittime-di-discriminazioni-emarginati-o-derisi-dai-loro](http://www.savethechildren.it/press/infanzia-pi%C3%B9-di-3-ragazzi-su-5-vittime-di-discriminazioni-emarginati-o-derisi-dai-loro).

<sup>12</sup> OECD (2019), *Society at a Glance 2019. A spotlight on LGBT people*, available at: [www.oecd.org/italy/sag2019-italy-en.pdf](http://www.oecd.org/italy/sag2019-italy-en.pdf).

<sup>13</sup> Available at: [www.fishonlus.it/vera/](http://www.fishonlus.it/vera/).

## Chapter 2. Racism, xenophobia and related intolerance

### 1. Legal, policy developments and measures relating to the application of the Racial Equality Directive

Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin has been implemented in Italy through Legislative Decree No. 215 of 9 July 2003.<sup>14</sup> There are no major legal advancements to report in this area for 2019, as confirmed by a representative from the Observatory on Security against Discrimination (*Osservatorio per la Sicurezza contro gli Atti Discriminatori*, OSCAD) of the Italian Police, interviewed on 9 September 2019. UNAR was contacted but has not yet provided any information on this issue.

On 7 October 2019, a panel discussion on racism and sports was organised in Rome by UNAR, the Italian Sport-for-All Union (*Unione italiana sport per tutti*, Uisp), and the Football against Racism in Europe (FARE) network. The aim of the meeting was to identify effective measures to contrast the upsurge of racism in sports activities. The first necessary step would be – according to the proponents – to better monitor this issue, covering not only professional sports activities but also recreational ones. For this purpose, at the meeting the possibility was proposed to set up a national observatory against discrimination in sport, with the involvement of as many institutions and organisations as possible dealing with sports activities at all levels. The proposal was agreed upon by all participants in the discussion. The observatory would be activated on an experimental basis, and might represent a good practice at EU level.<sup>15</sup>

In July 2019, the Italian branch of the international non-governmental organisation (NGO) Amnesty International Italia presented its report *Barometro dell’Odio. Elezioni europee 2019* (which means ‘hatred barometer. 2019 European Parliament election’),<sup>16</sup> monitoring the incidence of hate speech episodes during the Italian electoral campaign for the European Parliament election of May 2019. As to the methodology,<sup>17</sup> the monitoring activity covered a time span of 40 days (from 15 April to 24 May 2019) and concerned Facebook and Twitter personal pages of candidates and leaders of political parties. As to the sample of the candidates to be monitored, the NGO decided to select the 40 most active candidates on Facebook and Twitter, covering the most representative electoral lists/political parties. On the whole, 100,000 online contents were monitored (i.e. 100% of contents the relevant subjects generated during the considered period); 4,000 data packages (out of a total of 4,000, i.e. 100%) were included in the monitoring; and as many as 2,000 hours were spent in the monitoring activity by 180 observers. The monitored contents were divided into two categories: Tweeter/Facebook posts directly published by the candidates, and comments/replies by generic users (up to the fourth level of reply). As for the results emerging from the monitoring activity, more than one in 10 contents (11.5%) from among the 100,000 monitored posts/tweets/comments were considered as derogatory/discriminatory/hate speech. As for the contents strictly labelled as hate speech, these represented one in 100 contents. The main target of these contents was the group including migrants, refugees, and people with a migratory background (in this case, the incidence of discriminatory contents amounted to 5%), followed by

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<sup>14</sup> Implementation of Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (*Decreto legislativo 9 luglio 2003, n. 215, Attuazione della direttiva 2000/43/CE per la parità di trattamento tra le persone indipendentemente dalla razza e dall’origine etnica*), available at: [www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2003:215](http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2003:215).

<sup>15</sup> Italy, UNAR (2019), ‘Razzismo nel calcio e nello sport: un Osservatorio contro le discriminazioni per fare sistema e conoscere da vicino il fenomeno’, 9 October 2019, available at: [www.unar.it/razzismo-nel-calcio-e-nello-sport-un-osservatorio-contro-le-discriminazioni-per-fare-sistema-e-conoscere-da-vicino-il-fenomeno-nellalto-livello-e-nello-sport-amatoriale/](http://www.unar.it/razzismo-nel-calcio-e-nello-sport-un-osservatorio-contro-le-discriminazioni-per-fare-sistema-e-conoscere-da-vicino-il-fenomeno-nellalto-livello-e-nello-sport-amatoriale/).

<sup>16</sup> Amnesty International Italia (2019), *Barometro dell’odio. Elezioni europee 2019*, available at:

<https://d21zrvtkxt6ae.cloudfront.net/public/uploads/2019/05/29202706/Amnesty-barometro-odio-2019.pdf>

<sup>17</sup> The methodology of the research is provided in Amnesty International Italia (2019), *Barometro dell’odio. Elezioni europee 2019, Nota metodologica*, available at:

<https://d21zrvtkxt6ae.cloudfront.net/public/uploads/2019/06/28223758/nota-metodologica-barometro-amnesty.pdf>.



Muslim people, women, and Roma people. As for hate speech cases, Muslim people were the most affected category (19% of the cases), followed by migrants and refugees (15.5%) and women (8%). The report also includes some relevant recommendations targeted at social media platforms, EU institutions, and national institutions. As to social media platforms, the NGO recommends: improving alert mechanisms and coordination strategies with law enforcement agencies; improving mechanisms to remove contents promptly; sharing with users guidelines and information on how to react to violations and abuses; investing resources in awareness-raising activities and campaigns; publishing and sharing information on monitoring and removal activities; and improving security and privacy standards. As for EU institutions, the NGO recommends: stronger commitment to contrasting online hate speech and to introducing preventive measures; the introduction of effective legislation that might include criminal sanctions in compliance with human rights international standards; adequate investment in training activities targeted at the institutional bodies in charge of implementing the applicable legislation on online abuses, discrimination, and gender equality, and in support of victims of such abuses; and increasing the efforts spent in awareness-raising campaigns and projects. As to Italian authorities, the NGO recommends: the establishment of specific mechanisms aimed at combatting discriminatory language and hate speech; the creation of a specific parliamentary committee monitoring racism, antisemitism, and incitement to hatred and violence; stronger commitment to reducing the use of derogatory and offensive language targeting vulnerable social groups, as well as to increasing sanctions in case such language is used by politicians; and the introduction of specific training activities on online discrimination and hate crimes, targeted at school teachers.

## **2. Legal, policy developments and measures relating to the application of the Framework Decision on Racism and Xenophobia**

There are no major legal advancements to report in this area. A representative from OSCAD was interviewed on 9 September 2019. He confirmed that the legislative framework implementing in the Italian legal system Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law had already been finalised between 2016 and 2018.<sup>18</sup> There are no major advancements to report during the reference period of this report.

Law No. 115/2016 introduced into the Italian judicial system the criminal offence of Holocaust denial. In this respect, OSCAD reported having developed – during 2019 – an intense cooperation pattern with the Union of Italian Jewish Communities (*Unione delle Comunità Ebraiche Italiane*, UCEI). The interviewee reported that, in May-June 2019, OSCAD and UCEI developed a pilot information-exchange system that is still in its experimental phase. The aim of this practice is to promptly report any relevant bias indicators that can demonstrate that a criminal offence has a discrimination background. The information and inputs resulting from this exchange will give rise to the development of a specific hate crime manual in the upcoming months.

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<sup>18</sup> Law No. 115 of 16 June 2016, Amendments to Article 3 of Law No. 654 of 13 October 1975 concerning combatting and repression of crimes of genocide, crimes against humanity, and war crimes, as defined in Articles 6, 7, and 8 of the Statute of the International Criminal Court (*Legge 16 giugno 2016, n. 115, Modifiche all'articolo 3 della legge 13 ottobre 1975, n. 654, in materia di contrasto e repressione dei crimini di genocidio, crimini contro l'umanità e crimini di guerra, come definiti dagli articoli 6, 7 e 8 dello statuto della Corte penale internazionale*), available at: <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2016;115>; Law No. 167 of 20 November 2017, Provisions aimed at ensuring fulfilment of the obligations resulting from Italy's membership of the EU – the European Law 2017 (*Legge 20 novembre 2017, n. 167, Disposizioni per l'adempimento degli obblighi derivanti dall'appartenenza dell'Italia all'Unione europea – Legge europea 2017*), available at: <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2017-11-20;167>; and Legislative Decree No. 21/2018.

Moreover, OSCAD is partner of the European ‘Facing Facts’ project, which is aimed at tackling the issue of hate crime and hate speech in Europe.<sup>19</sup> In the framework of this project, OSCAD contributed to the arrangement of three online courses targeted at law enforcement agencies, focusing on, respectively, hate crimes, bias indicators, and vulnerable victims. The courses are available in English, Italian, and Hungarian (OSCAD was in charge of the Italian translation). Moreover, six modules concerning bias indicators in relation to specific hate crimes were developed: anti-Semitic hatred; islamophobia; hatred against the Roma population; hatred against migrants; homophobia and hatred against LGBTI people; and discrimination against people with disabilities. These six modules are targeted at NGOs and civil society actors, and are available online in English; however, OSCAD has translated three of them into Italian (the ones concerning migrants, people with disabilities, and LGBTI people), and is currently collecting financial resources to translate the remaining three.<sup>20</sup>

On 30 October 2019, the Senate approved the establishment of the Special Committee to Combat Intolerance, Racism, Antisemitism, and Incitement to Hatred and Violence (*Commissione straordinaria per il contrasto dei fenomeni di intolleranza, razzismo, antisemitismo e istigazione all’odio e alla violenza*). The proponents – who include a senator that survived the holocaust – filed a motion explaining the necessity to set up the committee, also arguing that it would further contribute to the implementation of Council Framework Decision 2008/913/JHA.<sup>21</sup> The committee will consist of 25 senators belonging to all the political parties represented in the Italian Senate. Its mandate is to monitor, observe, and investigate episodes of intolerance, racism, antisemitism, and incitement to hatred and violence targeting social groups because of their ethnic origin, religion, nationality, sexual orientation, gender identity, and other physical or psychological features. The committee will also foster and ensure the actual implementation of international conventions and agreements, as well as of national legislative provisions punishing these hate-inspired behaviours. More specifically, the committee will: a) collect and make publicly available national and international legislation, research works, academic publications, statistics, data, information, and documents concerning the activities carried out by public institutions, international organisations, and civil society organisations (CSOs) in this field; b) directly carry out research and studies covering all forms of hate targeting individuals and social groups; and c) issue observations and recommendations concerning the effects, limits, and necessary reforms of the applicable national legislation, with a view to complying with EU and international law binding obligations. Once a year (at the end of June), the committee will deliver its activity report to the government and to both Houses of Parliament, providing information on the results emerging from its research and monitoring activity, as well as recommendations and suggestions for improvement. Finally, the committee will be entitled to report to the media and managers of websites any episodes of online hate speech, as well as to call for the removal of such content.

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<sup>19</sup> More information on the project is available on its website ([www.facingfacts.eu](http://www.facingfacts.eu)).

<sup>20</sup> The courses for law enforcement agencies are not publicly available online. The training modules for NGOs are available at: [www.facingfacts.eu/courses/](http://www.facingfacts.eu/courses/).

<sup>21</sup> Motion No. 1-00136 (*Mozione n. 1-00136*) is available in Italy, Senate, XVIII Legislature, 159<sup>th</sup> public session, agenda, Tuesday, 29 October 2019 (*Senato, XVIII Legislatura, 159a seduta pubblica, ordine del giorno, martedì 29 ottobre 2019*), available at: [www.senato.it/service/PDF/PDFServer/DF/347775.pdf](http://www.senato.it/service/PDF/PDFServer/DF/347775.pdf).

## Chapter 3. Roma integration

### 1. Measures and developments addressing Roma/Travellers segregation

In August 2019, Associazione 21 luglio released a political document – developed in the framework of the international Alliance against Antigypsyism, which includes also the European Network against Racism (ENAR), the European Roma Grassroots Organisations (ERGO) Network, and the Central Council of German Sinti and Roma (*Zentralrat Deutscher Sinti und Roma*) – aimed at promoting a global approach to contrast all forms of discrimination against Roma people. The alliance addresses its documents and recommendations to both EU and national public institutions in order to influence and shape their integration and anti-discrimination policies. Moreover, the target of the alliance also includes CSOs with a view to helping them develop effective inclusion policies and actions. The document provides 12 recommendations. Associazione 21 luglio published four of them on its website (the remaining eight will be published shortly): a) to recognise the existence of anti-Gypsyism in its actual and historical expressions; b) to acknowledge the historical responsibility of institutions towards the Roma community; c) to improve the EU institutional and political context in order to strengthen the fight against anti-Gypsyism as the main cause of social exclusion of the Roma population; and d) to improve data collection, and to foster better monitoring of anti-Gypsyism.<sup>22</sup>

In 2019, public authorities have not yet adopted measures to contrast the situation of segregation of the Roma population living in Italy.<sup>23</sup> On the other hand, forced evictions of Roma people living in informal encampments continued during the reference period. On 10 May 2019, a huge informal encampment hosting 450 Roma people – including families with children – was evacuated by police officers in Giugliano (Campania). Associazione 21 Luglio had been monitoring the fragile situation and had negotiated with local public authorities the postponement of the eviction until the people living in the encampment received a voucher allowing them to pay for an alternative accommodation in the short term. This did not happen, and the evacuation of the encampment was carried out without offering the people concerned any alternative accommodation solutions. Moreover, police officers have reportedly prevented the evicted families from parking their vans and cars in the municipal territory. According to the people living in the encampment, during the days before the evacuation, the municipal staff had threatened to erase their and their children's names from the municipal civil registries if they refused to voluntarily leave the encampment.<sup>24</sup> After the evacuation, Amnesty International Italia addressed a formal complaint to the Italian President of the Council of Ministers, denouncing the appalling living conditions these people had experienced, as well as the fact that they had not been provided with alternative accommodation solutions. The NGO also called upon the government and local authorities to find a long-term solution to this situation of extreme distress.<sup>25</sup> On 17 May 2018, the European Court of Human Rights (ECtHR) – which had received a complaint filed by the evicted people with the support of the European Roma Rights Centre (ERCC) and Associazione 21 luglio – formally invited Italian national and local authorities to find an alternative living solution for the families and children

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<sup>22</sup> Associazione 21 luglio (2019), 'Riconoscere l'esistenza dell'antigitanismo e migliorare il quadro politico con un approccio globale', 9 August 2019, available at: [www.21luglio.org/riconoscere-lesistenza-dellantigitanismo-e-migliorare-il-quadro-politico-con-un-approccio-globale/](http://www.21luglio.org/riconoscere-lesistenza-dellantigitanismo-e-migliorare-il-quadro-politico-con-un-approccio-globale/). The whole set of recommendations issued by the Alliance against Antigypsyism, and some information about the organisation itself are provided in Associazione 21 luglio (2019), 'Sviluppo di misure per combattere l'antigitanismo dopo il 2020', 7 August 2019, available at: [www.21luglio.org/sviluppo-di-misure-per-combattere-lantigitanismo-dopo-il-2020/](http://www.21luglio.org/sviluppo-di-misure-per-combattere-lantigitanismo-dopo-il-2020/).

<sup>23</sup> Information confirmed by Associazione 21 luglio (interviewed on 4 September 2019).

<sup>24</sup> Associazione 21 luglio (2019), 'Giugliano (Napoli): sgomberato campo con 450 persone', 10 May 2019, available at: [www.21luglio.org/giugliano-napoli-sgomberato-campo-con-450-persone/](http://www.21luglio.org/giugliano-napoli-sgomberato-campo-con-450-persone/).

<sup>25</sup> Amnesty International Italia [2019], 'ROM: una soluzione per 500 persone lasciate in strada', available at: [www.amnesty.it/appelli/rom-una-soluzione-per-500-persone-lasciate-in-strada/](http://www.amnesty.it/appelli/rom-una-soluzione-per-500-persone-lasciate-in-strada/).

evacuated from the Giugliano encampment.<sup>26</sup> Following the ECHR's decision, the government announced that the Roma families would not be evicted from the other informal encampment in Giugliano where they found shelter after the eviction effected in May 2019; moreover, the families were provided with access to basic facilities, such as drinkable water and toilets. Eventually, the government, in cooperation with local authorities and local social services, is activating a task force aimed at providing alternative living solutions to the families accommodated in shelters and reception facilities located in the municipal territory.<sup>27</sup>

The impossibility to overcome the encampment system without adequate alternative accommodation solutions was stressed also by the Italian Association of Today's Gypsies (*Associazione Italiana Zingari Oggi*, A.I.Z.O.).<sup>28</sup> This NGO reported that the practice of evicting Roma people from formal and informal encampments without providing an adequate financial allowance is not sustainable, especially considering the high costs of the Italian private rental housing market. The association also mentioned the regional legislative proposal – lodged by the League (*Lega*) right-wing party in the region of Piedmont – containing provisions governing nomadism and contrasting illegal behaviours. The proposal is aimed at overcoming the encampment system by arranging 'transit areas', i.e. open spaces where Roma people can live upon submission of an application, and provided they pay the bills, and declare their identity and personal belongings. These areas will be subject to video-surveillance, and people can have access thereto only by showing a card.<sup>29</sup> A.I.Z.O. strongly criticised this legislative proposal, which allegedly risks increasing segregation of Roma people; moreover, the association stressed that it is not clear where these areas will be arranged, where funding will come from, and who is going to manage and control the transit areas.

The Roma Nation Association (*Associazione Nazione Rom*)<sup>30</sup> confirmed that no policy developments were adopted in 2019 to contrast the segregation of the Roma population living in Italy, neither at the national nor at the regional/local level of governance. On the opposite, the adopted policies and the public discourse regarding Roma further fuelled segregation and stigma. The association mentioned the high number of forced evictions of formal and informal Roma encampments carried out by public authorities in 2018 and 2019. For instance, the most recent case mentioned by the association concerns the forced eviction of a Roma encampment in the municipality of Sesto Fiorentino (Tuscany): 70 families were provided with public support to find an alternative accommodation; the eviction operations costed EUR 210,000<sup>31</sup>. A dossier concerning the situation of enduring evictions of Roma encampments in Italy was presented by the association to the European Commissioner for Regional Policy in May 2018<sup>32</sup>.

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<sup>26</sup> Associazione 21 luglio (2019), 'Da Strasburgo la Corte Europea dei Diritti dell'Uomo interviene sulla vicenda dei rom di Giugliano imponendo il rispetto dei diritti umani', Press release, 18 May 2019, available at: [www.21luglio.org/da-strasburgo-la-corte-europea-dei-diritti-delluomo-interviene-sulla-vicenda-dei-rom-di-giugliano-imponendo-il-rispetto-dei-diritti-umani/](http://www.21luglio.org/da-strasburgo-la-corte-europea-dei-diritti-delluomo-interviene-sulla-vicenda-dei-rom-di-giugliano-imponendo-il-rispetto-dei-diritti-umani/).

<sup>27</sup> Associazione 21 luglio (2019), 'Il monito della Corte Europea al Governo italiano sortisce i primi effetti a Giugliano in Campania', Press release, 6 June 2019, available at: [www.21luglio.org/il-monito-della-corte-europea-al-governo-italiano-sortisce-i-primi-effetti-a-giugliano-in-campania/](http://www.21luglio.org/il-monito-della-corte-europea-al-governo-italiano-sortisce-i-primi-effetti-a-giugliano-in-campania/).

<sup>28</sup> A.I.Z.O. was interviewed on 8 November 2019.

<sup>29</sup> Italy, Region of Piedmont (*Regione Piemonte*) (2019), 'Dal "campo stanziale" all'"area di transito". Un Disegno di Legge regionale per rivoluzionare il rapporto tra Comuni e nomadismo', Press release, 28 October 2019, available at: [www.regione.piemonte.it/web/pinforma/comunicati-stampa/dal-campo-stanziale-all-area-transito-un-disegno-legge-regionale-per-rivoluzionare-rapporto-comuni](http://www.regione.piemonte.it/web/pinforma/comunicati-stampa/dal-campo-stanziale-all-area-transito-un-disegno-legge-regionale-per-rivoluzionare-rapporto-comuni).

<sup>30</sup> The Association provided information through a written interview provided on 2 December 2019.

<sup>31</sup> More information about the operation is available at: [www.youtube.com/watch?v=mCEqFH8Gb4A](https://www.youtube.com/watch?v=mCEqFH8Gb4A).

<sup>32</sup> The video of the presentation is available at: [www.youtube.com/watch?v=vZ1-kNirleE&t=18s](https://www.youtube.com/watch?v=vZ1-kNirleE&t=18s).

In January 2020, Associazione 21 Luglio presented its new report titled “Where the crumbs remain”<sup>33</sup>, monitoring the results and shortcomings of the implementation of the “Plan for the Inclusion of the Roma, Sinti and Caminanti population living in the city of Rome”, approved by the municipal government on 26 May 2017<sup>34</sup>. The municipal plan was aimed at overcoming irregular encampments and at the development of individually tailored inclusion projects with the active participation of Roma families living in such encampments. According to the association’s report, after more than two years since the approval of the Plan, no monitoring and evaluation reports have been released by the city government: for this reason, the association’s aim is to provide an independent assessment of the Plan and its results. At this end, the association carried out a monitoring activity in the period 31 May 2017-20 December 2019, using a mixed-method approach including: direct observation on the field in 38 different locations, desk-research and in-depth interviews with local stakeholders in charge of the Plan’s implementation (both local public authorities and civil-society organisations). According to the report, the first shortcoming of the Plan was that it was redacted exclusively by local public authorities without any kind of involvement neither of the target population (the Roma families living in the encampments) nor of committed civil society organisations. Moreover, according to the Plan, public authorities had to ensure the overcoming of formal and informal encampments by offering the families alternative and suitable housing solutions. The report stresses that only a reduced share of the families (12 out of 97 families) that were evicted from the informal encampment of Camping River in July 2018, actually had the opportunity to benefit from a financial support in paying the rent for an ordinary apartment. 14 families were temporarily accommodated in public reception facilities. 12 families accepted to be involved in voluntary returns programmes: however, half of them decided to come back to Italy since integration and inclusion projects in their countries of origin never actually started. Consequently, most of the families evicted from the Camping River had to rely on other informal accommodation solutions. Eventually, during the monitoring period, the association registered 104 forced evictions operations in the city of Rome, for an overall financial expenditure of EUR 3,300,000.

## **2. Policy and legal measures and developments directly or indirectly addressing Roma/Travellers inclusion**

There is no information to report for this section.<sup>35</sup>

UNAR could not provide more specific information<sup>36</sup>. The National Roma Platform was established in 2017 as an operational tool for dialogue between the National Roma Focal Point, Roma and pro-Roma associations and the central public administrations. The main Platform’s goal is to stimulate the involvement and co-operation between institutions and organisations, with specific regard to Roma youth. Its secondary goal is to facilitate the establishment of networks and to promote networking among NGOs and Roma federations. The Platform was established following an expression of interest with the admission of 79 associations from all over the national territory and finalized through activation of the Roma, Sinti and Caminanti (RSC) Community Forum composed of 25 associations. UNAR has been engaged in a preliminary and very sensitive exercise (in consideration of the fragmentation and other divisions within the Roma associations), namely the selection and definition of representativeness-related criteria for RSC participation. Two Roma mediators was involved as consultants by UNAR. UNAR supports – through national funds - Roma National Platform with the

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<sup>33</sup> Associazione 21 Luglio (2020), “Dove restano le briciole. I propositi del Piano Rom e ciò che rimane negli insediamenti della Capitale”, January 2020, available at: [www.21luglio.org/2018/wp-content/uploads/2020/01/drlb-integrale.pdf](http://www.21luglio.org/2018/wp-content/uploads/2020/01/drlb-integrale.pdf).

<sup>34</sup> *Piano di Indirizzo di Roma Capitale per l’inclusione delle Popolazioni Rom, Sinti e Caminanti*, Deliberazione n. 105/2017 della Giunta Capitolina.

<sup>35</sup> The impossibility to report information concerning 2019 was confirmed by Associazione 21 luglio (interviewed on 4 September 2019) and A.I.Z.O. (interviewed on 8 November 2019). The association “Nazione Rom” confirmed the same on 2 December 2019.

<sup>36</sup> The information reported in this paragraph was provided by UNAR through a written interview of 20 December 2019. The hyperlinks were added to sustain the provided information.

reimbursement for the meetings (travels, accommodations, etc), for training activities (especially directed to Roma Youth), support for communication and dissemination of activities as well. The RSC Community Forum interacts both with the National Platform and the National Contact Point, to define specific issues related to identity, anti-gypsyism, discrimination (recognition of the RSC historical-linguistic minority; Romani culture promotion and knowledge of persecutions and Porrajmos). Since 2017, more than 10 plenary meetings were held, open to the participation of members of NGOs, as well as experts, scholars, Roma/Sinti Youth. while a specifically dedicated meeting to the theme of memory and genocide of RSC people was organized on 21 December 2017. In addition, in 2017 and 2018, specific trainings on anti-Gypsyism and on-line hate speech was promoted in cooperation with the Council of Europe. Furthermore the TO.BE.ROMA - “Towards a Better cooperation and dialogue between stakeholders inside the National Roma Platform” – project<sup>37</sup> financed by the EU Commission has been implemented in 2019 to reinforce the role and action of the national contact points of the Strategy to be actively involved in decision-making processes at the national and local level and to improve the dialogue, cooperation and coordination among the RSC communities and concerned stakeholders within the Platform and the Forum.

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<sup>37</sup> Information about the project is available at the UNAR website: [www.unar.it/cosa-facciamo/azioni-positive-e-progetti/progetto-to-be-roma/](http://www.unar.it/cosa-facciamo/azioni-positive-e-progetti/progetto-to-be-roma/).

## Chapter 4. Asylum, visas, migration, borders and integration

### Unaccompanied children reaching the age of majority

Area of support	<i>Description</i>
<b>Residence permit</b> <i>Reception conditions Directive (article 6 and 7) and Qualification Directive (articles 24 and 31)</i>	<p>The legislative reform of the Italian asylum system – introduced through Law No. 132 of 1 December 2018 –<sup>38</sup> represents the major change occurred during the reference period of this report. This law thoroughly reformed the Italian asylum and reception system by abolishing, for instance, the humanitarian residence permit. The Italian reception system, i.e. the National Asylum-Seekers and Refugees Protection System (<i>Sistema di protezione per richiedenti asilo e rifugiati</i>, SPRAR) – whose name has been changed into ‘Protection System for International Protection Status Holders and Unaccompanied Children’ (<i>Sistema di protezione per titolari di protezione internazionale e per minori stranieri non accompagnati</i>, SIPROIMI) – is now accessible only by international protection status holders (i.e. those people holding refugee or subsidiary protection status), unaccompanied children, and those foreign citizens holding a residence permit for special healthcare needs, special cases, natural calamity and/or disaster, and acts of civil merit. The reform does not directly concern either unaccompanied children or their transition to adult age; however, its implementation will have an impact on unaccompanied children’s transition phase to adult age. In fact, with the elimination of the humanitarian residence permit, most unaccompanied children will have their asylum applications rejected by the relevant commissions (inasmuch as humanitarian protection can no longer be granted), and will be provided with a residence permit for minors; this permit might be converted later on into a residence permit for work or study purposes (should the asylum application be rejected before the applicant turns 18). Should the asylum application be rejected when the applicant has already turned 18, the Police Headquarters</p>

<sup>38</sup> Conversion into law, with modifications, of Decree Law No. 113 of 4 October 2018, containing urgent provisions governing international protection and immigration, public security, as well as provisions on the effective functioning of the Ministry of the Interior and on the organisation and functioning of the National Agency for the Administration and Management of the Assets Seized and Confiscated from Criminal Organisations. Delegation of power to the government for the reorganisation of roles and careers of the Police and the Armed Forces (*Legge 1 dicembre 2018, n. 132, Conversione in legge, con modificazioni, del decreto-legge 4 ottobre 2018, n. 113, recante disposizioni urgenti in materia di protezione internazionale e immigrazione, sicurezza pubblica, nonché misure per la funzionalità del Ministero dell’interno e l’organizzazione e il funzionamento dell’Agenzia nazionale per l’amministrazione e la destinazione dei beni sequestrati e confiscati alla criminalità organizzata. Delega al Governo in materia di riordino dei ruoli e delle carriere del personale delle Forze di polizia e delle Forze armate*), available at: [www.gazzettaufficiale.it/eli/id/2018/12/03/18G00161/sg](http://www.gazzettaufficiale.it/eli/id/2018/12/03/18G00161/sg).

(*Questura*) would most probably not allow the applicant to apply for a residence permit for study or work purposes, even if the requirements set out in the Italian immigration legislation are complied with. These subjects will consequently have no possibility of regularising their administrative status.

Despite this strict regulatory framework, thanks to Article 13, paragraph 2 of Law No. 47 of 7 April 2017, Provisions for the protection of unaccompanied minors,<sup>39</sup> unaccompanied children who – despite having participated in social inclusion projects – are not yet independent and able to support themselves financially have the possibility of being placed under the supervision of local social services, which will support them for a period that cannot exceed their 21<sup>st</sup> birthday. This solution shall be decided by the Juvenile Court having jurisdiction over the area where the child lives, and can be requested by the social services of the relevant Municipality, the child’s guardian, or the reception facility where the child is hosted. Such scheme is called ‘administrative continuation’ (*proseguo amministrativo*), and is aimed at enabling these children to conclude their social inclusion process despite turning adults. As for the administrative status of these children, Circular of the Ministry of the Interior No. 400 of 28 August 2017<sup>40</sup> established that, in case the children who have been granted the ‘administrative continuation’ scheme do not fulfil the criteria to have their residence permit for minor age converted into another type of residence permit (such as the one for study or work purposes), the local Police Headquarters can renew the residence permit for minor age for a period that cannot exceed their 21<sup>st</sup> birthday.

However, this system still faces some critical challenges.<sup>41</sup> If unaccompanied children turning 18 are not granted the ‘administrative continuation’ scheme, and were not accommodated in the SIPROIMI system while still minors, they will be transferred to a reception facility for adults – such as special reception centres (*centri di accoglienza straordinaria*, CAS) – should they decide to lodge an asylum application, and until their application is assessed by the competent authorities. Should they be granted any protection status, they enjoy the possibility of being hosted in a SIPROIMI centre for adults for a period of six months. In case they hold the humanitarian protection status, or pending the conversion of the residence permit for minor age into another type of residence permit, the children concerned will not be allowed to remain in the reception centre for unaccompanied children, and will not be guaranteed an alternative accommodation solution in other reception facilities for adults. If an unaccompanied child turning 18 is not granted the ‘administrative continuation’ pattern but was accommodated in the SIPROIMI system while still a minor, this subject is entitled to remain in the facility for a period of six months after turning 18. After that, if an asylum application

<sup>39</sup> Legge 7 aprile 2017, n. 47, *Disposizioni in materia di misure di protezione dei minori stranieri non accompagnati*, available at:

[www.gazzettaufficiale.it/eli/id/2017/04/21/17G00062/sg](http://www.gazzettaufficiale.it/eli/id/2017/04/21/17G00062/sg).

<sup>40</sup> *Circolare del Ministero dell’Interno 28 agosto 2017, n. 400*, available at: [www.asgi.it/wp-content/uploads/2017/09/circolare-interno-28-08-2017-minori-Legge-47-2017-scansionata.pdf](http://www.asgi.it/wp-content/uploads/2017/09/circolare-interno-28-08-2017-minori-Legge-47-2017-scansionata.pdf).

<sup>41</sup> The legislative framework was outlined in detail in ASGI (Association for Legal Studies on Immigration – *Associazione per gli studi giuridici sull’immigrazione*) and INTERSOS (2019), *L’accoglienza dei minori non accompagnati dopo il compimento dei 18 anni*, available at: [www.asgi.it/wp-content/uploads/2019/07/Scheda-accoglienza-MSNA-dopo-i-18-anni.pdf](http://www.asgi.it/wp-content/uploads/2019/07/Scheda-accoglienza-MSNA-dopo-i-18-anni.pdf).



	is lodged, the applicant is entitled to remain in the SIPROIMI system until the application is assessed (the subject will probably be transferred to a SIPROIMI facility for adults). In case protection status is granted, the subject is entitled to remain in the SIPROIMI facility for a period of up to six months (and will probably be transferred to a SIPROIMI facility for adults). In case of humanitarian protection status, or pending the conversion of the residence permit for minor age into another type of residence permit, the subject concerned will not be allowed to remain in the SIPROIMI reception facility, and will not be guaranteed an alternative accommodation solution in other reception facilities for adults.
<b>Guardianship</b> ( <i>representative under Reception Conditions Directive Article 24.1</i> )	Law No. 47/2017 introduced the role of the voluntary guardian, i.e. an Italian citizen who is available to be appointed, on a voluntary basis, as guardian of unaccompanied children by the competent judicial authorities. The implementation of this reform is still underway: the Authority for the Protection of Childhood and Adolescence ( <i>Autorità Garante per l'Infanzia e l'Adolescenza</i> , AGA) – as well as its regional branches – has been providing since 2018 training sessions for those who enrol in the list of voluntary guardians. However, no significant developments are to be reported for 2019 in this field.
<b>Accommodation</b> <i>Reception Conditions Directive Article 24.2</i>	In the first row of this table, the main changes concerning the reception of unaccompanied children occurred at the end of 2018 – and implemented in 2019 – were described. On 3 January 2019, the Ministry of the Interior issued a circular implementing the reformed legislative discipline. <sup>42</sup> According to the circular letter, SIPROIMI reception facilities must receive unaccompanied children (including those who are not asylum applicants). When these children turn 18, and in case they are asylum applicants, they are allowed to remain in SIPROIMI until their international protection applications are assessed by the competent authorities. If they obtain a protection status, they are allowed to remain in SIPROIMI as protection status holders. Moreover, the circular letter clarifies that SIPROIMI reception facilities are targeted at young adults that have been granted the ‘administrative continuation’ scheme. Finally, the circular letter established that all reception facilities that host unaccompanied children, and are not SIPROIMI centres – such as, for instance, CAS – must be gradually dismissed, and the children transferred to SIPROIMI facilities.
<b>Return</b> <i>Return Directive, Article 10</i>	Unaccompanied children cannot be returned, and no changes occurred in this regard in 2019. Furthermore, no developments occurred in 2019 concerning the assistance to be provided to young adults involved in return procedures.
<b>Others</b>	On 8 November, the report “Crossroads. The transition to adult age of unaccompanied migrant children living in Italy” ( <i>A un bivio. La transizione all’età adulta dei minori stranieri non accompagnati in Italia</i> ) <sup>43</sup> . The report was

<sup>42</sup> Circular of the Ministry of the Interior (*Circolare del Ministero dell’Interno*), available at: [www.meltingpot.org/IMG/pdf/circolare\\_dlci.pdf](http://www.meltingpot.org/IMG/pdf/circolare_dlci.pdf).

<sup>43</sup> A synthesis of the results is available at: [www.unhcr.it/wp-content/uploads/2019/11/BRIEF-Rapporto-A-un-bivio.pdf](http://www.unhcr.it/wp-content/uploads/2019/11/BRIEF-Rapporto-A-un-bivio.pdf).

commissioned by UNICEF, UNHCR and IOM and redacted by the ISMU Foundation, in cooperation with the University of the Studies of “Roma Tre” and the University of Catania. The research focused on the transition to the adult age of unaccompanied migrant children living in three Italian regions, Sicily, Lombardy and Latium, due to high incidence of this issue in these regional territories. The research was based on interviews conducted involving 185 migrant unaccompanied children. A peer-research approach was adopted: the interviewees were unaccompanied migrant children who recently turned 18. As for the results of the research, the distinction between children and adults is to be considered as artificial, since it does not consider the process of transition to the adult age, the impact of cultural, social and gender differences in this process, as well as the vulnerabilities of this specific sub-group of the migrant/asylum-seeking population. According to the report, drivers for a successful transition to the adult age are: the complete implementation of the Law No. 47/2017; a functioning reception system; the development of a rich network of connections and relationships: in this respect, the role of educators and voluntary guardians emerged as crucial; a prompt and effective inclusion of these children in the public school-system; the development of transitory accommodation solutions – such as foster families, community-based shelters – to support young adults in the transition from reception centres to independent housing. Barriers to the transition are: bureaucratic backlogs and delays in issuing residence permits and identity documents for unaccompanied migrant children; the short period available to start an integration path before turning adults, since most children arrive in Italy aged 16-17; the difficulties in obtaining a regular work contract; discriminations and racism in the access to the labour- and housing market; traumatic experiences children were subject to in their countries of origin or during the journey to Italy; experiences of violence – especially gender-based violence; the inefficiencies of the Italian reception system; lack of statistical data monitoring the transition of unaccompanied children to adult age. The report also provides recommendations to both Italian and EU authorities, as well as to civil society organisations, which include: the adoption of a long-term strategy at national level to support children in their transition to adult age; to ensure the full implementation of the Law No. 47/2017; high-level reception standards in all reception facilities destined to unaccompanied children; the introduction of transition housing solutions; accelerating the procedures for the recognition of foreign school-certifications and degrees; introduction of standard evaluation procedures of professional and education skills; promoting the creation of local networks of inclusion and integration services; the development of a new Plan of Action contrasting racism, xenophobia and discriminations.

## Chapter 5. Information society, data protection<sup>44</sup>

### 1. Activities developed and launched by national data protection supervisory authorities (SAs) to implement and enforce the GDPR

Since January 2018, the Italian Data Protection Authority (*Garante per la protezione dei dati personali*, GPDP) has been implementing a project entitled ‘T4DATA – Training for data’. The initiative, scheduled to run until December 2019, is aimed at providing information on the content and correct implementation of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) – also known as ‘GDPR’. The first phase of the project (concluded in 2018) was based on several transnational training sessions targeted at national trainers (national data protection authorities, DPAs). During the second phase (which is still ongoing), training sessions are offered at national level to all those subjects – including civil servants and public administrative bodies – that, because of their job/mandate, treat and store personal data: four training sessions are offered in each of the countries participating in the project (i.e. Italy, which coordinates the project through Fondazione Lelio e Lisli Basso, Bulgaria, Croatia, Poland, and Spain). The project also provides online courses (webinars) aimed at widening the potential number of beneficiaries. The initiative, which is funded by the EU’s Rights, Equality and Citizenship Programme 2014-2020, will end with a conference where the main outcomes – in terms of both knowledge and beneficiaries – will be disseminated.<sup>45</sup>

GPDP – in partnership with its Bulgarian counterpart – is also involved in the SMEDATA project, which is aimed at supporting small and medium-sized enterprises (SMEs) and professionals who need to reform their working procedures to comply with the GDPR. The group of beneficiaries of the project also includes professionals working as legal consultants in the privacy field. SMEDATA, which runs from December 2018 until December 2020, received €557,288 worth of funding from the Rights, Equality and Citizenship Programme 2014-2020. The project includes the following activities: 24 daily awareness-raising and training activities and four two-day workshops aimed at training the trainers; the development of a self-assessment tool to adapt the provisions of the GDPR to

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<sup>44</sup> The information included in this chapter was provided by GPDP (interviewed on 5 September 2019).

<sup>45</sup> For further information, cf. Italy, GPDP [2018], ‘T4DATA’, available at: [www.garanteprivacy.it/regolamentoue/formazione/t4data](http://www.garanteprivacy.it/regolamentoue/formazione/t4data); and GPDP [2018], *T4DATA. Formazione delle autorità per la protezione dei dati e dei responsabili per la protezione dei dati*, available at: [www.garanteprivacy.it/documents/10160/0/T4data+-+depliant+informativo.pdf/fec30f6c-d8b1-0c8a-14e3-ea3c44dfbd2e?version=1.2](http://www.garanteprivacy.it/documents/10160/0/T4data+-+depliant+informativo.pdf/fec30f6c-d8b1-0c8a-14e3-ea3c44dfbd2e?version=1.2).

SMEs' needs; the development of the 'GDPR in your pocket' mobile app to provide SMEs with guidance and practical tips on the implementation process of the GDPR; and wide-scale dissemination activities on the outcomes and implementation stages of the project.<sup>46</sup>

On 16 May 2019, GPDP addressed a formal letter both to the Ministry of Infrastructure and Transport, and to the President of the Council of Ministers concerning Article 10a, paragraphs 1 to 3 of Decree Law No. 135 of 14 December 2018, Urgent support and simplification provisions targeted at companies and the public administration,<sup>47</sup> which was converted, with modifications, into Law No. 12 of 11 February 2019.<sup>48</sup> The considered legislative provisions concerns car-hire-with-driver services, imposing upon drivers the obligation to store electronic records of the services they provide, including the route and the number of kilometres, the starting and ending time of the service, the destination, as well as passengers' data. According to GPDP, this legislative provision allows for the clear identification of the users of such services, in breach of the proportionality principle enshrined in the GDPR. As a matter of fact, according to GPDP, the storage purpose – such as, for instance, the need to contrast unlicensed service providers – does not justify such massive data storage; moreover, the legislative framework does not provide effective tools to inform and protect data subjects. In spite of GPDP's opinion, the legislative provision entered into force in February 2019 without considering its comments and criticism.

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<sup>46</sup> For further information, cf. Italy, GPDP [2018], *SMEDATA. Garantire il massimo grado di protezione della privacy e dei dati personali attraverso strumenti innovativi per le PMI e i cittadini*, available at: [www.garanteprivacy.it/documents/10160/0/Presentazione+Progetto+SMEDATA.pdf/0329790c-4bd0-1b91-c849-5dd4fca0212f?version=1.0](http://www.garanteprivacy.it/documents/10160/0/Presentazione+Progetto+SMEDATA.pdf/0329790c-4bd0-1b91-c849-5dd4fca0212f?version=1.0).

<sup>47</sup> *Decreto-legge 14 dicembre 2018, n. 135, Disposizioni urgenti in materia di sostegno e semplificazione per le imprese e per la pubblica amministrazione*, available at: [www.gazzettaufficiale.it/eli/id/2018/12/14/18G00163/sg](http://www.gazzettaufficiale.it/eli/id/2018/12/14/18G00163/sg).

<sup>48</sup> Conversion into law, with modifications, of Decree Law No. 135 of 14 December 2018 containing urgent support and simplification provisions targeted at companies and the public administration (*Legge 11 febbraio 2019, n. 12, Conversione in legge, con modificazioni, del decreto-legge 14 dicembre 2018, n. 135, recante disposizioni urgenti in materia di sostegno e semplificazione per le imprese e per la pubblica amministrazione*, available at: [www.gazzettaufficiale.it/eli/id/2019/02/12/19G00017/sg](http://www.gazzettaufficiale.it/eli/id/2019/02/12/19G00017/sg)).

## 2. Artificial intelligence and big data

MS	Actor*	Type*	Description	Are Ethical concerns mentioned? (yes/no)	Are Human Rights issues mentioned?(yes/no)	Reference
IT	DPA; independent State institution	Other projects	On 30 May, GPD (the Italian DPA), the Italian Competition Authority ( <i>Autorità Garante della Concorrenza e del Mercato</i> , AGCM), and the Italian Authority for Communications Guarantees ( <i>Autorità per le Garanzie nelle Comunicazioni</i> , AGCOM) kicked off an exploratory survey aimed at understanding the implications the development of the digital economy, and big data have on the right to privacy, consumer protection, and antitrust legislation. In July 2019, the preliminary results of the survey were released, including the guidelines on cooperation between stakeholders operating in the field, as well as the policy recommendations the three authorities agreed on.	No	No	Italy, AGCM, AGCOM, and GPD (2019), <i>Big Data. Indagine conoscitiva congiunta. Linee guida e raccomandazioni di policy</i> , available at: <a href="http://www.garanteprivacy.it/documents/10160/0/Big+Data.+Linee+guida+e+raccomandazioni+di+policy.+Indagine+conoscitiva+congiunta+di+Agcom%2C+Agcm+e+Garante+privacy.pdf/563c7b0e-adb2-c26c-72ee-fe4f88adbe92?version=1.1">www.garanteprivacy.it/documents/10160/0/Big+Data.+Linee+guida+e+raccomandazioni+di+policy.+Indagine+conoscitiva+congiunta+di+Agcom%2C+Agcm+e+Garante+privacy.pdf/563c7b0e-adb2-c26c-72ee-fe4f88adbe92?version=1.1</a> .
IT	Government	National	In July 2019, the Ministry of Economic Development released a	Yes	Yes	Italy, Ministry of Economic Development ( <i>Ministero dello Sviluppo Economico</i> ) (2019), <i>Proposte per una strategia</i>

	/Parliamentary	draft act	<p>document proposing a national strategy on artificial intelligence. The aim of the strategy is to stimulate national productivity while respecting the Sustainable Development Goals of the United Nations (UN). More specifically, the strategy is based on nine goals: a) to increase public and private investment in artificial intelligence (AI) and related technologies; b) to strengthen research and innovation in the AI field; c) to support the adoption of AI digital technologies; d) to strengthen the education offer at all levels in order for AI to be useful for the workforce; e) to make the most of the data economy, which is the real fuel for AI; f) to strengthen the legislative and ethic framework governing AI development; g) to promote citizens' awareness and trust towards AI; h) to revitalise the public administration, and to make public policies more efficient; and i) to foster European and international cooperation with a view to creating more reliable and inclusive AI.</p> <p>The strategy focuses on specific production sectors that are key for the implementation of AI policies, namely manufacture, agroindustry, tourism and culture, infrastructure</p>		<p><i>italiana per l'intelligenza artificiale</i>, available at: <a href="http://www.mise.gov.it/images/stories/documenti/Proposte-per-una-strategia-italiana-2019.pdf">www.mise.gov.it/images/stories/documenti/Proposte-per-una-strategia-italiana-2019.pdf</a>.</p>
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			<p>and energy networks, health and social insurance, cities and intelligent mobility, and public administration. The draft strategy was then submitted to public consultation from 19 August 2019 until 13 September 2019: people were invited to send observations on the nine goals, as well as suggestions for improvement. The strategy has not yet been officially adopted.</p>			
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\*For the actors, please pick from the following suggestions:

- Government/ Parliamentary
- DPA
- NGO/Other Non Profit
- Academia
- Domestic Courts
- Business
- Independent State Institution
- Other

\*\* for the type, please pick from the following suggestions:

- National Draft Acts / Adopted Acts
- report/study
- other projects

### 3. Data retention

On 22 May 2018, GPDP released an opinion<sup>49</sup> concerning the reform proposal<sup>50</sup> of the data retention legislative framework enshrined in Article 132 of Legislative Decree No. 196 of 30 June 2003, Personal data protection code.<sup>51</sup> The proposal was eventually approved – in spite of GPDP’s opinion – with Legislative Decree No. 101 of 10 August 2018, Provisions aimed at harmonising the national legislation with the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation),<sup>52</sup> which confirmed a legislative provision that had already been introduced through the European Law 2017. The new set of rules extends to 72 months the data retention period of phone and internet records – including data concerning missed calls – in case such data need to be used in investigations concerning terrorism, international terrorism, and other criminal offences connected to public security. According to GPDP, this reform *de facto* introduces a double data retention legislative framework into the Italian system: a set of rules governing ordinary data retention (Article 132 of Legislative Decree No. 196/2003), and a special set of rules (Article 132, paragraph 5a of Legislative Decree No. 196/2003). However, based on GPDP’s reasoning, this double legislative framework cannot be applied since providers storing data cannot know from the beginning what purpose such data will be used for, and – consequently – the time period of their retention. Therefore, the special set of rules seems to have become the ordinary one. In this respect, the reformed legislative framework does not seem to comply with EU law and the case law of the Court of Justice of the European Union (CJEU); moreover, it makes Italy a unique case in the EU.

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<sup>49</sup> Italy, GPDP (2018), Opinion on the draft legislative decree containing provisions for the harmonisation of the national legislation with the provisions of Regulation (EU) 2016/679 – 22 May 2018 [9163359] (*Parere sullo schema di decreto legislativo recante disposizioni per l’adeguamento della normativa nazionale alle disposizioni del Regolamento (UE) 2016/679 – 22 maggio 2018* [9163359]), available at: [www.garanteprivacy.it/web/guest/home/docweb/-/docweb-display/docweb/9163359](http://www.garanteprivacy.it/web/guest/home/docweb/-/docweb-display/docweb/9163359).

<sup>50</sup> Government Draft Act No. 22, Draft legislative decree containing provisions to ensure compliance of the national legislation with the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (*Disegno di legge n. 22, Schema di decreto legislativo recante disposizioni per l’adeguamento della normativa nazionale alle disposizioni del Regolamento (UE) 2016/679, relativo alla protezione delle persone fisiche con riguardo al trattamento dei dati personali, nonché alla libera circolazione di tali dati e che abroga la direttiva 95/46/CE (regolamento generale sulla protezione dei dati)*), available at: <http://www.senato.it/service/PDF/PDFServer/BGT/1067310.pdf>.

<sup>51</sup> *Decreto legislativo 30 giugno 2003, n. 196, Codice in materia di protezione dei dati personali*, available at:

[www.garanteprivacy.it/documents/10160/0/Codice+in+materia+di+protezione+dei+dati+personali+%28Testo+coordinato%29](http://www.garanteprivacy.it/documents/10160/0/Codice+in+materia+di+protezione+dei+dati+personali+%28Testo+coordinato%29).

<sup>52</sup> *Decreto legislativo 10 agosto 2018, n. 101, Disposizioni per l’adeguamento della normativa nazionale alle disposizioni del regolamento (UE) 2016/679 del Parlamento europeo e del Consiglio, del 27 aprile 2016, relativo alla protezione delle persone fisiche con riguardo al trattamento dei dati personali, nonché alla libera circolazione di tali dati e che abroga la direttiva 95/46/CE*, available at: [www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2018:101](http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2018:101).



## Chapter 6. Rights of the child

### 1. Procedural safeguards for children who are suspects in criminal proceedings

<p><b>Legislative changes</b></p>	<p><b>Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings has not yet been implemented. However, the Italian Parliament approved Law No. 163 of 25 October 2017, Delegation of power to the government for the transposition of European directives and for the implementation of other acts of the European Union – European Enabling Act 2016-2017.<sup>53</sup> Through this act, the Italian government is mandated by the Parliament to approve a legislative decree implementing the abovementioned directive. However, as of the end of December 2019, the legislative decree had not been approved.</b></p>
<p><b>Policy developments</b></p>	<p>On 18 July 2019, the Juvenile Court of Rome (<i>Tribunale per i Minorenni di Roma</i>), the Public Prosecutor of the Juvenile Court of Rome – Juvenile Justice Centre for Lazio, Abruzzo, and Molise (<i>Procura della Repubblica presso il Tribunale per i Minorenni di Roma – Centro di Giustizia Minorile per il Lazio, l’Abruzzo ed il Molise</i>), the Rome Bar Association (<i>Consiglio dell’Ordine degli Avvocati di Roma</i>) and the Lazio Regional Committee of the Italian National Olympic Committee (<i>Comitato Olimpico Nazionale Italiano, CONI</i>) adopted a protocol promoting the inclusion into sports activities, of children or young adults who are suspects in criminal proceedings.<sup>54</sup> Directive (EU) 2016/800 is mentioned in the preliminary introduction as one of the legal grounds for the adoption of the protocol. This latter document – which was fostered and proposed by the Bar Association of Rome – is aimed at further contributing to the rehabilitation and social inclusion of children involved as defendants in criminal proceedings.</p>
<p><b>Other measures or initiatives</b></p>	<p>On 21 March 2019, AGA participated in a conference on juvenile justice, publicly calling on the Parliament and the government to introduce a legislative reform governing restorative justice and mediation for children involved as offenders in criminal proceedings. According to AGA, instead of lowering the age of culpability from 14 to 12, it would be much more effective to implement mediation practices thanks to which young offenders can become aware of their responsibilities, and develop their own rehabilitation pathway, with the support of professional mediators. During the conference, AGA presented the recommendations included in its 2018 report on criminal mediation and other restorative justice instruments in juvenile criminal</p>

<sup>53</sup> Legge 25 ottobre 2017, n. 163, *Delega al Governo per il recepimento delle direttive europee e l’attuazione di altri atti dell’Unione europea – Legge di delegazione europea 2016-2017*, available at: [www.tuttocamere.it/files/Archivio1/2017\\_163.pdf](http://www.tuttocamere.it/files/Archivio1/2017_163.pdf).

<sup>54</sup> Available at: [www.ordineavvocatiroma.it/wp-content/uploads/2019/07/coni.pdf](http://www.ordineavvocatiroma.it/wp-content/uploads/2019/07/coni.pdf).

	proceedings, <sup>55</sup> as well as a leaflet presenting the meaning and functioning of criminal mediation. <sup>56</sup>
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## 2. Legal and policy measures or initiatives developed about child internet safety

In 2019, the Senate set up an internal Investigation Committee on Bullying and Cyberbullying (*Indagine conoscitiva su bullismo e cyberbullismo*). The committee's goal is to investigate this major social issue by hearing experts and stakeholders in this field. The committee started its hearing activity in April 2019, organising 18 meetings with experts, such as: AGA, the National Institute of Statistics (*Istituto Nazionale di Statistica*, Istat), the United Nations Children's Fund (Unicef), Save the Children Italia Onlus, the Telefono Azzurro NGO, representatives from phone and internet companies, well-known psychiatrists and psychologists, the President of the National Centre to Contrast Cyberbullying (*Centro nazionale anti-cyberbullismo*, CNAC), the Ministry of Justice, the Ministry of Education, University, and Research, and the Ministry of Family and Disabilities.<sup>57</sup> For instance, the President of Istat was heard before the committee on 27 March 2019, and provided some data on the incidence of bullying and cyberbullying in Italy resulting from a survey carried out in 2015: as of cyberbullying, 22.2% of bullying victims reported cyber-bullying episodes; moreover, 5.9% of them reported suffering repeated episodes of cyberbullying (several episodes per month). Female adolescents spend more time using their smartphones and on the internet, and are consequently more exposed to cyberbullying. According to Istat's report, 7.1% of the girls using the internet or a smartphone have been cyberbullied, as against 4.6% of boys. Children aged between 11 and 13 are more exposed to cyberbullying (7% reported one or more incidents each month) compared with adolescents aged between 14 and 17 (5.2%). During the hearing, the President of Istat also put forward the need to develop a specific survey on cyberbullying, involving students with the consent of their families.<sup>58</sup>

In February 2019, Telefono Azzurro published the results of a survey conducted in partnership with DoxaKids, titled *Have your say*.<sup>59</sup> The survey was aimed at investigating how children/adolescents use smartphones, the internet, and social media, as well as the risks they are exposed to while doing it. The research – implemented in December 2018 using the Computer Assisted Web Interviewing (CAWI) method – involved 611 subjects aged between 12 and 18 (43% aged between 12 and 14, and 57% aged between 15 and 18). As for the risks, 57% of the participants reported at least one negative experience while online, 34% of them received messages from unknown people, 14% were asked to share personal data, 11% were asked to meet in person by other users, 7% were sent explicit photos, and 7% received violent

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<sup>55</sup> Italy, AGA (2018), *La mediazione penale e altri percorsi di giustizia riparativa nel procedimento penale minorile. Documento di studio e di proposta*, Rome, AGA, available at:

[www.garanteinfanzia.org/sites/default/files/mediazione-penale-giustizia-riparativa-minori.pdf](http://www.garanteinfanzia.org/sites/default/files/mediazione-penale-giustizia-riparativa-minori.pdf).

<sup>56</sup> Available at: [www.garanteinfanzia.org/sites/default/files/brochure-mediazione-penale-ragazzi.pdf](http://www.garanteinfanzia.org/sites/default/files/brochure-mediazione-penale-ragazzi.pdf).

<sup>57</sup> The transcriptions of the hearings are available at:

[www.senato.it/leg/18/BGT/Schede/ProcANL/ProcANLScheda41201.htm](http://www.senato.it/leg/18/BGT/Schede/ProcANL/ProcANLScheda41201.htm).

<sup>58</sup> Italy, Istat (2019), *Indagine conoscitiva su bullismo e cyberbullismo. Audizione del Presidente dell'Istituto nazionale di statistica Prof. Gian Carlo Blangiardo*, available at:

[www.istat.it/it/files//2019/03/Istat-Audizione-27-marzo-2019.pdf](http://www.istat.it/it/files//2019/03/Istat-Audizione-27-marzo-2019.pdf).

<sup>59</sup> Telefono Azzurro (2019), *Have your say. Di la tua: i bambini e adolescenti protagonisti della sfida digitale*, available at: [www.azzurro.it/sites/default/files/ctools/Telefono%20Azzurro%20SID%202019-dossier\\_compressed%20%284%29.pdf](http://www.azzurro.it/sites/default/files/ctools/Telefono%20Azzurro%20SID%202019-dossier_compressed%20%284%29.pdf).

or derogatory messages. Twenty-seven per cent of the participants reported sending provocative photos to other users. Sixty-six per cent of the participants reported that – while on the internet – they came across a content they were not expecting (32% violent videos/images, 25% content inviting them to gambling, 23% sexually explicit content, and 15% content promoting sexism or racism).

In October 2019, AGA announced that European Network of Ombudspersons for Children (ENOC) adopted a Position Statement on “Children’s Rights in the Digital Environment”, during its 23<sup>rd</sup> General Assembly held in Belfast on 27 September 2019<sup>60</sup>.

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<sup>60</sup> The ENOC’s Position Statement is available at: <http://enoc.eu/wp-content/uploads/2019/10/ENOC-2019-Statement-on-Childrens-Rights-in-the-Digital-Environment-FV.pdf>. AGA announced the Statement at: [www.garanteinfanzia.org/news/minorenni-ambiente-digitale-e-migranti-le-dichiarazioni-enoc](http://www.garanteinfanzia.org/news/minorenni-ambiente-digitale-e-migranti-le-dichiarazioni-enoc).

# Chapter 7. Access to justice including crime victims

## 1. Victims' Rights Directive

Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA was implemented in Italy with Legislative Decree No. 212 of 15 December 2015.<sup>61</sup>

Law No. 145 of 30 December 2018, The State's budget for the financial year 2019, and multi-annual budget for the three-year period 2019-2021 (so-called 'Budget Law 2019'),<sup>62</sup> partially reformed the legislative framework governing financial compensation awarded to victims of intentional violent crimes, introduced through Articles 11 to 13 of Law No. 122 of 7 July 2016, Provisions aimed at ensuring fulfilment of the obligations resulting from Italy's membership of the EU – the European Law 2015-2016.<sup>63</sup> According to the Budget Law 2019, the victims are entitled to compensation if they have not received – as victims – equal compensation from any other private or public subject. In case they have already received compensation whose amount is lower than the one victims would be entitled to according to Law No. 122/2016, they are entitled to receive the difference. The same criteria apply to compensation awarded to the family members of victims in case of death caused by the violent crime. Moreover, the right to compensation in case of death of the victim is extended to same-sex spouses (same-sex marriages were legalised in Italy in 2016). However, it is worth reporting that, with Regional Law No. 22 of 6 December 2018, Establishment of the Regional Authority for the Protection of Crime Victims,<sup>64</sup> Lombardy was the first Italian Region to introduce the Regional Authority for the Protection of Crime Victims (*Garante regionale per la tutela delle vittime di reato*), appointed in April 2019.<sup>65</sup> The authority's scope of action include: cooperating with competent regional and national authorities to foster access of crime victims to services and psychological support; monitoring and submitting reports to the competent authorities concerning the violation of the rights of crime victims; and supporting and financing initiatives aimed at providing assistance to crime victims, establishing partnerships with local public services. All the people living in the regional territory can resort to the authority. The body initially focused on the organisation of awareness-raising activities aimed at explaining and informing about its existence and role. Since October 2019, the authority has also been providing free-of-charge

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<sup>61</sup> Implementation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (*Decreto legislativo 15 dicembre 2015, n. 212, Attuazione della direttiva 2012/29/UE del Parlamento europeo e del Consiglio, del 25 ottobre 2012, che istituisce norme minime in materia di diritti, assistenza e protezione delle vittime di reato e che sostituisce la decisione quadro 2001/220/GAI*), available at:

[www.gazzettaufficiale.it/eli/id/2016/01/05/15G00221/sg](http://www.gazzettaufficiale.it/eli/id/2016/01/05/15G00221/sg).

<sup>62</sup> *Legge 30 dicembre 2018, n. 145, Bilancio di previsione dello Stato per l'anno finanziario 2019 e bilancio pluriennale per il triennio 2019-2021*, available at:

[www.gazzettaufficiale.it/eli/id/2018/12/31/18G00172/sg](http://www.gazzettaufficiale.it/eli/id/2018/12/31/18G00172/sg).

<sup>63</sup> *Legge 7 luglio 2016, n. 122, Disposizioni per l'adempimento degli obblighi derivanti dall'appartenenza dell'Italia all'Unione europea – Legge europea 2015-2016*, available at: [www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2016-07-07:122](http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2016-07-07:122).

<sup>64</sup> *Legge regionale 6 dicembre 2018, n. 22, Istituzione del Garante regionale per la tutela delle vittime di reato*, available at:

[http://normelombardia.consiglio.regione.lombardia.it/normelombardia/Accessibile/main.aspx?exp\\_coll=lr002018120600022&iddoc=lr002018120600022&selnode=lr002018120600022&view=showdoc](http://normelombardia.consiglio.regione.lombardia.it/normelombardia/Accessibile/main.aspx?exp_coll=lr002018120600022&iddoc=lr002018120600022&selnode=lr002018120600022&view=showdoc).

<sup>65</sup> Italy, Region of Lombardy (*Regione Lombardia*) [2019], 'Garante regionale per la tutela delle vittime di reato', available at: [www.consiglio.regione.lombardia.it/wps/portal/crl/home/istituzione/altri-organismi/garante-regionale-per-la-tutela-delle-vittime-di-reato](http://www.consiglio.regione.lombardia.it/wps/portal/crl/home/istituzione/altri-organismi/garante-regionale-per-la-tutela-delle-vittime-di-reato).

assistance to crime victims. According to the author of this report, the establishment of this body represents an innovative and experimental attempt that can contribute to the implementation of the directive, providing assistance to victims in their territory of residence. If successful, this practice might be replicated in other Italian regions. However, this practice is not subject to a specific assessment or monitoring. Moreover, there is not an official website of the Authority: as reported in the website of the Council (the regional legislative body), the Authority is located by the regional Council and can be contacted by phone.

On 14 November 2019, the Daphne Network – a free, public network providing assistance to crime victims – organised a public conference at the Italian Senate, proposing the creation of a National Assistance Service for Crime Victims, in compliance to the Victims’ Rights Directive.<sup>66</sup>

## 2. Violence against women

The Parliament approved Law No. 69 of 19 July 2019, Reforms to the Criminal Code and the Criminal Procedure Code, as well as other provisions for the protection of victims of domestic and gender-based violence (so-called ‘Red Code’).<sup>67</sup> As for judicial procedures, the act established that priority shall be guaranteed in relation to criminal proceedings concerning domestic violence, stalking, and sexual violence. Police officers – if informed of this kind of offences – must promptly notify the Public Prosecutor’s Office (*Procura*), which – within three days – is compelled to gather evidence and information from the victim or the person reporting the offence. The three-day deadline can be postponed only in case of imperative reasons aimed at protecting the children involved or the confidentiality of the investigations. Preventive measures protecting the victims – such as the ban on approaching the immediate vicinity of the victim, which is implemented also through the use of new technologies such as electronic bracelets – have been strengthened and extended also to the offence of abuse against family members and cohabitants; moreover, electronic bracelets can be used to monitor the respect of the ban on approaching the places usually attended by the victim. Four additional criminal offences were introduced into the Italian Criminal Code: revenge porn, permanent injuries to the victims’ face, forced marriage, and violation of preventive measures (such as the ban on approaching, and the removal order from the family house). Sanctions envisaged by the Italian Criminal Code were increased in the following cases: art. 572 of the Italian Criminal Code on abuse against family members and cohabitants (from between two and six years of imprisonment, to between three and seven years of imprisonment); art. 612-bis of the Italian Criminal Code on stalking of cohabitants (from between six months and five years of imprisonment, to between one and 6.5 years of imprisonment); art. 609-bis.1 of the Italian Criminal Code on sexual violence (from between five and 10 years of imprisonment, to between six and 12 years of imprisonment); and art. 609-octies of the Italian Criminal Code on gang sexual violence (from between six and 12 years of imprisonment, to between eight and 14 years of imprisonment). Victims of sexual violence now have 12 months to report the episode of violence (as against the six-month time span envisaged in the previous discipline). The reform was criticised by the Women’s Network against Violence (*Donne in Rete contro la violenza*, D.i.Re), the network launched in 2008 that gathers most of the Italian grassroots services combatting gender-based violence: according to the activists (who welcome the introduction of the revenge porn offence into the Italian Criminal Code), the observations they had provided during the hearing they were invited to while the parliamentary debate was still underway were not accepted, and the reformed legislative framework is still based

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<sup>66</sup> The Conference programme is available at the Daphne Network’s website, at: [www.retedafne.it/presentazione-in-senato-14-novembre-2019/](http://www.retedafne.it/presentazione-in-senato-14-novembre-2019/).

<sup>67</sup> *Legge 19 luglio 2019, n. 69, Modifiche al codice penale, al codice di procedura penale e altre disposizioni in materia di tutela delle vittime di violenza domestica e di genere*, available at: [www.gazzettaufficiale.it/eli/id/2019/07/25/19G00076/sg](http://www.gazzettaufficiale.it/eli/id/2019/07/25/19G00076/sg).

on an emergency approach to gender-based violence. Such observations concerned the fact that no financial resources had been earmarked for the implementation of the reform, and the role of grassroots and institutional services supporting women was not mentioned at all, thus weakening the provisions governing training activities for law enforcement agencies and judicial authorities. Finally, they also stressed that setting forth a three-day deadline for the beginning of proceedings might backfire since victims might not be ready in such a short time, and might even minimise what they had found the courage to report.<sup>68</sup> As soon as the reform started being implemented, some shortcomings emerged. The newly introduced Article 387a of the Italian Criminal Code envisages imprisonment of between six months and three years for those offenders breaching a judicial preventive measure (such as, for instance, the ban on approach); however, the perpetrators cannot be arrested in flagrante delicto since the offences considered are not included among those for which this kind of arrest can be effected. For this reason, police officers can solely report the violation to the Public Prosecutor's Office, which reports it to the competent judicial authorities. This procedure might take some days, thus depriving women of a prompt remedy to a threat that might cost them their lives.<sup>69</sup>

In July 2019, the Equal Opportunity Department (*Dipartimento per le Pari Opportunità*, DPO) presented the 2019 operational plan on violence against women (it is not yet publicly available),<sup>70</sup> i.e. the annual implementing document of the National Strategic Plan on Male Violence against Women 2017-2020 (*Piano strategico nazionale sulla violenza maschile contro le donne 2017-2020*). According to DPO's declarations, the action plan will provide an increase of €10 million compared with 2018, targeted at all Italian Regions with a view to implementing local policies and to supporting local networks combatting gender-based violence. A total of €1.7 million will be provided also to other public authorities active in this field. A task force will be set up – in cooperation with the Financial Police (*Guardia di Finanza*, GdF) – in order to monitor the correct use of such resources. Awareness-raising and training activities will be strengthened. Overall, €38.5 million will be earmarked by DPO in 2019. Regions receiving this financial support must focus their interventions on the following priorities: support to young victims; support to migrant victims; projects aimed at supporting the rehabilitation of abusers; and support to local service networks. D.i.Re criticised the plan, arguing that women's associations and those organisations providing support to victims had not been involved in the development of the plan. Moreover, another matter of concern is the fact that it will be up to the Region to distribute the available financial resources among the various projects: this could imply an uneven distribution of funds, based on criteria that are discretionally set forth by each specific Region.<sup>71</sup>

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<sup>68</sup> D.i.Re (2019), 'Codice Rosso senza risorse è solo un altro tassello della restaurazione patriarcale che si vuole imporre al paese', Press release, 5 April 2019, available at: [www.direcontrolaviolenza.it/codice-rosso-senza-risorse-e-solo-un-altro-tassello-della-restaurazione-patriarcale-che-si-vuole-imporre-al-paese/](http://www.direcontrolaviolenza.it/codice-rosso-senza-risorse-e-solo-un-altro-tassello-della-restaurazione-patriarcale-che-si-vuole-imporre-al-paese/).

<sup>69</sup> Ferrarella, L. (2019), 'La falla del codice rosso che frena gli arresti per violenza sulle donne', *Corriere della Sera*, 21 September 2019, available at: [https://27esimaora.corriere.it/19\\_settembre\\_21/falla-codice-rosso-ba4b9a76-dc9e-11e9-95a3-10409ad8b828.shtml?fbclid=IwAR3meioqF5Z1XWG1ITH-E8AbUkELfeQQl6ezPhbinw6GLncaRe01vpzzhH8](https://27esimaora.corriere.it/19_settembre_21/falla-codice-rosso-ba4b9a76-dc9e-11e9-95a3-10409ad8b828.shtml?fbclid=IwAR3meioqF5Z1XWG1ITH-E8AbUkELfeQQl6ezPhbinw6GLncaRe01vpzzhH8).

<sup>70</sup> Italy, Presidency of the Council of Ministers (*Presidenza del Consiglio dei Ministri*), DPO (2019), 'Violenza contro le donne: presentati il Piano operativo 2019 e la mappatura Istat-Cnr dei centri antiviolenza', 18 July 2019, available at: [www.pariopportunita.gov.it/news/i-centri-e-i-servizi-antiviolenza-in-italia-quant-sono-e-come-funzionano-secondo-lindagine-istat-cnr/](http://www.pariopportunita.gov.it/news/i-centri-e-i-servizi-antiviolenza-in-italia-quant-sono-e-come-funzionano-secondo-lindagine-istat-cnr/).

<sup>71</sup> Ramundo, A. (2019), 'Donne, presentato il piano operativo anti violenza. Gelo dai centri D.i.Re: "Calato dall'alto, non ci hanno interpellato"', *DiRE*, 21 July 2019, available at: [www.dire.it/21-07-2019/355115-donne-presentato-il-piano-operativo-anti-violenza-i-centri-freddi-calato-dallalto-non-ci-hanno-interpellato/](http://www.dire.it/21-07-2019/355115-donne-presentato-il-piano-operativo-anti-violenza-i-centri-freddi-calato-dallalto-non-ci-hanno-interpellato/).

On 30 July 2019, the Committee against Human Trafficking (*Comitato tecnico anti-tratta*) met with a view to starting the preparation of the National Anti-trafficking Plan 2019-2021 (*Piano nazionale anti-tratta 2019-2021*).<sup>72</sup>

On 11 September 2019, DPO launched a tender procedure for the award of a service contract for the operation of the 24-hour helpline 1522 targeted at victims of gender-based violence and stalking. €690,000 was earmarked for an 18-month contract. The hotline is a free-of-charge service available in different languages, and running 365 days a year. Its goal is to support victims by providing them with information on the services they can avail themselves of, at both local and national level.<sup>73</sup>

On 30 October 2019, the newly appointed Minister of Equal Opportunities and Family chaired the first meeting of the Inter-ministerial Coordination Board on Violence against Women (*Cabina di regia interministeriale sulla violenza maschile contro le donne*). This new body includes the abovementioned minister and representatives from other governmental bodies, including the Minister of Labour and Social Policies, and the Minister of Public Administration. During the meeting, the Minister of Equal Opportunities and Family declared that many efforts are currently being made with a view to promptly transferring financial resources to Italian Regions (see above in this section for further details) in order to fund public services contrasting gender-based violence. The aim of this group is to ensure prompt and continuous cooperation of all ministries in the implementation of the policies combatting gender-based violence, as well as to constantly monitor the achievement of the policy goals.<sup>74</sup>

During 2019, the political and public debate also focused on a controversial legislative proposal reforming the rules on divorce and on child custody: Senate Draft Law No. 735, Provisions on shared custody, direct payment alimonies, and protection of co-parenting,<sup>75</sup> also known as ‘Pillon Draft Law’ (after the name of its proponent). The draft act – despite not directly dealing with gender-based violence – has been deemed to be counterproductive in terms of combatting of violence against women: if approved, couples with children willing to divorce would be compelled to preliminarily attempt mediation; moreover, the ordinary custody pattern would be equal co-parenting, and children would be obliged to have a double residence; besides, alimonies would be paid not to the parent entrusted with child custody, but directly to the child; finally, the controversial parental alienation syndrome (PAS) would be formally introduced into the Italian legislative framework. D.i.Re heavily criticised the draft law, and launched an online petition:<sup>76</sup> according to this network, forcing women who suffered domestic and gender-based violence to go through mediation with their abusers is an additional form of violence; moreover, mediation is extremely expensive, and its burden would be often unbearable for women in a country with a significant employment and pay gap between men and women; finally, PAS – which is far from being unanimously accepted within the international research community – would represent an additional leverage against women in case children refused to spend time with their fathers because of the

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<sup>72</sup> Italy, Presidency of the Council of Ministers, DPO (2019), ‘Tratta esseri umani: riunito il Comitato tecnico per la stesura del Piano nazionale’, 30 July 2019, available at:

[www.pariopportunita.gov.it/news/tratta-esseri-umani-il-comitato-tecnico-convocato-il-30-luglio/](http://www.pariopportunita.gov.it/news/tratta-esseri-umani-il-comitato-tecnico-convocato-il-30-luglio/).

<sup>73</sup> Italy, Presidency of the Council of Ministers, DPO (2019), ‘Bando di gara per l’affidamento del 1522, numero di pubblica utilità per le vittime di violenza di genere e stalking’, 11 September 2019, available at: [www.pariopportunita.gov.it/news/bando-di-gara-per-laffidamento-del-1522-numero-di-pubblica-utilita-per-le-vittime-di-violenza-di-genere-e-stalking/](http://www.pariopportunita.gov.it/news/bando-di-gara-per-laffidamento-del-1522-numero-di-pubblica-utilita-per-le-vittime-di-violenza-di-genere-e-stalking/).

<sup>74</sup> Italy, Presidency of the Council of Ministers, DPO (2019), ‘Violenza donne, a Palazzo Chigi Cabina di regia interministeriale. Bonetti: presto 30mln in favore delle Regioni per centri antiviolenza’, 30 October 2019, available at: [www.pariopportunita.gov.it/news/violenza-donne-a-palazzo-chigi-cabina-di-regia-interministeriale-bonetti-presto-30mln-in-favore-delle-regioni-per-centri-antiviolenza/](http://www.pariopportunita.gov.it/news/violenza-donne-a-palazzo-chigi-cabina-di-regia-interministeriale-bonetti-presto-30mln-in-favore-delle-regioni-per-centri-antiviolenza/).

<sup>75</sup> *Disegno di legge n. 735, Norme in materia di affido condiviso, mantenimento diretto e garanzia di bigenitorialità*, available at: [www.senato.it/leg/18/BGT/Schede/Ddliter/50388.htm](http://www.senato.it/leg/18/BGT/Schede/Ddliter/50388.htm).

<sup>76</sup> Available at: [www.change.org/p/il-ddl-pillon-su-separazione-e-affido-va-ritirato-giuseppeconteit-luigidimaio-alfonsobonafede-matteosalvinimi](http://www.change.org/p/il-ddl-pillon-su-separazione-e-affido-va-ritirato-giuseppeconteit-luigidimaio-alfonsobonafede-matteosalvinimi).

abuses they have witnessed or directly suffered. This draft act was endorsed by the former Minister of Family and Disabilities; following the government reshuffle in August 2019, the new Minister of Equal Opportunities and Family declared her intention not to carry on with the draft law.<sup>77</sup>

In November 2019, ActionAid – through its initiative “Donnechecontano.it”, monitoring the allocation and effective use of public financial resources earmarked to contrast gender-based violence, in compliance with the Law No. 119/2013 – released relevant data on the state of the art of public funds to contrast violence against women in the period 2016-2018, as of 1<sup>st</sup> October 2019<sup>78</sup>. According to such data, available funds amounted to EUR 17.5 million in 2015-2016, EUR 12.7 million in 2017 and EUR 20 million in 2018. Such funds, however, have not been completely liquidated by Italian regions and are still allocated with a dramatic delay, even if they had to be used within budget-year 2018. More specifically, the percentage of resources liquidated from Italian regions to shelters and other services contrasting gender-based violence amounted to 63% for 2016-2016 funds; to 52% for 2017 funds; and is almost zero for 2018 funds. These bureaucratic barriers have a severe impact on the existing services: according to ActionAid, many activities were interrupted, the available places in shelters were reduced and the staff was cut.

On 25 November, the Istat issued updated statistical data on gender stereotyping and gender-based violence. As far intimate and domestic violence is concerned, 7.4% of the population believes it to be always/in some circumstances acceptable for a boyfriend to slap his girlfriend if she is flirting with another man. 17.7% of the population considers always/in some circumstances acceptable that a man usually controls the self-phone and/or the social networks of his partner/wife. If the reasons of domestic/intimate violence are considered, 77.7% of the interviewees replied that women are considered as a property of their male partners (84.9% women; 70.4% men); 75.5% mentioned drug or alcohol abuse; 75% the need of men to feel superior to their female partners. 62.6% of the interviewees considers that some men are violent because they cannot stand female emancipation; 33.8% mentioned religion as the cause of gender-based violence. As far as sexual violence is concerned, women are still considered as responsible for the violence they suffer. 39.3% of the respondents replied that women are able to avoid a sexual intercourse if they want to. 23.9% of the interviewees replied that the women provoke sexual violence with their outfit. 15.1% of the respondents believe that a victim of sexual violence is partially to blame if she was drunk or if she used drugs. 10.3% of the respondents believes that often sexual-violence charges are false; 7.2% believe that women often say “no” but they actually mean “yes”.<sup>79</sup>

On 13 January 2020, the Council of Europe published the Baseline Evaluation Report on Italy of the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO)<sup>80</sup>. The Report – adopted in November 2019 – is aimed at monitoring the implementation at national level of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) and at providing recommendations to national authorities. The GREVIO welcome the adoption at national level of legislative reforms contrasting gender-based violence, such as the introduction of stalking as criminal offence, the adoption of the Law No. 119/2013 on gender-based violence, the Legislative Decree No. 80/2015 that introduced a specific paid leave for female workers who are victims of gender-based violence and the Law No. 4/2018 supporting the orphans of the victims of domestic violence. The GREVIO report also stressed the crucial need to earmark sufficient and adequate financial resources to effectively implement the above-mentioned legislation and support the victims. Moreover, the

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<sup>77</sup> adnkronos (2019), ‘Bonetti: “Ddl Pillon? Resterà nel cassetto”’, 16 September 2019, available at: [www.adnkronos.com/fatti/politica/2019/09/16/bonetti-ddl-pillon-resterà-nel-cassetto\\_wx2uTnZNLw5d2w564IKUIN.html?refresh\\_ce](http://www.adnkronos.com/fatti/politica/2019/09/16/bonetti-ddl-pillon-resterà-nel-cassetto_wx2uTnZNLw5d2w564IKUIN.html?refresh_ce).

<sup>78</sup> Such data is available at: <http://donnechecontano.it/>.

<sup>79</sup> Data on gender stereotyping is available at: [www.istat.it/it/archivio/235994](http://www.istat.it/it/archivio/235994).

<sup>80</sup> Council of Europe (2020), “GREVIO Baseline Evaluation Report. Italy”, January 2020, available at: <https://rm.coe.int/grevio-report-italy-first-baseline-evaluation/168099724e>.



report also welcomed the so-called “Red Code” reform (described above): however, the experts also highlighted some gaps of the Law, such as the lack of adequate complaint mechanisms against public authorities that failed in adopting the necessary prevention and protection measures in their fields of competence. The report stressed the need to reform the system governing the custody of children in case of divorce: according to the experts, in cases of domestic violence, it is key to protect the interests of the woman and of the children, rather than the principle of parents’ shared custody. The report also encouraged public authorities to adopt a comprehensive approach to the contrast to gender-based violence, that must involve all levels of governance and all relevant stakeholders, including independent associations of women. Eventually, the experts recommended to foster awareness-raising campaigns on gender-based violence and improve training and sensibilization activities on this issue destined to professionals, educators and also perpetrators/abusers.

# Chapter 8. Developments in the implementation of the Convention on the Rights of Persons with Disabilities

## 1. CRPD policy & legal developments

On 23 October 2019, the Senate's Permanent Commission on Public and Private Labour and Social Security (*11<sup>a</sup> Commissione permanente (Lavoro pubblico e privato, previdenza sociale)*) was given the mandate to start discussing the Draft Law No. 1461 on "Dispositions for the introduction and support to family care-givers"<sup>81</sup>. The aim of the Draft Law is to officially recognise the profession and role of family caregivers. Art. 2 of the Draft Law specifies that caregiving activities must be provided without any form of compensation. Beneficiaries of such activities can be the spouse (including same-sex spouses) and any other family members within a specific degree of kinship. Beneficiaries can be affected by any form of impairment or disability that prevents them from being independent. The caregiver role can be recognised to one person only within the family. Caregivers must be appointed by the assisted person and – if they do not have another professional activity – benefit from social security contributions for three years at the same conditions as domestic workers. As of 31 December 2019, the Permanent Commission had not started the discussion, yet.

The Interministerial Decree of 3 July 2019 of the Ministry of Labour and Social Policies – approved in cooperation with the former Ministry of Family and Disability and with the Ministry of Economics<sup>82</sup> – earmarked additional EUR 19,195,353 to the National Institute for Social Security (*Istituto Nazionale di Previdenza Sociale, INPS*) to be destined to the Fund for the Right to Work of People with Disabilities (*Fondo per il diritto al lavoro dei disabili*) for the year 2019. These additional resources have increased the resources already available for the Fund, namely EUR 20 million. The Fund was created in 1999 with the Law No. 68 of 12 March 1999 on "Dispositions for the Right to Work for People with Disabilities", and substantially reformed through the Law No. 151 of 14 September 2015. This latter reform overcame the traditional funding approach of social policies based on the allocation of national funds to the regional level of governance: after 2015, employers could directly benefit from the Fund<sup>83</sup>.

In October 2019, the Ministry of Labour and Social Policies presented the Non-Self-Sufficiency Plan 2019-2021 (*Piano per la Non Autosufficienza 2019/2021*)<sup>84</sup>, aimed at programming actions and earmarking resources to foster the social inclusion of people with (severe) disabilities, involving the local stakeholders in the process. As per the available financial resources, the Plan increases the resources of the Non-Self-Sufficiency Fund, created with the Budget Law 2007: the Fund currently amounts to EUR 573 million in 2019, compared to EUR 100 million in 2007.

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<sup>81</sup> A.S. 1461 "Disposizioni per il riconoscimento ed il sostegno del caregiver familiare", available at: [www.senato.it/service/PDF/PDFServer/BGT/01123433.pdf](http://www.senato.it/service/PDF/PDFServer/BGT/01123433.pdf).

<sup>82</sup> The Interministerial Decree is available at: [www.lavoro.gov.it/documenti-e-norme/normative/Documents/2019/DI-del-03072019-Fondo-diritto-al-lavoro-dei-disabili.pdf](http://www.lavoro.gov.it/documenti-e-norme/normative/Documents/2019/DI-del-03072019-Fondo-diritto-al-lavoro-dei-disabili.pdf).

<sup>83</sup> Information on the Fund is available at the website of the Ministry of Labour and Social Policies: [www.lavoro.gov.it/temi-e-priorita/disabilita-e-non-autosufficienza/focus-on/Fondo-diritto-lavoro-disabili/Pagine/default.aspx](http://www.lavoro.gov.it/temi-e-priorita/disabilita-e-non-autosufficienza/focus-on/Fondo-diritto-lavoro-disabili/Pagine/default.aspx).

<sup>84</sup> The Plan is available at: <https://www.cisl.it/attachments/article/14296/Piano%20non%20autosufficienza.pdf>. The presentation of the Plan was also reported on the website of the Ministry of Labour and Social Policies at: [www.lavoro.gov.it/priorita/pagine/il-ministro-catalfo-eliminare-le-diseguaglianze-e-costruire-un-percorso-condiviso.aspx/](http://www.lavoro.gov.it/priorita/pagine/il-ministro-catalfo-eliminare-le-diseguaglianze-e-costruire-un-percorso-condiviso.aspx/).

On 27 December 2019, the Budget Law 2020 was approved<sup>85</sup>: art. 1.490 earmarks additional EUR 2 million for 2020 to be destined to the so-called “After Us Fund” at the benefit of people with severe disabilities deprived of family support. The Fund is governed by art. 3.1 of the Law No. 112 of 22 June 2016 on “Dispositions on the assistance to be destined to people with severe disabilities deprived of family support”.

## 2. CRPD monitoring at national level

Table: Structures set up for the implementation and monitoring of the CRPD

<b>EUMS</b>	<b>Focal points within government for matters relating to the implementation of the CRPD – Article 33 (1)</b>	<b>Coordination mechanism – Article 33 (1)</b>	<b>Framework to promote, protect and monitor implementation of the CRPD – Article 33 (2)</b>
<b>IT</b>	Ministry of Labour and Social Policies ( <i>Ministero del Lavoro e delle Politiche Sociali</i> )		<a href="#">National Observatory on the Situation of Persons with Disabilities</a> ( <i>Osservatorio Nazionale sulla condizione delle persone con disabilità</i> )

In January 2019, the new coordinator of the National Observatory on the Situation of Persons with Disabilities (*Osservatorio nazionale sulla condizione delle persone con disabilità*) was appointed. The appointment was announced during a formal meeting at the Presidency of the Council of Ministers, which was attended by the members of the observatory, as well as by representatives from the Federation of National Associations of People with Disabilities (*Federazione tra le Associazioni Nazionali delle Persone con Disabilità*, F.A.N.D.) and F.I.S.H.<sup>86</sup>

On 15 May 2019, the observatory adopted its internal rules concerning various aspects: the convening of meetings; the functioning of the observatory; minutes of meetings; reporting activities; approval and reform of the internal rules; the role of the secretariat; as well as a set of guidelines on expense claims (including travel and accommodation).<sup>87</sup>

On 10 July 2019, the observatory approved the activity plan for the next three years.<sup>88</sup> The plan is structured into nine thematic areas (non-discrimination; right to adult life; fight against segregation; inclusion services; women with disabilities; freedom, civil rights, and participation; international cooperation; monitoring; and accessibility), and is comprised of 13 working groups. The approach that informs the plan is based on the respect of the fundamental rights of

<sup>85</sup> Legge 27 dicembre 2019, n. 160, “Bilancio di previsione dello Stato per l'anno finanziario 2020 e bilancio pluriennale per il triennio 2020-2022”, available at: [www.gazzettaufficiale.it/eli/id/2019/12/30/19G00165/sg](http://www.gazzettaufficiale.it/eli/id/2019/12/30/19G00165/sg).

<sup>86</sup> F.I.S.H. (2019), ‘Osservatorio Nazionale Disabilità: Giampiero Griffo nuovo coordinatore’, available at: [www.fishonlus.it/2019/01/24/osservatorio-nazionale-disabilita-giampiero-griffo-nuovo-coordinatore/](http://www.fishonlus.it/2019/01/24/osservatorio-nazionale-disabilita-giampiero-griffo-nuovo-coordinatore/).

<sup>87</sup> Available at: [www.osservatoriodisabilita.gov.it/media/1313/regolamento-interno-osservatorio-15052019.pdf](http://www.osservatoriodisabilita.gov.it/media/1313/regolamento-interno-osservatorio-15052019.pdf).

<sup>88</sup> Italy, Presidency of the Council of Ministers, National Observatory on the Situation of Persons with Disabilities, ‘Osservatorio disabilità, approvato il programma di attività per i prossimi 3 anni’, 10 July 2019, available at: [www.osservatoriodisabilita.gov.it/it/notizie/osservatorio-disabilita-approvato-il-programma-di-attivita-per-i-prossimi-3-anni/](http://www.osservatoriodisabilita.gov.it/it/notizie/osservatorio-disabilita-approvato-il-programma-di-attivita-per-i-prossimi-3-anni/).

people with disabilities – in compliance with the Convention on the Rights of Persons with Disabilities (CRPD) – and on the inclusion of innovative strategic areas (such as women with disabilities, segregation, and international cooperation), together with more traditional fields of intervention (such as health, education, labour, and social policies). The plan also envisages a specific monitoring mechanism in relation to the implementation progress of the plan itself.

## Annex 1 – Promising Practices

<b>EQUALITY AND NON-DISCRIMINATION</b>	
Thematic area	Please provide one example of a rights awareness campaign held in your country in 2019 relevant to equality and non-discrimination, preferably one conducted by a national equality body. Where no such campaign was held, please provide an example of a promising practice implemented in 2019 in your country (this could include innovative initiatives at local level) to combat discrimination on any one of the following grounds: religion or belief, disability, age, sexual orientation, gender identity or sex characteristics. Where relevant, always highlight any relevance or reference to multiple discrimination.
Title (original language)	Campagna di comunicazione contro l'omofobia
Title (EN)	Communication campaign against homophobia
Organisation (original language)	Ufficio per la promozione della parità di trattamento e la rimozione delle discriminazioni basate sulla razza o sull'origine etnica (UNAR)
Organisation (EN)	Office for the promotion of equal treatment and the elimination of discriminations based on race or ethnic origins (UNAR)
Government / Civil society	Government
Funding body	Italian Government
Reference (incl. url, where available)	<a href="http://www.governo.it/it/media/campagna-di-comunicazione-contro-l-omofobia/11791">www.governo.it/it/media/campagna-di-comunicazione-contro-l-omofobia/11791</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	May 2019 – ongoing
Type of initiative	Awareness-raising campaign
Main target group	Society and TV general public
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The campaign was designed and implemented by the Italian Equality Body, UNAR. Its purpose is to raise awareness in the generic TV public about discriminations and hate crimes targeting LGBT people in Italy. The practice was launched on occasion of the International Day against Homophobia, celebrated every year on 17 May. Through videos disseminated on the public TV channels (RAI broadcasting) and on YouTube, the practice promotes the culture of respect and of non-discrimination towards LGBT people. The public is encouraged to reflect on the stereotypes and on the prejudices that are the cornerstones of discrimination. This is an example of the video launching the campaign: <a href="http://www.youtube.com/watch?v=3wcLi3t5HRo">www.youtube.com/watch?v=3wcLi3t5HRo</a>
Highlight any element of the actions that is transferable (max. 500 chars)	This practice could be transferred to all the other discrimination fields: UNAR is the Italian Equality Body in charge of promoting the principle of equal treatment and contrasting all forms of discrimination. RAI is the public broadcasting service. UNAR and RAI could cooperate in designing and disseminating similar videos for all forms of discriminations: the use of the internet and of TV allows to reach a wide public and efficaciously contribute in deconstructing the stigma affecting several population's sub-groups.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The videos that were realised for the campaign show a message and a content that is not strictly connected to the 2019 edition of the practice: the idea of overcoming stereotypes and deconstructing the stigma – that is

	conveyed by the videos – is destined to remain on the Internet and is easily accessible by the users even after the end of this year.
Give reasons why you consider the practice as having concrete measurable impact	The impact of the practice is not precisely measurable. However, it is possible to measure the number of people that watched the videos on the Internet (for instance, on YouTube) and the TV audit share when the videos were transmitted.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The practice is meant to contrast discriminations based on sexual orientation and gender identity: this goal is mandatory for all EU member states. Since most EU member States have an Equality Body and can rely on a well-functioning national TV broadcasting service, this practice might be transferred to every other Member State. Moreover, since the International Day against Homophobia is celebrated on the same day in the whole EU, it might be interesting to produce similar videos in all EU languages that are launched and transmitted on 17 May in all Member States of the EU.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	N/A
Explain, if applicable, how the practice provides for review and assessment.	

Thematic area	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b> Please provide one example of a promising practice to address discriminatory ethnic profiling within law enforcement agencies and other relevant national authorities. Where no such practice exists, please provide one example of a promising practice related to combating racism, xenophobia and related intolerances.
Title (original language)	Breve guida all'ebraismo per operatori di polizia
Title (EN)	A Police officer's brief guide to Judaism
Organisation (original language)	Osservatorio per la Sicurezza contro gli Atti Discriminatori, OSCAD Unione delle Comunità Ebraiche Italiane, UCEI
Organisation (EN)	Observatory on Security against Discrimination Union of Jewish Italian Communities
Government / Civil society	Government
Funding body	Ministry of the Interior
Reference (incl. url, where available)	The guide is available at: <a href="http://www.interno.gov.it/sites/default/files/guida_all_ebraismo_per_la_stampa.pdf">www.interno.gov.it/sites/default/files/guida_all_ebraismo_per_la_stampa.pdf</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	November 2018 – ongoing
Type of initiative	Awareness raising initiative
Main target group	Police officers

Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	OSCAD was inspired by a similar guide titled "Police officer's guide to Judaism", developed by the UK association "Community Security Trust" (CST). The aim of the guide is to provide police officers with an overview of the Jewish culture, religion and social habits. The guide also includes a section reporting the in-force legislation contrasting hate crimes and discriminations. The idea at the heart of the practice is that prejudice and discrimination stem from lack of knowledge. For this reason, police officers need to be trained – including using this guide – so that their activity of early contrast to discriminations and hate crimes can be more effective. This practice is developed in the framework of an increasing cooperation between OSCAD and UCEI aimed at contrasting antisemitic hate crimes and overcome under-reporting and under-recording.
Highlight any element of the actions that is transferable (max. 500 chars)	In the perspective according to which increasing knowledge and awareness is a crucial driver for the reduction and contrast to discriminations and hate crimes, this practice could be transferred to all other areas of discrimination. Moreover, all civil servants need to be informed and trained, especially if the importance of an early contrast to discriminations – starting from bias indicators – is considered. For this reason, this guide could be re-drafted in order to be addressed to other categories of civil servants, such as schoolteachers; social workers etc.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	This guide can be used in training sessions for police officers during 2019 but also in the future. The guide might need to be updated in the future, but it cannot be considered as a one off activity.
Give reasons why you consider the practice as having concrete measurable impact	The impact of the practice can be measured in terms of how widely it will be disseminated to law enforcement agencies and how often it will be used in training sessions destined to police officers.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	This practice was already transferred to Italy from another Member State. OSAD stressed that the UK guide was not merely translated into Italian, but it was used as an inspiration but the re-drafted to adapt to the Italian context.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The practice was implemented by OSCAD which is an observatory belonging to the Italian police that is in charge – among other things – to train police officers.
Explain, if applicable, how the practice provides for review and assessment.	N/A

Thematic area	<b>ROMA INTEGRATION</b> Please provide one example of promising practice in relation to addressing a Roma/Travellers segregation at either national, regional or local. These could be (not limited to) in the area of segregation in education, residential segregation, segregation in healthcare services or in employment.
Title (original language)	Toy for Inclusion 2
Title (EN)	Toy for Inclusion 2
Organisation (original language)	TOY for Inclusion is coordinated by International Child Development Initiatives – ICDI (NL). National partners are the International Step-by-Step Association – ISSA (NL), Akromfed (Mediterranean Roma Associations Federation), the Netherlands Salvation Army, Dublin City University (IE) and six members of the Romani Early Years Network (REYN): Educational Research Institute – ERI (Slovenia), Open Academy Step by Step – OASbS (Croatia), Centre for Education Initiatives – CEI (Latvia), Wide Open School – WOS (Slovakia), Associazione 21 luglio (Italy) e Partners Hungary Foundation.
Organisation (EN)	Same as above
Government / Civil society	Civil Society
Funding body	Erasmus+ Programme of the European Union
Reference (incl. url, where available)	Information about the project is available at the Associazione 21 luglio website: <a href="http://www.21luglio.org/progetti/toy-for-inclusion-2/">www.21luglio.org/progetti/toy-for-inclusion-2/</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	January 2019 – ongoing
Type of initiative	Social inclusion of children.
Main target group	Socially and economically disadvantaged children, including Roma children.
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	This practice is the second phase of the “Toy for Inclusion Project” ( <a href="http://www.reyn.eu/toy4inclusion/">www.reyn.eu/toy4inclusion/</a> ), named “Toy to share, Play to care”. The project is aimed at fostering the provision of education and care opportunities for children belonging to disadvantaged communities in the EU. The driver of the project is the creation of Play Hubs to organise play-based activities designed to help children develop necessary skills and knowledge for formal education. Each Hub is managed by a Local Action Team whose mandate is to mobilize local communities around young children and organize intergenerational activities involving older adults with and without Roma background. In order to involve local communities and children’s families, such activities can also be carried out in community centres, libraries, parks, squares, preschools, health centres. The Play Hubs have reached the following results so far: 1. Improved the transition experience of Romani children to schools; 2. Improved children’s preparedness for formal education; 3. Increased trust of Roma communities in the local services. 4,000 children have been so far included in the activities of the project. Play Hubs have also proven successful to improve parental skills and foster cooperation between the civil society and local agencies. In the first phase of the project 8 Play Hubs were set up in 8 Countries: Croatia, Hungary, Italy, Latvia, Netherlands, Slovakia, Slovenia and Turkey. In this second phase, new Play Hubs will be created in the same Countries targeting Roma children, migrant children and disadvantaged children in general.



Highlight any element of the actions that is transferable (max. 500 chars)	This action is transferrable to the whole national territory of the Countries already involved in the project – through the multiplication of the Play Hubs – and extended to other Countries willing to join the project.
Give reasons why you consider the practice as sustainable (as opposed to ‘one off activities’)	One of the most relevant project’s outcomes is the improvement and transfer of skills to the local communities, in terms of school inclusion and parenting. For this reason, it is possible to presume that after the conclusion of the project, skills at the disposal of local communities will be reinforced and independent from the organisations developing the project’s activities.
Give reasons why you consider the practice as having concrete measurable impact	The impact of the initiative is measurable in terms of number of children involved and number of countries participating to the activities.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	As reported in previous rows, this practice could be extended to all Countries willing to foster school and social inclusion of disadvantaged children, including all EU Members States. The participation of Member States with large Roma communities would be of special importance.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	Families of the involved children and local communities – including local authorities and service providers – are actively involved in the project’s activities, as explained in this chart.
Explain, if applicable, how the practice provides for review and assessment.	N/A

Thematic area	<b>Asylum, visas, migration borders and integration</b> Please provide a promising practice on the support provided to unaccompanied children when reaching majority.
Title or short description of promising practice in original language and in English	Progetto PUOI' - Protezione Unità a Obiettivo Integrazione (PUOI Project – Protection Unit and Integration Goal)
Organisation (Government / Civil society) in charge of promising practise (original language/English )	Ministero del Lavoro e delle Politiche Sociali - Direzione Generale dell’immigrazione e delle politiche di integrazione Agenzia Nazionale delle Politiche Attive del Lavoro – ANPAL  Ministry of Labour and Social Policies – General Directorate for Immigration and integration policies National Agency for Active Labour Policies - ANPAL
Funding body	The project can benefit from EUR 13,230,000 coming from AMIF funds; and EUR 13,500,000 coming from the “PON Inclusion 2014-2020” financed through the ESF fund.
Reference (incl. url, where available)	<a href="http://www.anpalservizi.it/bandi/-/asset_publisher/zDZUTca19G7j/content/progetto-puoi-protezione-unita-a-obiettivo-integrazione">www.anpalservizi.it/bandi/-/asset_publisher/zDZUTca19G7j/content/progetto-puoi-protezione-unita-a-obiettivo-integrazione</a>
Indicate the start date of the promising practice	March 2019 - ongoing

and the finishing date if it has ceased to exist	
Main target group	Third-country citizens regularly living in Italy
(around 1000 characters)	The project is aimed at promoting labour inclusion paths for third-country citizens that belong to the following categories: protection status holders; people holding the new protection status introduced at the end of 2018 (such as the residence permit for special protection); third-country citizens arrived in Italy as unaccompanied children. The potential beneficiaries must be unemployed. Thanks to the resources earmarked for this project, 4,500 individual projects can be activated (worth EUR 5,940 each), involving both public and private stakeholders active in the local territory. Each project is aimed at providing to the beneficiary a basic income, as well services aimed at fostering the inclusion in the labour market, such as professional training, job counselling etc. ANPAL launched the call for proposals in March 2019: each proponent is entitled to set up 4 to 75 individual projects in the framework of the PUOI Project. Each individual project will last up to 9 months and will offer the beneficiary the opportunity of a 6-month paid internship.
Indicate level of implementation: Local/Regional/National	National
Indicate success factors – why has the practice effectively promoted integration?	This practice was pointed out by the Ministry of Labour and Social Policies as a promising experiment to support third-country citizens who arrived in Italy as unaccompanied children in their transition to the adult age, offering them the opportunity to stabilise their administrative status and to convert their residence permit for minor age. However, the effective impact on the integration process of the target population cannot be assessed yet since the individual projects have not started.
If the initial funding of the initiative ended, how has the initiative been continued/followed-up?	N/A
Explain, if applicable, how the practice is being reviewed and assessed.	N/A
Does the initiative apply to both asylum seekers and protection status holders – and/or support the transition from one to the other?	N. The practice only applies to protection status holders. Asylum seekers are not entitled to apply.
Does the initiative specifically support persons in need of international protection as they turn 18? If so, which type of support is provided?	N. The practice is not specifically destined to this group; however, third-country citizens arrived in Italy as unaccompanied children are included among the beneficiaries.

Thematic area	<b>INFORMATION SOCIETY, DATA PROTECTION</b>
Title (original language)	Il bilancio sull'applicazione del RGPD
Title (EN)	Monitoring of the application of the GDPR
Organisation (original language)	Garante per la protezione dei dati personali

Organisation (EN)	Italian DPA
Government / Civil society	Government
Funding body	N/A – the practice belongs to the ordinary DPA activity
Reference (incl. url, where available)	<a href="http://www.garanteprivacy.it/web/guest/regolamentoue/bilancio">www.garanteprivacy.it/web/guest/regolamentoue/bilancio</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	May 2018- ongoing
Type of initiative	Monitoring and assessment
Main target group	General public visiting the DPA website
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The DPA periodically publishes on its official website information about the level of implementation of the GDPR in Italy. This is part of the DPA institutional mission; however, such information is provided through infographics that are easily accessible and that can be understood even by users who do not have a deep and proficient knowledge of data protection principles and procedures. The user-friendly approach to information-provision adopted by the DPA contributes in making this a promising practice since it allows data subjects to be aware of the existence of the GDPR and of their rights.
Highlight any element of the actions that is transferable (max. 500 chars)	
Give reasons why you consider the practice as sustainable (as opposed to ‘one off activities’)	This practice is sustainable since it concerns not only the implementation of EU legislation in the Italian system; but also, the effective accessibility of the instruments of protection of the rights of data subjects enshrined in the GDPR. For this reason, this monitoring and assessment activity might have a long-term perspective.
Give reasons why you consider the practice as having concrete measurable impact	This practice might have a measurable impact in terms of numbers of users accessing the DPA website.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	DPA of the Member states work in close connection for the implementation of the GDPR and the monitoring of the right use of personal data by both public and private providers. For this reason, this practice could be mainstreamed among European DPAs and adapted to the national context. It would also be useful to gather the information provided by national DPAs and develop European statistics concerning the implementation of the GDPR.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	N/A
Explain, if applicable, how the practice provides for review and assessment.	N/A

Thematic area	<b>RIGHTS OF THE CHILD</b> Please provide one example of a promising practice in relation to one of the topic ad-dressed in this Chapter.
Title (original language)	Safer Internet Day 2019
Title (EN)	Safer Internet Day 2019
Organisation (original language)	Progetto “Generazioni Connesse” (SIC ITALY III)
Organisation (EN)	„Connected Generations“ Project (SIC ITALY III)
Government / Civil society	Both
Funding body	“Connecting Europe Facility” (CEF) programme of the EU Commission
Reference (incl. url, where available)	<a href="http://www.generazioniconnesse.it/site/it/safer-internet-day/">www.generazioniconnesse.it/site/it/safer-internet-day/</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2016-ongoing
Type of initiative	Awareness-raising
Main target group	Internet users; children/adolescents
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The „Connected Generations“ Project – whose III edition started in 2016 – is based on the cooperation between institutional stakeholders – such as the Ministry of Education, the Ministry of the Interior, the Authority for the Protection of Childhood and Adolescence – Italian universities and civil society organisations – such as Telefono Azzurro and Save the Children. The goal of this project is to develop the Italian Safer Internet Centre, the national point of reference on online security and on the relationship between young people and new medias. Since its first edition, this project carried out several awareness-raising and training activities on cyber-security and the use of new medias destined both to young people specifically and to other relevant stakeholders, such as teachers and educators. In 2019, the project – through its website – developed a specific page disseminating all the events taking place in Italy for the 2019 Safer Internet Day: thanks to this practice, internet users interested in being informed about this international event, could check what was going on in their territory and in the schools located in their area.
Highlight any element of the actions that is transferable (max. 500 chars)	N/A
Give reasons why you consider the practice as sustainable (as opposed to ‘one off activities’)	The practice is sustainable since the webpage will remain online: stakeholders interested in developing projects/actions on cyber-security could find interesting and inspiring practices visiting the website and the its page dedicated to the 2019 Italian edition of the Safer Internet Day.
Give reasons why you consider the practice as having concrete measurable impact	The success of this practice can be estimated considering how many local stakeholders have forwarded information concerning the activities they were organizing for the Safer Internet Day, so that it could be included in the website.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The Safer Internet Day is an international celebration and awareness-raising day: it would be useful to have – in each Member State – a website/blog reporting all the initiatives and good practices organised in this occasion. It would help internet users to have an easier and thorough access to this information.

Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	N/A
Explain, if applicable, how the practice provides for review and assessment.	N/A

Thematic area	<b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b> Please provide one example of a promising practice in relation to one of the topic ad-dressed in this Chapter
Title (original language)	Direttiva n. 2/2019: protocolli investigativi e buone prassi per la Polizia Giudiziaria in materia di reati di violenze di genere
Title (EN)	Directive No. 2/2019: investigation protocols and good practices for criminal police officers on gender-based violence
Organisation (original language)	Procura di Tivoli
Organisation (EN)	Public Prosecutor's Office of Tivoli
Government / Civil society	Government
Funding body	N/A
Reference (incl. url, where available)	<a href="http://images.go.wolterskluwer.com/Web/WoltersKluwer/%7B5d3a08fe-8eb4-4082-8134-ccafae60b35a%7D_procura-tivoli-direttiva-2-del-2019-violenza-di-genere-polizia-giudiziaria.pdf">http://images.go.wolterskluwer.com/Web/WoltersKluwer/%7B5d3a08fe-8eb4-4082-8134-ccafae60b35a%7D_procura-tivoli-direttiva-2-del-2019-violenza-di-genere-polizia-giudiziaria.pdf</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	15 May 2019 – ongoing
Type of initiative	Legislative implementation and training
Main target group	Law enforcement agencies
Indicate level of implementation: Local/Regional/National	Local
Brief description (max. 1000 chars)	The Public Prosecutor of Tivoli approved the Directive in order to provide guidance to criminal police officers operating under his mandate in the field of gender-based violence who need to be highly qualified and trained to cope with and effectively contrast criminal offences related to violence against women. The Directive establishes specific intervention protocols that need to be applied since the very moment the victim resorts to law enforcement agencies and to be used when collecting the evidence needed for the proceeding. Police officers are asked to avoid any kind of mediation between the victim and the perpetrator; they are also explained the information they must provide to the victim to have access to psychological, medical and legal assistance. Police officers are also explained how to formally register the victim's allegation, respecting the privacy and the accuracy of the witness.
Highlight any element of the actions that is	This practice could be transferred to other Italian Public Prosecutors' offices and finally adopted at national level in order to gradually achieve a standardisation of the procedures.

transferable (max. 500 chars)	
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	This practice is sustainable because it will be in-force since the day of its adoption, unless it undergoes a reform process.
Give reasons why you consider the practice as having concrete measurable impact	N/A
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	This Directive is closely connected to the European and international commitments to the contrast to gender-based violence. All EU member States have agreed on these commitments. This practice represents a good example on how legislation can be effectively implemented at all levels of enforcement, thus preventing it to remain only a hollow statement. In this respect, law enforcement agencies represent key stakeholders in the contrast to gender-based violence - also considering the relevant underreporting issue – and this can apply to all Member States.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	N/A
Explain, if applicable, how the practice provides for review and assessment.	N/A

Thematic area	<b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b> Please provide one promising practice example of projects or programmes implementing the CRPD or furthering the rights of persons with disabilities.
Title (original language)	Capacity: la legge è uguale per tutti
Title (EN)	Capacity: everybody is equal before the law
Organisation (original language)	Associazione Nazionale Famiglie di Persone con Disabilità Intellettiva e/o Relazionale (ANFASS)
Organisation (EN)	National Association of Families of People with Intellectual and/or Relational Disabilities (ANFASS)
Government / Civil society	Civil Society
Funding body	Italian Government
Reference (incl. url, where available)	<a href="http://www.anffas.net/it/progetti-e-campagne/capacity-la-legge-e-eguale-per-tutti/">www.anffas.net/it/progetti-e-campagne/capacity-la-legge-e-eguale-per-tutti/</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2017-February 2019

Type of initiative	Awareness-raising initiative
Main target group	People with disabilities
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	<p>The ANFASS project is meant to contribute to the correct implementation of art. 12 of the CRPD and to foster the participation of people with disabilities to decision-making processes and active citizenship. Two lines of action have been implemented: on the one hand, the mapping and analysis of the in-force Italian legislation implementing art. 12, comparing it with existing international and European legislative models; on the other hand, the testing of innovative models and practices supporting the participation of people with disabilities. The first line of action was carried out thanks to the creation of a task force composed of people with disabilities, families, legal experts and educators. This second line of action included the creation of specific toolkits destined to people with disabilities, their families, service providers and civil servants working in the justice and social-services fields. The goal of this projects was to point out the gaps and weaknesses of the Italian legislation, provide recommendations to the policy-makers and raise awareness among people with disabilities about their right to participation in civil and social life. Four toolkits were finally released: one destined to people with disabilities (<a href="http://www.anffas.net/dld/files/TOOLKIT%20PERSONE%20CON%20DISABILITA'.pdf">http://www.anffas.net/dld/files/TOOLKIT%20PERSONE%20CON%20DISABILITA'.pdf</a>); one for the families (<a href="http://www.anffas.net/dld/files/TOOLKIT%20FAMIGLIE.pdf">http://www.anffas.net/dld/files/TOOLKIT%20FAMIGLIE.pdf</a>); one for professionals working in the judicial and legal fields (<a href="http://www.anffas.net/dld/files/TOOLKIT%20OPERATORI%20SETTORE%20LEGALE.pdf">http://www.anffas.net/dld/files/TOOLKIT%20OPERATORI%20SETTORE%20LEGALE.pdf</a>); one for professionals working for social and health services (<a href="http://www.anffas.net/dld/files/TOOLKIT%20OPERATORI%20SETTORE%20LEGALE.pdf">http://www.anffas.net/dld/files/TOOLKIT%20OPERATORI%20SETTORE%20LEGALE.pdf</a>).</p>
Highlight any element of the actions that is transferable (max. 500 chars)	This kind of awareness-raising initiative could be extended to the other rights enshrined in the CRPD in order to make people with disabilities aware and conscious about the rights they are entitled to and to support their empowerment and advocacy-power towards public policy-makers.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	This practice can be considered as sustainable since it is based on on-line tools and its main outcomes are documents and toolkits that are easily accessible through the Internet. For this reason, they are meant to remain available even after the conclusion of the project; they are freely downloadable and can reach a wide variety of potential beneficiaries.
Give reasons why you consider the practice as having concrete measurable impact	The practice's impact can be measured assessing the amount of people who visit the website and download the available toolkits.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	All other Member States could implement a similar initiative in the implementation of the CRPD, mapping the legislation in force at national level and involving people with disabilities in designing strategies to overcome the existing barrier to their participation to social and civil life.
Explain, if applicable, how the practice	People with disabilities were directly involved in the implementation of the initiative thanks to the public consultation ANFASS organised in July 2018. An on-line survey was used and a version of the survey accessible to people with

<p>involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>sensorial disabilities was made available. The consultation was aimed at directly involving people with disabilities – as well as families and experts – asking them to point out the limits and barriers currently existing in the access of people with disabilities to the participation to civil and social life. Participants were also asked to suggest strategies and good practices to overcome such barriers.</p>
<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>N/A</p>



## Annex 2 – Case law

Thematic area	<b>EQUALITY AND NON-DISCRIMINATION</b>  Please provide one high court decision addressing discrimination on any one of the following grounds: gender identity, religion or belief, disability, age, or sexual orientation. Where relevant, always highlight any relevance or reference to multiple discrimination in the case you report
	No case law has been identified for this thematic area.

Thematic area	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b>  Please provide the most relevant high court decision concerning the application of either the Racial Equality Directive, the Framework Decision on racism and xenophobia, or relevant to addressing racism, xenophobia and other forms of intolerance more generally.
	No case law has been identified for this thematic area.

Thematic area	<b>ROMA INTEGRATION</b>  Please provide the most relevant high court decision addressing violations of fundamental rights of Roma in the context of education, employment, health, housing, etc. In particular, focus on cases where discrimination or segregation (not limited to segregation in education or housing) are addressed.
	No case law has been identified for this thematic area.

Thematic area	<b>INFORMATION SOCIETY, DATA PROTECTION</b>  Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter
Decision date	23 August 2019
Reference details	Corte di Cassazione, sez. III penale, sentenza 23 agosto 2019, n. 36380, available at: <a href="http://images.go.wolterskluwer.com/Web/WoltersKluwer/%7B8bd4721e-8692-4d7b-b314-d910164e413f%7D_cassazione-penale-sentenza-36380-2019.pdf">http://images.go.wolterskluwer.com/Web/WoltersKluwer/%7B8bd4721e-8692-4d7b-b314-d910164e413f%7D_cassazione-penale-sentenza-36380-2019.pdf</a>
Key facts of the case (max. 500 chars)	The Court of Cassation was asked to assess the legitimacy of the decision of the Court of Appeals of 21 December 2017 condemning the complainant during a proceeding for drugs possession. Among the reasons of complaint, the complainant also proposed the potential illegitimacy of art. 132 of the Italian Data Protection Act – governing the data retention discipline – that allegedly violates art. 7, 8 and 52.1 of the EU Charter of Fundamental Rights as interpreted by the decision of the CJEU of 8 April 2014. The complainant challenged the decision of retaining his phone data because the criminal charges allowing for such activity were not specifically indicated; moreover, he also challenged the role of the Public Prosecutor as the institutional subject allowed to ask and store such data since s/he would not be an independent subject but instead one of the parties of the proceeding.

Main reasoning/argumentation (max. 500 chars)	The Court of Cassation decided to sustain the legitimacy of the in-force legislation and its argumentation supported its compliance with the EU primary and secondary legislation. In fact, according to the Court of Cassation – which in this decision retraced the EU law and jurisprudence in the field of data retention – the Italian Data Protection Act presents all the elements that are requested by the EU law to ensure and combine data protection principles and the necessity to balance such principles with State security necessities. Moreover, the Public Prosecutor belongs to the judicial system and his/her mandate is therefore inspired by the principles of impartiality and independence, as envisaged by the Italian Constitution.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The importance of this decision – delivered by the Italian highest Court – concerns the interpretation of the Italian data protection legislation. The complainant had asked to Court to file a request to the CJEU; however, national Courts have first to assess if no interpretation of the national legislation that is compliant with the Constitution and the EU legislation is possible. In this respect, the Court of Cassation provides such interpretation of the Italian data retention discipline, explaining why it can be deemed to respect the proportionality principle enshrined by the GDPR.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	No request was filed to the CJEU. The decision of the Court of Appeals of Bologna was cancelled, and the second level of the judicial proceeding must be started from the beginning; however, this decision was not based on the violation of the GDPR, but on other grounds of illegitimacy that concerns the Italian Criminal legislation.
Key quotation in original language and translated into English with reference details (max. 500 chars)	<p>“L’art. 132 d.lgs. 196/2003, attuativo della direttiva 2002/58/CE, prescrive che i dati di traffico telefonico e telematico siano conservati dai fornitori dei relativi servizi, per finalità di accertamento e repressione dei reati, entro scadenze predeterminate e diversificate; il pubblico ministero può acquisirli presso il fornitore con decreto motivato [...] nella disciplina italiana pertanto si rinvergono l’enunciazione delle finalità di repressione dei reati; la delimitazione temporale dell’attività di memorizzazione; l’intervento preventivo dell’autorità giudiziaria, funzionale all’effettivo controllo della stretta necessità dell’accesso ai dati, nonché al rispetto del principio di proporzionalità”</p> <p>“Art. 132 of the Legislative Decree No. 196/2003, implementing the Directive 2002/58/EC, established that phone and internet records are stored by service providers, at the purposes of investigation and prosecution of criminal offences, respecting time limits that are diverse and established by law; the public prosecutor can obtain such data from the providers with an explanatory decree [...] the Italian legislative discipline therefore provides the statement of the purposes; the time limits of the retention; the precautionary intervention of the judicial authority that is aimed at monitoring the necessity of the access to personal data, as well as monitoring the respect of the proportionality principle”</p>

Thematic area	<b>RIGHTS OF THE CHILD</b> Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter.
Decision date	6 March 2019
Reference details	Tribunale Ordinario di Rieti, sezione civile, sentenza 6 marzo 2019, available at: <a href="https://iusletter.com/wp-content/uploads/La-nuova-moglie-di-pap%C3%A0-e-Facebook-quali-limiti-alla-pubblicazione-delle-foto-su-Facebook.pdf">https://iusletter.com/wp-content/uploads/La-nuova-moglie-di-pap%C3%A0-e-Facebook-quali-limiti-alla-pubblicazione-delle-foto-su-Facebook.pdf</a> .
Key facts of the case (max. 500 chars)	A married couple divorced before the Ordinary Court of Rome in 2018: their children were given in custody to the both parents, but their residence was established at their mother's house. The man's new partner – even before the divorce – was used to upload photos of the children on her Facebook's profile and on other social networks. Despite being requested to stop the behaviour and to delete the photos by the children's mother through a formal cease-and-desist order, the woman – after deleting the contents in the first place – started again the contested behaviour, also adding derogatory and offensive comments against the children's mother. For this reason, the mother imposed the inclusion of a specific condition in the divorce agreement, requesting that the online publication of the children's photos would require the consent of both parents. The contested behaviour still continued. For this reason, the mother decided to file a formal complaint, arguing the alleged violation of art. 10 of the Italian Civil Code, of art. 4,7, 8 and 145 of the Italian Data Protection Act (Legislative Decree No. 196/2003) and of art. 1 and 16.1 of the UN Convention on the Rights of the Child.
Main reasoning/argumentation (max. 500 chars)	The Court retraced the legislative discipline governing the protection of the privacy and of the personal image of children, mentioning not only the legislative dispositions reported by the complainant but also the considerandum No. 38 and art. 8 of the EU Regulation 679/2016, entered into force on 25 May 2018. According to this discipline, where the child is below the age of 16 years, the processing of the child's personal data shall be lawful only if and to the extent that consent is given or authorised by the holder of parental responsibility over the child. This age threshold was lowered to 14 by the Italian legislator through the Legislative Decree No. 101 of 2018, adapting the Italian Data Protection Act to the GDPR. This principles were thus violated by the defendant, also considering the inclusion of an additional condition in the divorce's agreement.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	This decision is relevant because it established the need of the parental consent to upload and publish children's personal data, taking into account the specific features of the new social media. Moreover, the Court argues the dangers entailed by the online publication of children's data and images on the social networks and on the Internet in general, due to the lack of adequate controls and safety measures limiting the risks of an inappropriate use of such contents.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The defendant was deemed guilty by the Court and condemned to the prompt removal of the contents. The defendant was also prohibited to reiterate the conducts in the future without the consent of both parents. Moreover, a EUR 50 sanction will be imposed for each day of delay in complying with the Court's decision. Eventually, the defendant was condemned to the reimbursement of all judicial costs.
Key quotation in original language and translated into English with reference details (max. 500 chars)	“[...]la nuova disciplina comunitaria impone che il consenso necessario ai fini del trattamento dei dati personali del minore, e dunque anche per le immagini che possano identificarlo, nel caso di minori di anni sedici, sia prestato dai soggetti esercenti la responsabilità genitoriale, in vece dei propri figli, concordemente fra loro e senza arrecare pregiudizio all'onore, al decoro e alla reputazione dell'immagine del minore [...] In tale prospettiva, il legislatore italiano, col decreto di

	<p>adeguamento del Codice Privacy (D. Lgs. 101/18 art. 2 quinquies), ha fissato il limite di età da applicare in Italia a 14 anni, espressamente prevedendo che, con riguardo ai servizi della società dell'informazione, il trattamento dei dati personali del minore di età inferiore a quattordici anni è lecito a condizione che sia prestato da chi esercita la responsabilità genitoriale”</p> <p>“[...] the new EU discipline requests that the necessary consent for the processing of children’s personal data, including the images that might allow their identification, in case children aged less than 16 are concerned, is provided by the subjects exerting parental authority. These subjects must agree on this consent that shall not damage the honour, dignity and reputation of the child’s image [...] In this respect, the Italian legislator, with the reform adapting the Italian Data Protection Act (Legislative Decree No. 101/2018, art. 2-quinquies), established that the age limit to be applied in Italy is 14, explicitly imposing that, as far as social medias are concerned, the processing of personal data of the child aged less than 14 is lawful if it is based on the consent of the subjects exerting parental authority”</p>
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Thematic area	<p><b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b></p> <p>Please provide the most relevant high court decisions in relation to one of the topic ad-dressed in this Chapter..</p>
Decision date	8 May 2019
Reference details	<p>Italian Court of Cassation, decision No. 19776 of 8 May 2019 (<i>Sentenza 8 maggio 2019, n. 19776, Sesta Sezione Penale della Corte di Cassazione</i>)</p> <p><a href="http://www.altalex.com/documents/news/2019/05/27/maltrattamenti-pause-fra-episodi-lesivi-non-escludono-l-abitualita">www.altalex.com/documents/news/2019/05/27/maltrattamenti-pause-fra-episodi-lesivi-non-escludono-l-abitualita</a></p>
Key facts of the case (max. 500 chars)	The perpetrator was sentenced for abuses and injuries at the detriment of his co-habitant by the Court of Appeals of Florence. He decided to challenge the decision before the Court of Cassation, stating that his conduct was misinterpreted and could not be included under the criminal offence of abuse and injury as governed by art. 572 of the Italian Criminal Code since the abusive conduct was not habitual. More specifically, the complainant reported that only three episodes of the above mentioned conducts were considered, occurred in a 2-year period.
Main reasoning/argumentation (max. 500 chars)	The court of Cassation rejected the complaint. According to the Court, the considered criminal offences do not include only physical abuse but also any other conduct expressing contempt towards the victim and representing an offense to her dignity, thus causing not only physical but also moral distress. This kind of criminal conduct is perpetrated even if the relationship between the victim and the perpetrator also features moments of calm, ordinary family routine and non-violent interactions. Moreover, it is enough to prove that the perpetrator is fully aware that his conduct represents a criminal offence, able to harm the interest and wellbeing of victim.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	This decision can be deemed relevant since it provides a clearer interpretation of the habitual nature of the abuse criminal offence, governed by art. 572 of the Criminal Code. The abusive routine is not neutralised by the alternation with potential calm moments of interaction between the author and the victim.
Results (sanctions) and key consequences or	The decision of the Court of Appeals of Florence was confirmed, and the complainant was condemned to refund to the victims the financial cost of the proceeding.

implications of the case (max. 500 chars)	
Key quotation in original language and translated into English with reference details (max. 500 chars)	<p>“Integra tale delitto il compimento di più atti [...] di natura vessatoria, che determinano sofferenze fisiche o morali, realizzati in momenti successivi, senza che sia necessario che essi vengano posti in essere per un tempo prolungato, essendo, invece, sufficiente la loro ripetizione, anche se in un limitato contesto temporale, e non rilevando, data la natura abituale del reato, che durante lo stesso siano riscontrabili nella condotta dell'agente periodi di normalità e di accordo con il soggetto passivo. E' del tutto irrilevante, allora, nell'accertata esistenza di plurimi episodi di prevaricazione, nel corso di una relazione sentimentale protrattasi per otto anni, che la persona offesa - come si afferma in ricorso - avesse una sua vita di relazione autonoma o potesse disporre di risorse economiche: circostanze, entrambe, perfettamente compatibili con un più generale clima di umiliante sopraffazione, che è necessario e sufficiente per configurare il reato”</p> <p>“The considered criminal offence is perpetrated through the accomplishment of several [...] abusive behaviours, causing physical and moral sufferance, that are carried out in different moments. It is not necessary that these conducts are perpetrated in a long period of time. It is enough to prove their repetition – even if occurring in a reduced time period – and it is also irrelevant – considering the habitual nature of the offence – that while they are perpetrated, that the perpetrator also behaves normally, getting along with the victim. It is also absolutely irrelevant that – once the incidence of abusive episodes take place several times in the context of a 8-year-long relationship – the victim – as reported in the complaint – has her own individual life and sufficient financial resources: these circumstances are perfectly compatible with the general climate of humiliating abuse that is necessary and sufficient to shape the considered criminal offence”</p>

Thematic area	<p><b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b></p> <p>Please provide the most relevant high court decision making reference to the CRPD or employing the CRPD in their reasoning.</p>
Decision date	11 April 2019
Reference details	<p>Italian Constitutional Court, Decision No. 83 of 11 April 2019</p> <p>Available at:  <a href="http://www.cortecostituzionale.it/actionSchedaPronuncia.do?anno=2019&amp;numero=83">www.cortecostituzionale.it/actionSchedaPronuncia.do?anno=2019&amp;numero=83</a></p>
Key facts of the case (max. 500 chars)	<p>Veneto regional authorities challenged before the Constitutional Court the constitutional legitimacy of specific dispositions (art. 1, para. 70) of the 2018 Budget Law (Law No. 205 of 27 December 2017) that governs the public funds available to finance the assistance to be provided at school to students with physical and sensorial disabilities. According to the complainant, the challenged article establishes the allocation of resources only for the 2018 school-year, thus preventing a long-term programming of such interventions. According to regional authorities, this provision might represent a violation of the right to education and assistance for people with disabilities (art. 38 of the Italian constitution) and of the principle of efficiency and impartiality of public administration (art. 97 of the Italian constitution).</p>

<p>Main reasoning/argumentation (max. 500 chars)</p>	<p>The Court decided to reject the constitutionality appeal filed by regional authorities. According to the Court’s reasoning the challenged legislative dispositions are not in breach with the fundamental right to education of people with disabilities, which must be fully ensured with no interruption whatsoever. According to the Court, both the 2016 and 2017 Budget Laws and the supervened Budget Law 2019, confirmed the financial effort to sustain assistance to students with disabilities. What is more, the Budget Law 2019 programmed the earmarking of financial resources at this purpose for the period 2019-2021, thus allowing for a long-term programming of the intervention.</p>
<p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>Despite not accepting the constitutional legitimacy complaint, this decision is to be deemed crucial in confirming the nature of fundamental right of the right to education and assistance of people with disabilities. Students with disabilities have the right to receive the assistance they need to fully benefit from the education they are receiving and this welfare provision – being strictly connected to a fundamental right – cannot be undermined or limited due to budgetary reasons.</p>
<p>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>The challenged legislative dispositions are to be considered constitutionally legitimate and they consequently remain fully applicable.</p>
<p>Key quotation in original language and translated into English with reference details (max. 500 chars)</p>	<p>“questa Corte ha riaffermato la natura fondamentale del diritto all’istruzione delle persone con disabilità, garantito dall’art. 38 Cost. e tutelato anche dall’art. 24 della Convenzione delle Nazioni Unite sui diritti delle persone con disabilità, adottata dall’Assemblea generale delle Nazioni Unite il 13 dicembre 2006, ratificata e resa esecutiva con legge 3 marzo 2009, n. 18 [...] questa Corte ha altresì ribadito che, nell’attuazione di tale diritto fondamentale, il legislatore, chiamato a predisporre gli strumenti anche finanziari necessari alla sua effettiva realizzazione, è tenuto ad assicurare la tutela del nucleo essenziale di tale diritto, che comprende anche il servizio di trasporto scolastico e di assistenza. L’effettiva fruibilità del nucleo indefettibile dei diritti delle persone con disabilità non può dipendere da scelte finanziarie che il legislatore compie [...]”</p> <p>“This Court already confirmed the nature of fundamental rights of the right to education of people with disabilities, that is ensured by art. 38 of the Italian Constitution and by art. 24 of the UN Convention on the Rights of Persons with Disabilities, adopted by the UN General Assembly on 13 December 2006, ratified and made effective with the Law No. 18 of 3 March 2009 [...] this Court also reiterated that – in implementing this fundamental right – the Italian legislator is requested to provide the necessary tools – including the financial ones – for its effective realisation and is also compelled to ensure the essential core of this right that also includes public school transportation and assistance. The actual accessibility of the unfailing core of persons with disabilities’ rights cannot depend on the financial choices of the legislator [...]”</p>