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**AMNESTY  
INTERNATIONAL**



First published in 2011 by  
Amnesty International Ltd  
Peter Benenson House  
1 Easton Street  
London WC1X 0DW  
United Kingdom

© Amnesty International 2011

Index: EUR 30/020/2011 English  
Original language: English  
Printed by Amnesty International,  
International Secretariat, United Kingdom

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*Front cover photo:* Triboniano Camp in Milan, Italy, photographed in May 2010, when over 100 families inhabited it. This authorized camp was closed by authorities in May 2011.

© Luana Monte

*Back cover photo:* Three stages of an eviction of Roma inhabitants from via Cavriana, Milan, 3 February 2011 (early in the morning). © Fabrizio Casavola

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# 1. INTRODUCTION

**“Today in Italy there is more fear, more poverty and more insecurity... We will address immediately the security of citizens with zero tolerance for Roma, clandestines and criminals”**

Prime Minister Silvio Berlusconi, 10 February 2008.<sup>1</sup>

**“Our final goal is to have zero Gypsy camps in Milan”**

Riccardo De Corato, former Deputy Mayor of Milan, 12 October 2010.<sup>2</sup>

Giuseppe is Italian, of Roma ethnicity. Born in Milan, he has lived with his family for more than 20 years in Via Idro, an authorized camp for members of the Romani communities. In 2009, Giuseppe learnt that the authorities in Milan plan to reduce the number of inhabitants of the Via Idro camp and transform it into a “transit camp”. Giuseppe told Amnesty International that he and his family have not been consulted about this plan and they are worried that they will be forced to leave without an adequate alternative. In recent years authorities in Milan have carried out hundreds of evictions from Romani camps, and Giuseppe has been feeling increasingly unwelcome in his home town.

For more than a decade international and regional human rights bodies have criticized the Italian government for carrying out forced evictions of Romani communities, and for discrimination against Roma and the failure to ensure their right to adequate housing. They have highlighted the fact that a large number of Roma live segregated in camps on the outskirts of urban areas in poor living conditions, often without basic infrastructure and services including access to energy, sanitation and washing facilities. They have urged the Italian authorities to end forced evictions and develop strategies to fulfil the right to adequate housing of these communities. They have also called on the authorities to address both widespread discrimination against Roma in access to housing, education, health care and employment, and the inflammatory statements made by politicians and representatives of the authorities that often hold Roma responsible collectively for increased crime rates.

Instead of prioritizing measures to improve the housing and living conditions of Romani communities and to address the discrimination that they experience, in recent years Italian authorities have deliberately taken, in the name of security, retrogressive measures that have aggravated discrimination against them. International human rights bodies and non-governmental organizations (NGOs) have reported on the deteriorating situation.<sup>3</sup> Their reports have underlined also how associating Romani communities with crime has become a growing tendency in political discourse and in the news media in Italy.<sup>4</sup>

From 2007 national and local authorities throughout Italy signed "Security Pacts" aimed at addressing perceived security threats. In some municipalities, these so-called security threats include those allegedly posed by the presence of "nomad settlements". The term "nomads" has been used in legislation to refer to Romani communities, even those that are no longer nomadic, and Italian authorities often use the terms "Roma" and "nomads" interchangeably. Giuseppe therefore knows that when the authorities talk about "nomads", they actually refer to people like him and his family, who are Roma. The authorities have not provided any evidence of why and how the presence of these "nomads settlements" – that is, settlements in which Romani communities live – poses a threat to security. The implementation of the "Security Pacts", which provide for – among other things – increased cooperation between the state police and the local police, has resulted in a sharp increase in forced evictions of Romani communities in various Italian cities, including Milan and Rome.

On 21 May 2008 the Italian government declared a state of emergency in relation to the settlements of nomad communities in the regions of Lombardy, Campania and Lazio (the "Nomad Emergency"), supposedly to address a "*situation of grave social alarm, with possible repercussions for the local population in terms of public order and security*".<sup>5</sup> Under Italian law, a state of emergency can be declared in the case of natural calamities, catastrophes or other events that, owing to their extent and intensity, cannot be confronted by ordinary means. By declaring a state of emergency, the Italian government is effectively saying that the presence of nomad settlements – in reality the Romani communities – is comparable to a natural calamity or catastrophe and that extraordinary powers are required to address the challenge. The government has stated that the presence of "nomads" and irregular non-EU citizens has given rise to a threat to public order and security. However, the government has not provided evidence to support this assertion. It has failed to provide information to substantiate its claims of a high number of irregular migrants or even of the total number of people living in "nomadic" settlements in those regions where a state of emergency has been imposed. It has also failed to demonstrate why, even if the unsupported assertions about high numbers of people in nomad settlements are accepted, this creates a security threat or grave social alarm.

The decree of 21 May 2008 was followed on 30 May 2008 by the adoption of ordinances authorizing the Prefects of Milan, Naples and Rome (permanent representatives of the national government in these provinces), to take measure to address the "Nomad Emergency" and to derogate from a number of laws. In May 2009 the "Nomad Emergency" was geographically extended to the regions of Piedmont and Veneto. It is currently in force until 31 December and may be further prolonged.

Under the "Nomad Emergency", the authorities have authorized the waiver of certain national laws that protect human rights, including provisions of a law that provide fundamental

guarantees for people affected by administrative decisions. This has meant that Romani communities which live in authorized or unauthorized settlements can be denied basic due process protections and the ability to challenge arbitrary or unlawful administrative decisions – fundamental guarantees that apply to all other persons in Italy. These protections are important for any administrative decision which impacts the exercise of people's human rights, but are particularly essential in order to prevent forced evictions. Authorities in Italy are now legally empowered to evict people without providing them with information about the decision to evict them, as this is an administrative decision, and to deny them opportunities to participate in legal processes related to such decisions. This violates various international and regional treaties that Italy is a party to, which require it to guarantee all persons' rights to adequate housing including protection against forced eviction,<sup>6</sup> as well as rights to equal protection under the law and to an effective remedy.<sup>7</sup>

In 2008 Amnesty International reported that during 2007 and 2008 members of the Romani community as well as Romani settlements were at the receiving end of several measures taken by the authorities in the name of "security".<sup>8</sup> These included measures that resulted in forced evictions as well as new legislation targeting irregular migrants including Roma. They were implemented in a context of aggressive anti-Roma rhetoric by local and national politicians.

In its January 2010 report, *The wrong answer: Italy's 'Nomad Plan' violates the housing rights of Roma in Rome*, Amnesty International warned that the Rome "nomad plan" adopted by the authorities following the declaration of the "Nomad Emergency" would violate the housing rights of Romani communities in Rome. The plan foresaw the eviction of thousands of Roma and the resettlement of only some of them in refurbished or new camps. The implementation of the plan in Rome perpetuated a practice of segregation and resulted in poorer living conditions.<sup>9</sup>

Prompted by reports of repeated forced evictions in Milan in the region of Lombardy, Amnesty International conducted two research missions in April and July 2011. Delegates interviewed officials, staff of NGOs, and residents of authorized and unauthorized camps. The delegates visited the authorized camps in Via Idro, Via Impastato, Via Novara and Via Triboniano/Barzaghi.

In this report Amnesty International describes how the "Nomad Emergency" has exposed thousands of Roma to serious human rights violations, has aggravated discrimination against Roma, including discrimination in the enjoyment of their right to adequate housing and has enabled greater impunity for deliberate breaches of human rights standards. Chapter 2 examines the decree and ordinances related to the "Nomad Emergency" in detail, and argues that they are discriminatory and violate various international and regional human rights treaties that Italy is a party to.

Chapters 3 and 4 look in particular at the situation in Milan where the "Nomad Emergency" facilitated the continuation of forced evictions of Romani communities living in both authorized and unauthorized camps. The report describes how a new and discriminatory regulatory framework has been applied to Romani residents of authorized camps. This restricts the residents' rights to privacy and family life<sup>10</sup> and allows the authorities to evict the whole family if any member of the family does not comply with the requirements that

have been set out under the regulation. These restrictions have not been applied to people living in other forms of housing provided by the state, such as in social housing. The report also describes how authorities in Milan are closing down various authorized camps – sometimes linked to building projects for the EXPO 2015 – without providing the inhabitants with alternative longer-term housing solutions, without consultations and without safeguards to prevent forced evictions.

In some cases in this report, the names of members of the Romani community who spoke to Amnesty International have been changed at their request. The term Roma is used to refer collectively to many different sub-groups of Roma that belie the common assumption that the Roma are a single homogenous minority. This report was completed on 10 November 2011.

Amnesty International is calling on the Italian government to immediately revoke the “Nomad Emergency” and to stop and prevent forced evictions by, among other measures, adopting and enforcing legislation that prohibits these human rights violations. The organization is urging the Mayor of Milan, elected in May 2011, and the Prefect to stop all forced evictions, to replace the current regulatory framework of the authorized camps with one that complies with human rights standards, and to immediately suspend the implementation of the “Maroni plan” for camp closures. Amnesty International is calling the European Union to start infringement proceedings against Italy for violation of “Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin”.

## ROMA IN ITALY

Roma arrived in Italy between the 14th and the 15th century.<sup>11</sup> Accurate figures are not available on the numbers of Roma, Sinti and Camminanti (Travellers) currently living in Italy. Estimates indicate their numbers to be between 130,000 and 170,000, corresponding to about 0.2 per cent of the Italian population. They include Romani and Sinti communities throughout Italy and the Camminanti who live mostly in Sicily. These communities include people from other European Union (EU) countries, mostly Romania, from the former Yugoslavia, an undefined number of stateless people and Italian citizens (about 50 per cent).<sup>12</sup>

Roma, Sinti and Camminanti are not considered linguistic minorities under Italian law and do not enjoy the same protection as, for example, members of the Albanian, Catalan, German, Greek, Slovenian and Croatian minorities.<sup>13</sup> There is no national legal framework addressing the rights and needs of Roma, Sinti and Camminanti but only a number of regional laws and municipal regulations.

The Extraordinary Commission for the Protection and Promotion of Human Rights of the Italian Senate reported in February 2011 that around 40,000 Roma, Sinti and Camminanti live in camps or informal settlements, often in appalling conditions.<sup>14</sup> Most of them have no security of tenure and are at permanent risk of forced eviction.

The poor living standards in the camps and the discrimination (either direct or indirect) they face in accessing the health system are clearly shown by health indicators. Research conducted by the Italian Red Cross reveals that only 2.81 per cent of the Romani population under analysis (4,927 individuals) is 60 years old or older, which is well below the average life expectancy in Italy. It is estimated that 42.52 per cent of the Romani population in Italy is under 14 years of age.<sup>15</sup>



A view of the camp in Via Idro. © Amnesty International

## 2. THE 'NOMAD EMERGENCY'

*"The government has confronted the nomad emergency, which had raised so much alarm in the past two years. The ordinance of the President of the Council [of Ministers] of 30 May 2008 has initiated the monitoring of the camps, the census of the people who live there, the implementation of the first interventions needed to guarantee minimum levels of social and health services. The census was implemented only in Milan, Rome and Naples, because it is not based on ethnicity but is needed only where the nomad emergency is stronger."*

Website of the ruling political party, Popolo della Libertà (PDL), February 2010.

Associating the presence of Romani settlements with crime has become a growing tendency in political discourse and in the news media in Italy. Following the accession of Romania and Bulgaria to the European Union (EU) on 1 January 2007, there was a widely-reported concern across Italy about the risk of an "invasion" of migrants from these countries in particular of Roma ethnicity. A few high-profile crimes allegedly committed by people of Roma ethnicity from Romania were also extensively reported in the news and fed an aggressive anti-Roma rhetoric by local and national politicians.<sup>16</sup> International and regional human rights monitoring bodies and NGOs, including Amnesty International, have highlighted how, since 2007, this increasingly discriminatory discourse has led to increased human rights violations against Roma, in particular of their right to adequate housing.<sup>17</sup>

Rather than responding to the serious concerns of these bodies and implementing their recommendations – including those which called for Italy to address hate speech, forced evictions and widespread discrimination against Romani communities – the Italian government declared the existence of a "Nomad Emergency" in 2008 which led to these communities being targeted even further under the guise of measures to address "security". States of emergency are normally invoked by governments in times of armed conflicts, civil or violent unrest, or natural disasters. They are conceived to confront extraordinary situations that can only be addressed with extraordinary powers – including derogations from legislation. However in Italy, states of emergency have and continue to be used very frequently, in many cases to confront situations that could well be dealt with by ordinary means.<sup>18</sup>

This chapter describes the events leading up to the "Nomad Emergency" as well as the various legal instruments that were adopted to declare and implement it. It examines the consistency of these legal measures with various international and regional human rights treaties to which Italy is a party. It examines the reasons provided by the government to justify the imposition of a state of emergency but argues that the government has not provided evidence to substantiate its assertions. The chapter also details how delegated Commissioners have been authorized to derogate from fundamental guarantees for people affected by administrative decisions; protections which apply to all other persons in Italy. This is an issue of particular concern because of its impact on people's rights to adequate housing, equal protection of the law and to an effective remedy. The chapter argues that, as the government has not provided any reasonable and objective justification for the differential treatment of Romani communities and for denying them equal protection under the law, these measures are discriminatory.

## ROMANI COMMUNITIES STEREOTYPED AS 'NOMADS'

The term "nomads" has been used in legislation and regulations in Italy, and is also often used by the authorities, to refer to Romani communities who have been regarded as traditionally nomadic or semi-nomadic.<sup>19</sup> The terms "Roma" and "nomads" are used interchangeably in the media and in political discourse. Amnesty International delegates also observed during meetings with officials in Milan that they often used these terms as synonyms to refer to these communities.<sup>20</sup>

Though the majority of Romani communities in Italy no longer follow a nomadic lifestyle, they continue to be treated in government policies as nomads. The European Commission against Racism and Intolerance (ECRI) has in various reports pointed to concerns that the Italian authorities tend "to approach all issues relating to Roma and Sinti from the assumption that the members of these groups live a nomadic lifestyle" and that "it was particularly urgent to change such an approach, since it had resulted, notably, in the forcible relegation of many Roma and Sinti into camps for nomads".<sup>21</sup> The Advisory Committee on the Framework Convention for the Protection of National Minorities has also stated that it is "important that the authorities avoid, in the absence of appropriate consultation, considering all persons belonging to the Romani and Sinti communities as nomadic" and considered that "the various ways of life and specific situations existing within these communities require a more nuanced approach".<sup>22</sup>

Amnesty International highlighted in 2010 that this is not just a question of semantics. If Roma are all deemed indiscriminately to be nomads, they will be treated as nomads and provided with housing solutions suited to a nomadic lifestyle.<sup>23</sup>

According to a 2008 report by the Institute for Public Opinion Surveys (*Istituto per gli studi sulla pubblica opinione*), available on the website of the Italian Ministry of the Interior, 84 per cent of the Italian public believes that Roma are predominantly nomadic.<sup>24</sup> However, the February 2011 report of the Italian Senate indicates that only an estimated 3 per cent of these communities living in Italy are nomads.<sup>25</sup> Several civil society organizations working with Romani communities that Amnesty International spoke to in April 2011 believe the use of the term "nomad" by politicians and officials is deliberate. On the one hand, the term appears more "politically correct" and neutral; it shields the authorities from the accusation of discriminating on the grounds of ethnicity. On the other, it reinforces the idea that the presence of Roma is just temporary and that these communities are "alien" to the rest of Italian society.

## THE SECURITY PACTS AND THE GENESIS OF THE 'NOMAD EMERGENCY'

*"These agreements [the Security Pacts] consist of more funds, more personnel, targeted actions for security, interventions to address the Roma issue, measures against counterfeiting, as well as action against the exploitation of prostitution and sale of counterfeit products... The need for these Pacts arises from the consideration that citizens' rights to security and quality of urban life must be guaranteed. To achieve this, joint action by authorities at several levels is necessary..."*

From the website of the Italian Ministry of the Interior, November 2011.<sup>26</sup>

From 2007 national and local authorities throughout Italy signed "Security Pacts" aimed at addressing more effectively perceived security threats. The "Security Pacts" involved, among other things, increased control of territory at the local level and strengthened cooperation between police forces, including the local police. The geographic scope of the "Pacts" varies – some cover a particular municipality or a province, others an entire region. The signatories of the "Security Pacts" usually include representatives of the Ministry of the Interior as well

as representatives of regional, provincial and municipal authorities, depending on their geographical coverage. The signing of most of these agreements at the local level was preceded by the signing in March 2007 of a framework agreement between the Ministry of the Interior and the National Association of Italian Municipalities.

Several of the nearly 60 "Security Pacts" signed across Italy specifically name nomad settlements as sources of insecurity; among them the Pact for a Secure Milan signed on 18 May 2007.<sup>27</sup> Under Article 2 of the Pact, entitled "nomad camps", the parties proposed that the national government appoint the prefect of Milan as Extraordinary Commissioner and confer on him special powers to deal with the "Roma emergency".

A number of NGOs, including Amnesty International, have highlighted that the implementation of the "Security Pacts" in cities such as Rome and Milan has resulted in a sharp increase in forced evictions of Romani communities.<sup>28</sup>

The Pact for a Secure Milan was a catalyst for the declaration of the "Nomad Emergency" in 2008. This is discussed further, below.

## THE PACT FOR A SECURE MILAN

*"The Pact that was signed today is important because, beside being concrete, it identifies the main priorities, such as the control of the territory against illegal occupations, irregular migration, drug dealing, prostitution and the nomads".* Letizia Moratti, former Mayor of Milan, 18 May 2007.<sup>29</sup>

*"The logic behind the 'Pact for a Secure Milan' is that the Roma are not part of the Milanese population and they must be controlled",* a representative of NGO Caritas, working in the authorized camps in Milan, told Amnesty International in April 2011.

The Pact for a Secure Milan was signed in May 2007 by the Prefect and by the Mayor of Milan as well as the Deputy Minister of the Interior. The Pact:

- Proposes that the national government appoint the Prefect of Milan as Extraordinary Commissioner and confer on him special powers to deal with the "Roma emergency" (Article 2);
- States that Milan *"suffers from the presence of numerous irregular non-EU citizens and from nomads who have permanently settled in the territory"* and envisages increased cooperation between the Prefect and Mayor in order to *"contain and resolve"* problems including the priority issue of *"illegal nomad camps"* (Preamble and Article 1);
- Shows how the terms "Roma" and "nomad" are used interchangeably by the authorities in its recall of the "Protocol for the realization of the strategic plan for the Roma emergency in Milan", signed on 21 September 2006 by the Prefect of Milan, the President of the region of Lombardy, the President of the province of Milan and the Mayor of Milan (Preamble and Article 2).

## THE DECLARATION OF THE 'NOMAD EMERGENCY'

*"A series of events – beginning with the killing of an Italian woman in Rome by a Romanian Roma in November 2007 and culminating in the destruction of a Roma settlement in Ponticelli (on the outskirts of Naples) in May 2008 at the hands of a local mob – made news headlines around the world and raised concerns among international organizations and civil society. In response to what was widely portrayed as a public security crisis caused by an allegedly growing influx of migrants, in particular of Roma, the authorities declared state of emergency in the regions of Campania, Lazio and Lombardia, and introduced a number of measures to deal with the perceived crisis."*

OSCE-ODIHR Report of a fact-finding mission to Milan, Naples and Rome on 20-26 July 2008.<sup>30</sup>

In November 2007 the rape and murder of an Italian woman in Rome by a Romanian citizen allegedly of Roma ethnicity prompted the Italian government to propose legislative measures to expel EU citizens who commit crimes.<sup>31</sup> The alleged "invasion" by Romanians, in particular Roma, and the rise in crime that this allegedly produced became major topics in the 2008 general elections campaign.

On 21 May 2008, about a month after the general elections, the newly elected government headed by Prime Minister Silvio Berlusconi, responding to the proposal made by the authorities in Milan in line with the Pact for a Secure Milan, adopted the set of administrative acts that are usually referred to as the "Nomad Emergency". These consist of a decree declaring the emergency in the regions of Campania, Lazio and Lombardy and in three ordinances appointing the prefects of Naples, Rome and Milan as delegated commissioners for the emergency and conferring on them special powers. In 2009 the emergency was extended to the regions of Piedmont and Veneto and the same powers were conferred on the prefects of Turin and Venice.

## DECREES AND ORDINANCES OF THE 'NOMAD EMERGENCY'

Under Law 225/1992 on the establishment of the civil protection service, the Council of Ministers may declare a state of emergency to respond to natural calamities, catastrophes or *"other events that owing to their intensity and extent have to be confronted with extraordinary means and powers"*.<sup>32</sup> The deliberation on the state of emergency must set out its duration and its geographical extent in relation to the "quality" and the "nature" of the events. In order to overcome the emergency, the government may adopt ordinances derogating from legislation in force: these ordinances have to indicate from which main legal provisions there can be derogations and the reasons for the derogations. With a view to carrying out the interventions needed to overcome the emergency, the government may appoint a delegated commissioner. The administrative act designating the delegated commissioner must indicate the delegated activities, the ways in which they can be implemented, and the time frame.

The following measures were adopted to declare and implement the "Nomad Emergency" in accordance with Law 225/1992:

- The Decree of the President of the Council of Ministers of 21 May 2008 entitled "Declaration of the state of emergency in relation to the settlements of nomad communities in the territory of the regions of Campania, Lazio and Lombardy";
- Three Ordinances of the President of the Council of Ministers of 30 May 2008, Nos. 3676/3677/3678,

entitled "Urgent measures of civil protection aimed at confronting the state of emergency in relation to the settlements of the nomad communities in the territory of the regions of Lazio, Lombardy and Campania";

- The Ordinance of the President of the Council of Ministers of 1 April 2009 No. 3751 entitled "Additional urgent measures of civil protection aimed at confronting the state of emergency in relation to the settlements of nomad communities in the territory of the regions of Campania, Lazio and Lombardy";
- The Decree of the President of the Council of Ministers of 28 May 2009, entitled "Prorogation of the state of emergency for the continuation of the initiatives concerning the settlements of nomad communities in the territory of the regions of Campania, Lazio and Lombardy and extension of the above mentioned situation of emergency also to the territories of the regions of Piedmont and Veneto";
- Two Ordinances of the President of the Council of Ministers of 1 June 2009, Nos. 3776/3777, entitled "Urgent measures of civil protection aimed at confronting the state of emergency in relation to the settlements of the nomad communities in the territory of the regions of Piedmont and Veneto";
- The Decree of the President of the Council of Ministers of 17 December 2010, entitled "Prorogation of the state of emergency for the continuation of the initiatives concerning the settlements of nomad communities in the territory of the regions of Campania, Lazio, Lombardy, Piedmont and Veneto".

## GOVERNMENT JUSTIFICATION FOR THE EMERGENCY

The Italian government has claimed that "*the adoption of measures of extraordinary character*", including derogations from existing laws, was necessary to overcome an alleged "emergency" threatening public order and security. The measures provided for under the "Nomad Emergency" include a census of individuals living in nomad settlements, monitoring of authorized camps, and evictions from irregular settlements. The short analysis of the decree provided below shows how the government did not provide evidence of a situation that required the imposition of a state of emergency and recourse to extraordinary means and powers.

According to the decree of the President of the Council of Ministers of 21 May 2008, the "Nomad Emergency" was declared on the basis of seven arguments:

- The extremely critical situation in Lombardy, owing to the presence of numerous irregular non-EU citizens and nomads who have permanently settled in the urban areas;

The government did not provide any information to substantiate its assertion that there was an "extremely critical situation" in Lombardy. It also failed to explain why and how the presence of nomads and irregular non-EU citizens had resulted in an "extremely critical situation". Although the title of the decree states that the emergency is declared in relation to "nomad communities", under this point the decree also mentions "non-EU citizens"; however there is no further reference to "non-EU citizens" in the rest of the decree.

- The situation of grave social alarm entailing possible grave repercussions in terms of public order and security for the local population, determined by the extreme precariousness of the settlements in which these groups live;

The decree does not explain in what way the settlements in question are precarious and why their precariousness entails a possible threat to public order and security for the local population. There is no doubt that many of the camps in which Romani communities live in Italy are in very poor condition but the government could take measures to improve the situation in the camps using ordinary legislation and powers. The government did not explain why the precariousness of the settlements is causing "social alarm", or what the possible grave repercussions are. The reference to "local population" also appears to imply that those living in these settlements are a separate group and not part of the local population though many have been living in camps in these cities, set up by the government itself, for many years or even decades.

- The particular situation in the municipality of Milan, where the presence of nomads is estimated at 6,000 people and where the great majority of the nomad population lives in "illegal camps" that have been set up in abandoned industrial areas;

The census that was conducted in 2008 by the authorities after the imposition of the emergency revealed that the "nomad" population in Milan totalled only 2,128 people, of whom 1,331 lived in authorized camps set up by the authorities. This clearly demonstrated that the presence of "nomads" appeared to have been overestimated but also that, at least according to the census, the majority of "nomads" in Milan were not living in "illegal camps" but in authorized camps set up by the authorities. The government also failed to provide any explanation as to how, even if the number of "nomads" were greater, this would create a threat to public security.

- The specific urban configuration of the town of Milan and neighbouring municipalities, which makes it impossible to adopt solutions aimed at a sustainable distribution of the nomad communities without the involvement of all the interested local institutions;

The government did not explain why the current distribution of "nomads" was unsustainable, nor what it meant by the concept of "sustainable distribution" of nomad communities in this context. It also did not justify why the establishment of a state of emergency was required to ensure cooperation between all interested local institutions.

- The fact that the same critical situation described in relation to Milan is also found in the provinces of Naples and Rome, where there is reportedly a high presence of nomad communities in the urban and surrounding areas in settlements that are largely illegal;

The decree simply extends the considerations made with regard to Milan to the provinces of Naples and Rome to justify the declaration of the state of emergency also in the regions of Campania and Lazio, without giving any evidence of the situation there or providing concrete examples.

- The fact that the situation described has caused an increase in social alarm, with grave episodes that put in serious danger public order and security;

Again, the decree reiterates an increase in "social alarm", without explaining why there is "social alarm". Neither the decree, nor the government while introducing the decree provided any evidence or even explanation of the "grave episodes" that were creating serious dangers

to public order and security.

- The fact that the above-described situation, which involves various levels of territorial government, owing to its intensity and its extent cannot be confronted with the instruments available under ordinary legislation.

This point makes a link to the requirement in Law 225/1992 that the event to be addressed by a state of emergency has to be of an extent and intensity that makes it impossible to tackle solely with ordinary legislation.

Overall the government failed to provide any evidence that the presence of “nomads” who have settled in precarious settlements in urban areas can be considered an “event” comparable to natural calamities and catastrophes, which would require extraordinary powers and derogation from existing laws. The following chapters of this report, which focus on Milan, show that the Italian government has abused its power to resort to a state of emergency in order to legitimize human rights violations against particular ethnic groups and to ensure greater impunity.

The section below describes the powers of the delegated commissioners and how the powers of derogation provided for under the “Nomad Emergency” expose people of Roma ethnicity to violations of the right to adequate housing and deprive them of opportunities to protect themselves from these violations.

## ROMA LEFT WITHOUT HUMAN RIGHTS PROTECTIONS

*“Isn't targeting only Roma discriminatory?” a journalist asked Minister of the Interior Roberto Maroni in August 2010 about the government's plan to propose legislation allowing the forcible expulsion of EU citizens from Italy. “The expulsions should be possible for all EU citizens not just for the Roma. The problem is actually another one; unlike in France, here many Roma and Sinti have Italian citizenship. They have a right to stay, there is nothing we can do,” replied Minister Maroni.*<sup>33</sup>

The ordinances adopted on 30 May 2008 gave the delegated commissioners in Campania, Lazio and Lombardy the powers, among other measures, to:<sup>34</sup>

- Monitor authorized camps and identify illegal settlements (Article 1);
- Carry out a census of individuals and families, including children, and collect and store personal information, including through taking photos and fingerprints (Article 1);
- Carry out evictions from illegal settlements, and expulsions or removals of people with irregular status (Article 1);
- Identify new sites for authorized camps and promote the social inclusion and integration of residents in authorized camps (Article 1);
- Adopt all measures that are “useful” and “necessary” to overcome the emergency (Article 1);

- While bound to respect EU directives and the general principles of the legal system, derogate from specific legal provisions provided that this is deemed “indispensable” and also from “*any other regional laws and regulations that are strictly connected to the activities foreseen by the ordinance*” (Article 3).

The emergency ordinances authorize the delegated commissioners, where necessary, to derogate from “*existing norms in the fields of environment, landscape, hygiene and health, territorial planning, local police, road conditions and circulation*”.<sup>35</sup> They also authorize the delegated commissioners, where they deem it indispensable, to derogate from specific laws that protect human rights. These include provisions of the Law on public security and the Law on expropriation for reasons of public interest and of legislation on health care, as well as several provisions of Law 241/1990 that provide fundamental guarantees for people affected by administrative decisions.<sup>36</sup>

The authorization to derogate from provisions of Law 241/1990 is an issue of particular concern because of its impact on people’s rights to adequate housing, equal protection of the law and to an effective remedy. The delegated commissioners are authorized, where they deem it indispensable, to derogate from requirements to respect:

- The right of people affected by administrative decisions to be informed about the opening of an administrative procedure;
- The right of those with a public or private interest in any administrative proceedings to intervene in that process;
- The right of people affected by an administrative decision or who have a right to participate in any legal process related to that administrative decision, to submit evidence, documents and briefs.

These protections are important in the context of any administrative decision that impacts on the exercise of people’s human rights, but they are particularly essential in the context of decisions on evictions from homes or land. Under international and regional treaties that Italy is a party to, Italy is required to ensure that all persons have protection against forced evictions.<sup>37</sup> This requires the authorities to provide, among other safeguards, all persons who are affected by the evictions with information about the proposed evictions, adequate and reasonable notice prior to the eviction and legal remedies to challenge eviction orders.<sup>38</sup> Authorities are also required to engage in a genuine consultation with affected communities to identify all feasible alternatives to the eviction, which will not be possible in the absence of information about administrative decisions and an opportunity to challenge and engage with such a decision.<sup>39</sup>

Law 241/1990 is one of the few legal protections, though inadequate, that does exist against forced eviction. It ensures that people affected by eviction orders, which are administrative decisions, have information about and are able to participate in legal processes related to such administrative decisions and to challenge them.

By allowing authorities to waive these requirements for evictions from “nomad” camps, the government has excluded Romani communities from the equal protection of the law that is

available to all other persons in Italy. For all other situations, including evictions of people who live in housing provided by the state, such as social housing, authorities have to apply Law 241/1990.

These protections are also essential in order for people to exercise their right to an effective remedy and to have equal protection under the law.<sup>40</sup> Without an eviction order notifying people of the administrative decision to evict them, and adequate notice of such a decision, it is difficult for people to make use of administrative processes to challenge such decisions. Lawyers in Milan who support Romani communities in challenging forced evictions highlighted to Amnesty International in July 2011 the difficulties of getting successful judgements in the absence of documentary proof of decisions of evictions.

The emergency ordinances also authorize the delegated commissioners to adopt all "useful" and "necessary" measures to overcome the emergency and to derogate from "*any other regional laws or regulations that are strictly connected to the activities foreseen by the ordinance*".

The "Nomad Emergency" has been challenged before Italian administrative and civil courts but the challenges have not been successful so far. In June 2009 the first instance administrative tribunal of Lazio (*TAR Lazio*) rejected a request to annul the decree and ordinances of the "Nomad Emergency"; the petition had been filed by several residents of an unauthorized camp in Rome in 2008. The tribunal stated that government had provided sufficient justification for adoption of the decree and the ordinances, and that the declaration of the state of emergency was lawful and not discriminatory. According to the tribunal, the use of extraordinary means and powers was required not because of the mere presence of the nomads but because of the "*link between [their] presence and a situation of grave social alarm owing to the precariousness of the settlements, with possible serious repercussions in terms of public order and security for the local population*".<sup>41</sup> The tribunal also stated that the measures provided for under the emergency "*do not target a specific ethnic group but all those who, regardless of their nationality or any other individual characteristics, are present in the settlements*". As the measures were intended to improve the social inclusion of the nomads, the tribunal did not find any sign of either direct or indirect discrimination. However the tribunal did annul some provisions of the ordinance relating to the census and also several provisions of the new regulations for authorized camps adopted in the region of Lazio and in Milan following the declaration of the "Nomad Emergency".<sup>42</sup> The execution of the verdict was suspended in August 2009 by an interim measure of the second instance administrative court (*Consiglio di Stato*) following an appeal by the authorities.<sup>43</sup> At the time of writing – November 2011 – the issue was still before this court.

In June 2009 several inhabitants of the authorized camp of Via Triboniano in Milan filed a lawsuit requesting the civil court in Milan to issue a preliminary measure declaring the 21 May 2008 decree and the 30 May 2008 ordinances discriminatory, ordering the government to revoke them, and ordering the delegated commissioner for the emergency in Milan to refrain from carrying out any activities under these provisions in derogation from legislation in force. In March 2011, almost two years after the petition was filed, the court rejected it, arguing that the decree and the ordinances were not discriminatory.

The court stated that the declaration of the state of emergency was a discretionary act limited only by the requirements of Law 225/1992, and that the situation described by the decree and the ordinances met these requirements. It also stated that there was no discrimination (either direct or indirect) since the emergency was not declared in relation to the presence of nomad communities but in relation to a situation that meets the requirement of the law. Like the Lazio tribunal, the Milan court decided that interventions provided under the ordinance do not target a particular ethnic group but all those who are present in these settlements regardless of their nationality or any other individual characteristic.<sup>44</sup> Lawyers working on the case told Amnesty International that they will request the court to issue a decision on the merits as the earlier decision was related to a request for a preliminary measure.

## **FAILURE OF ITALIAN AUTHORITIES TO ENFORCE EUROPEAN ANTI-DISCRIMINATION LEGISLATION**

The European "Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin" was transposed into Italy's national legal framework through adoption of legislative decree 215/2003.<sup>45</sup> The purpose of the Directive "*is to lay down a framework for combating discrimination on the grounds of racial or ethnic origin, with a view to putting into effect in the Member States the principle of equal treatment*". According to Article 3, the Directive "*shall apply to all persons, as regards both the public and private sectors, including public bodies*", in relation to a number of fields, including housing. Article 7 of the Directive states that "*Member States shall ensure that judicial and/or administrative procedures, including, where they deem it appropriate, conciliation procedures, for the enforcement of obligations under this Directive are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them*".

Although behaviours, conducts and acts that constitute discrimination, both direct and indirect, can be challenged before Italian civil courts in theory, this judicial remedy has proved to be ineffective in relation to the "Nomad Emergency". Even if the attempt to obtain a positive decision on the merits by the Milan first instance civil court was successful, Amnesty International deems that such a remedy could not be considered effective, not least of all because of the length of time that the victims have had to wait and are still waiting for a final decision.

## **DISCRIMINATORY AND UNLAWFUL UNDER INTERNATIONAL LAW DISCRIMINATION**

Article 1 of International Convention on the Elimination of All Forms of Racial Discrimination defines racial discrimination as: "*any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.*"

The UN Committee on Economic, Social and Cultural Rights has stated, "*Differential treatment based on prohibited grounds will be viewed as discriminatory unless the justification for differentiation is reasonable and objective. This will include an assessment as to whether the aim and effects of the measures or omissions are legitimate, compatible with the nature of the Covenant rights and solely for the purpose of promoting the general welfare in a democratic society. In addition, there must be a clear and reasonable relationship of proportionality between the aim sought to be realized and the measures or omissions and their effects.*"<sup>46</sup>

*"This is a census, not a registration on ethnic grounds", Minister of the Interior Roberto Maroni stated repeatedly in response to the controversy. "In fact those who have been the object of the census are: Italian Roma, Romanian Roma, non-EU Roma and non-EU citizens from other countries."*

Ministry of the Interior website, accessed October 2011.<sup>47</sup>

In response to national and international criticism, in particular of the census of Romani settlements carried out from June to October 2008, the government has tried to argue that the measures provided for under the "Nomad Emergency" do not target any particular ethnic groups. In July 2008 the Ministry of the Interior issued guidelines on implementation of the ordinances conferring emergency powers, stating that their main objectives were essentially:<sup>48</sup>

- To remove the grave situation of hygienic, sanitary and socio-environmental degradation that exists in the illegal settlements as well as in the authorized camps;
- To promote the rule of law and better living conditions for the concerned communities by ensuring access to social, health and education services;
- To safeguard public security and the people living in these settlements.

The guidelines said that implementation of the ordinances must take place with *"full respect for the fundamental rights and the dignity of the individual"*, and that *"the activities carried out by the commissioners should not address specific groups, subjects or ethnicities, but all those who are present in the illegal and authorized settlements regardless of their nationality and religious beliefs."*

It is however clear that for the following reasons, despite this guidance, the measures adopted as part of the "Nomad Emergency" are directly targeted at Romani communities.

Though the government has used the term "nomad" in the emergency decrees, this term has historically been – and continues to be – used by authorities within Italy to refer to Romani communities. The Pact for a Secure Milan, under Article 2 entitled "nomad camps", refers to the need to confer special powers on the Prefect to deal with the "Roma emergency". This Pact was the basis for the adoption of the emergency decrees and clearly demonstrates how the emergency is about the Roma and the terms "nomad" and "Roma" are interchangeable.

This was also confirmed in an interview with the Prefect of Milan who told Amnesty International that he had proposed to the government the use of the term "nomad" instead of "Roma" in the text of the "Nomad Emergency" measures, though the Pact for a Secure Milan referred to a "Roma emergency". Several international bodies have also expressed serious concern that, despite the protestations of the authorities, the measures appear to target Romani communities.<sup>49</sup>

Though the courts have claimed that the measures target all who are present in the settlements, irrespective of their nationality and ethnicity, this is contradicted by the reality that for example, residence in authorized camps in Milan is restricted by law to people who belong to Roma ethnicity. Most if not all residents of unauthorized camps in this city are also of Roma ethnicity.

The courts have accepted the government's contention that the measures are necessary for the social inclusion of the "nomads", and that the precariousness of settlements or numbers of nomads threatens security. They ruled out the possibility of indirect discrimination despite clear evidence that the majority of people who are impacted by these measures are of Roma ethnicity. They have also failed to analyse why derogation from guarantees against administrative decisions was necessary in order to meet social inclusion or security needs, let alone whether this was a reasonable and proportionate measure, as required under international and regional human rights treaties that Italy is a party to.

In Amnesty International's view the government has failed to provide any reasonable and objective justification for the differential treatment of Romani communities, in particular for waiving human rights protections that apply to all other persons who live in Italy.

There can be no reason why one group of people who live in one form of state-provided housing, such as social housing, should have due process protections against evictions but others, who live in camps, be completely excluded from such protection. It is very difficult to accept the government's contention that the measures are neutral when both in law and practice they target and have a disproportionate impact on people of certain ethnicities.

The justification provided, of threats to public security and order, has not been substantiated by evidence; nor would it meet the requirements of proportionality under international law. Even if the government was able to demonstrate that there were some threats to public security in certain individual cases, it is extremely disturbing that it has defined the presence of "nomads" or people of certain ethnicities, in itself, as a matter of concern in multiple regions of Italy, requiring the establishment of a state of emergency.

The measures provided for under the decree establishing a state of emergency and the accompanying ordinances are discriminatory and breach Italy's obligations under various international and regional human rights treaties not to engage in any act of, create or perpetuate racial discrimination.<sup>50</sup>

Italy has so far not argued that it has derogated from the International Covenant on Civil and Political Rights nor that it has limited rights protected under this Covenant or the International Covenant on Economic, Social and Cultural Rights. Should it try to do so on the basis that this was required because of an "emergency" situation in the country, such arguments would fail under international law.

The Human Rights Committee has clarified that "*Measures derogating from the provisions of the Covenant must be of an exceptional and temporary nature. Before a State moves to invoke article 4,<sup>51</sup> two fundamental conditions must be met: the situation must amount to a public emergency which threatens the life of the nation, and the State party must have officially proclaimed a state of emergency.*"<sup>52</sup> It has also stated that "*If States purport to invoke the right to derogate from the Covenant during, for instance, a natural catastrophe, a mass demonstration including instances of violence, or a major industrial accident, they must be able to justify not only that such a situation constitutes a threat to the life of the nation, but also that all their measures derogating from the Covenant are strictly required by the exigencies of the situation.*"<sup>53</sup> The Human Rights Committee has also emphasized that "*one of the conditions for the justifiability of any derogation from the Covenant is that the*

*measures taken do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin*".<sup>54</sup> The Italian government has not established the existence of any situation which threatens the life of a nation. It has also not demonstrated how the measures adopted and the derogations provided for (such as fundamental guarantees for people affected by administrative decisions) are strictly required by the exigencies of the situation. More fundamentally, the measures adopted are discriminatory and hence could not be justified as a derogation of the Covenant.<sup>55</sup>

Italy also has not established grounds for limiting the Romani communities' right to adequate housing under Article 4 of the International Covenant on Economic, Social and Cultural Rights.<sup>56</sup> The Committee on Economic, Social and Cultural Rights has stated that any "*Such restrictions must be in accordance with the law, including international human rights standards, compatible with the nature of the rights protected by the Covenant, in the interest of legitimate aims pursued, and strictly necessary for the promotion of the general welfare in a democratic society... In line with article 5.1, such limitations must be proportional, i.e. the least restrictive alternative must be adopted where several types of limitations are available.*"<sup>57</sup> Accordingly, limitations on rights can also not be imposed in a discriminatory manner against any group of people or an individual on the basis of their ethnicity.

In a decision following a collective complaint against Italy (*Centre on Housing Rights and Evictions (COHRE) v. Italy*), the European Committee on Social Rights on 25 June 2010 held that "*the living conditions of Roma in camps worsened following the adoption of the contested 'security measures'. As, on the one hand, the measures in question directly target these vulnerable groups and, on the other, no adequate steps are taken to take due and positive account of the differences of the population concerned, the situation amounts to stigmatisation which constitutes discriminatory treatment.*"<sup>58 59</sup>

The Committee also stated, while considering the legality of measures to monitor Roma and Sinti camps – including through a census and other measures to collect personal information for identification – that "*the Italian authorities have not justified that the contested "security measures" respect the principle of proportionality and are necessary in a democratic society*".<sup>60</sup> It also highlighted "*that the conditions in which the operations were carried out, particularly due to the emergency legislation in place, constituted an obstacle to real protection against arbitrariness*".<sup>61</sup>

The Committee held that "*statements by public actors such as those reported in the complaint create a discriminatory atmosphere which is the expression of a policy-making based on ethnic disparity instead of on ethnic stability. Thus, it holds that the racist misleading propaganda against migrant Roma and Sinti indirectly allowed or directly emanating from the Italian authorities constitutes an aggravated violation of the Revised Charter*".<sup>62</sup> The Committee explained that an "aggravated violation" was constituted when measures violating human rights specifically targeting and affecting vulnerable groups were taken, and when public authorities were passive, did not take appropriate action against the perpetrators of these violations and also contributed to such violence.<sup>63</sup> In its finding of aggravated violations, the Committee noted that it had taken into consideration the fact that it had already found violations in *European Roma Rights Centre (ERRC) v. Italy*<sup>64</sup> and "*the situation has not been brought into conformity but it has worsened as highlighted by several international monitoring bodies*".<sup>65</sup>

The Committee of Ministers of the Council of Europe considered the decision in *COHRE v. Italy* in October 2010. The government of Italy gave assurances to the Committee of Ministers that it would “ensure the effective implementation of the rights deriving from the revised European Social Charter for every individual, including for persons belong to the Roma communities.”<sup>66</sup> To date, the Italian government has not met this commitment and, instead of bringing the situation in full conformity with the Revised European Social Charter, has continued to carry out practices that violate it.

The following chapters describe how the “Nomad Emergency” has enabled the authorities in Milan to adopt retrogressive measures that have aggravated discrimination, in particular in relation to the right to housing of Roma living in camps, and allowed greater impunity.

### 3. THE AUTHORIZED 'NOMAD' CAMPS IN MILAN UNDER THE EMERGENCY

In his report of September 2011 following a visit to Italy conducted in May 2011, the Council of Europe Commissioner for Human Rights stated that “*the state of emergency...has provided the bedrock for widespread evictions from settlements throughout the country, often in manners that are at variance with human rights standards*”. He highlighted in particular the case of Milan “*where an unprecedented spate of systematic evictions has been registered in recent years*”. He also noted that, during the election campaign preceding the last municipal elections in Milan in May 2011, the former Deputy Mayor of Milan, Riccardo De Corato, said that more than 500 evictions from unauthorized “nomad” camps had been carried out between 2007 and April 2011.<sup>67</sup> The Commissioner’s report also noted that, “*During his visit to Milan, which coincided with the holding of municipal elections there, the Commissioner was shocked at the widespread presence of electoral material – notably posters on walls and vehicles – warning against the risk of the city turning into a ‘Gipsytown’ (zingaropoli)*”.<sup>68</sup>



Election poster of the political party “Northern League”. © Stefano Pasta

The present chapter highlights how, over the past decades, the authorities in Milan have implemented policies that appear to see the camps as the only housing solutions for Roma and have also failed to comply with international and regional standards on adequacy of housing in the camps. Then the chapter analyzes how, following the declaration of the "Nomad Emergency", a new municipal regulation on the authorized camps has retrogressively reduced security of tenure of their inhabitants by limiting the maximum stay in the camps to three years. Under the new regulation, the authorities also imposed restrictions and rules on the residents of the camps that are not applied to people living in other housing programmes that are also maintained by the authorities, such as social housing. As only Romani and Sinti communities live in authorized camps, these restrictions discriminate against these communities in relation to their rights to privacy and family life. The regulation also introduced discriminatory eviction criteria and procedures, leaving them at greater risk of forced evictions and aggravating the discrimination against them in relation to their right to housing. Finally the chapter describes how the regulatory framework on the authorized camps, adopted under the emergency, has allowed the authorities to close down camps for alleged security reasons or to implement projects connected to the EXPO 2015 without respecting international obligations on the prohibition of forced evictions.

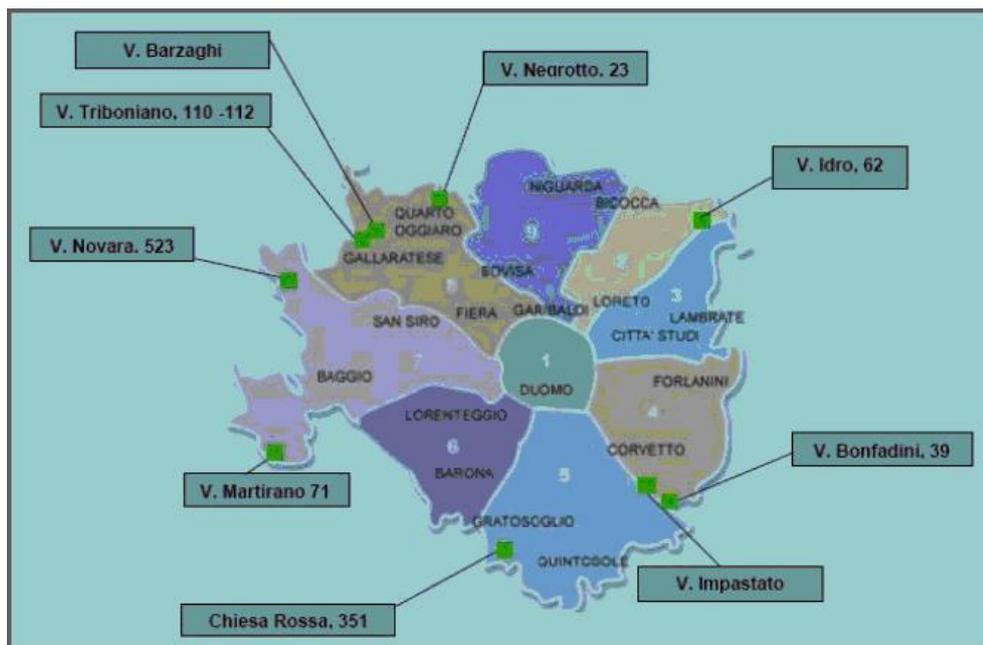
## THE PARALLEL WORLD OF THE CAMPS

The camps where many Roma live in Italy are very different in their legal status and conditions. They fall into three main categories:

**Authorized camps:** Residents of authorized camps usually have more security of tenure than at other camps, since the camps are located on public land and are authorized by formal decisions of the authorities. The way in which these camps are organized and managed varies from region to region and often even from municipality to municipality, depending on local legislation and practices. Usually the authorities are in charge of maintaining essential infrastructure for sanitation, electricity and water.

**"Tolerated" or "consolidated" camps** are settlements that were built irregularly on private or public land. They have usually existed for relatively long periods of time and the owners of the land do not threaten the community with eviction. In some cases, the authorities provide some services to these camps, such as rubbish collection and transport of children to schools. The residents of these settlements have no security of tenure.

**Unauthorized camps** are settlements that were built irregularly on private or public land and that are dismantled periodically. Such settlements are usually the most precarious, have no services and no security of tenure.



The authorized camps in Milan at the end of 2010. The camps in Via Barzaghi and Via Triboniano were closed in May 2011.  
©Caritas Ambrosiana

## AUTHORIZED CAMPS IN MILAN

Date of creation and number of inhabitants according to the 2008 census of the nomad camps in Milan.<sup>69</sup>

- Via Negrotto 1968 (79 inhabitants);
- Via Bonfadini (101 inhabitants) and Via Martirano (108 inhabitants) 1984, but families moved there in 1987;
- Via Idro 1989 (115 inhabitants);
- Via Chiesa Rossa 1999 (156 Italian inhabitants), but families moved there in 2002;
- Via Triboniano in 2001 (Roma from Romania and Bosnia and Herzegovina) and Via Barzaghi in 2004 (Roma from Romania), located next to each other (557 inhabitants in total). They were closed in May 2011;
- Via Novara in 2001 (divided in two areas, one for Roma from Kosovo and the other for Roma from the Former Yugoslav Republic of Macedonia), 187 inhabitants in total;
- Via Impastato in 2003 (28 Italian inhabitants).

## BEFORE THE EMERGENCY

*“Over the past 20 years or so the camps have been the only type of housing provided for the Romani communities. This uniform policy does not reflect the current diverse wishes of these communities. There should not be one policy for the Roma, but a range of policies.”*

Maurizio Pagani, from the NGO Opera Nomadi Milano, told Amnesty International in April 2011.

A 2009 report by the Regional Observatory for Integration and Multi-ethnicity, a research body commissioned by the region of Lombardy, underlines how, in public discourse in Italy, the various forms of settlement in which Roma live are automatically associated with “camps” as if this was the only way of living in Romani culture.<sup>70</sup> This idea is strongly connected to the stereotype of nomadism. In 2002 the European Commission against Racism and Intolerance (ECRI) was concerned that the “*situation of practical segregation of Roma/Gypsies in Italy appears to reflect a general approach of the Italian authorities which tend to consider Roma/Gypsies as nomads and wanting to live in camps.*”<sup>71</sup> In 2006, ECRI noted that, though there had been some progress in a few regions, “*By and large, however, the situation remains the same as described in ECRI’s second report, with approximately one third of Roma and Sinti, both citizens and non-citizens, living in conditions of practical segregation from the rest of society in camps for nomads, in many cases without access to the most basic facilities.*”<sup>72</sup>

The approach of the Italian authorities, which links Roma to a nomadic lifestyle and to the “camps”, has been demonstrated since the 1980s by the adoption at the regional level of legislation which contemplated the creation of long-stay camps or transit camps for these groups. In 2001 the Advisory Committee on the Framework Convention for the Protection of National Minorities recommended to the Italian authorities the adoption of a strategy at national level no longer centred on the “model of separation in camps”. Italy has to date failed to follow this recommendation and therefore the issue of housing for Roma continues to be exclusively dealt with at the regional level.

### 1989 REGIONAL LAW

In 1989 the region of Lombardy adopted Law 77/1989 on Regional action for the protection of populations belonging to ethnicities that are traditionally nomadic or semi-nomadic.<sup>73</sup> The Law aims, among other things, at:

- Recognizing the right to nomadic life in line with relevant international human rights standards, at protecting “*the cultural patrimony and the identity of the ethnicities that are traditionally nomadic or semi-nomadic*”, and advancing the utilization of public services for the protection of health and welfare by nomads, as well as their autonomy and self-sufficiency (Article 1);
- Promoting participation by “nomadic people” in implementing interventions that concern them and initiatives to sensitize civil society and local institutions towards their “proper reception” (Article 2).

It also envisages that:

- The municipalities that are “more interested in the presence of nomads” can create transit camps (*campi di transito*) and long-stay camps (*campi di sosta*), and implement

projects aimed at permanent settlement (Article 3);

- The location of camps and residential settlements should avoid marginalization and facilitate access to services and participation in social life (Article 3). The Law does not define the difference between transit and long-stay camps.

#### 1999 MUNICIPAL REGULATION

In 1999 the municipal authorities in Milan adopted a Regulation concerning the settlements of the gypsy minorities in the municipality of Milan.<sup>74</sup> This regulates in more detail the opening and management of transit camps and long-stay camps. The report of the municipal councillors accompanying the draft regulation stated that the Romani communities in Milan were not nomadic and that there was a need to regulate the management of existing and new camps in order to “respect the housing needs of the ‘gypsies’”. The Regulation under Article 3 stated that residence in the camp could be of indefinite duration. However, as the following sections will show, the housing standards provided for Romani communities living in camps were compatible with neither stays of an indefinite duration nor a non-nomadic lifestyle. The authorities imposed limitations on the construction of permanent housing in the camps, and applied standards for housing that were relevant to camping sites and tourist villages.

The Regulation reserved access to the camp exclusively to households of Roma ethnicity. Combined with the failure to offer the communities any options in terms of other housing solutions in areas where they could live alongside other groups, this has resulted in these communities being *de facto* kept separate from the majority population.

### THE 1999 REGULATION

- Uses the term “gypsy minorities” to refer to “Roma and Sinti ethnic groups” (Article 1);
- Sets out the requirements a household must fulfil to be eligible for a place in a camp, namely: being ethnic Romani or Sinti or a relative or cohabitant of a person of Romani or Sinti ethnicity; being an Italian citizen or holding a residence permit; and not having alternative housing (Articles 3 and 4);
- Requires authorized camps to be provided with collective illumination, connection to water, waste disposal facilities and a fire emergency system. Each household has a right to a plot of at least 400m<sup>2</sup> equipped with a separate electric meter as well as showers, hot water and sanitary facilities. Only installations that are mobile, transportable and autonomous such as caravans and transportable containers are allowed; they cannot be anchored to the ground unless they remain easily removable and do not cause damage to the soil or pavement. The construction of structures in brick or of foundations is forbidden (Article 7);
- Makes the municipality responsible for the maintenance of joint structures and equipment and for disinfections, disinfestations and eradication of rodents (Article 12).



Toilet facilities in the authorized camp of Via Idro, July 2011. © Amnesty International

### LEFT IN SUB-STANDARD HOUSING

*"In our camp we are fine, it's small. The people from the neighbourhood say that things have improved since we moved here in 2004; before there were a lot of criminals around here. Putting together many families in big camps is a problem. When you put everybody together the worst behaviours spread. It's like in prison. The big camps have to be closed. Would you like to live in a camp? With the camps they destroy the gypsies."*

Mirko, resident of the authorized camp on Via Impastato, July 2011.

The 1999 municipal regulation required the authorities to provide authorized camps with services compatible with supporting the Romani communities to live in housing such as containers and caravans. The construction of structures in brick or of foundations was forbidden under Article 7. Many occupants of these camps have lived on the same site for many years, sometimes even decades, but have not been provided with more permanent structures by the authorities. Over the years, many of them have built more solid structures in wood or brick by themselves, sometimes around the containers. According to reports by the municipality of Milan, these irregular structures have frequently been regularized retrospectively by the courts, which have considered them to have been built out of necessity.<sup>75</sup>

Amnesty International delegates were able to visit the camps in Via Idro, Via Impastato, Via Novara and Via Barzagli/Triboniano. Although the conditions in these camps varied and were not equally bad everywhere, Amnesty International could see that in most of them the infrastructure has suffered serious deterioration – in particular the infrastructure to provide water, sanitation and electricity – because of insufficient maintenance by the authorities, the residents explained, and the inherent deficiencies of installations that were intended to

support more short-term and temporary usage.

In Via Idro for example, Francesco and Carla told Amnesty International in July 2011 that when they moved in 20 years ago they had only a container. *"How can you live in a container for so long? We improved the container ourselves and built something more solid. The authorities filed a report to the police because they said that we had built without a permit, but we went to the court and our house was eventually regularized. The judge understood that we had no other choice"*. Francesco and Carla said that the electricity supply for cooking and heating their home is sporadic. They also reported the frequent risk of flooding from the nearby river, the faulty water system, and the periodic freezing and cracking of the water pipes in winter.

In 2004 the European Roma Rights Centre (ERRC) submitted a collective complaint against Italy to the European Committee of Social Rights, alleging that the housing situation of Roma in Italy amounted to a violation of Article 31 of the Revised European Social Charter. In particular the ERRC alleged that Roma were denied an effective right to housing because of the shortage of housing and inadequate living conditions in the camps, the frequent forced evictions of Roma, and the lack of access to accommodation other than camps. In the complaint, ERRC argued that, in policy and practice, the Italian government was racially segregating Romani communities in separate and often sub-standard camps on the basis of their ethnicity, contrary to Article 31 read alone or in conjunction with Article E.<sup>76</sup>

ERRC stated that *"Underpinning the Italian government's approach to Roma and public housing is the conviction that Roma are 'nomads' "*.<sup>77</sup> ERRC also submitted detailed information about the sub-standard conditions in the camps. The European Committee of Social Rights noted that ERRC had alleged that the *"camping site facilities are inadequate, with limited or no access to basic amenities such as water, electricity and sewage and solid waste removal. Although three-quarters of the camps have running water and electricity, such services are not sufficient to meet the needs, while very few camps are provided with sewage facilities and even fewer with waste collection. Moreover, the majority of camps are infested with insects and rats and only one-third are surfaced with asphalt."*<sup>78</sup>.

In 2005 the European Committee of Social Rights stated that *"Article 31§1 guarantees access to adequate housing, which means a dwelling which is structurally secure; safe from a sanitary and health point, i.e. it possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity; not overcrowded and with secure tenure supported by law"*.<sup>79</sup> It held that the Italian government had violated Article 31 as well as Article E of the Revised Social Charter. It also noted that *"Article 31§1 E enshrines the prohibition of discrimination and establishes an obligation to ensure that, in absence of objective and reasonable justifications (see paragraph 1 of the Appendix), any group with particular characteristics, including Roma, benefit in practice from the rights in the Charter. On the contrary, by persisting with the practice of placing Roma in camps the government has failed to take due and positive account of all relevant differences, or adequate steps to ensure their access to rights and collective benefits that must be open to all."*<sup>80</sup>

In 2008 the UN Committee on the Elimination of Racial Discrimination also highlighted its concern, *"that Roma and Sinti still live in conditions of de facto segregation in camps, in which they lack access to the most basic facilities"*. The Committee recommended that the

Italian authorities develop and implement policies and projects aimed at avoiding segregation of Romani communities in housing, and involve Romani communities and associations as partners in house construction, rehabilitation and maintenance.<sup>81</sup> Instead of implementing this recommendation, the Italian authorities have adopted retrogressive measures which undermine the communities' security of tenure and access to housing. As discussed later in this chapter, all of these measures have been developed without any consultation with Romani communities.

## THE RIGHT TO ADEQUATE HOUSING

As a state party to the International Covenant on Economic, Social and Cultural Rights<sup>82</sup> and the Revised European Social Charter<sup>83</sup>, Italy is legally obligated to respect, protect and fulfil the right to adequate housing. This requires the government to respect the right to adequate housing by refraining from forced evictions, protecting people from interferences with their rights by third parties such as landlords, and to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures to fully realize the right to adequate housing. The government must prioritize the realization of minimum essential levels of housing for all persons, and prioritize the most disadvantaged groups in all programmes and while allocating resources. The government must ensure that people are able to exercise their right to housing without discrimination of any kind. The government is also required to guarantee the right of people to participate in and be consulted over decisions that will affect their lives, and to provide an effective remedy if any of these rights are violated.<sup>84</sup>

The UN Committee on Economic, Social and Cultural Rights (CESCR) has emphasized that "*the right to housing should not be interpreted in a narrow or restrictive sense which equate it with, for example, the shelter provided by merely having a roof over one's head or which views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity.*"<sup>85</sup>

The Committee has identified seven elements to determine the adequacy of housing: 1) legal security of tenure; 2) availability of services, materials, facilities and infrastructure; 3) location; 4) habitability; 5) affordability; 6) accessibility; and 7) cultural adequacy.<sup>86</sup>



The authorized camp of Via Novara, inhabited by Roma from the Former Yugoslavia, July 2011. © Amnesty International

## APPALLING CONDITIONS AT VIA NOVARA

The Milanese authorities have to ensure that the camps, as with any other housing programme provided by the authorities, comply with international and regional standards on adequacy of housing. The camp on Via Novara offers a clear example of how the authorities have failed to comply with international and regional standards on adequacy of housing in the set-up and upkeep of the camp. Amnesty International's delegates visited Via Novara in July 2011. The camp is located far from other residential buildings on the outskirts of Milan. The closest shop is a 15-minute walk away at a petrol station. The sewage system is old and in need of repair. The camp is full of rats and the residents reported that the authorities had not conducted rodent exterminations there for a long time. There is no green cover or shade. The containers are often overcrowded because over the years new households have been formed but the authorities have not allocated additional containers to them.

## RAT INFESTATIONS

Teuta, aged 23, comes from the Former Yugoslav Republic of Macedonia and is a resident of the Via Novara camp. She spoke to Amnesty International in July 2011. *“For 10 months I have worked part-time as a cleaner, but I hope I will get a full-time contract because I like working and could earn more. Here in the camp we are not all the same, we are different! I have only one child who is three years old and I do not want to have more children before I can be sure that I can support them. I don't want my son to grow up in a camp. There are rats here. In June I asked the municipality if I could move to another container because the one where I am living is close to the bushes and there are lots of rats. I am afraid for my son. The municipality has not responded to my request yet, so I am waiting.”* As of September 2011, Teuta was still waiting.

The inhabitants of this camp interviewed by Amnesty International in July 2011, who come originally from Kosovo and the Former Yugoslav Republic of Macedonia, reported that they did not have a nomadic lifestyle in their countries of origin before they moved to Italy. Most of them came to Italy following the outbreak of the conflict in the former Yugoslavia. Initially the majority of the inhabitants lived in unauthorized settlements. *"I had never lived in a camp before coming to Italy more than 10 years ago. In Kosovo I had my own house, but I had to leave because of the war,"* said Adriatik, a father of five.

Following a major eviction from one of these unauthorized settlements in 1999, in 2001 the municipal authorities decided to set up an authorized camp to accommodate those who had a residence permit in Italy. When they moved to the Via Novara camp, each family was given a container measuring 6x2m to live in. According to a report published by the Regional Observatory for Integration and Multi-ethnicity of the region of Lombardy, these types of containers are usually used on construction sites and are not suitable for permanent living. The containers were allocated without taking into consideration the family bonds and relations among the various households. The authorities appeared to assume that their common origin in the former Yugoslavia was sufficient basis to ensure good cohabitation in the camp. This resulted in initial tensions which were mostly solved by families swapping containers.<sup>87</sup>

Most households built wooden or brick structures around the containers, and these illegal constructions were often later regularized on the grounds of necessity.<sup>88</sup>

## LIFE IN A CONTAINER

Lindita is originally from Kosovo and has been living in Via Novara since she first arrived in Italy more than 10 years ago. She works part-time in a tailoring and ironing shop while her husband earns a living by collecting and selling iron. Lindita told Amnesty International in July 2011 that the containers lived in by inhabitants of the camp are heated with wood stoves, which are also used for cooking. In the summer, the stoves have to be placed outside the containers because it gets too hot inside. They are aware that children playing outdoors may get burnt, but they have no choice.



The authorized camp of Via Novara, July 2011. © Amnesty International

## DISCRIMINATION IN EMPLOYMENT

Arjan is from Kosovo. He lives at the Via Novara camp and has recently lost his job because of the economic crisis. He has five children and is very worried. He told Amnesty International in July 2011 that it is very difficult for camp residents to find a job. As soon as employers realize that they come from a “nomad camp”, they do not even consider their applications. Unless you are lucky enough to know somebody who can introduce you to an employer and guarantee that you are honest, he said, then it is almost impossible because everybody thinks that Roma are criminals. *“It is obvious that there are Roma who steal, like everybody else, but if there is a thief then you put him in prison”.*

## FROM WORSE TO WORST

Following declaration of the “Nomad Emergency”, a new regulation for the authorized camps in Milan was introduced. Under the new regulation, the authorities imposed restrictions and rules on the residents of the camps that are not applied to people living in other housing programmes that are also maintained by the authorities, such as social housing. As only Romani communities live in authorized camps, these restrictions discriminate against these communities in relation to their rights privacy and family life. The regulation also reduced the amount of time that residents are allowed to live in the camps, without providing them with long-term solutions after the period of stay expires. It also further reduced residents' security of tenure by introducing discriminatory eviction criteria and procedures, leaving them at greater risk of forced evictions and aggravating the discrimination against them in relation to their right to housing.

The following sections show how, with the entry into force of the new regulation, the authorities in Milan have forcibly evicted families from authorized camps. In some cases these evictions took place in the context of camp closures connected to building projects for the EXPO 2015 to be held in Milan.

### 2009 MUNICIPAL REGULATION

In February 2009 the Prefect of Milan, in his capacity as a delegated commissioner in Lombardy under the “Nomad Emergency” and by virtue of his power to act on behalf of the municipal council, adopted a Regulation on the areas designated for nomads in the territory of the municipality of Milan.<sup>89</sup> This replaced the 1999 municipal Regulation concerning the settlements of the gypsy minorities. The inhabitants of authorized camps and several NGOs working with Romani communities reported to Amnesty International in April and July 2011 that they had not been consulted on the new Regulation beforehand.

Under the 2009 Regulation:

- Residents in an authorized camp must be “nomads”, or relatives or cohabitants of “nomadic people”. They must also be Italian or EU citizens entitled to long-term residence or, if non-EU citizens, have a residence permit (Article 1); they must not have alternative housing or an income that would allow them to find an alternative housing solution autonomously (Article 7);
- The head of each household is required to sign a “Sociability and Legality Pact” to be eligible to live in an authorized camp (Article 7/1). The signatory has to undertake on behalf of the entire family to respect rules of conduct and social cohabitation, such as ensuring mandatory school attendance by children, not involving children in begging, having guests to stay only if authorized by the authorities, and giving a commitment to finding alternative housing solutions as soon as possible in or outside Milan;
- A management committee, composed of appointed representatives of the municipal administration including the local police and social welfare authorities, will issue and revoke authorizations to stay in the camps (Article 3). The committee's tasks include monitoring and ensuring implementation of the 2009 regulation, monitoring adherence to the Sociability and Legality Pact and mandatory school attendance by children, and implementing activities aimed at social, educational, training and labour integration in the municipality (Article 4).

The committee may also decide to temporarily suspend access to the camps by guests for reasons of security (Article 11);

- The role of a social manager is introduced, to be carried out by an NGO in agreement with the municipality (some social managers were already performing some of these activities before the adoption of the new regulation). The social manager's functions include: assistance in the search for a different and autonomous housing solution and initiatives aimed at social, educational and professional inclusion; monitoring the adherence to the rules in the Sociability and Legality Pact and to the "*rules of conduct and the obligations foreseen by relevant legislation*"; providing each resident with an identity badge and cooperating with police and social welfare authorities; verifying the identity of residents' guests and friends and admitting them no later than 10pm; and registering absences from the camp lasting more than 48 hours (Article 5);
- The local police also supervise adherence to the regulation (Article 7);
- An entire household's authorization to stay in the camp can be withdrawn, among other reasons (Article 12):
  - If any member of the household receives a final conviction for a criminal offence against the person or property after the entry into force of the regulation;
  - If the assigned housing unit is abandoned for longer than a month, without authorization by the management committee;
  - If there is a failure to comply with the duty to ensure that children of compulsory school age regularly attend school;
  - If there is a failure to comply with other (unspecified) obligations set out in the regulation on at least two occasions;
  - In the case of a serious disturbance to the life of the camp or of the population;
  - In the case of a refusal at least twice of an (unspecified) job opportunity monitored by the municipality;
  - If the authorities determine that residents have repeatedly violated the Sociability and Legality Pact;
- Residents are not permitted to stay in the camp for an indefinite period of time, as the 1999 municipal regulation allowed, but for a maximum period of three years only (Article 7). The 2009 regulation describes authorized camps as "areas designated for the transitory stay of nomads", while the 1999 regulation describes the same areas as long-stay camps for the Romani ethnic minorities. Occupants of the camps are referred to as "guests" in the 2009 regulation, emphasizing the short-term nature of their residence. Moreover, the municipality may close down the camps at any time for reasons of public interest or to prevent or eliminate grave dangers that threaten public safety and urban security, and is not required to provide alternative accommodation (Article 13).

The Milanese municipal authorities informed Amnesty International that in practice the authorities have required only the residents of the Via Barzaghi/Via Triboniano camps to sign the Sociability and Legality Pact.<sup>90</sup> They also reported that the text of the 2009 Regulation had been translated into the languages of camp inhabitants (such as Albanian, Serbo-Croat, Macedonian and Romanian) but could only be distributed in some of the camps; most residents of the Via Martirano and Via Novara camps refused copies, and at Via Chiesa Rossa, all refused.<sup>91</sup>

The new regulatory framework is clearly intended to increase the authorities' control over residents of the camps. In accordance with the emergency decrees and ordinances, the new regulation does not refer to "gypsies" but to "nomads". However, in reality it targets the Romani communities, since under the 1999 regulation (Article 3), only members or relatives and cohabitants of persons belonging to Roma and Sinti ethnicities could obtain a place in the authorized camp. The regulation restricts the residents' rights to privacy and family life.<sup>92</sup> It allows the authorities to evict the whole family if any member of the family does not comply with the requirements that have been set out under the regulation. The authorities have not provided any reasonable and objective justification for the differential treatment of the residents of authorized camps in comparison to people living in other forms of housing provided by the state, such as social housing. It is therefore discriminatory in the way that it imposes rules, restrictions and sanctions on Romani communities, which negatively impact their rights to privacy, family life and adequate housing, but are not applied to other people who live in comparable situations. The procedures for eviction from the camps also do not include safeguards such as adequate notice, access to legal remedies and provision of alternative housing, and leave families at risk of forced eviction.

## POLICE CHECKS

*"Every three months the police come here to check if we are hosting somebody illegally, but they know that it is only us living here – they always find the same people! In May, a few days before the second round of the municipal elections, they came with the local police, state police, carabinieri, an ambulance and fire fighters. They even brought helicopters!"* a resident of the Via Idro camp told Amnesty International in July 2011.

NGOs working as social managers reported to Amnesty International that the local police maintained a permanent presence in some camps only, and that provisions allowing access to camps to be restricted appear to have been enforced in only a few, such as the Via Triboniano/Via Barzaghi camps. A number of NGOs performing as social managers also said that, as duties – such as registering absences from the camps longer than 48 hours, admitting guests and monitoring adherence to the Sociality and Legality Pact – had not been included in agreements they had signed with the municipality before the 2009 municipal regulation, they had been refusing to carry them out. However all the relevant provisions remain in force.

## DISCRIMINATORY EVICTION CRITERIA

According to the municipal authorities, since the regulation entered into force, a total of 61 families from all the authorized camps, with the exception of Via Impastato, have been evicted from the camps without being provided with any adequate alternative housing.<sup>93</sup>

## TWO STRIKES AND YOU ARE OUT

A former resident of one of the authorized camp who has been living in Italy for 11 years told Amnesty International in July 2011 that he and his family, including three children, were expelled from the camp in May 2010. He was alleged to have twice created a disturbance after inviting other people for a social occasion at the plot allocated to him, and to have breached the 2009 regulation and the Sociability and Legality Pact. The management committee rejected his appeal against the decision, and a few days later the police evicted his family. They were allowed to remove their belongings from the container, which was then demolished. The family started sleeping in their car since they had nowhere else to go. They asked the municipality for alternative accommodation so that the children could continue attending the same school until the end of the school year. No alternative accommodation was offered and a representative of the municipality, according to the former resident's account, merely advised him to park the car close to the school. The family now lives in an informal settlement in Milan.

Most of the circumstances that have led or may lead to the eviction of Roma from authorized camps would not lead to a loss of entitlement to social housing. The social housing legislation in force in the region of Lombardy, for example, does not make a criminal conviction grounds for withdrawing the allocation of social housing. The 2009 regulation, however, makes a criminal conviction grounds to revoke authorization for the entire household to stay in the camp, inflicting a punishment for individual criminal acts on entire families, including children. The social housing legislation does not allow failure to ensure attendance at school by children of compulsory school age as grounds for losing entitlements to social housing, and does not impose adherence to rules such as those in the Sociability and Legality Pact.<sup>94</sup>

## THEY TRIED TO EXPEL MY MOTHER

*"Imagine, they tried to expel my mother, who is in her mid-60s, using a conviction for begging that is 35 years old!"* a resident of Via Idro told Amnesty International in July 2011. His mother is an Italian national who has lived in the Via Idro camp for more than 20 years. In September 2010 the Milanese municipal authorities tried to evict around 40 families from the authorized camp on Via Idro on the grounds of past criminal convictions. Most of the convictions preceded the coming into force of the 2009 municipal regulation. Some dated back several decades and were for acts no longer considered criminal offences, such as begging. The regulation specifies that the conviction or final ruling on appeal must have occurred after entry into force of the regulation. Appeals against these decisions were made to the camp's management committee, which has not issued decisions on the appeals. The families concerned are still living at Via Idro. If their appeals were to be rejected, they would have to leave within 48 hours of notification of the decision.

Where comparable provisions exist, those applicable to social housing beneficiaries are more favourable than those for inhabitants of the camps. For example, a household can lose the right to social housing if they abandon the housing unit for a period longer than six months, compared to one month for residents in the camps.<sup>95</sup>

## SOCIAL HOUSING IN LOMBARDY

Access to social housing in Lombardy is provided for under Regional Law 27/2009<sup>96</sup> and Regional Regulation 1/2004.<sup>97</sup> According to the Lombardy social housing legislation, all administrative functions connected to the allocation of social housing units are carried out by the municipalities. Households which are allocated social housing have to pay a rent that is calculated based on the characteristics of the housing unit and the

economic conditions of the beneficiary.

Requirements for the allocation of social housing in Lombardy include:

- Italian citizenship or alternatively one of the following: EU citizenship, citizenship of another state in case the right to social housing is recognized by international treaties, residence permit and all other requirements under applicable legislation;
- Residing or working in the region of Lombardy for at least five years;
- Not having alternative adequate housing;
- Not exceeding a certain income.

Since the number of social housing units are insufficient to accommodate all those entitled, the households are ranked according to a number of criteria in a waiting list. Under certain circumstances, social housing units can be allocated outside of the ranking and requirements, for example to families who are being evicted from other properties, or who have members with serious disabilities or diseases.

## DISCRIMINATORY EVICTION PROCEDURES

Unlike the procedure leading to eviction of households from social housing, the one applicable to evictions from authorized camps does not follow the general provisions of administrative law. As explained earlier in this report, the "Nomad Emergency" authorizes the authorities to derogate from several provisions of the law on administrative procedure. Consequently, as the table below shows, under the 2009 regulation the management committee is not obliged to inform the household about the opening of an administrative procedure which may lead to a termination of their stay in the camp. They are also not obliged to ensure that the affected household has an opportunity to participate in the proceedings and to present its views. Moreover, in comparison to those living in social housing, the residents of authorized camps have a far shorter period of notice, which also impacts their ability to challenge the eviction legally.

The lack of an administrative procedure means that residents of authorized camps facing an eviction are deprived of opportunities to challenge evictions, in stark contrast to tenants of social housing. This is discriminatory and violates the resident's rights to adequate housing<sup>98</sup>, equal protection under the law and to an effective remedy.<sup>99</sup>

In the camps (Article 12 of the Regulation):	In social housing units:
<ul style="list-style-type: none"> <li>■ The management committee notifies the family of the decision revoking the permit to stay in the camp and ordering the family to leave the camp within 48 hours;</li> <li>■ If, within 48 hours of notification of the decision revoking the permit, the family files an appeal to the management committee, the execution of the decision is suspended;</li> <li>■ If the decision revoking authorization to live in the camp is confirmed at the appeal stage, the household again has only 48 hours to leave;</li> <li>■ If the household does not vacate the housing unit within the deadline, the local police can carry out a forcible eviction immediately;</li> <li>■ The household can file an appeal against the final decision revoking the authorization to stay within 60 days from notification, before the first instance administrative tribunal (TAR). It can also request the tribunal to issue an interim measure suspending the eviction. However, given the short deadline of 48 hours, in practice the eviction always happens before the family can even approach the court.</li> </ul>	<ul style="list-style-type: none"> <li>■ The housing authority sends a letter to the household informing them of the opening of an administrative procedure which may result in a revocation of the entitlement to social housing and of the reasons for the revocation, and giving them 15 days to present observations and documents;</li> <li>■ After expiry of the deadline, the authority may revoke the allocation and set a deadline not exceeding six months for the property to be vacated; the decision revoking the allocation can be appealed before a higher administrative body;</li> <li>■ If the decision of the second instance administrative body is negative, the household can appeal before the first instance administrative tribunal (TAR) against it within 60 days of notification. The administrative decision becomes final and can be forcibly executed only if no appeal before the tribunal is filed within the 60 days deadline;</li> <li>■ Pending a decision on the merits, the household can request the TAR to issue an interim measure suspending the eviction until the decision on the merits;</li> <li>■ The decision of the TAR can be appealed before the <i>Consiglio di Stato</i>. The decision of this second instance court is final.</li> </ul>

Representatives of the trade unions for social housing tenants reported to Amnesty International in November 2011 that evictions from social housing units of families who lose the entitlement are extremely rare. If a family loses the entitlement because it exceeds the maximum income, the family is not evicted but simply pays a higher rent. Users of social housing are evicted only when they violate specific provisions of the social housing legislation by, for example, abandoning the unit for more than six months or by using it for illegal activities. However, even in these cases, the authorities rarely decide to start an administrative procedure to evict them and, if they do, this can take up to several years.

## CAMP CLOSURES: THE MARONI PLAN AND THE EXPO 2015

*"In line with the Maroni plan, the municipality of Milan is working gradually to close some camps to guarantee the security and the dignity of the people".*

Marco Granelli, councillor responsible for security, municipality of Milan, 3 October 2011.<sup>100</sup>

The 2009 regulation allows the authorities to close the authorized camps at any time for "reasons of public interest" or to prevent or eliminate grave dangers that threaten public safety and urban security (Article 13). The authorities are not required to provide the residents with alternative housing and, as discussed below, have in many instances only offered the residents temporary solutions such as a one-year stay in a social housing unit or a rental subsidy for one year. Previously residents of authorized camps were able to stay in the camps indefinitely, and the authorities have not explained publicly why they have decided to set a limit of three years. The camps, despite the sub-standard conditions in which the authorities have kept them, are the main housing solution that has been offered for many decades to members of the Romani communities who cannot afford alternative housing.

The regulation is therefore a retrogressive measure that undermines the Romani communities' existing access to housing and security of tenure. As with any deliberately retrogressive measures in relation to any economic, social and cultural right, the government *"has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they are duly justified by reference to the totality of the rights provided for in the Covenant in the context of the full use of the State party's maximum available resources"*.<sup>101</sup> The regulation also does not require the authorities to comply with safeguards to prevent forced evictions and, as discussed below, the closure of the camps has been carried out in a manner which has resulted in the forced evictions of residents.

Over the past few years the authorities in Milan have been able to use Article 13 of the 2009 regulation as a legal basis to plan the closure of several authorized camps to allow for the implementation of projects connected to the EXPO to be held in Milan in 2015. The EXPO is a world fair held every five years in a different location and its successful organization could be considered as a "reason of public interest" under Article 13.<sup>102</sup> Several authorized camps are located in areas affected by these projects, including those at Via Barzaghi/Via Triboniano, which were closed in May 2011, and those at Via Novara and Via Bonfadini. Residents at Via Barzaghi/Via Triboniano and at Via Novara received letters from the municipality in 2010 announcing that the camps would be closed down by the end of the year because of the planned works for EXPO 2015.

Article 13 has also served as a basis for the implementation since 2009 of the *Project to redevelop, secure and lighten the areas used as nomad camps, of social integration of their respective populations and of elimination of some areas*, the so-called Maroni plan.<sup>103</sup> Among other things, the plan foresees the closure of the camps in Via Barzaghi/Via Triboniano, Via Novara, Via Bonfadini and Via Negrotto and the transformation of the camp in Via Idro into a "transit camp".

## THE 'MARONI PLAN'

The *Project to redevelop, secure and lighten the areas used as nomad camps, of social integration of their respective populations and of elimination of some areas* is financed by the Ministry of Interior under Article 61/18 of Law 133/2008, which establishes a fund of €100m for the implementation of urgent initiatives to strengthen urban security and public order.<sup>104</sup> The project, which is usually referred to in Milan as the "Maroni plan", received financing of more than €13m.<sup>105</sup> Of this, €9m was designated for the implementation of "structural interventions in the camps", while the remaining €4m was earmarked for "social interventions".

The structural interventions provided for under the Maroni plan include:

- Improving security, refurbishment, and reduction in the number of inhabitants at the Via Idro, Via Chiesa Rossa and Via Martirano camps;
- Reducing numbers and closing the Via Barzaghi and Via Triboniano camps;
- Closure of the Via Bonfadini, Via Negrotto and Via Novara camps;
- Installation of video surveillance in the camps.

The social interventions provided for under the Maroni plan include:

- The reception of unaccompanied minors;
- Assistance to camp residents to get paid work.

Under this project households who are evicted from camps are provided with alternative housing for the duration of one year, provided that they fulfil the requirements of the 2009 Regulation and that they respect the Sociability and Legality Pact.

Both the previous and current administrations in Milan have not always openly linked the closure of camps with EXPO 2015 in their public statements, referring instead to concerns about "legality" and security. The new councillor responsible for security in the municipality, Marco Granelli, said for example on 3 October 2011 that the camps in Via Novara and Via Bonfadini would be closed in the coming months. About Via Novara, he said, "*a dozen families have already left the camp, others have returned to their countries of origin and others have found a temporary solution. Since last summer we have also been engaged in the camp on Via Bonfadini, which is characterized by a situation of grave illegality that has developed over the years because of inaction by the previous administration.*"<sup>106</sup> A letter from Amnesty International sent in August 2011 to the municipality of Milan, requesting information on the legal basis and rationale for the closure of camps, has so far remained unanswered. Although the formal purpose of the Maroni plan is to address security issues, its implementation also serves the preparatory works for the EXPO 2015.

Civil society organizations currently performing as social managers in the camps, as well as camp inhabitants, told Amnesty International that they consider that the funds allocated to the Maroni plan have been spent disproportionately on security-related activities – evictions or video surveillance cameras – instead of activities aimed at "social inclusion".

## FEAR AND UNCERTAINTY

In Milan in April and July 2011, Amnesty International found that the announced closure of the camps had created considerable uncertainty, mistrust and fear among inhabitants of the authorized camps because of the lack of information about the plans, the lack of any consultation and concern about the adequacy of the alternatives that are being provided. The alternatives include subsidies for renting property, allocation of housing units and in some cases financial support for return to the country of origin. All the alternatives are provided for a period of 12 months only.

The inhabitants of camps facing imminent closure are the most affected. Residents at Via Novara said that some of them had been invited by the municipality to discuss alternative solutions and offered €8,200 for one year towards the rent of a property outside the camps. They did not know why other families had not been contacted yet in this regard. They told Amnesty International that the authorities had said this support would last for one year only, and said they were reluctant to accept it for fear of not being able to provide for themselves after the expiry of 12 months. The sum would be paid monthly on presentation of a receipt confirming the rent had been paid.

### I AM AFRAID TO LEAVE THE CAMP

*"I would like to live in a house", Adriatik, a father of five originally from Kosovo who has lived in Via Novara since 2001, told Amnesty International in July 2011, "but I am afraid to leave the camp because recently I lost my job and I fear that after 12 months I will not have the money to pay the rent on my own."*

Fear and anxiety have spread to other camps as well. Residents at Via Idro told Amnesty International they had heard it would become a "transit camp" but have not been told exactly what this means for them. *"We have learned everything from the media, but have never received an official communication. Some of us here would like to do repairs to our houses, but we do not do that because we may be obliged to move out and it would be a waste. If they decide to throw us out, we hope they will give us what we want. We also have rights",* a resident of Via Idro, told Amnesty International in July 2011. In Via Impastato camp, which official documents mention neither among those that will certainly be closed nor among those that will stay open, resident Mirko told Amnesty International in July 2011, *"They do not even need to tell us that we have to go, we know it".*

### PROHIBITION ON FORCED EVICTIONS

Italy is obliged under a range of human rights treaties, including the International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, European Convention on Human Rights and Revised Social Charter, to refrain from and prevent forced evictions.<sup>107</sup> The Committee on Economic, Social and Cultural Rights defines a forced eviction as *"the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of and access to, appropriate forms of legal or other protection."*<sup>108</sup>

The Committee on Economic, Social and Cultural Rights has emphasized that evictions may only be carried out as a last resort, once all other feasible alternatives have been explored.<sup>109</sup> It has clarified that evictions can only be carried out when appropriate procedural protections are in place. These include:

- An opportunity for genuine consultation with those affected;
- Adequate and reasonable notice for affected people prior to the eviction;
- Information on the proposed evictions and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected;
- Government officials or their representatives to be present during an eviction;
- Everyone involved in carrying out the eviction to be properly identified;
- Evictions not to take place in particularly bad weather or at night unless the affected people consent otherwise;
- Provision of legal remedies;
- Provision, where possible, of legal aid to people who are in need of it to seek redress from the courts.<sup>110</sup>

The Committee has also emphasized that, even when an eviction is considered to be justified, “*it should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality*”.<sup>111</sup>

The prohibition on forced evictions does not apply to evictions carried out in accordance with the law and in conformity with the provisions of international human rights standards. Hence, if a government has put into place processes such as genuine consultation to explore all feasible alternatives, provided adequate notice, remedies, adequate alternative housing and compensation, and put in place all other procedural requirements, the eviction or, if necessary, use of force in a proportionate and reasonable manner to carry out the eviction would not amount to a forced eviction.

## FORCED EVICTIONS OF RESIDENTS OF VIA BARZAGHI AND VIA TRIBONIANO

As of October 2011, the only authorized camps to have been closed are Via Barzaghi and Via Triboniano. Their closure happened over the course of several months and was completed just before the last municipal elections in May 2011. There was no consultation with the residents to explore all feasible alternatives to the evictions. In some cases, families were only provided with very short notice (a few days or hours). There was also no consultation with the residents on the alternative accommodation, compensation and resettlement options. The alternatives provided are all temporary in nature even though the families previously could stay in the camps indefinitely (as long as they met the requirement of not being able to afford or having any alternative housing). Vlad, originally from Romania, had lived in the Via Triboniano camp since 2004. He and his family now live in social housing under a special regime, described below. He told Amnesty International in July 2011 that he does not know what will happen to him and his family after the expiry of the 12-month period for which they have been allocated accommodation. “*We have a right to know what the future holds for us*” he said.

The closures of the camps and evictions of residents were therefore carried out without complying with safeguards that are mandatory under international and regional human rights

treaties that Italy is a party to. As such, the evictions amount to forced evictions, and constitute a violation of international law by the Italian authorities.

#### LACK OF CONSULTATION INFORMATION AND DUE PROCESS

The residents of the camps at Via Barzaghi and Via Triboniano were presented with the closure plan as a given fact. The authorities told Amnesty International in April 2011 that they had informed the residents of the closure verbally in September 2009 during a meeting organized by the authorities in the camp. In February 2010 the Directorate General for Family, Education and Social Policy sent a letter to the inhabitants of the camps to confirm that the closure would take place by June of the same year.<sup>112</sup> The former residents of these camps did not subsequently receive any further formal communications.

The authorities did not carry out any consultation with the residents on the closure plans or give them an opportunity to propose feasible alternatives to evictions. They also did not consult the people living in the camps on resettlement options. Access to information on the proposed evictions was particularly problematic, since information appeared to have been mostly delivered to the people affected verbally and collectively. The members of the management committee never visited the camps, despite being obliged to do so at least twice a year in line with the 2009 regulation (Article 4). They also never used the opportunity under Article 3 to invite a representative of the camps to their meetings.

The authorities took advantage of the power granted by the "Nomad Emergency" not to fully respect the law on administrative procedure and did not conduct a formal administrative procedure. The lack of an administrative procedure meant that residents were not provided with any opportunities to challenge the decision to evict them.

The closure of the camps was heavily publicized at the time by the authorities in power, which used the event as an opportunity to gain support ahead of the elections. The closure was suddenly accelerated a few days before the first round of the elections. As a result, some families were evicted from the camp and transferred to new properties before renovation works had been completed, and given notice of only a few hours or days.

#### **JUST 90 MINUTES TO PACK UP AND LEAVE**

Vlad told Amnesty International in July 2011 that he and his family had been informed verbally that the camp would be closed by the end of June 2011. However, just before the municipal elections in May, the local police came to the camp and gave his family and about 50 other families still living there just 90 minutes to collect their belongings and leave. Vlad said that some children could not complete the school year because they were still enrolled in schools close to Via Triboniano and their new home was too far away. *"First, they should have provided alternative accommodation to the people and then cleared the camp. Instead they warned us at the last minute, asked us to take our belongings in a few minutes, destroyed the containers with some of our belongings still inside, and only looked for solutions afterwards,"* said Giovanna, another former resident of the same camp, to Amnesty International in July 2011.

#### ALTERNATIVE HOUSING OPTIONS

According to the 2008 census, the inhabitants in the Via Barzaghi and Via Triboniano camps numbered 557 individuals (comprising 132 families), of whom 44 were from Bosnia and Herzegovina, 20 held Italian citizenship and the rest were from Romania. In September

2011 the authorities told Amnesty International that, out of these 132 families, 24 were expelled from the camp without the provision of alternative housing, as allowed under the 2009 regulation.<sup>113</sup> This number included, for example, families in which one member had been convicted of criminal offences or had repeatedly breached the Sociability and Legality Pact.

The remaining 108 families were offered alternative housing solutions under the Maroni plan; 104 accepted, and four refused and were in a temporary municipal shelter.<sup>114</sup> The options offered to those considered entitled under the 2009 regulation were:

- Return to the country of origin (Romania or Bosnia and Herzegovina) under an “assisted repatriation” programme that provides for around €15,000 to each family. According to the authorities, 49 families from the Via Barzaghi and Via Triboniano camp accepted the first option, gave up their residence in Milan and agreed to go back to Romania for at least 12 months;
- Allocation of a rent subsidy of up to €5,400 for 12 months. According to the authorities, 24 families accepted the rent subsidy;
- Allocation of up to €3,000 to cover expenses such as the deposit for a rented property or the costs of taking out a mortgage. According to the authorities, one family took out a mortgage;
- Allocation for 27 families of social housing units: 20 families obtained social housing for 12 months under a special regime described below, and an additional seven obtained it through the regular procedure.<sup>115</sup>

## POLITICAL INTERFERENCE

In 2010 the authorities reserved a limited amount of social housing for families affected by camp closures: 20 units for families from Via Triboniano/Via Barzaghi and five for families from Via Novara. These housing units were set aside from the overall social housing stock normally allocated according to a ranking established in accordance with Lombardy social housing legislation.<sup>116</sup> Social managers identified families that would benefit most from rehousing according to their own criteria. The allocated apartments were not habitable and the authorities paid for their renovation at the cost of €20,000 each. In some cases, the funds were not sufficient to make the units habitable and the social managers had to provide additional funds. In September 2010 members of the Municipal Assembly of Milan from the ruling coalition put forward a motion “against the allocation of the 25 apartments to the Roma”, saying that the authorities were prioritizing Roma over Milanese citizens in the allocation of social housing.<sup>117</sup> Representatives of the national and local authorities, including the Minister of the Interior, Roberto Maroni, fearful of the impact on the May municipal elections, said publicly that the allocation should not take place. The Minister said that alternative housing for those leaving the Via Triboniano camp would not include social housing.<sup>118</sup> The affected Romani families brought the case before the civil courts, which eventually ordered the authorities to proceed with the allocation in line with already existing binding agreements involving all the concerned parties.

Three families were accommodated in properties rented by or belonging to the authorities.<sup>119</sup>

The authorities decided on the housing alternatives they were going to provide without

consulting the camp residents. Whatever assistance the families opted for was only for one year with the exception of the social housing units allocated through the regular procedure. Families from Via Triboniano, Via Novara and Via Idro camps told Amnesty International that they feared being unable to pay a full rent on their own after the 12 months and therefore did not want to leave until they had no other choice. "*We have accepted the subsidy for renting for 12 months but only because we did not have another option. We are afraid for the future,*" a resident from the camp in Via Novara told Amnesty International in July 2011. As no arrangements have been put into place in terms of options for those residents who will not be able to provide for themselves after one year, the alternatives provided are inadequate, risk leaving the families homeless, and place them at risk of further forced evictions and other human rights violations.

Consultations with the individual families with regard to the identification of the most suitable alternatives among the various types offered, including the 20 social housing units mentioned above, appear to have been totally delegated by the authorities to the social manager. Amnesty International is concerned at the lack of clear guidance, clear criteria and constant monitoring of such consultations by the municipality, which has an obligation to ensure that delegated functions are carried out in line with its human rights obligations.

In a meeting with Amnesty International delegates in April 2011, the then councillor responsible for social policy could not explain how the municipality was providing guidance to and monitoring the activities of social managers. She said the municipality applied the principle of subsidiarity, facilitating the involvement of civil society in the implementation of initiatives of public interest, and that their relationship with social managers was based on trust, therefore requiring no close monitoring.

## 4. FORCED EVICTIONS FROM UNAUTHORIZED CAMPS

### UNAUTHORIZED AND CONSOLIDATED CAMPS IN MILAN

The number of unauthorized settlements in Milan is difficult to establish. In recent years, NGOs have documented evictions from unauthorized camps in Milan.<sup>120</sup> In April and July 2011, NGOs in Milan reported to Amnesty International that evictions were happening every week, sometimes even on a daily basis. They said that people affected were moving from one place to the other, often returning to locations from which they had already been evicted. The relentless evictions led to the settlements becoming smaller, more hidden and located in increasingly dangerous and precarious places.

The July 2008 census carried out under the “Nomad Emergency” in Milan identified 18 unauthorized settlements with, in total, 797 inhabitants. The authorities consider three of these settlements (Via Vaiano Valle, Via Monte Bisbino and Via Bonfadini<sup>121</sup>) as “consolidated unauthorized camps”, because they have existed for a long time.<sup>122</sup> According to official reports from the municipality, Via Vaiano Valle is located on abandoned private land, where wooden constructions built by the inhabitants (Roma from Serbia and Bosnia and Herzegovina) have been regularized by the courts for reasons of necessity. Via Monte Bisbino is on land owned by the families who live there and who have built dwellings without authorization. According to these official reports, the dwellings have not been regularized. Via Bonfadini is on public land, and all the constructions have been allowed to remain by the courts on grounds of necessity.<sup>123</sup>

The other settlements identified in the census are diverse in legal status, condition and origin of the inhabitants. Some are on private land, in some cases owned by the Roma themselves, others on public land. The former Mayor and Deputy Mayor of Milan declared several times, including just before the municipal elections, that the intention was to dismantle all the “illegal settlements”.<sup>124</sup> The new authorities elected in May 2011 have not yet made their plans clear, and have to date not responded to a written request for clarifications from Amnesty International, sent in September 2011. However as of October 2011, NGOs in Milan were continuing to report that, although evictions were no longer widely publicized as under the previous administration, they continue to happen in a manner that is inconsistent with international human rights standards.

Evictions from unauthorized Romani settlements carried out in Milan in recent years, both before and after the declaration of the “Nomad Emergency”, have systematically violated human rights standards. Forced evictions have been celebrated as achievements by national and local authorities, and systematically misused for political aims.<sup>125</sup>

The lack of a clear domestic legal framework regulating evictions from unauthorized settlements and prohibiting forced evictions has favoured such violations. Unlike in the case of evictions from rented properties or irregularly occupied social housing, there is no procedure under Italian law for carrying out evictions from unauthorized settlements. This

leaves the authorities an ample margin of discretion and renders judicial control over their actions more difficult in practice, especially when they operate without issuing a formal administrative decision, that is, a decision that is the result of a formal procedure and that can be appealed against before a court. In most cases, authorities do not provide those affected with anything in writing, leaving people without any written proof that the eviction even took place. Although the authorities in Milan were carrying out evictions without following the law on administrative procedure, even before the declaration of emergency, the "Nomad Emergency" has given them greater impunity to continue operating in this way. As discussed earlier (see first chapter), under the emergency ordinances, the delegated commissioners are explicitly authorized to disregard a number of provisions from the law on administrative procedure dealing in particular with the right of the people affected by the administrative decision to participate in the administrative procedure. Lawyers from Milan who have contested evictions from unauthorized settlements in court, even before the declaration of the state of emergency, told Amnesty International in July 2011 that the courts appeared reluctant to decide in favour of complainants in the absence of a written administrative decision.

A forced eviction from the settlement of Bacula in Milan, which left several people homeless, including small children, was witnessed by Amnesty International delegates on 13 July 2011. The eviction was carried out by the authorities without any prior consultation with the community, in the absence of adequate notice or legal remedies, and without providing the residents with any alternative housing or compensation.

A state police representative told Amnesty International that the police had verbally notified the families about the eviction a few days earlier, but could not produce any evidence of this. He said written notification and a proper procedure were only required for evictions from rented properties or social housing units. The social welfare authorities were not present because, as they told Amnesty International afterwards, they had not been notified.<sup>126</sup> As a result, no alternative accommodation was offered to the families affected.

During the eviction, a state police representative shouted aggressively at a Romani man from Romania for leaving his child with representatives of a local NGO known to him while he went into the camp to collect his belongings, and threatened to take the child away from him. The official addressed the man with the informal form of "you", impolite in Italian among adults (he addressed the Amnesty International delegates using the formal "you"). An NGO representative said he had witnessed similar behaviour from officials during other forced evictions.

People evicted from unauthorized camps may not only suffer human rights violations during the forced evictions or in their immediate aftermath but are also not entitled to any support afterwards, such as measures of social integration and inclusion, including those for children. Indeed, measures of social integration and inclusion provided for under the "Nomad Emergency" may only be used to benefit people who have a right to a place in the authorized camps in line with the 2009 regulation. Consequently, in most circumstances those evicted from unauthorized settlements find themselves being forced to settle in another location, maybe more hidden and even more precarious, such as under bridges or next to main road, to be evicted again and again, trapped in a vicious circle of poverty, exclusion and discrimination.

All the people living in unauthorized camps who were interviewed by Amnesty International said that they had been evicted several times, in some cases dozens of times.

## EVICTIONS ARE A TRAUMA

*"The evictions hurt us; they take away our rights and our happiness. During the evictions the police treat us like thieves; they shout at us, they push us. Evictions are a trauma. My eight-year-old son did not speak for months after an eviction because of the shock. Now I am happy – with the help of an NGO and other good people, I found a place to stay for me and my family, and I have a job. The day they offered me a contract and I got a badge at work I felt I was flying. In the past I tried to look for jobs but nobody wanted me; if you are dirty who would want you?"* Madalina, a Romanian woman who has lived in Italy since 2000 and the mother of five children, is employed as a cleaner. She has been evicted several times with her family from settlements in Via Rubattino, Bacula, Bovisa, Bovisasca, Villa Pizzone and Segrate. She spoke to Amnesty International in July 2011.

## VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS STANDARDS

In line with the "Nomad Emergency" ordinances, delegated commissioners for the emergency have the power to carry out evictions from unauthorized camps with the support of all law enforcement agencies, such as the state police and the *carabinieri* (military police), and the full cooperation of all relevant authorities.

Evictions from unauthorized settlements are usually carried out for reasons of public health or to end an ongoing criminal offence, in particular the crime of "invasion of land and buildings", local and state police officials in Milan told Amnesty International in April 2011.<sup>127</sup> The office of the Prefect has stated on several occasions, including before the courts, that a formal decision or notification about an eviction is not necessary where property is illegally occupied, and that, where a criminal offence has been committed, the authorities do not have an obligation to provide alternative housing. The Prefect of Milan reiterated this point to Amnesty International in April 2011.

Italy is required to ensure that all evictions comply with the legal safeguards and protections identified by the UN Committee on Economic, Social and Cultural Rights. These safeguards apply irrespective of the tenure status of the residents. In 2007 the Committee of Ministers of the Council of Europe adopted a resolution on the complaint by the European Roma Rights Centre (ERRC) against Bulgaria, which found that evictions of Romani communities from dwellings "unlawfully occupied by them" constituted a violation of Article 16 (the right of the family to social, legal and economic protection) of the Revised European Social Charter taken together with Article E (non-discrimination).<sup>128</sup> The Committee reminded the Bulgarian authorities that they were obliged to "*strike a balance between the general interest and the fundamental rights of the individuals, in this particular case the right to housing and its corollary of not making the individuals homeless.*"

The legal safeguards and protections identified by the UN Committee on Economic, Social and Cultural Rights include:

- **Adequate and reasonable notice for all affected persons prior to the scheduled date of the eviction.** The authorities in Milan consider that, in cases of evictions from illegal settlements, a formal notification is not needed for the same reasons that release them from

the obligation to conduct a formal administrative procedure. The local police told Amnesty International that they usually visit the settlement a few days before the eviction to inform the residents that they are expected to leave. However, they do not necessarily tell them when and at what time the eviction will take place. They do not deliver anything in writing and they do not inform each family individually. Moreover, this type of "notification" does not always happen. *"They police came to the settlement and told us to go away several times. Then one day at five o'clock in the morning they came and destroyed our shack. We did not have time to take away much; the caterpillar even took away my children's school books,"* said Madalina to Amnesty International in July 2011 about one of the many evictions that she has suffered. *"I have been evicted with my family many times and have not received anything in writing one single time."* Several NGOs told Amnesty International that the authorities often use the news media to "exhort" Roma to leave by threatening them with the eviction of a particular settlement. These methods of notification are totally inadequate under international law. Notification should be presented in writing, as well as, where appropriate, in other formats that may be necessary to ensure all affected individuals – including those who cannot read – have access to the information. Notification should be given sufficiently in advance of a proposed eviction to reasonably allow affected individuals to seek further information and challenge the eviction.

■ **Information on the proposed evictions and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available within reasonable time to those affected.** Since residents of the illegal settlements never receive anything in writing when they are evicted, in most cases they have only a very basic understanding of the specific reason why they have to leave that particular location.

■ **Especially when groups of people are involved, government officials or their representatives to be present during the eviction.** In most evictions from small illegal settlements, the only authority present is the local police. Social welfare officials told Amnesty International that they are present whenever they are notified by the police forces directly involved in the eviction. However, this is not always the case.

■ **Evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise.** NGOs working with Romani communities as well as members of these communities told Amnesty International that evictions are carried out in all seasons and weather conditions, including in the snow, and usually begin in the morning as early as 5am. The authorities do not consult those affected when they plan the date and time of the eviction.

■ **Provision of legal remedies.** The authorities do not follow any form of administrative procedure and do not respect general principles of administrative law, such as the right of those affected by an administrative decision to participate in the administrative procedure. The authorities have themselves told Amnesty International in April 2011 that, in their view, an administrative procedure is not required when they are intervening to stop a criminal offence. Since the authorities do not carry out a formal administrative procedure, inhabitants of unauthorized camps affected by evictions are not informed of any remedies. Moreover, the absence of a formal administrative decision makes it very difficult for them to challenge an eviction before the relevant courts.

- **Provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.** Although legal aid for indigent people to challenge administrative decisions is available in theory, it is very difficult to access in practice for inhabitants of the unauthorized camps. Individual families appear to have little hope of benefiting from legal remedies and are reluctant to use them unless they can count on the support of NGOs.

## LOSS OF PROPERTY

Margareta, a young Romanian Roma who has two sons aged five and two and has been evicted several times, told Amnesty International in July 2011 that if an eviction took place when her husband was at work, she could not take anything away with her, since she had to carry her two boys. She said that sometimes during evictions the police had slashed their tent with a knife so that they had to buy a new one each time. Nobody is able to file a compensation claim for damage because they have no effective access to legal aid.

Without adequate notice, those evicted usually lose all the property that they cannot physically carry away or which they have no time to take.

## NOT EVEN FOOD AND BLANKETS

A teacher in a primary school that used to be attended by around 40 Romani children from the now dismantled camp in Via Rubattino told Amnesty International in July 2011 that the most basic property would be destroyed or lost in evictions. She said this included clothes, toys, school books and blankets as well as furniture. *"The authorities do not provide even the most basic humanitarian assistance, such as food and blankets. When the camp in Via Rubattino was dismantled on 19 November 2009, it was NGO volunteers and the citizens of the area who brought blankets for the night.*

- **Adequate alternative housing, resettlement or access to productive land.** Temporary shelter in municipal dormitories or other structures is usually offered to women and children only. In most cases families prefer to reject the offer and not be split up. The authorities have sometimes assumed that the offer of shelter will be turned down and have been unprepared for the numbers needing shelter when more people than expected accepted the offer. Shelter is not offered to adult males, apparently on the grounds that those who are evicted do not have any rights and that the authorities are only obliged to help vulnerable individuals such as children, elderly and sick people. *"I do not know what parent would accept to be separated from his or her children. You can only accept that if you do not love your children. I have been together with my husband every single day for the past 23 years. Only God can separate us,"* Madalina told Amnesty International in July 2011.
- **Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights.** All the NGOs in Milan interviewed by Amnesty international said that the great majority of evictions at unauthorized camps render entire families homeless, and that the authorities are perfectly aware of this. The authorities seem to consider that if they provided alternative housing to those evicted, they would attract more Roma to Milan. Forced evictions not only constitute a human rights violation in themselves, they also bring with them a range of additional human rights violations. Children enrolled in education are often forced to change school every time they are victims of a forced eviction which disrupts their learning. *"The authorities say that the evictions do not interrupt the children's education but it is obvious that, if a child is evicted all the time and keeps changing school, his or her learning process is affected. Children remain socially excluded,*

*they do not understand their rights and they cannot defend themselves. Roma who study are deemed dangerous, because they can learn how to defend themselves,"* said a teacher in a school attended by Romani children in July 2011. NGOs working in unauthorized camps reported that people could not justify to their employers their absence from work on the day of an eviction and often ended up losing their job.

The engagement of civil society organizations plays a fundamental role in mitigating the devastating effects of the deliberate violations of the human rights of Roma in Milan. Such organizations include groups that operate exclusively with volunteers and groups of ordinary people that have formed spontaneously in response to an eviction. In these cases, civil society takes on responsibilities that should be carried out by the authorities.

## **ORDINARY PEOPLE STANDING UP – VIA RUBATTINO 2009**

One of the many evictions from the camp in Via Rubattino, on 19 November 2009, became famous – not because the authorities did something different, but because the local community and several NGOs mobilized against yet another eviction that would leave the residents homeless. Local people supported the families affected, and the support to many of them continues today.

At the time of the eviction, around 300 Romanian Roma lived in the settlement. They included 150 minors many of whom were regularly attending local schools. As usual, the eviction was not formally notified to the inhabitants of the camp. From September 2009 the news media, mostly at the local level, reported statements by the municipal authorities, and in particular by the then Deputy Mayor, Riccardo De Corato, indicating that the settlement would be dismantled. NGOs that were working with the community told Amnesty International that the local police started visiting the camp to announce its closure.

The municipality offered temporary shelter, assuming that most people would refuse it as usual. However, 67 men and 40 women with their children accepted the offer, which caught the municipality unprepared since there were places for only five women and their children. The municipality then offered to place women and children younger than seven in one shelter and children older than seven elsewhere, including in places outside Milan. This offer was rejected because the children could not have continued to attend the same schools. The authorities told the men to try the shelter for homeless people in the main central station, knowing that there was already a long waiting list.

Some of the residents of Rubattino, with the help of NGOs and lawyers, sought a court order to suspend the eviction. However the court examined the case only after the eviction had taken place and eventually closed the case. More than 10 families are now living in apartments as a result of the voluntary work by NGOs and the local community. All the support provided to the evicted families was exclusively funded by donations from the public.

## 5. CONCLUSIONS AND RECOMMENDATIONS

The Italian government has, as part of the measures it has adopted under the “Nomad Emergency”, denied Romani communities in Milan the equal protection of the law. By waiving protections against administrative decisions for Romani communities who live in camps, it has reduced their protection against forced evictions and increased the impunity of local authorities who carry them out. The local authorities in Milan have also applied a new regulatory framework to residents of authorized camps, which restricts the residents’ rights to adequate housing, privacy and family life and has introduced eviction criteria and procedures that are not applied to others who live in state provided housing. Though these measures have been imposed ostensibly in response to threats to public security and order, the government has failed to provide any reasonable and objective justification for the differential treatment of Romani communities. All of these measures are discriminatory and breach Italy’s obligations under various international and regional human rights treaties not to engage in any act of, create or perpetuate racial discrimination.

The Italian authorities have adopted retrogressive measures that have reduced the security of tenure of residents of authorized camps. Authorized camps have been closed by the authorities without consultation with the residents, without provision of adequate and long-term housing solutions to people who can not afford alternative housing, and without complying with safeguards against forced evictions. Some of these closures are linked to preparations for the Milan EXPO 2015. Italian authorities have continued to carry out forced evictions of Romani communities from both authorized and unauthorized camps in Milan.

The government has violated Romani communities’ right to adequate housing, equal protection under the law, an effective remedy and freedom from discrimination. The Italian authorities have demonstrated a blatant disregard of their obligations under international and regional human rights treaties and contempt for recommendations of human rights monitoring bodies that have repeatedly asked the government to stop these practices.

The widespread stereotyping of Romani communities, the lack of a clear domestic legal framework prohibiting forced evictions, and the failure to enforce existing anti-discrimination legislation have also facilitated these human rights violations.

Italian authorities at all levels must immediately take effective steps, in consultation with Romani communities, to reverse the effects of these measures. The European Union must ensure that EU legislation on non-discrimination is effectively enforced in Italy. Amnesty International makes the following recommendations to the Milanese, Italian and EU authorities.

## TO THE AUTHORITIES IN MILAN

### **Amnesty International calls on the Milanese authorities to:**

- Immediately stop carrying out forced evictions;
- Ensure that evictions are only carried out as a last resort after all other feasible alternatives to eviction have been explored. Procedural protections required under international human rights law should be in place before any evictions are carried out, in particular the requirements on genuine consultation to explore all feasible alternatives to eviction, provision of information on the eviction, adequate notice, legal remedies, compensation and adequate alternative housing;
- Repeal without delay the "Regulation on the areas designated for nomads in the territory of the municipality of Milan" of 5 February 2009, and replace it with a new regulation that fully complies with international and regional human rights law, in particular standards on the right to adequate housing, non-discrimination and equality;
- Suspend immediately implementation of the "Maroni plan" in Milan and revise it in a transparent consultation with the affected communities to ensure that it fully complies with human rights standards;
  - With regard to camps planned for closure in the immediate future (Via Novara, Via Bonfadini and Via Negrotto), engage in a genuine consultation with affected residents to explore all feasible alternatives to eviction. If the closures proceed, ensure that any evictions comply with international and regional human rights standards on eviction and that people are provided with adequate alternative housing, which gives them with security of tenure;
  - In relation to the transformation of the Via Idro camp into a transit camp, immediately clarify the legal basis and rationale of this plan, and start a meaningful consultation with the inhabitants on alternatives to the plan. Ensure that any plans to modify the camp comply with international human rights standards;
  - Regarding former residents of camps that have been closed down and residents of camps in the process of closure who have already accepted alternative housing solutions, ensure that they are provided with adequate alternative housing which gives them security of tenure;
- Ensure that all persons who have been forcibly evicted from authorized or unauthorized camps are provided with an effective remedy and reparations, which may include compensation, rehabilitation, restitution, satisfaction and guarantees of non-repetition;
- Develop a plan to improve the living and housing conditions in authorized camps, in consultation with the residents, and ensure that the housing complies with international and regional standards on adequacy of housing;
- Develop plans in consultation with the Romani communities to ensure that people living in both authorized and unauthorized camps have access to adequate housing, including social housing and other forms of housing that are integrated with other communities;

- Provide adequate alternative housing, without discrimination, to all people being evicted who are unable to provide for themselves; in particular, ensure that emergency shelter is offered to all persons who require it, not only to women and children.

## TO THE ITALIAN NATIONAL AUTHORITIES

### **Amnesty International calls on the Italian government and parliament to:**

- Immediately revoke the “Nomad Emergency” in the regions of Campania, Lazio, Lombardy, Piedmont and Veneto, and provide effective remedies to all those affected by forced evictions and other human rights violations;
- Take all the necessary steps to ensure that forced evictions immediately cease throughout Italy;
- Enact and enforce a clear prohibition on forced evictions. The law should also set out safeguards that must be complied with prior to any eviction, based on the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement and that comply with international human rights law;
- Enforce international and regional anti-discrimination obligations with a view to preventing and combating discrimination against Romani people, including by ensuring that the remedies are effective, which includes that they are timely, can lead to a cessation of the violation, and provide victims with reparations;
- Implement the recommendations of international and regional human rights bodies, in particular on stopping and preventing forced evictions, ending discrimination and guaranteeing the right to adequate housing of the Roma.

## TO THE EUROPEAN UNION

### **Amnesty International calls on the European Commission to:**

- Immediately start infringement procedures against Italy for violation of the “Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin”;
- Engage with the Italian government to ensure that Romani communities in Italy have access to housing without discrimination;
- Call on the Italian government to immediately stop forced evictions and to revoke all discriminatory regulations.

# APPENDIX

## RECOMMENDATIONS BY INTERNATIONAL AND REGIONAL BODIES TO ITALY ON ROMA

**Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Italy from 26 to 27 May 2011, 7 September 2011**

10. The Commissioner calls on the Italian authorities to act urgently against the use of racist and xenophobic speech targeting notably Roma and Sinti, in political discourse.

24. The Commissioner is seriously concerned at reported practices concerning evictions of Roma and Sinti from settlements in Italy and at the impact that these practices have on the right to housing and other human rights of the persons concerned. He urges the Italian authorities to bring the situation fully into line with the revised European Social Charter, in light of the findings of the Committee of Social Rights in its June 2010 decision relating to collective complaint No. 58/2009 (*Centre on Housing Rights and Evictions (COHRE) against Italy*).

**Advisory Committee on the Framework Convention for the Protection of National Minorities, Third opinion on Italy, 15 October 2010 (p22)**

111. The Advisory Committee urges the authorities to adopt more resolute and effective measures to combat discrimination against Roma and Sinti.

112. A comprehensive strategy for the integration and protection of these persons must be developed and implemented without further delay. Appropriate positive measures should be taken in the different sectors in order to reduce the disparities between these communities and the rest of the population. The authorities are strongly encouraged to put an end to using emergency decrees and measures in tackling such systemic issues.

113. Effective measures should be taken as a matter of urgency to find solutions, in consultation with Roma and Sinti representatives, to the serious housing problems facing Roma and Sinti and to enable them to enjoy decent living conditions.

114. Representatives of the different groups should be involved systematically in the search for solutions, the implementation and monitoring of appropriate measures, so that the specific needs of the relevant groups are duly taken into account.

**Memorandum by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Italy on 19–20 June 2008, 28 July 2008**

15. The Commissioner firmly believes that comprehensive, sustained action by the authorities is urgently required in the area of anti-discrimination, especially with a view to protecting in an effective manner the human rights of Roma, Sinti and migrants.

44. The Commissioner recalls that the vast majority of Roma and Sinti are in urgent need of effective protection of their human rights, especially their social rights, such as the right to adequate housing and to education, by national, regional and local authorities. Adopting the state of emergency and providing greater powers to the "Special Commissioners" and the Police may not be the best available option to deal with the needs of Roma and Sinti populations.

**Concluding observations of the Committee on the Elimination of Racial Discrimination on Italy, 16 May 2008 (p3)**

14. [...] The Committee, recalling its general recommendation 27, recommends that the State party develop and implement policies and projects aimed at avoiding segregation of Roma communities in housing, to involve Roma communities and associations as partners together with other persons in housing project construction, rehabilitation and maintenance. The Committee further recommends that the State party act firmly against local measures denying residence to Roma and the unlawful expulsion of Roma, and to refrain from placing Roma in camps outside populated areas that are isolated and without access to health care and other basic facilities.

**Advisory Committee on the Framework Convention for the Protection of National Minorities, Second opinion on Italy, 24 February 2005 (p16)**

59. Italy should step up its efforts, as a matter of priority, both at the local and state levels to ensure that Roma, Sinti and Travellers residing in camps enjoy decent living conditions. At the same time, Italy should design, in consultation with those concerned, a comprehensive strategy of integration for Roma, Sinti and Travellers with a view to eliminating the placement in camps and instead ensuring access to housing, employment, education and health care.

**European Commission against Racism and Intolerance, Third report on Italy, 16 December 2005 (p28)**

ECRI strongly recommends that the Italian authorities establish a comprehensive policy at national level to address the situation of marginalisation, disadvantage and discrimination of the Roma and Sinti populations. To this end, it urges the Italian authorities to establish an effective co-ordinating mechanism at national level, with the participation of national and local authorities, Roma and Sinti representatives, civil society organisations and other relevant partners.

**Advisory Committee on the Framework Convention for the Protection of National Minorities, Opinion on Italy, 14 September 2001 (p18)**

74. [...] The Advisory Committee notes that by placing them [Roma] in camps, the authorities have so far failed to place due emphasis on their integration into Italian society. This state of affairs should in future give way to a comprehensive and coherent strategy to provide them with housing, end the discrimination and socio-economic inequalities from which they suffer, and encourage their participation in the public affairs concerning them.

**European Commission against Racism and Intolerance, Second report on Italy, 22 June 2001**

60. [...] ECRI strongly believes that one of the first necessary steps to be undertaken by the Italian authorities should be to approach all issues related to the members of the Roma/Gypsy communities, whether Italian or

not, without assuming that all Roma/Gypsies are nomads. [...]

61. ECRI [...] believes that, in the medium and long term, the Italian authorities should implement measures to overcome the practical segregation of Roma/Gypsy communities in the field of housing in Italy, including through abandoning the systematic relegation of members of the Roma/Gypsy communities to camps for nomads. [...] As an emergency short term measure, ECRI urges the Italian authorities to ensure that the camps where members of Roma/Gypsy communities live meet, at the very least, the basic standards on adequate housing.

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51 Article 4 provides: "1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant

may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. 2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision. 3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.”

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56 “The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society”.

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121 This is a settlement located on the same street as the authorized camp in Via Bonfadini.

122 Comune di Milano, Campi nomadi insediamenti abusivi aree-edifici dismessi: Le aree di criticità rilevate nel territorio del Comune di Milano al 28 febbraio 2010.

123 Comune di Milano, Campi nomadi insediamenti abusivi aree-edifici dismessi: Le aree di criticità rilevate nel territorio del Comune di Milano al 28 febbraio 2010.

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125 See for example the blog of the former Deputy Mayor of Milan, Riccardo De Corato Blog:

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127 Article 633 of the Italian Criminal Code.

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## **ITALY: 'ZERO TOLERANCE FOR ROMA'** **FORCED EVICTIONS AND DISCRIMINATION AGAINST ROMA IN MILAN**

Thousands of Roma in Italy live in camps located at the outskirts of urban areas, without access to most basic facilities. They face prejudice and hostility. Over the years, many human rights organizations have urged the Italian government to address this situation, end the discrimination experienced by Romani people and ensure respect of their human rights, including the right to adequate housing.

This report recounts how the Italian authorities have turned their backs on these calls, and have treated Romani settlements as security threats. They have implemented measures which deny these communities basic legal protections, and impose discriminatory restrictions on their rights to housing, privacy and family life.

In addition, the authorities in Milan have forcibly evicted Roma from their homes. They are closing down some of the authorized camps but have failed to provide the inhabitants with adequate alternative housing solutions. Closures are sometimes linked to building projects for the 2015 Universal Exposition.

Amnesty International calls on the Italian authorities at all levels to show they respect and protect human rights for all. They must immediately stop all forced evictions. They must address the widespread discrimination against Romani people in Italy, including discriminatory policies and practices in relation to the right to adequate housing. The authorities in Milan must also suspend the closure of the camps until alternative plans are developed, in consultation with the affected communities, which respect their human rights.

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Index: EUR 30/020/2011  
November 2011

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