



Submission to the Committee on the Rights of the Child

For the Day of General Discussion

“The Rights of All Children in the Context of International Migration”

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ROMA CHILDREN AND THE RIGHT TO EDUCATION

1. Legal Framework

The **Italian Constitution** is among the principal normative instruments that establish the principle of non-discrimination and the right to education. It foresees, in its **Article 33**, that «the Republic sets out general norms on education»¹, while in its **Article 34** it establishes the principle that «the school is accessible to all»² and the right of capable and deserving individuals, even if lacking economic means, to reach the highest level of education. In the same article it also codifies the duty of the Republic to effectively fulfil this right.

The **Legislative Decree n. 76 of 15 April 2005**, provides an exhaustive reading of the meaning, the interpretation and the extent of Articles 33 and 34 of the Constitution, clarifying that «the Republic promotes lifelong learning and ensures equal opportunities to all in order to reach high cultural levels and to develop capacities and competences», also underlying that «the Republic ensures the right to education to all». Moreover, the Legislative Decree 76/2005 affirms in an explicit manner that «the fruition of education as foreseen in the present Decree constitutes for all, including foreign minors present on the territory of the State in accordance with Art. 38 of [...] the Legislative Decree n. 286 of 25 July 1998, a subjective right as well as a social duty»³.

In the last two decades we witnessed an increase in normative instruments specifically addressed towards the integration of foreign pupils within the compulsory school system.

Within this framework two important circulars of 1989 and 1990 must be considered: **the Ministerial Circular n. 301 of 8 September 1989**⁴, which affirms the protection of the right of the foreign minor to access the school as a primary condition, in order to achieve the just conditions of legal protection and personal dignity for «the migrant worker and his family». It also calls for a school with the objective of an increasing awareness of the meanings of a multicultural society (also suggesting didactical activities aimed at the valorisation of the peculiarities of the various ethnicities). The **Ministerial Circular n. 205 of 22 July 1990**⁵ introduces for the first time the concept of «intercultural education», conceived as an instrument to combat racism and any form of intolerance.

Moreover, the compulsory school attendance for foreign minors present on Italian territory was consolidated within **the Consolidated Act on Immigration**, promulgated through **the Legislative Decree n. 286 of 25 July 1998**, thus extending to them the application of all the existing provisions in the fields of right to education, access to educational services and participation to the school community life⁶. Furthermore, the **Decree of the President of the Republic n. 394 of 31 August**

¹ Cfr. Article 33, Constitution of the Italian Republic, revised by Constitutional Law n. 1 of 30 May 2003; <http://www.governo.it/Governo/Costituzione/CostituzioneRepubblicaItaliana.pdf>.

² Cfr. Article 34, Constitution of the Italian Republic, revised by Constitutional Law n. 1 of 30 May 2003; <http://www.governo.it/Governo/Costituzione/CostituzioneRepubblicaItaliana.pdf>.

³ Cfr. Article 1, Legislative Decree n. 76 of 15 April 2005, «Definition of the general norms on the right-duty to education, in accordance with the provisions of Article 2, Para. 1, letter c), of the Law n. 53 of 28 March 2003»; <http://www.camera.it/parlam/leggi/deleghe/testi/05076dl.htm>.

⁴ Cfr. Ministerial Circular n. 301 of 8 September 1989, «Integration of foreigners within the compulsory school: promotion and coordination of the initiatives aimed at the exercise of the right to study»; http://www.edscuola.it/archivio/norme/circolari/cm301_89.html.

⁵ Cfr. Ministerial Circular n. 205 of 26 July 1990, «The compulsory school and foreign pupils. Intercultural education»; http://www.edscuola.it/archivio/norme/circolari/cm205_90.html.

⁶ Cfr. Article 38 («Schooling of foreigners. Intercultural education»), Legislative Decree n. 286 of 25 July 1998, «Consolidated act of provisions related to immigration control and rules on the condition of foreigners»; http://www.interno.gov.it/mininterno/site/it/sezioni/servizi/legislazione/immigrazione/legislazione_200.html.

1999 guarantees the right/duty to education for all foreign minors irrespectively of their juridical status⁷, that is without distinction among regular or irregular minors, as well as among minors who do or do not hold the permit of stay.

It is also convenient to recall the **Charter of Values of Citizenship and Integration**, promulgated through the **Decree of the Minister of Interior of 23 April 2007**. Under the chapter “Social Rights. School, Education and Training”, it establishes the right and the duty for children and adolescents to attend the compulsory school, with the aim of their integration with equal rights within the society, and to actively participate in it. «For an education fitting the pluralism of the society – as stated in the Charter of Values – it is essential to promote the knowledge of the culture and religion of the pupils and their families; to this end the school, in an intercultural perspective, should promote the knowledge and the integration of all pupils, the overcoming of prejudices, and the common growth of adolescents, avoiding divisions and discrimination⁸».

2. Roma: between ethnic minority and juridical status

Although Roma are the biggest transnational minority in Europe, the most controversial and discriminated, when reflecting about the problems they are affected by, we should take into account that they are an “ethnic minority”, as well as their juridical status in the “hosting” country.

Indeed, in Italy people belonging to Roma communities do not enjoy the same juridical status, as they come from different countries.

In Italy the following situations can be envisaged:

- 1) Roma with Italian citizenship;
- 2) Roma citizens of the European Union;
- 3) Roma coming from former Yugoslavia or from extra European countries;
- 4) Roma who enjoy some forms of international protection or who are stateless.

This heterogeneity is translated into a differentiated treatment, connected to the ethnic belonging and to the juridical status of each group. In the **National Strategy for the Inclusion of Roma, Sinti and Caminanti Communities**, presented by the Italian government in February 2012 in response to the European Commission’s Communication n. 173/2011, it is stated:

«The constant threat of expulsion from Italy, the strict relation between the stay permit and the job contract, the difficulties to have access to basic services (including socio-health related ones) concretely hinder a fruitful social integration/inclusion process. The large presence of Non-Italians

⁷ Cfr. Article 45 (“School enrollment”), Decree of the President of the Republic n. 394 of 31 August 1999, “Rules for the implementation of the Consolidated act of provisions related to immigration control and rules on the condition of foreigners, in accordance with the provisions of Article 1, Para. 6, of the Legislative Decree n. 286 of 25 July 1998”; http://www.miur.it/0006Menu_C/0012Docume/0098Normat/2078Regola_cf2.htm.

⁸ Cfr. Decree of the Minister of Interior of 23 April 2007, “Charter of values of citizenship and integration”; http://www.interno.gov.it/mininterno/site/it/sezioni/servizi/legislazione/cittadinanza/09998_2007_06_15_decreto_carta_valori.html. See also: “The Italian way to intercultural school and foreign pupils integration”, Ministry of Education, 2007. Inside this document two specular and considerable dimensions are underlined: interculture, which involves all the pupils and all the subjects and crosses knowledges and learning methods, and integration, which represents the set of measures and specific actions towards reception and linguistic learning, particularly oriented towards pupils of new immigration; http://archivio.pubblica.istruzione.it/news/2007/allegati/pubblicazione_intercultura.pdf.

among Roma, Sinti and Caminanti people raises questions with regard to their integration and overall their admission and stay in Italy [...] Most Authors stress that the legal status of both EU and Non-EU foreigners, stateless people and refugees is characterized by derogatory aspects if comparing it to the situation of the Italian citizens. However, even the acquisition of the citizenship does not mean equal rights and duties vis-à-vis other Italian citizens»⁹.

3. Roma children, the right to education and the prohibition of discrimination

The lack of recognition as an “ethnic minority” and the different juridical status directly and indirectly affects Roma minors and their right to education and to non-discrimination, as foreseen by Articles **2, 3, 6, 28 e 29 of the Convention on the Rights of the Child**.

In its **2011 Concluding Observations on Italy**, the **Committee on the Rights of the Child** «is seriously concerned at policies, laws and practices that discriminate against children in vulnerable situations in the State party», in particular for «discrimination against Roma, Sinti and Camminanti children [...] with respect to, inter alia, the fulfilment of their rights to health, education, an adequate standard of living, and social security». The Committee recommends promptly taking «all measures necessary to ensure the effective elimination of any form of discrimination against children of Roma origin, in particular in the education system and the provision of essential services, in line with recommendations of the Committee on the Elimination of Racial Discrimination»¹⁰. In the same Concluding Observations, the Committee also expresses great concern «**at the very limited number of Roma children enrolled in primary and especially secondary school [...]. The Committee encourages the State party to «develop and adopt, with the participation of affected communities, a national plan of action for the genuine social integration of Roma in Italian society, taking due consideration of the vulnerable situation of Roma children, in particular in relation to health and education**»¹¹.

Such concerns were lately shared and confirmed by the **Committee on the Elimination of Racial Discrimination** in its **Concluding Observations on Italy**, in March 2012: «The Committee expresses its concern that children of Roma and Sinti communities continue to experience discrimination with regard to access to education. It is concerned by the information that forced evictions and inadequate housing conditions have negatively affected school enrolment and attendance of children from these communities. The Committee is also concerned about the high school dropout rate and the low number of Roma and Sinti children enrolled in secondary schools and about the fact that very few of them progress to higher education (art. 5)[...] **The Committee encourages the State party to intensify its efforts to ensure effective access to education by Roma and Sinti children and other vulnerable groups. The Committee recommends that the State party take all necessary measures to facilitate the inclusion of all Roma and Sinti children in the school system. In this regard, the Committee encourages the State party to avoid implementing policies which may indirectly discriminate against these groups or affect their school attendance. It recommends that the State party ensure that the administrative measure limiting to 30 per cent the number**

⁹UNAR, National Strategy for the Inclusion of Roma, Sinti and Caminanti Communities, p. 19 and following; <http://2.114.23.93/unar/image.aspx?id=bfgd9506-da4b-4583-a85e-223a8fd93a1&sNome=UNAR%20LIBRO%20STRATEGIA%20ROM%20SINTI%20ING.pdf>

¹⁰ Committee on the Rights of the Child, Concluding observations: Italy 2011, Fifty-Eighth session, 19 September – 7 October 2011, Para. 24-25; <http://www2.ohchr.org/english/bodies/crc/crcs58.htm>

¹¹ Committee on the Rights of the Child, Concluding observations: Italy 2011, Fifty-Eighth session, 19 September – 7 October 2011, Para. 79-80; <http://www2.ohchr.org/english/bodies/crc/crcs58.htm>

of children with non-Italian nationality in each class does not negatively affect the enrolment in education of children from the most vulnerable groups»¹².

4. Roma children and access to education: the case of Rome

The **National Strategy for the Inclusion of Roma, Sinti and Caminanti Communities** acknowledges that, although the right to education and to equal treatment is codified in many laws, in practice these principles do not always find an application. It also acknowledges that school is the main tool to implement positive discrimination targeting minors and adolescents of the Roma community¹³.

In the territory of the municipality of Rome more than 7.000 Roma and Sinti were recorded on a census. Half of them reside in «equipped villages», isolated places characterized by segregatory character and by the distance from the social fabric. The remaining half are distributed in tolerated camps and in informal settlements, the latter inhabited by about 2.000 Roma with Romanian and Bulgarian citizenship.

Within these settlements a considerable number of irregular Roma residents is recorded. For a wide range of reasons, they are not able to access the periodic regularization process.

Law 94/2009 exacerbated the situation, modifying **Article 6 Paragraph 2 of the Consolidated Act on Immigration (Legislative Decree 286/98)**¹⁴. The discipline previously in force excluded the obligation to show the permit of stay for all the administrative acts when accessing public services. Modifications introduced by Law 94/2009 eliminated such exception and limited it to the administrative acts regarding compulsory school services, thus opening the possibility of a strongly restrictive interpretation.

Law 94/2009 also introduced the crime of illegal entry and residence: the fear of being reported is yet another factor which can keep illegal aliens away from school or other socio-educational services since the law does not explicitly forbid reporting to the authorities in these contexts, as it does in the case of the health services.

¹² Committee on the Elimination of Racial Discrimination, Concluding observations of the Committee on the Elimination of Racial Discrimination, Eightieth session, 13 February – 9 March 2012, Para. 20; <http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.ITA.CO.16-18.pdf>

¹³ In the UNAR National Strategy for the Inclusion of Roma, Sinti and Caminanti Communities it is stated: «Despite the significant achievements of many project experiences, comforted by the data of the National Report MIUR “Pupils without Italian citizenship: Towards adolescence.” School year 2010/11, the education of the RSC has, therefore, a few specific problem areas, exacerbated from poverty still widespread and the emergence of housing that characterizes many families, and the negative stereotypes ubiquitous in public perception. These nodes can be summarized in a series of elements “typical” of schooling RSC: Difficult to know in an exhaustive number of children and adolescents in compulsory education; High school dropout rate (around 42% in the first cycle); Very low frequency in the second cycle of education; Irregularities in frequency; Early school leaving, the girls and boys; Difficulties in learning Italian and inclusion; Does not match the frequency and / or degrees earned with skill standards; Misuse of support as a teaching strategy (RSC high percentage of students certified as disabled pupils, 30-40%)».

<http://2.114.23.93/unar/image.aspx?id=bafd9506-da4b-4583-a85e-223a8f6d93a1&sNome=UNAR%20LIBRO%20STRATEGIA%20ROM%20SINTI%20ING.pdf>

¹⁴ Law 15 July 2009, n. 94, “Provisions concerning public safety” (Official Gazette of the Italian Republic n.170 del 24-7-2009 - Ordinary Annex n. 128); <http://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=2009-07-24&atto.codiceRedazionale=009G0096¤tPage=1>

4.1. Roma minors resident in informal settlements

In the last three years, informal settlements in Rome have been affected by an impressive frequency of forced evictions (about 450, with an estimated expense of about 7 million euros). The methods adopted by the local authorities in carrying out forced evictions seriously violated the rights of the child. Each eviction has nearly always meant the systematic interruption of schooling of the children affected, associated with the frequent impossibility for parents to enroll again the children at school.

By the assessments carried out, it arose that Roma minors are often victims of direct discriminations, based on their ethnic belonging. Some schools try to “discourage” the enrollment of Roma children and adolescents, because they are considered problematic pupils, whose presence implies more work for teachers and a discontent by non-Roma families.

Some other times the school enrollment of Roma minors is hindered because of reasons strictly related to the parents’ juridical status or because of the lack of special requirements, like residence or income.

4.2 The Roma Children and Adolescents Schooling Project

It is now more than 20 years since the Municipality of Rome has started inside the «equipped villages» and the tolerated camps the **Roma Children and Adolescents Schooling Project**. During the 2010-2011¹⁵ academic year, it interested 7 «equipped villages» (Cesarina, Camping River, Salone, Gordiani, Candoni, Castel Romano, Lombroso)¹⁶, and 8 tolerated camps (Barbuta, Salviati 1, Salviati 2, Foro Italico, Martora, Tor de Cenci, Tor di Quinto and Monachina)¹⁷.

The project involved a total of 1.788 Roma pupils enrolled in the public schools of Rome during the 2010-2011 academic year, among which 1.205 (67,39%) living in «equipped villages», 542 (30,31%) living in tolerated camps, and 41 (2,29%) living in a Roma-only reception facility¹⁸.

Within the project of the Municipality of Rome, Roma minors are subject to differential treatments which lead to an insurable fracture between their school pathway and that of non Roma children. The service offered to Roma children, performed by intercultural mediators, Italian L2 teachers, educators and social workers, should include: school transport, care of the legal and health issues of the minors involved and of their families, mediation with families, mediation with schools, in-school learning support actions carried out by Italian L2 teachers and intercultural workshops performed by educators, responsibility awareness targeting parents and aimed at enhancing their capacity to autonomously perform the tasks related to the schooling of their children, and lastly the creation and effective functioning of a territorial network, aimed at fostering the integration of the families.

¹⁵ The information contained in this part of the report have been processed from the data of the Department of Educational and School Services – Office for Roma Pupils Schooling, and refer to the Roma Children and Adolescents Schooling Project, academic year 2010-2011; in the archives of Associazione 21 luglio.

¹⁶ As ruled by a special specification, issued by the Department XI – Office for Roma Schooling of the Municipality of Rome. The contract was divided into 7 portions, with an expense of 2.084.360,00 euros (2009-2011 period) and interested 1.205 minors.

¹⁷ In this case the contract concerned 8 portions, with an expense of 498.960,00 euros (year 2011).

¹⁸ At the beginning of the 2010-2011 academic year, the following Roma minors ordered by typology of school were enrolled: nursery school: 309 (17,28%), primary school: 960 (53,69%), junior high school: 435 (24,33%), high school and professional training centres: 84 (4,70%).

Many of the children involved were transferred into «equipped villages» often situated at the outskirts of town and far from their previous neighborhood as a consequence of evictions. Due to the “necessity” to secure didactic continuity and to respect the maximum limit (30%) of foreign pupils within a class (**Minister of Education, University and Research Circular n. 2 of 8 January 2010**), these children suffer from severe distress due to the arrangement of the services and to the distance between the settlement they reside and the school they are enrolled in.

Roma children arrive at school considerably late comparing to other pupils, and they have to leave the class earlier in order to use the school transport service. This prevents Roma children from attending the classes scheduled at the first and at the last hour of the school day, causing them difficulties to understand and study some of the didactic contents, and also hinders the socialization process with other pupils outside the school timetable.

«The Roma child always arrives late, at 9.30, and he leaves early, at 12.30. As a result there are subjects he does not even know about, and there are professors who have never met him. At best these children are missing 10 hours per week! The right to education is violated!»¹⁹.

The teachers interviewed report that working with Roma children is particularly demanding as, as a consequence of the social distress they live in, they expose educational gaps comparing with the other children of the same class. The teachers thus affirm to find themselves in the difficult position to have to proceed with the regular didactic programme with the majority of the class, and in the meanwhile to carry out parallel didactic activities with Roma children with the aim to plug the gap with the other pupils. This leads to a slowdown in didactic activities and to an **educational marginalization** of Roma children, who are perceived and perceives themselves as diverse from the others.

The difficulty experienced by Roma children in integrating within the class context has often been noticed. Roma children often live in a condition of marginalization and do not take part to the normal relational exchanges occurring during the school experience. According to the reports of the people interviewed, Roma and non-Roma children seem to be frightened by everything which appears far from their everyday experience, and at times episodes of racism occur. The distance in the way of living and looking between Roma and non-Roma children is exacerbated by the living conditions of the settlement where Roma minors reside.

«I have two Roma pupils in my class: a male and a female. The girl is completely different, she tries to be accepted in every way. This fall we had a party and all the children had to bring a seasonal fruit jam and the girl brought a jam made by Roma. But at the end of the party only her jam was still there! We promptly bought it to diminish the episode, but in the end what was clear was that her jam was still there. She tried to participate, but at last she acknowledged there was no response. Anyway they are tolerated. If there is an available seat alone, the Roma child goes for it»²⁰.

«The classmates are influenced by everything they hear around and therefore they use certain words towards the Roma child: ‘dirty Gypsy!’»²¹

¹⁹ Associazione 21 luglio, “Report Linea 40. The school bus for Roma only children”, Interview with a teacher of the junior high school S. Benedetto/Catullo of Rome, 8 February 2011;

<http://www.21luglio.org/images/Linea%2040%20ricerca%20integrale.pdf>.

²⁰ *Ibidem*.

²¹ *Ibidem*.

In some schools in Rome, L2 Italian courses and in-school learning support attended exclusively by Roma pupils of different ages are organized during school hours and through the cooperation between teachers and the body in charge of the schooling project.

«[...] Surely this is the limit of such a method [L2 Italian classes and in-school learning support lessons attended exclusively by Roma pupils], which is not the best method possible, I have no doubt about it, but this is what we realistically can do with these resources, in order not to remain totally passive in front of the difficulties which daily arise. Otherwise said, it is obvious that, if you reproduce a camp-like method, where it's only them [those belonging to the Roma community] in a separated space, sure enough this may give the feeling of amplifying the sense of separation»²².

The policy of the Municipality of Rome towards Roma pupils, regulated for twenty years by the “Roma Children and Adolescents Schooling Project”, seems to be part of a wider action of positive discrimination / seems to constitute an action of positive discrimination. If planned and implemented with little understanding of socio-cultural conditions of Roma and Sinti communities and with an inadequate organization, it may arise as an element which can prove to be a contributing factor to the marginalization of Roma students in schools, to the point of potentially leading to outright discrimination.

5. RECOMMENDATIONS

Local and national authorities should:

- Make the best interest of the child to prevail, and remove all obstacles of juridical nature to ensure the right to education to all children, regardless of their juridical status or that of their parents.
- Immediately end the policy of forced evictions still implemented in many Italian cities and stop the realization of institutional spaces of segregation, like «equipped villages». Such policies hinder the access to education and the regular attendance and worsen the quality of education of Roma pupils.
- Design and implement a needs-tailored school support for Roma pupils, not organized on ethnic basis, and remove all the elements of separation from the rest of the class, which may be ground for discrimination.

²² Associazione 21 luglio, “Report Linea 40. The school bus for Roma only children”, interview with the coordinator of the intercultural activities of the junior high school S. Benedetto/Catullo of Rome, 19 July 2011.