



MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL COOPERATION

Inter-ministerial Committee for Human Rights

***Italy's reply in relation to the
Letter of the Chair-Rapporteur of the Working Group of experts
on people of African descent and the Special Rapporteur on
contemporary form of racism, racial discrimination, xenophobia
and related intolerance***

June 2015



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In relation to the Letter of the Chair-Rapporteur of the Working Group of experts on people of African descent and the Special Rapporteur on contemporary form of racism, racial discrimination, xenophobia and related intolerance, Italian Authorities are in a position to provide the following information.

Following the amendment of Art. 68 of the Italian Basic Law, adopted in 1993, the Judiciary shall not demand for a formal authorization by the Parliament to investigate on a member of the Parliament, with the exception of cases of arrest or compression of personal freedom: in these circumstances the competent Committee (*Giunta*) takes into proper consideration the request of the Judiciary and reports to the Parliament. Furthermore the Committee is competent for the examination of requests concerning opinions and votes of members of the Parliament as well as for the authorization to put the Ministers through criminal proceedings for offences committed in the exercise of their functions (according to Art. 96 of the Basic Law). If the Minister is not a member of the Chamber of Deputies or of the Senate, the competence is of the Senate. Finally, the Parliament will deliberate on the Committee proposal.

On July 13th 2013, on the occasion of a political event of the *Lega Nord* Party in the Municipality of Treviglio, the Deputy Chair of the Senate Mr. Calderoli compared the then Minister for Integration and Cooperation Ms. Kyenge to a monkey. The local judiciary authorities asked immediately for criminal sanctioning, accusing Senator Calderoli for aggravating defamation on discriminatory grounds.

This offence has been introduced within the Italian legislative framework by Law No. 654 dated October, 13th 1975, ratifying and applying the International Convention on the elimination of all forms of racial discrimination of 1966, as amended by Law No. 205 dated June, 25th 1993 (known

as Mancino's Law) and by Law No. 85 dated February, 24th 2006. This law punishes also the constitution of organizations, associations, movements or groups having among their aims the incitement to discrimination or violence for racial, ethnic or religious reasons. It also envisages a special aggravating circumstance in all offences committed for purposes of discrimination or racial hatred. According to the aforementioned law, the use of racist or xenophobic arguments in political debating, if considered to have criminal intent, is also subject to examination by competent judicial bodies to verify its criminal nature that might be found in written documents, speech or programmes of political representatives.

On February 5 2015 the Committee deliberated for the no prosecution of Senator Calderoli for his discriminatory language against the then Minister Kyenge, in compliance with Art. 68 of the Basic Law, stating that the members of the Parliament cannot be responsible for their opinions and votes in the exercise of their public functions.

Since the Senate has not expressed itself on lifting the parliamentary immunity within the 90 days limit, the Court of Bergamo has convened Senator Calderoli for 30 June 2015.