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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

**Mandates of the Special Rapporteur on contemporary forms of racism, racial discrimination,
xenophobia and related intolerance and the Special Rapporteur on the human rights of migrants**

REFERENCE: AL Racism (2000-9) Migrants (2005-4) G/SO 214 (78-15)
ITA 3/2011

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and Special Rapporteur on the human rights of migrants pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 7/34, 16/33, 8/10, and 17/12.

In this connection, we would like to bring to your Excellency's Government's attention information we have received regarding the shootings of two Senegalese citizens in Florence and wounding of three others Senegalese migrants in what was reportedly a crime motivated by xenophobia.

According to information received:

On Tuesday 13 December 2011, a 50 years-old Italian man entered a crowded marketplace in Piazza Dalmazia, opened fire and killed two vendors from Senegal and wounded a third one. The man then moved to the central San Lorenzo market where he opened fire again and critically wounded two other Senegalese immigrants before killing himself in an underground parking lot under the covered market of San Lorenzo as police were approaching him. According to information received, the injured men, in their thirties and forties, remained in a serious condition, one of them running the risk of being paralyzed for life.

Allegedly, the perpetrator of the killings was known to the police for participating in racist marches by an extreme right-wing group. He was allegedly a member of Casa Pound, a far right-wing and anti-immigration group.

According to information received, many Senegalese migrants in Italy work as vendors, selling scarves, wallets, belts, handbags and others items near monuments in several Italian cities, including Florence and Rome. Information

received also indicates that what happened in Florence was the result of a climate of intolerance against certain migrant communities that has increased over the years. Allegedly, Senegalese street traders are often the victims of racial abuse and accused of stealing jobs from Italians.

While we do not wish to prejudge the accuracy of these allegations, and while noting information received that public authorities have condemned the killings, we would like to express our concern about the fact that the perpetration of such racially motivated crime against migrants may have occurred in the context of a general pattern of racism, xenophobia and intolerance against migrants in Italy. In this regard, we would like to reiterate the concerns raised by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance in his 2006 country report to Italy, which we believe remains pertinent in this case (A/HRC/4/19/Add. 4). In particular, we would like to highlight the concern expressed with regard to the disturbing dynamic of xenophobia and extreme manifestations of racism, which mainly affect migrants and asylum seekers, primarily those of African origin (A/HRC/4/19/Add. 4, para. 58). In this regard, we would like to reiterate to your Excellency's Government the recommendations thereto which stress in particular the importance to further improve the implementation of the existing legislation combating racism and discrimination (A/HRC/4/19/Add. 4, para. 68) and to link the combat against racism, xenophobia and discrimination to the long-term construction of multiculturalism (A/HRC/4/19/Add. 4, para. 81).

In this context, we would also like to express our concern about the recent figures (insert) published on the perpetration of hate crimes with xenophobic motive in Italy, the series of attacks by groups on migrants workers, and the physical injuries on African workers.

Furthermore, as also highlighted by the Committee on the Rights of the Child in its concluding observations on Italy adopted on 7 October 2011, we are concerned about amendments of the Criminal Code that reduce the sentences for propaganda advocating racial or ethnic superiority (CRC/C/ITA/CO/3-4, para. 24 (b)) and the promulgation of Act No. 94/2009 on public security which criminalizes undocumented entry and stay in Italy (CRC/C/ITA/CO/3-4, para. 68). We are of the view that such legislative measures may have contributed to foster a climate of intolerance, xenophobia and racism against migrants. We believe that the current case of killings of Senegalese migrants highlights an immediate need to undertake a review process of such legislation in order to prevent similar acts in the future.

In this respect, we would like to remind to your Excellency's Government of its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, ratified by Italy on 5 January 1976, in particular articles 2 (c) and (e), 4, 5 (b), 6 and 7. Pursuant to article 2 (c) of the Convention, Italy as a State party to the Convention is under the obligation to "take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists".

In this regard, allow us to bring your Excellency's Government's attention to the

concern expressed by the United Nations General Assembly at “measures which treat irregular migration as a criminal rather than as an administrative offence, where the effect of doing so is to deny migrants full enjoyment of their human rights and fundamental freedoms” (Resolution 65/212 of 21 December 2010, p. 3). We also recall your Excellency’s Government of Human Rights Council resolution 18/21, adopted on 30 September 2011, which strongly condemns the manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes often applied to them (A/HRC/RES/18/21, para. 7). The resolution urges States to apply and, where needed, reinforce existing laws when xenophobic and intolerant acts, manifestations or expressions against migrants occur. Moreover, as stated in paragraph 48 of the Durban Declaration and Programme of Action States have the responsibility to safeguard and protect migrants against illegal or violent acts, in particular acts of racial discrimination and crimes perpetrated with racist or xenophobic motivation by individuals or groups.

In addition, we would like to draw your Excellency’s Government’s attention to General Recommendation No. 30 of the Committee on the Elimination of Racial Discrimination on Discrimination Against Non-Citizens which recommends that the State party “ take steps to address xenophobic attitudes and behaviour towards non-citizens, in particular hate speech and racial violence, and to promote a better understanding of the principle of non-discrimination in respect of the situation of non-citizens” (para. 11). We would also like to recall your Excellency’s Government of the recommendations accepted during its Universal Periodic Review on 11 February 2010 to take further measures to protect and integrate immigrants and to ensure that attacks with xenophobic or racist background are promptly investigated by the police, and that those responsible be brought to justice (A/HRC/14/4, paras. 28 and 76. See also A/HRC/14/4/Add. 1).

Promoting social integration and ensuring the full respect of the human rights of migrants is fundamental and involves measures aimed at changing prevailing negative societal attitudes towards migrants. This is a long term objective that requires political leadership at the highest level. It includes, inter alia, changing the public discourse on migration, avoiding derogative language portraying irregular migrants as criminals, embracing multiculturalism and diversity, insisting on the positive contributions of migrants, effectively fighting manifestations of xenophobia and racism, empowering independent institutions to investigate and reporting on issues or acts of xenophobia, racism and anti-immigrant violence, and conducting sensitization campaigns in partnership with migrants or their representatives or associations in decision-making processes. A long term strategy and plan of action are often required in order to bring about such attitudinal changes.

In this regard, we would like to bring to the attention of your Excellency’s Government the above mentioned concluding observations of the Committee on the Rights of the Child which recommend Italy to “effectively adopt a comprehensive national action plan on the prevention of racism, racial discrimination, xenophobia and intolerance taking into full account all the relevant provisions of the Durban Declaration and Programme of Action” (CRC/C/ITA/CO/3-4, para. 25(b)). In this connection, we would like also to emphasize the importance of creating conditions conducive to greater

harmony and tolerance. We would like to refer in particular to paragraph 30 of the Durban Declaration and Programme of Action which urges States to “(a) develop and implement policies and action plans, and to reinforce and implement preventive measures, in order to foster greater harmony and tolerance between migrants and host societies, with the aim of eliminating manifestations of racism, racial discrimination, xenophobia and related intolerance, including acts of violence, perpetrated in many societies by individuals or groups [...]; (c) implement specific measures involving the host community and migrants in order to encourage respect for cultural diversity, to promote the fair treatment of migrants and to develop programmes, where appropriate, that facilitate their integration into social, cultural, political and economic life”.

It is our responsibility, according to the mandates entrusted to us by the Human Rights Council, to clarify all allegations brought to our attention. We would therefore greatly appreciate detailed information from your Government concerning the above situations and about the measures taken by the competent authorities. We would in particular appreciate to receive information on the following points:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide information about measures taken to prevent xenophobic crimes and foster mutual understanding, social harmony between citizens and non-citizen and to promote tolerance and respect for cultural diversity.
5. Please provide specific information on steps taken to implement recommendations of the Committee on the Rights of the Child (CRC/C/ITA/CO/3-4) regarding the adoption of a National Action Plan against Racism and the strengthening of the mandate of the National Office against Racial Discrimination.
6. Please also provide information on steps taken to consider reviewing laws and policies which criminalizes irregular stay and entry in Italy, including in the con text of article 2 (c) of the International Convention on the Elimination of All forms of Racial Discrimination.

We would greatly appreciate receiving from your Excellency's Government within 60 days the above mentioned additional information. We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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discrimination, xenophobia and related intolerance

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