

The impact of the Racial Equality Directive:
a survey of trade unions and employers
in the Member States of the European Union

Italy

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1. Demographic background¹

There were 3,432,651 documented non-nationals residing in Italy on the 1st of January 2008, corresponding to 5.8% of the total population of 60 million. Half come from elsewhere in Europe and nearly a quarter from Africa. Romanians, Albanians, Moroccans, Chinese and Ukrainians are the largest groups. A total of 625,287 Romanians are officially registered as living in Italy, replacing Albanians and Moroccans as the largest ethnic minority group, but unofficial estimates put the actual number of Romanians at double that figure or perhaps even more. There are estimated 700-800,000 migrants without residence permits. Migrants live mainly in the north-west (35.6%), the north-east (26.9%) and the centre (25%) of the country. Most of them work in the services sector (53.8%), but with substantial numbers also in industry (35.3%), and in agriculture (7.3%). More than 80% are employed in small businesses. The vast majority of migrant workers are employed in low-skilled and low-paid jobs, usually as unskilled workers, construction labourers, farm labourers, domestic help, waiters, cleaning staff, and care workers for the elderly. Migrant women are concentrated in domestic work and in care-provision.

2. Industrial relations background

The three principal trade-union confederations – CGIL, CISL and UIL – were founded in the 1940s and 1950s. The CGIL, linked historically to the Italian Communist Party and today to the major parties of the left, is the Italian union with the most members (including retired members this was 5,604,741 in 2007, of whom 271,238 were immigrants). It is rooted principally in the regions of the centre and north and among the workers in the industrial sector. The CISL is the second largest confederation, with 4,427,037 members in 2007, of whom 293,114 were immigrants. Linked historically to the Christian Democratic Party and to third-sector organisations of Catholic orientation, it is deeply rooted among public sector workers, but is also present in industry in the northern regions with a strong Catholic tradition (*Lombardy and the Veneto in particular*). The UIL carries less weight politically, with fewer members and less local representation. Historically linked to the smaller parties of the Italian moderate left, the UIL has always oscillated between the positions of the two larger confederations. Today it sides with the CISL. In 2007 the UIL had 170,239 immigrant members out of a total membership of 2,060,909, making it the confederation with the highest percentage of immigrant members. In addition, there is the smaller (*700,000 members*), extra-confederal union RdB (*Rappresentanze Sindacali di Base*), constituted in the late 1970s out of disagreement with the policies of the major confederations. It is particularly attentive to the immigration phenomenon.

The employers are organised in various associations, distinguished by the size of the firms, the sector of reference, and political orientation. The largest of these associations is Confindustria, which in 2009 represented 135,320 associated firms employing 4,954,000 workers altogether.

¹ Source: Istituto Italiano di Statistica; Caritas/Migrantes (2008), *Immigrazione. Dossier statistico 2008*, Rome: Idos.

Industrial relations have been based on concertation for at least the past twenty years. In 1993 a system was introduced based on national bargaining by sector (*Level I*) and bargaining by firm or locally (*Level II*). Level I bargaining implements new labour market legislation into the Collective National Labour Contract, establishing the minimum wage levels and working conditions (hours, holidays, overtime) of each sector. Level II bargaining - which cannot set wage and labour parameters below those set in sectoral Level I bargaining - applies the National Contract to the individual firm or at the local level. It lays down the part of the (*company or sectoral*) wage that is linked to parameters such as productivity and quality. In the past few years this system has begun to break down and relations between the unions and the employers – and between the unions themselves – have progressively deteriorated, culminating, in October 2008, in the signing of a separate agreement by two union confederations, CISL, UIL and the employers' organisations. The CGIL maintains that this agreement sanctions a model of relations in which union action responds to the interests of management, and that it will lead to sharp wage reductions and a weakening of labour safeguards.

3. Trade union and employer awareness

3.1 Trade union awareness

Trade union awareness of the Racial Equality Directive is widespread, but is unevenly distributed between and within organisations. At one level of the unions there is thorough knowledge both of the Directive and of the relative national legislation, and on occasion the instruments provided for have been utilised directly. This area consists primarily of the upper echelons of the union leadership and, at the regional and provincial levels, of individual officials who took part in projects for promotion of the Directive, usually financed by the European Social Fund. Then there is another level in which there is little or absolutely no knowledge of the Directive or of the measures for implementing the anti-discrimination regulations, but where there is often considerable knowledge of the national legislation on immigration and of questions of racial discrimination that has been gained through direct experience.

This differentiation on the one hand can be attributed to the way in which the Directive was transposed in Italy and to the lack of continuity in the relations between the social partners and the National Equality Body (*UNAR*). On the other hand it is due both to the growing infrequency of training courses on the Directive organised by the unions and to the fact that up to now there has been no real sharing with the rest of the union body of positive experiences and practices gained in individual contexts.

As regards immigrant workers, while they do have a rather widespread knowledge of the legislation on residence and of workers' rights, their knowledge of the Directive and their awareness of the rights that derive from it are exceedingly limited or nonexistent.

3.2 Employer awareness

Awareness of the Directive among employers is very low, but there are differences between individual firms and the employers' associations. Among the firms, there is practically no awareness at all. As one employer put it, *'On this directive specifically the workers have absolutely not been informed, because not even the firm knows about it.'* What is more, some employers believe that discrimination is an issue that relates not to the firm but, rather, to the union.

There is slightly more awareness among the employers' associations, even if with different shadings and degrees. Some associations have heard of it and there is a sense that *'the awareness is increasing, but still at a very informal level,'* as a local officer of Fòrema, the industrial employers' organisation, declared. This change in sensibility, when it exists, is not attributed to the Racial Equality Directive, but to other factors – to the national legislation and, in particular, to the numerical increase and social rootedness of migrant workers. A national officer of Confartigianato, the organisation representing handicraft and small firms, stated: *'In the world of work the awareness of and attention to non-discriminatory attitudes is certainly increasing also on the part of the entrepreneurs whom we represent. But I see no direct connection with the existence of a transposed directive: it is increasing simply because the Italian labour market is absorbing a great number of foreign workers. [...] The Directive is not at all known as a directive, it has not been implemented, it has not entered into entrepreneurial mentality and activity as a concept.'* This *'diversity management'* approach is becoming more widespread and, as a result, many employers have started providing Italian language training.

The employers' associations, when themselves informed, have in turn informed their associates about the transposition of the Directive, but this has not been followed by actions leading to its concrete application. They observe that one of the reasons for this lack of application consist in the fact that the Directive provides neither for rewards (when applied) nor sanctions (*when disregarded*).

4. Comments on the Equality Body

The unions were consulted only when the National Equality Body (UNAR) had already been established, thus precluding a preliminary dialogue between the social partners and the government on the preparation of *super partes* instruments and bodies. What is more, the fact that it was created within the Prime Minister's office itself led to criticism of its lack of independence: the UNAR *'is not an autonomous body,'* as one CISL national officer put it. The unions see this as the main cause of its failure to combat institutional discriminations, which are often the base, or support, of discriminations perpetrated in the workplace, in housing, in schools, etc. One CGIL national officer objected: *'We always insisted on the fact that the UNAR should have taken the initiative on institutional discriminations - those that were produced by certain laws and by the initiatives of certain public subjects. The UNAR was somewhat slow on this.'*

The firms and the employers' associations were not consulted before or during the process of transposition of the Directive, and have not had contacts with the UNAR,

except in one case (*Confartigianato*). A number of respondents can make no comments because they are not even aware of the Directive's existence; one employer stated that *'the only thing we can say is that it was passed over in silence, unnoticed, as far as we were concerned it left us indifferent since we didn't know about it.'*

5. Trade union and employer policies and measures

5.1 Trade union policies and measures

The three main trade union confederations recently organised a joint anti-racist campaign, *'Don't be afraid, open up to others, open up to rights,'* while the CGIL promoted one with the slogan *'Same blood, same rights.'* These campaigns reflect a substantial change in union policies noted by most respondents over the last ten years – particularly in terms of the inclusion of immigrant workers and the combating of racial discrimination. But the respondents claim that the greater union engagement has been prompted primarily by the rising numbers of migrant workers rather than by any changes in the law. As a CGIL local officer explained: *'This drive towards change [within the union] depends on the large number of immigrant members, more than on the directives [...] Since the union is a reflection of the mass that lives outside [it], this attitude has repercussions in the work.'* Thus recent CGIL (2006), CISL (2005) and UIL (2006) national congresses all adopted policies stressing the demand to root out workplace discrimination. A CISL national officer recalled: *'The acts of the CISL, also in the last congress four years ago, [have as a] fundamental base a document that states: "Watch out! today Italy is a country that has more and more foreigners. We must consider them to be brothers, to be an integral part of the human activities in the various territories. Therefore they must be guaranteed the same conditions as the Italian workers and the same opportunity of access to work and also of access to leadership roles."*

This change, however, is judged in quite different ways. Some trade unionists emphasise the positive impact of the policies adopted prior to and independently of the Directive, designed for the inclusion of immigrant workers in society and in the unions. In contrast, other trade unionists, while acknowledging the ongoing changes, emphasise the incompleteness of this process of inclusion (*which within the union seems to come about prevalently at the local and sectoral level*) and the persistent under-representation of immigrants in the intermediate and upper echelons of the unions.

The unions' actions are extended also to various spheres of social life, with the aim of promoting inclusion of the immigrant populations. The interviews reveal an attitude that is quite critical of national and local migration policies, defined by the respondents as discriminatory if not downright racist. These policies are seen as in open conflict with the anti-discriminatory spirit of the Directive.

Up to now, the unions' practical commitment to the combating of workplace discriminations has been fragmentary, connected with individual local contexts, specific projects, the presence of willing officials, or specific sectors. Good practices have been implemented, but in an episodic and limited manner; while based in

principle on the national union policies announced in the congresses, they give no evidence of a comprehensive political project designed to combat discrimination nationally and in all sectors.

The unions generally deal with the cases of discrimination in an occupational context, having recourse more to mediation, to contractual instruments or to labour legislation than to the Directive. These means have almost always been used to avoid exposing workers to the risk of losing their jobs for having filed complaints against their employers. A national officer of the RdB stated: *'On the one hand there is fear, because when you don't have a residence permit you are afraid [to report discrimination]: the first thing the police ask you for is your papers, so if you don't have them you don't file any complaints. Or else you do it through the union. On the other hand, when you realise that these national laws have this discriminatory impact, then you say: "If the national law does it, just think if it's done by an individual citizen who is legitimised by the law..." So at times there is a situation of resignation, until you meet other people who are going through the same thing, and that's when you start [to take action] through public initiatives, which in some cases are collective.'*

The main union action within the workplace has consisted of combating the direct and more evident forms of discrimination. An example was given of a metalworking firm where the union challenged an employer who was racially segmenting the workforce in the selection of heavy work. However, as a CISL national officer explained, *'it is much more difficult because in our country the number of informal employment situations is far greater, and thus various causes of the offence intersect, making it far easier to perpetrate forms of - also racial - discrimination.'*

As regards discrimination in the labour market, there is the ongoing problem that public service jobs are reserved for workers with Italian or EU citizenship. Until now the unions' actions have concerned cases of exclusion from employment in public health structures and in the sphere of public transportation. Even if some cases did not always lead to positive results in the courts, a CGIL national officer believes that they helped lay the foundations for a debate on the need for a national policy that recognises educational and vocational qualifications attained in immigrants' countries of origin, or on the Italian citizenship requirement for the enjoyment of various social rights: *'Today the situation is such that one can only wait for the question to be resolved through a new law, precisely because the situation is blocked... Let me give you an example: access to the public sector - auxiliary medical personnel - which can cope with an objective demand for these professionals only in the private sector and in the form of the cooperative. All this has coincided with the change of the contract and of the employment relationship, which have come to be based far more on private enterprise. So there are some situations - which, moreover, are still unresolved - where the evolution of different problems has intersected. This has made finding a solution difficult, but has heightened the call to utilise the instruments the Directive puts at our disposal, and in some respects has even made it easier to publicise them, not at a mass level, but in our basic structures.'*

Unions have not instituted structures specifically dedicated to anti-discrimination but rather have relied on the network of *'immigration offices'* already in place or on the local dispute-settling institutions, which, in reporting cases of discrimination, have taken as their point of reference the Focal Point local network, managed by the ACLI

(*Christian Associations of Italian Workers*) in partnership with the UNAR. The clearest changes in unions' practices have above all been in local contexts where projects have been realised based on services and networks, such as the 'Equal' projects *R.I.T.A. (Network for Local Anti-discrimination Initiatives)* and *Maqram Maqor*, or the three-year trade-union project '*Leader*,' financed by the European Social Fund, which created networks of activists and has had some positive lasting effects in certain workplaces. As a CISL national officer stressed: '*The "Leader" project against discrimination, which lasted three years, is still active, because the networks we created are still alive. These networks intervene when there are episodes of xenophobia and racism and [carry on] positive action within the factories with the participation of the social partners.*'

The social partner dialogue has been quite limited. Apart from the experience with the UNAR, apart from the negotiations carried on for the most part in individual firms, there have not been further occasions for dialogue. The agreements - as a CGIL national officer stressed - have been reached more out of passive adaptation to the new regulations than out of independent initiative or a voluntaristic attitude and have mainly involved large firms: '*Concretely, something has been done with the very large firms. We even carried out a negotiation. But I'd say that we are in an initial phase [...] and we have not negotiated on how to implement the anti-discriminatory legislation. We have negotiated how not to ignore the fact that there are immigrants workers who have needs that at times are similar, and at times dissimilar. It is a negotiation that recognises the fact that there is an immigrant labour force. It did not happen that once the Directive had been transposed a table was opened [...] but, yes, a few reflections were aired.*'

5.2 Employer policies and measures

In general employers and associations express positive judgments on the national legislation on immigration. Some less positive remarks regard the quotas of non-EU workers fixed annually by the flow decrees (*considered somewhat low compared to the firms' demands, especially by the agricultural employers' association, Coldiretti*), the slowness of the bureaucratic procedures for the issuing of residence permits (*insofar as it hinders workers' productivity and efficiency*), and the incomplete implementation of the procedures of control, repression and deportation. In one case the legislation was criticised because it was deemed to contain discriminatory regulations.

The employer representatives have very little to report in terms of anti-discrimination policies. They do speak, however, of trends and practices based on an empirical sort of 'diversity management,' which stem more from direct experience than from training and knowledge in this field or from the national transposition of the Directive.

The employers often have no perception of the discriminations and are not able to identify them clearly; at times the very fact of employing foreign workers is considered to be an example of a non-discriminatory attitude. This affects the way in which they deal with the question of discrimination: some deny its existence; others have recourse to a mediation of any conflict in an informal manner within the firm. By the same token, the employers themselves note that workers fail to report situations

of discrimination out of fear of losing their jobs.

Some employers and associations consider the Racial Equality Directive unnecessary: *'The company policy is obviously designed to avoid any form of discrimination, so we seek first of all to prevent it and if discrimination does occur, to take care of it. It is in the firm's DNA not to discriminate.'* A national officer of the co-operative confederation Concooperative-Federsolidarietà commented: *'For us social responsibility arises neither with the Directive, nor with the other European regulations that call for social responsibility; it arises, rather, precisely from this distinctive form of enterprise that we call cooperation. The co-operative is an inclusive enterprise and the principle of the open door [...] definitely makes it possible to overcome discriminations.'*

At the national and the local levels, but also at the level of sectors and of individual firms, no particular changes have been reported following the implementation of the Directive. In some individual (*sporadic and not systematic*) cases there are single firms or single sectoral associations that for some reason (its international dimension or a company policy followed systematically by an entire multinational group, such as Ikea or the participation in a European project) took note of the existence of the Directive and began to implement good practices within their organisations.

One case of the implementation of anti-discrimination practices connected with the transposition of the Directive regards the *'Equal'* project AHEAD (*Accompanying Handicraft Entrepreneurs Against Discrimination*), organised nationally by Confartigianato, dedicated to information, promotion, and training on the Directive for practitioners operating locally. Otherwise, there are only episodic initiatives by a few firms designed to compensate for their newly-hired employees' minimal knowledge of the Italian language, to satisfy needs connected with the different diet and religious practice of Islamic workers, and to reconcile the needs of the workers who return to their home countries during the summer vacations with the needs of the firm.

Some entrepreneurs describe systems of hiring and of worker distribution in the industrial departments as forms of respect for the immigrants' religion and culture, or as forms of prevention of conflicts between culturally different workers, separating them on the basis of their national or cultural origins. As one employer explained: *'In certain divisions or plants where pork is processed, we do not take the Muslims. This is a precaution of ours, in the sense that if we see job applications coming from North Africans we don't even call them in, because it could be seen as an insult. To think to say to a North African, Muslim, worker to work in a pork slaughterhouse, would be ... I mean ... where they process pork meat, no, there no... We have well defined sanitary regulations [so that] it is not possible that Muslim women come to work with veils... For the differences between men and women we have "objective" discrimination, if one can put it that way... in the sense that the work typologies are such that they are not feasible for women. For the typologies of hours and of work... but actually they are not discriminations, but precautions as a result of which we do not hire women.'*

As regards the internal employer organisation, despite the ever increasing number of one-person businesses and small firms owned by immigrants (*in sectors such as construction, textiles, cleaning, private transport, small-scale catering, and company services*), in the sectoral associations immigrants very rarely hold positions of

responsibility and representation or are middle-managers or executives.

As far as social dialogue is concerned, while the firms and the employers' associations in question have fairly constant relations with the union organisations, this dialogue is not a consequence of the Directive, and the Directive is never discussed. As a local officer of Coldiretti, the agricultural employers' organisation, stated: *'We never discussed the question of discrimination with the unions, there may have been some labour union disputes [...] But always on questions of work, not simply connected with discrimination, always on economic questions or contractual and economic demands. It has nothing to do with this European Directive.'* Moreover, there are no reports of dialogue on the question of discrimination and of the Directive with state institutions (*it seems that they have done nothing to promote the Directive among the employers*), or with the UNAR or the NGOs that are concerned with discriminations.

6. Views on how to tackle discrimination better

While expressing positive judgments on the contents of the Directive, most of the trade unionists maintain that, to date, incisive and coherent anti-discrimination policies have not been implemented by the state or by the social partners.

To overcome these limits some critical points were indicated, whose solution would entail greater collaboration between the social partners and greater promotion of the contents of the Directive and of anti-discrimination practices. As a national officer of the ACLI-COLF, the domestic workers' union, suggested: *'These regulations ought to be known. One ought to perform activities or create moments in which knowledge of these regulations is brought to the people. Making these regulations known would also be of help in overcoming those racist attitudes.'*

Some respondents emphasised the contradiction between the principles of the Directive and national and local migration policies, considered highly discriminatory, as well as the failure of the UNAR to deal with institutional discrimination, due to its lack of independence. A local officer of the CISL noted that the Racial Equality Directive has been applied in a social context *'in which a discourse of institutional discrimination has been created, in which there is a precise, punctual, and daily denial of the pathways of social integration and an evident attempt to construct pathways of social exclusion for all the foreign workers, but for some communities in particular.'*

To solve this problem a national officer of the CGIL suggested a greater commitment to acts of prevention and repression of discrimination by the proper authorities: *'I believe that a fuller role of prevention must be played by those subjects that in our country are responsible for the struggle against discriminations: hypothetically, if each time the Council of Ministers approves certain regulations to present to Parliament, the UNAR could express, at the right time, an opinion that has binding weight with respect to the discriminatory character of the text presented, providing a preventive assessment, this could help block certain laws.'*

A national officer of the RdB noted the contradiction between this Directive and other European directives which, rather, tend to penalise migrant workers: *'At the same*

time we need to review the current direction of the European Union itself, where you can now speak of the "social dumping" of labour when it is permissible for workers who come to work here to work according to the national collective contract of another State that has more casualised working conditions.'

Some respondents also pointed out the impossibility for migrant workers of utilising these instruments fully, due to fear of losing their jobs and the precarious nature of their residence permits. In fact, as a local officer of the FILLEA, the construction workers' union affiliated with the CGIL, explained, migrant workers do not feel they are protected against discrimination: *'Many do not file complaints, then, because they are afraid of losing their jobs, they are not protected: if there were funds, or guarantees that the worker will be hired somewhere else, there would be a greater number of complaints. Instead, the workers tell us "I'll try to resist but I won't file a complaint, otherwise I'll lose my job."*

The employers and their associations believe that to make the Directive effective and more efficient, and to raise awareness of the question of discrimination, there is a need for greater efforts to provide information and for a greater commitment by state institutions to engage firms and employers' organisations in the struggle for racial equality. A national officer of Confartigianato stressed: *'Much needs to be invested in terms of information campaigns on what there is that is positive, on the value that foreign workers and also foreign entrepreneurs have: for us they are a very important segment in terms of wealth produced, of GDP produced, of taxes paid. Much needs to be invested in this, precisely in terms of information campaigns.'* And a local officer of Confindustria declared: *'At the moment in which one makes the law, one must think about what has to be done to make this law operative on the ground. Now I don't know whether the legislator [...] is aware that at the moment a law of this type, which touches on persons and relationships, comes into force, there is the need for instruments and the measures that make this type of information possible [...] Because otherwise, very often, if you rely on the "do-it-yourself" or on the "will to," then you have excellent laws that go unheeded. One needs to develop an information policy.'*

At the same time, a number of respondents can make no suggestions because they are not even aware of the Directive's existence. Again, in the words of one employer: *'The only thing we can say is that it was passed over in silence, unnoticed, as far as we were concerned it left us indifferent since we didn't know about it.'*