

Integrating European Values modules in studies
(IN EU VALUES)

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EU VALUES ANTI-DISCRIMINATION OEPAC

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Abbreviations

art . = Article

c . = comma

cost . = Constitution

Cass.Pen . = Criminal termination

cp . = penal code

cpp . = code of penal procedure cpp

DL . = Decree-law

Legislative Decree = Legislative decree

DPR . = Decree of the President of the Republic

DPCM = Decree of the President of the Council of Ministers

L . = Law

TEC = Consolidated text establishing the European Community - EC Treaty

TFEU = Treaty on the Functioning of the European Union

EU = European Union

Learning objectives

- Learning of concepts such as inequality, the mechanisms of inequality, formal equality, substantial equality, discrimination, marginalization, exclusion
- Learning of the law and of the dimensions of the anti-discrimination law in its important social function.

This work integrates the OEPAC training path , **Educational Operator for Autonomy and Communication** , a functional figure for the learning processes and for the inclusion of the student with disabilities or in conditions of socio-economic cultural disadvantage in the school context.

Teaching methodology

Once the objectives have been set, in particular :

Learning of concepts such as inequality, the mechanisms of inequality, formal equality, substantial equality, discrimination, marginalization, exclusion;

Learning of the law and of the dimensions of the anti-discrimination law in its important social function.

The learning of abstract, generic concepts will be supported by a constructivist-type methodology with heuristic and experiential teaching tools that engage the trainer and the learner in a dynamic process that allows the student to be an aware and responsible subject through tools such as examples, cases , role playing, scaffolding and cooperative learning starting from pre-knowledge and practical experiences.

Also presented are educational toolkits aimed at combating gender stereotypes in primary and secondary schools

FIRST LESSON – 4 HOURS

1. PRELIMINARY EUROPEAN CONCEPTS AND PRINCIPLES:

1.1 The principle of equality and non-discrimination in the constitutional system

In the Italian Constitution, the principle of equality and protection from discriminatory acts and treatments find expression in the general principle of equality are enshrined in art. 2 and 3

Article 2

The republic recognizes and guarantees the inviolable rights of man, both as an individual and in the social formations where he develops his personality, and requires the fulfillment of the mandatory duties of political solidarity.

Article 3

All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions. It is the duty of the republic to remove the economic and social obstacles which, by effectively limiting the freedom and equality of citizens, prevent the full development of the human person and the effective participation of all workers in the political, economic and social organization of the Village.

Article 6

linguistic minorities with specific regulations .

With particular reference to gender:

Article 29

The Republic recognizes the rights of the family as a natural society founded on marriage.

Marriage is ordered on the moral and juridical equality of the spouses, with the limits established by

law to guarantee family unity .

Article 37

The working woman has the same rights and, for equal work, the same wages as the worker. The working conditions must allow the fulfillment of its essential family function and ensure the mother and the child adequate special protection.

The law establishes the minimum age limit for paid work.

The Republic protects the work of minors with special rules and guarantees them, for equal work, the right to equal pay.

Article 48

All citizens, men and women, who have reached the age of majority are voters.

Voting is personal and equal, free and secret. Its exercise is a civic duty.

The law establishes the requirements and methods for exercising the right to vote for citizens residing abroad and ensures its effectiveness. To this end, a Foreign district has been established for the election of the Chambers, to which seats are assigned in the number established by the constitutional provision and according to criteria determined by the law.

The right to vote cannot be limited except for civil incapacity or as a result of an irrevocable penal sentence or in cases of moral unworthiness indicated by law.

Article 51

All citizens of either sex can access public offices and elected offices on equal terms, according to the requirements established by law. To this end, the Republic promotes equal opportunities between women and men with specific measures.

The law may, for admission to public offices and elected offices, make Italians not belonging to the Republic equal citizens.

Whoever is called to elective public functions has the right to have the time necessary to fulfill them and to keep his job .

With reference to disability:

Article 32

The republic protects health as a fundamental right of the individual and in the interest of the community, and guarantees free care to the poor. No one can be forced to undergo a certain medical treatment except by law. The law cannot under any circumstances violate the limits imposed by respect for the human person.

Art.34

The school is open to everyone. Lower education, imparted for at least eight years, is compulsory and free. The capable and deserving, even if without means, have the right to reach the highest levels of studies.

The European anti-discrimination system consists of a framework of rules developed in many contexts but mainly by the jurisprudence of the ECHR and by Union law.

The ECHR, the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, is the first human rights treaty inspired by the United Nations Universal Declaration of Human Rights.

The ECHR establishes the legally binding obligation for the Contracting States to recognize the human rights set forth in the Convention to every person under their jurisdiction.

The prohibition of discrimination is sanctioned by art. 14 which guarantees equal treatment in the enjoyment of the rights recognized in the Convention:

The enjoyment of the rights and freedoms recognized in the present Convention shall be ensured without any discrimination, in particular those based on sex, race, colour, language, religion, political or other opinion, national origin or social status, membership of a national minority, wealth, birth or any other status.

Protocol no. 12 (2000) to the ECHR, broadens the scope of the prohibition of discrimination by guaranteeing equal treatment in the enjoyment of every right including the rights provided by national law. According to the explanatory report of the protocol, its adoption stems from the desire to consolidate protection against discrimination, considered fundamental in the guarantee of human rights. In particular, the protocol arises from the debate on strengthening gender and racial equality. In the European Union, anti-discrimination legislation has its legitimacy in the Treaty on the Functioning of the European Union (**TFEU**) which constitutes, together with the Treaty on European Union (**TEU**), one of the two 'pivotal' treaties of the European Union, the basis fundamental law of the same (formerly the Treaty establishing the European Economic Community, signed in Rome on 25 March 1957; then modified by successive Treaties, among which we can mention in particular the **Treaty of Maastricht** of 7 February 1992; the current text was last amended by the **Treaty of Lisbon** which entered into force on 1 December 2009)

To the art. 19 of the TFEU (previously art. 13 of the TEC), authorizes the Council, subject to a unanimous resolution of the same and approval by the European Parliament, to "take appropriate measures to combat discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation".

In 2003, this article was amended by the Treaty of Nice to allow for the adoption of incentive measures.

Until 2000, EU non-discrimination law only covered the context of employment and social security, and only covered discrimination on grounds of sex.

In the 1990s, various interest groups exerted considerable pressure to extend the prohibition of discrimination enshrined in EU law to other areas, such as race and ethnic origin, sexual orientation, religious beliefs, age and disability. The fear of a resurgence of extremist nationalism in some EU Member States has led the heads of government to ensure the political will necessary to amend the Treaty establishing the European Economic Community, in order to give the Community the competence to adopt legislation in such areas.

The Charter of Fundamental Rights of the European Union, proclaimed in Nice on 7 December 2000 and adapted in Strasbourg on 12 December 2007, provides in art. 21 "Any form of discrimination based, in particular, on grounds of sex, race, skin color or ethnic or social origin, genetic characteristics, language, religion or personal beliefs, political or any other nature, membership of a national minority, property, birth, handicap, age or sexual orientation. 2. Within the scope of application of the Treaty establishing the European Community and of the Treaty on European Union, any discrimination based on nationality is prohibited, without prejudice to the specific provisions contained in the Treaties themselves".

in 2000 which will be specified later: the directive on equal treatment in employment, which prohibits discrimination based on religion, disability, age and sexual orientation in the workplace, and the directive on racial equality, which prohibits discrimination based on race or ethnic origin not only in the context of work but also in access to social protection and security as well as in access to goods and services.

This is a significant extension of the scope of application of EU non-discrimination law, as it has been recognized that, in order for individuals to develop their full potential in the labor market, it is essential to guarantee them equal access also to services such as health care, education and housing.

In 2004, the Directive on equal treatment of men and women in access to goods and services extended the protection against discrimination based on sex to this sector.

Furthermore, the protection against this type of discrimination does not correspond exactly to that recognized by the Racial Equality Directive, since the Directive on equal treatment of men and women in matters of social security guarantees equal treatment only in this area and does not in the broader one of social policies, which include social protection, health care and education.

On 29 October 2004, the then 25 countries of the Union signed the European Constitution in Rome, the fundamental document which, in addition to establishing the functioning of the European bodies, establishes the charter of rights of European citizens.

The European Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities" (Article 2 of the Treaty on European Union – TEU).

Internally, **on 7 December 2000**, the European Parliament, the Council of the European Union and the European Commission adopted the Charter of Fundamental Rights of the European Union which assumed, with the entry into force of the Treaty of Lisbon, the same legal value as the Treaties. The Union has thus equipped itself with its own important normative reference in the field of fundamental rights. The protection and promotion of human rights within the EU operate both at the internal level of the Union (i.e. the defense of human rights within the Member States), and at the external level, i.e. that of the EU's relations with third countries and in international organizations. With the **law n. 57 of 7 April 2005**, the Parliament **ratified the Treaty of 29 October 2004**, which adopts a "**Constitution for Europe**".

The European Constitution, made up of 450 articles divided into four parts, replaces most of the existing treaties.

In Part II, the values on which the Union is founded are indicated. In particular:

TITLE III: EQUALITY

Article II-80: Equality before the law

All people are equal before the law.

Article II-81: Non-discrimination

- Any form of discrimination based, in particular, on sex, race, skin color or ethnic or social origin, genetic characteristics, language, religion or personal beliefs, political opinions or any other nature, membership of a national minority, property, birth, disability, age or sexual orientation.
- Within the scope of application of the Constitution and subject to specific provisions contained therein, any discrimination on grounds of nationality is prohibited.

Article II-82: Cultural, religious and linguistic diversity

The Union respects cultural, religious and linguistic diversity.

Article II-83: Equality between men and women

Equality between men and women must be ensured in all areas, including employment, work and pay.

The principle of equality does not prevent the maintenance or adoption of measures providing for specific advantages in favor of the under-represented sex.

Article II-84: Rights of the minor

- Children have the right to the protection and care necessary for their well-being. They
- they can freely express their opinion; this is taken into consideration on matters that concern them according to their age and maturity.
- In all acts relating to minors, whether performed by public authorities or by private institutions, the best interests of the minor must be considered paramount.
- The minor has the right to maintain regular personal relationships and direct contacts with the two parents, unless this is contrary to his interest.

Article II-85: Rights of the elderly

The Union recognizes and respects the right of the elderly to lead a life of dignity and independence and to participate in social and cultural life.

Article II-86: Integration of people with disabilities

The Union recognizes and respects the right of persons with disabilities to benefit from measures aimed at guaranteeing their independence, social and occupational integration and participation in the life of the community.

In Part III,

TITLE II: NON-DISCRIMINATION AND CITIZENSHIP

Article III-123

European law or framework law may regulate the prohibition of discrimination on grounds of nationality as set out in Article I-4(2).

Article III-124

- Without prejudice to the other provisions of the Constitution and within the framework of the powers conferred by it on the Union, a European law or framework law of the Council may establish the necessary measures to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The Council acts unanimously after obtaining the consent of the European Parliament.
- By way of derogation from paragraph 1, European laws or framework laws may establish the basic principles of Union incentive measures and define such measures to support actions by Member States aimed at contributing to the achievement of the objectives referred to in paragraph 1, for exclusion of any harmonization of their laws and regulations.
- An important role for the protection of human rights within the EU is played by the European Union Agency for Fundamental Rights (FRA), established in 2007 with headquarters in Vienna. The Agency's purpose is to provide European institutions and national authorities with assistance and consultancy, in relation to fundamental rights, in the implementation of Community law, as well as to help them adopt measures or define appropriate initiatives.

At the international level, with the 2015-2019 Action Plan for Human Rights and Democracy coming to an end, on 26 March the European Commission and the High Representative presented the new EU Action Plan for Human Rights and democracy for the period 2020-2024 (Action Plan), The new Plan, expanding the topics touched upon by the previous document which covered the five-year period 2015-2019, aims to give the EU a new operational agenda in terms of the promotion and protection of human rights and to strengthen the leading role of the EU and the Member States in this industry globally.

In recent years, the European Union has also issued Guidelines on key human rights issues, including the death penalty, children's rights, torture and other cruel, inhuman or degrading treatment or punishment, the promotion and protection of freedom of religion or belief, children and armed conflict.

The EU also publishes an annual report on the Union's policies and initiatives in the field of human rights and democracy at the international level. Added to this is the Annual Report presented by the European Parliament on its activities to promote human rights.

European Council

Italy is a founding country of the Council of Europe and is one of the major contributors to the organisation's budget. The Council of Europe aims to promote democracy, human rights, European cultural identity and the search for solutions to social problems in Europe.

"European Convention on Human Rights " (ECHR) was signed in Rome on 4 November 1950, which set up an original system of international protection of human rights, offering individuals subjects the right to invoke judicial control over the respect of their rights, through the establishment of a European Court of Human Rights based in Strasbourg. The supranational monitoring system envisaged by the ECHR and in particular the role played by the Court constitute an unprecedented model at a global level.

Notable institutions acting within the **Council of Europe** are the European Commissioner for Human Rights and the European Commission for Democracy through Law, better known as the **Venice Commission** . The Commissioner, an independent and impartial institution, has the mandate to promote respect for human rights in the 47 member states of the Council of Europe through a permanent dialogue with the respective authorities in order to promote the development of national structures for the protection of human rights .

The **Venice Commission** provides legal advice to the member countries of the **Council of Europe**, assisting them in particular in adapting their legal and institutional structures to European and international standards in the fields of democracy, human rights and the rule of law. Established in 1990, the Commission is made up of "independent experts of international renown for their experience in democratic institutions or for their contribution to the development of law and political

science”.

The role of the EU in human rights, democratization, the rule of law and therefore anti-discrimination legislation and equal opportunities policies is fundamental.

supranational element present in the integration process, the EU is in fact endowed with a system of sources and acts of secondary law that are directly effective and applicable throughout the territory of the member states.

The EU is also endowed with an institutional apparatus which operates according to and in the primary pursuit of EU interests and policies, as well as a judicial system capable of guaranteeing the uniform application and interpretation of EU law.

The institutional framework consists of **5 main institutions: the European Council , the Council of the European Union , the European Commission ; the Court of Justice of the European Union , the European Parliament or European Parliament.**

In pursuing its objectives, the EU exercises the competences attributed to it by the Treaties , some of which are of an exclusive nature, others competing with the competence of the Member States; in exercising its powers, the EU applies the principles of subsidiarity and proportionality (Principle of subsidiarity. European Union law). Furthermore, the EU is characterized by being an economic and monetary union (Economic and Monetary Union. European Union Law) and has its own institutions for the exercise of exclusive competence in monetary matters, the European Central Bank and the European System of Central Banks (**ESCB**).

1.2 Direct discrimination and indirect discrimination

Since the first draft of the law ratifying the New York Convention, *International convention on the elimination of all forms of racial discrimination*, concluded in New York on 21 December 1965 and in force since 4 January 1969, the statement regarding the discriminatory phenomenon that it intended to combat, indicated as descriptive parameters the concept of discrimination and that of racial hatred. The concept was extended to an ethnic, national or racial group, meaning that, in addition to the phenomenon of racism proper, i.e. referring to the belonging of certain individuals or communities to a certain "race", the intention was to combat the phenomena of hatred and of discrimination even when they concerned people belonging to a certain ethnic group or a certain nationality.

The notion of discrimination is described from a normative point of view in art. 1 of the New York Convention, according to which it "means any distinction, exclusion, restriction or preference based on race, color, descent or ethnic origin, which has the purpose or effect of destroying or endangering 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".

In the Italian legal system, an almost identical notion of discrimination is provided by art. 43 Legislative Decree 286/1998 (Consolidated law on immigration), albeit in exclusive correlation to the legislation in which this provision is placed: "For the purposes of this chapter, discrimination is any behavior which, directly or indirectly, involves a distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin, religious beliefs or practices, and which has the purpose or effect of destroying or impairing recognition, enjoyment or exercise, on equal terms, of human rights and fundamental freedoms in the political, economic, social and cultural fields and in any other sector of public life".

Italian jurisprudence has in turn attempted to provide a description of the discrimination. The Cassation has, for example, affirmed that, when we speak of "feeling of aversion or discrimination based on ethnic origin or color", we refer to "a feeling immediately perceptible as inherent in the exclusion of conditions of hatred religious. or he identified discrimination as a "manifest prejudice of inferiority of a single race". Reference is often made to the feeling of superiority of one's race and, conversely, of inferiority of the race or ethnic group to which the conduct is directed.

In the jurisprudence of the European Court of Human Rights, discrimination is described in a very general and broad way as already mentioned and consists in treating people who find themselves in comparable situations differently, unless objectively and reasonably justified.

The foundation of the notion provided by the Strasbourg Court is constituted by the art. 14 of the

Convention on Human Rights, which states that the enjoyment of the rights and freedoms recognized in the Convention must be ensured without any discrimination, in particular those based on sex, race, colour, language, religion, political or other opinions, national or social origin, membership of a national minority, wealth, birth or any other status.

In Italy, the point of reference is the Legislative Decree 9 July 2003, n. 216, art. 2

Concept of discrimination - equal treatment

- For the purposes of this decree and except for the provisions of article 3, paragraphs 3 to 6, the principle of equal treatment means the absence of any direct or indirect discrimination on the grounds of religion, personal beliefs, handicaps, age or sexual orientation. This principle implies that no direct or indirect discrimination is practiced, as defined below:
 - direct discrimination when, due to religion, personal beliefs, handicap, age or sexual orientation, a person is treated less favorably than another person is, has been or would be treated in a similar situation;
 - indirect discrimination when an apparently neutral disposition, criterion, practice, act, pact or behavior can put people who profess a particular religion or ideology of another nature, people with disabilities, people of a particular age or of a sexual orientation in a situation of particular disadvantage compared to other people.
- **2.** Without prejudice to the provisions of article 43, paragraphs 1 and 2 of the consolidated text of the provisions concerning the regulation of immigration and rules on the condition of foreigners, approved with legislative decree no. 286.
- **3.** Also considered as discrimination, pursuant to paragraph 1, are harassment or unwanted behaviour, carried out for one of the reasons referred to in article 1, with the purpose or effect of violating the dignity of a person and to create an intimidating, hostile, degrading, humiliating or offensive environment.
- **4.** The order to discriminate against persons on the grounds of religion, personal beliefs, handicap, age or sexual orientation is considered discrimination within the meaning of paragraph 1. The extension of the notion of discrimination to distinct groups more only from ethnic, or racial, or geographical origin, but from other connotations (e.g. religious, gender, etc.) occurs following a progressive awareness of the possible, multiple manifestations and directions of discriminatory conduct or conduct aimed at discriminating .

In part, discriminatory behavior on a religious basis also tends to have an ethnic or racial root within them, to the extent that the discriminated religion is in turn characterized, at least in the collective imagination, by links with the membership of its faithful to this or that ethnic origin (this is the case of Judaism, but also of Islam).

To a lesser extent, religiously motivated discrimination also affects followers of religions not closely linked to a certain ethnic or cultural or geographical affiliation (as in the case of Christianity).

On the other hand, as regards gender discrimination, which for a long time has affected the condition of women, in recent decades we have witnessed discriminatory manifestations against categories of subjects whose sexuality has long been considered as an anomaly, if not a pathology or a deviance (to homosexuality, in its various meanings).

In all these cases, the discriminatory conduct starts from the emphasis on diversity and belonging to certain categories or groups of people, united by a factor (ethnic or geographical origin, religious belief, sexual orientation) seen as a connotation negative, as an object of mockery, contempt, hatred, or as a sign of an alleged inferiority.

Important in the Italian legislation are the provisions regarding the civil procedure in the field of discrimination. In particular:

LEGISLATIVE DECREE 1st September 2011, n. 150

Complementary provisions to the code of civil procedure concerning the reduction and simplification of civil procedures of cognition , pursuant to article 54 of the law of 18 June 2009, n. 69. (11G0192), Entry into force of the provision: 06/10/2011

LEGISLATIVE DECREE 1 September 2011, n. 150 , *Complementary provisions to the code of civil procedure on the subject of reduction and simplification of civil proceedings of cognition, pursuant to article 54 of the law of 18 June 2009, n. 69. (11G0192) in force since 06/10/2011 (Last update to the deed published on 29/02/2020)*

1.3 The principle of equality and non-discrimination in the supranational and European system

The legal foundations of the anti-discrimination legislation are:

Treaty of Amsterdam of 17 June 1997 which was officially signed on 2 October of the same year and entered into force on 1 May 1999.

In particular, the art. 13 TEC, now art. 19 TFEU) provides:

"Without prejudice to the other provisions of this Treaty and within the framework of the competences which it confers on the Community, the Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, may take appropriate measures to combat discrimination on grounds about sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation."

This resulted in **specific Directives**:

- Directive 2000/43 of 29 June 2000, which implements the principle of equal treatment between people regardless of race or ethnic origin.
- Directive 2000/78 of 27 November 2000, which establishes a general framework for equal treatment in employment and occupational conditions.

The Charter of Fundamental Rights of the European Union.

The Charter was officially proclaimed in Nice in December 2000 by the European Parliament, the Council and the Commission. The Charter became legally binding in the EU with the entry into force of the Treaty of Lisbon in December 2009 and now has the same legal effect as the EU treaties. For the present discussion, Title III EQUALITY is important and in particular:

- **Art. 20 Equality before the law** . "All people are equal before the law."
- **Art. 21 Non- discrimination.** "Any form of discrimination based, in particular, on sex, race, skin color or ethnic or social origin, genetic characteristics, language, religion or personal beliefs is prohibited , political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation".
- **Article 23 Equality between women and men.** "Equality between women and men must be ensured in all areas, including in matters of employment, work and pay. The principle of equality does not prevent the maintenance or adoption of measures providing for specific advantages in favor of the under-represented sex".
- **Article 26 Inclusion of people with disabilities.** "The Union recognizes and respects the right of persons with disabilities to benefit from measures aimed at guaranteeing their independence, social and professional integration and participation in the life of the community".

European Convention for the Protection of Human Rights and Fundamental Freedoms

At the center of important judgments of the same Court with an impact on the internal level, the principle of ne bis in idem (art. 4); Protocol no. 12 of 4 November 2000 on the prohibition of discrimination (art. 1) and Protocol no. 13 of 3 May 2002 on the abolition of the death penalty in all circumstances; Protocol no. 14 of 28 April 2004 which amends the control system of the Convention. As previously indicated in the European Constitution of 29 October 2004, ratified by Italy with Law n. 57 of 7 April 2005, the principle of equality and anti-discrimination are indicated as the fundamental guiding principle of the Union (paragraph 1.1)

2. THE JUDICIAL PROTECTION OF DISCRIMINATED PERSONS IN EUROPE:

2.1 The jurisprudence of the Courts in the protection of discriminated subjects

The European Convention for the Protection of Human Rights and Fundamental Freedoms (**ECHR**) led to the establishment of the **European Court of Human Rights (ECtHR)**, an independent international judicial body whose task is to judge violations of the European Convention on Human Rights (**ECHR**).

Conceived within the Council of Europe , it was signed in Rome on November 4, 1950 and entered into force on September 3, 1953, it is the first of the treaties for the protection of human rights (and the most advanced in terms of control mechanisms of a judicial nature.

It was followed by **14 additional Protocols** which broadened the range of rights protected by the Convention and modified the jurisdictional mechanism of protection
SPECIFIC

The Court, established in 1959, is made up of **47 judges** (as many as there are Contracting States) elected by the Parliamentary Assembly of the Council of Europe, by majority vote, on the basis of a list of three candidates presented by each State. Judges sit in an individual capacity and their mandate lasts nine years with no possibility of re-election. The President is in office for 3 years and can be re-elected.

The Court may be referred either to the Contracting States for any failure to comply with the provisions of the Convention and its protocols by another High Contracting Party, or to individuals, non-governmental organizations or groups of individuals who claim to be victims of violations by of a Contracting State of the rights recognized in the Convention or in its Protocols.

Another regulatory point of reference in Europe which sanctions rights and freedoms and establishes the control system which guarantees their respect is also the European Social Charter, which came into force in 1999.

The Parties recognize as the objective of a policy that they will pursue with all useful means, at national and international level, the creation of conditions capable of guaranteeing the effective exercise of the following rights and principles set forth therein.

The rights guaranteed by the Charter affect all individuals in their daily lives:

Right to housing : access to adequate housing at a reasonable price for all; reduction in the number of "homeless" people; a housing policy aimed at satisfying the needs of all disadvantaged categories; provisions to limit evictions; equal access for foreigners to social housing and housing subsidies; housing and housing subsidies corresponding to the needs of families.

Right to health protection: an accessible and effective health structure for the whole population ; a disease prevention policy with a focus on ensuring a healthy environment; elimination of occupational risks to ensure in law and in practice health and safety in the workplace; right of working mothers to protection.

Right to education: free primary and secondary education; free and effective career guidance service; access to initial training (general and secondary technical education), tertiary and university technical education, vocational training, including continuing education; specific measures for foreign residents; integration of disabled children into the general education system; access for disabled people to education and career guidance.

Right to work : prohibition of forced labour; prohibition of work for young people under the age of 15 years; special working conditions for young people between 15 and 18; right to freely chosen

work; a social and economic policy aimed at achieving full employment; fair working conditions with regard to pay and working hours; protection against sexual and moral harassment; freedom to form trade unions and employers' organizations for the protection of their economic and social interests; individual freedom to adhere or not to promote joint consultations, collective negotiation, conciliation and arbitration; protection in the event of dismissal; right to strike ; access of disabled people to the world of work.

Right to legal and social protection : protection of the juridical status of the child; re-education of juvenile delinquents protection against ill-treatment and violence; prohibition of any form of exploitation (sexual or otherwise); juridical protection of the family (equality of the spouses within the couple and towards the children, protection of children in case of separation of the parents); right to social protection, social assistance and the use of social services; right to protection against poverty and social exclusion; childcare facilities; specific protective measures for the elderly.

Right to free movement of persons : right to family reunification; citizens' right to leave their country; procedural guarantees in case of expulsion; simplification of immigration formalities.

Right to non-discrimination: right of women and men to equal treatment and equal employment opportunities; guarantee of enjoying all the rights guaranteed by the Charter for citizens and aliens legally residing and/or working in the country concerned, without distinction based on race, sex, age, colour, language, religion, opinions, national or social origin, state of health or membership of a national minority; prohibition of discrimination based on family responsibilities; right of the disabled to social integration and participation in the life of the community.

The body of the Council of Europe responsible for monitoring the implementation of the Social Charter is the ECSR, the **European Committee of Social Rights**.

FUNCTIONS - COMPOSITION - DECISIONS

EU anti-discrimination rules establish a body of rights and obligations applicable in all EU countries, including procedures to help victims of discrimination, and to this are added two directives from 2000, Directive 2000/43/EC (Equality Directive irrespective of race) and Directive 2000/78/EC (Employment Equality Directive).

All EU citizens have the right to legal protection against direct and indirect discrimination, to equal treatment in employment, to receive assistance from national equality bodies and to lodge a complaint through a judicial or administrative procedure.

The organizations recognized as having the right to lodge complaints are the European Trade Union Confederation (ETUC), the Union of Industry and Employers' Confederations of Europe (UNICE) and the International Employers' Organization (OIE); non-governmental organizations (NGOs) with participatory status in the Council of Europe and registered on the list established for this purpose by the Committee; the employers' organizations and trade unions of the Contracting Party involved in the complaint; national NGOs.

The Court of Justice of the European Union (CJEU) ensures that EU law is interpreted and applied in the same way in every European country.

It also performs the function of settling legal disputes between national governments and EU institutions. It is composed of one judge from each member state and the General Court of two judges from each EU country.

The CJEU is divided into 2 sections:

- **the Court of Justice** which deals with requests for preliminary rulings from national courts and some actions for annulment and appeals;
- **the General Court** which rules on actions for annulment brought by private citizens, businesses and, in some cases, governments of EU countries.

(Functions - composition - decisions)

2.2 practical cases

OEPAC case of interest ; judgment European Court of Human Rights on Disability Première Section Affaire GL c. Italie (Requête no 59751/15) in which Italy was convicted.

Judgment of the ECtHR European Court of Human Rights First Section of 10 September 2020 - Appeal no. 59751/15 - GL case against Italy.

The Court found the violation of the principle of non-discrimination in access to school services and specialized assistance provided by law for pupils with disabilities, due to the failure to provide the service by a local authority.

Pronunciation ANALYSIS

2.3 The European anti-discrimination procedure and procedural actions for the protection of discriminated subjects.

The complaint file (specify on: CONTENT – FORM - ADMISSIBILITY CRITERIA)

The complaint is examined by the European Committee of Social Rights (**ECSR**), which, if the formal conditions are respected, decides on its admissibility.

Once the complaint is declared admissible, the written procedure begins with an exchange of views between the parties. The Committee may, if necessary, decide to organize a public meeting between the interested parties.

With reference to the European procedure for the protection of rights, the appeal to the European Court of Human Rights (**ECtHR**) has a subsidiary nature, being able to be presented only when all the possible ways of protection within the legal system have already been followed. State. The procedure for appealing to the European Court of Human Rights consists in sending it, by registered mail, the appeal form prepared by the Court itself.

The protection before the Court has a subsidiary nature because the States parties to the Convention are required to guarantee respect for human rights first of all at the national level, ensuring, in the event of a violation, the effective remedy before a national authority, with the possibility therefore, for the "accused" State to remedy the violation, avoiding an investigation. Over the years, a large number of appeals against the Italian State have been presented before the Court of Human Rights for violation of the aforementioned "reasonable term" for the duration of the trials.

A significant novelty in the procedure occurred, with **Protocol no. 11** of 11 May 1994, which established a single Court, eliminating the Commission. Thanks to these changes, today an individual can apply directly to the Court to obtain international protection of conventional rights, even against his own State, without the need for a preliminary declaration of acceptance of jurisdiction by the State in question. With the latter Protocol, the Grand Chamber was also established, made up of 17 judges, to which, as we will see, it is possible to request a review within 3 months of the ruling which, therefore, becomes definitive once said term has elapsed .

Protocol no. 14 of 13 May 2004 introduced the figure of the single judge who has jurisdiction over declarations of inadmissibility acceptance of jurisdiction by the State in question. With the latter Protocol, the Grand Chamber was also established, made up of 17 judges, to whom it is possible to request a review within 3 months of the ruling which, therefore, becomes definitive once said term has elapsed. **Protocol no. 14** of 13 May 2004 introduced the figure of the sole judge who has jurisdiction over declarations of inadmissibility.

The appeal can be lodged only by those who claim to be the victim of a violation of the Convention and its Protocols by the State which, through action or omission, does not allow the recognition of Convention rights to an individual subject to its jurisdiction. Furthermore, it is required that the quality

of victim persists during the proceedings before the European Court itself. However, the Court has established that the concept of victim also includes indirect ones: this is the case of the heirs of a victim who lodged the appeal and who dies during the proceedings, provided that the heirs demonstrate that they have a legitimate interest in the continuation of the appeal. Furthermore, it is possible to present an appeal by those who can be defined as potential victims, i.e. those affected by a measure, such as extradition, not yet ordered towards a country that applies the death penalty.

Specific on: European Court judgments and just satisfaction

Italian legislation on civil procedure in the field of discrimination. relatively to civil action :

LEGISLATIVE DECREE 1 September 2011, n. 150 , Complementary provisions to the code of civil procedure on the subject of reduction and simplification of civil proceedings of cognition, pursuant to article 54 of the law of 18 June 2009, n. 69. (11G0192) in force since 06/10/2011 (Last update upon published on 02/29/2020)

Analysis of Art. 28 Disputes regarding discrimination

Case study

SECOND LESSON – 4 HOURS

3. THE FACTORS OF DISCRIMINATION IN EUROPE

3.1 The prohibition of gender discrimination: from the Constituent Assembly to the affirmation of constitutional principles

On 2 June 1946, Italians were called to the polls to vote in the referendum on the institutional form to be given to the country and to elect 556 deputies of the Constituent Assembly which would draft the new republican constitution

For the first time, women were also allowed to vote.

In the history of the country, the elections of 2 June represented the first elections that were held by universal suffrage, all citizens, men and women, over the age of twenty-one , without distinction of sex, income and educational qualifications.

They voted to choose between **Monarchy and Republic** and to elect 556 deputies of the Constituent Assembly that would draft the new Constitution.

Those entitled to vote were about 28 million Italians. The referendum gave a favorable outcome to the Republic.

As for the Constituent Assembly, on the other hand, in order to be able to proceed with the drafting of the new Constitution in the most effective way, a select committee was set up within it called the **Commission of 75**. Composed of 75 deputies chosen according to a proportional criterion among the various parties , the Commission of 75, divided into three subcommittees, had the task of elaborating and proposing the draft Constitution to the Assembly.

The Assembly met for the first time **on July 20, 1946** ; on 28 July he appointed **Enrico De Nicola** as provisional head of state .

After six months, the draft Constitution was presented which was discussed in 173 sessions and approved on 22 December 1947.

The Constitution of the Italian Republic was promulgated by the provisional Head of State De Nicola on 27 December 1947. It entered into force on **1 January 1948**.

21 women were elected and they contributed to introducing and articulating the guiding principle of equality and non-discrimination for the Italian democratic reconstruction.

The fundamental step was when the UDI, the Union of Italian Women, submitted to the elected members of the Constituent Assembly a list of provisions in favor of women to be included in the Constitution, explicitly asking for legal equality.

As reported by the constitutional lawyer Marilisa D'Amico: "legal equality with men in every field, the

recognition of the right to work and access to all schools, professions, careers; the right to adequate protection which allows the woman to fulfill her duties as mother; equal valuation, treatment and compensation of men for equal work, performance, responsibility".

The requests of the UDI were brought by the women to the Constituent Assembly and then accepted in the constitutional text, forming a common front. Furthermore, it was thanks to the young Teresa Mattei the very important addition in the second paragraph **of the art. 3** of the expression "de facto" which imposes on the Republic the commitment (substantiality) to remove the obstacles to full personal development and effective participation.

From the reconstruction of the debates in the Assembly it emerged that there was resistance to sanctioning the effective equality between women and men, through the proposal to provide for exceptions.

The debate flared up when it was proposed to add the nativist principle of "attitudes" to the concept of elective offices, while, **in art. 37** against the expression of the role of women in society linked to the family: the choice was between "prominent role in the family" and "essential role in family function". Locutions that have two different courses.

A bitter debate also flared up on the principle of equality in the workplace both for equal pay and for protection in the workplace. In the subcommittee faced with Nilde Iotti's proposal, also supported by Dossetti and Togliatti, to introduce the paragraph "the same rights and the same treatment that are due to workers", the honorable Merlin created indignation on the part of Nilde Iotti as she believed that the formula was equivocal since it would have given rise to the interpretation of the formula in the sense that they "must have the wages due to the male worker". Other interventions specified that equal pay should be linked to equal performance, implying a presupposition of the inferiority of women in the workplace.

On this last point, the proposal to add "for the same yield" sparked an equally bitter debate.

The debate became even more heated in relation to the protection of the family function of women shared by the Communist Party and the Christian Democrats aimed at guaranteeing women "particular conditions that allow her to fulfill her work and her family mission". La Pira proposed adding the adjective "prevailing" to characterize the family mission of the woman and in the end a compromise was reached by replacing the adjective "prevailing" with "essential".

The Italian Constitution provides for legal gender equality in specific articles as indicated above, while non-discrimination is dealt with in the following paragraph.

Article 3

All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions. It is the duty of the republic to remove the economic and social obstacles which, by effectively limiting the freedom and equality of citizens, prevent the full development of the human person and the effective participation of all workers in the political, economic and social organization of the Village.

With particular reference to the genre :

Article 29

The Republic recognizes the rights of the family as a natural society founded on marriage.

Marriage is ordered on the moral and juridical equality of the spouses, with the limits established by law to guarantee family unity .

Article 37

The working woman has the same rights and, for equal work, the same wages as the worker. The working conditions must allow the fulfillment of its essential family function and ensure the mother and the child adequate special protection.

The law establishes the minimum age limit for paid work.

The Republic protects the work of minors with special rules and guarantees them, for equal work, the right to equal pay.

Article 48

All citizens, men and women, who have reached the age of majority are voters.

Voting is personal and equal, free and secret. Its exercise is a civic duty.

The law establishes the requirements and methods for exercising the right to vote for citizens residing abroad and ensures its effectiveness. To this end, a Foreign district has been established for the election of the Chambers, to which seats are assigned in the number established by the constitutional provision and according to criteria determined by the law.

The right to vote cannot be limited except for civil incapacity or as a result of an irrevocable penal sentence or in cases of moral unworthiness indicated by law.

Article 51

All citizens of either sex can access public offices and elected offices on equal terms, according to the requirements established by law. To this end, the Republic promotes equal opportunities between women and men with specific measures.

The law may, for admission to public offices and elected offices, make Italians not belonging to the Republic equal citizens.

Whoever is called to elective public functions has the right to have the time necessary to fulfill them and to keep his job .

3.2 Gender discrimination in politics and the workplace

In recent years there has been a significant increase, quantitative and qualitative, of legislative interventions on gender equality.

In Europe, since the 1960s, the problem of equal opportunities between men and women has been tackled with the drafting of five action programmes, decade after decade.

In particular, a wide range of actions have been undertaken since the 1990s to support the role of women in European society.

1997 can be considered a turning point, as a new article was introduced into the Treaty establishing the European Community (TEC), namely Article 13 (now Article 19 TFEU), which empowers the Council to take measures **to** combat discrimination based on a whole range of new grounds, including racial or ethnic origin, religion or belief, age, disability and sexual orientation.

In **2003**, this article was amended by the Treaty of Nice to allow for the adoption of incentive measures.

The 2017 European Pillar of Social Rights reaffirmed the principles of gender equality and equal opportunities.

Several directives have been adopted in this context:

- **Directive 2000/78 / EC** establishing a general framework for equal treatment in employment and occupation;
- **There directive 2006/54/EC** concerning the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation ;
- **Directive 2019/1158 / EC** on work-life balance for parents and carers which takes a broader perspective on the sharing of caring responsibilities between women and men;

The proposal for a Directive of the European Parliament and of the **Council COM (2020) 152** aimed at strengthening the application of the principle of equal pay for men and women for equal work or work of equal value through pay transparency and enforcement mechanisms .

In order to implement more active employment policies in the territory of the Union, in November 1997, the EU Member States launched the **European Employment Strategy** , the basis of which had been laid down by the **Essen European Council** of 1994.

This Strategy constitutes the cornerstone of European employment policies and is based on the four pillars of the **Treaty of Amsterdam**:

- **employability** (making sure people have the right skills);

- **entrepreneurship** (facilitating the creation of businesses and the recruitment of employees);
- **adaptability** (developing new and flexible working practices in a rapidly changing world);
- **equal opportunities** (ensuring equal conditions of access to jobs for women and men and equal treatment at work).

Through this Strategy, the promotion of employment thus becomes a matter of common interest for the European Union and obliges the Member States to coordinate their policies in order to achieve a high level of employment.

Indeed, the structure of the Strategy implies a continuous action of development and consolidation. Every year, Member States approve employment guidelines, which are then implemented through **National Action Plans (NAPs)**. The European Commission has the task of evaluating the impact of the **NAPs** on national policies, possibly formulating recommendations on the possibility of improving them.

Gender Equality Strategy 2020-2025 was presented, containing a series of actions considered essential for achieving the traditional objectives in terms of gender balance: stop violence and gender stereotypes; equal participation and opportunities in the labor market; equal pay; gender balance in decision-making and politics.

STRATEGY ANALYSIS – KEY POINTS

Furthermore, on 25 November 2020, the European Commission and the High Representative for the EU's Common Foreign and Security Policy presented the European Union Action Plan on Gender Equality – An Ambitious Agenda for Equality gender and women's empowerment in EU external action (**EU Gender Action Plan - GAP III**).

The plan includes initiatives, for the period 2021-2025, aimed at increasing the EU's commitment to gender equality, as a cross-cutting priority of external action, as well as fostering strategic engagement of the EU at multilateral, regional and national.

The Plan is aimed at increasing the EU's contribution to achieving sustainable development objective no. 5 as part of the 2030 Agenda, relating to the achievement of gender equality and the empowerment of all women and girls.

In Italy, the main novelty is constituted by the **d. lgs. 11 April 2006, no. 198**, containing the "**Code of equal opportunities between men and women**".

ANALYSIS OF THE LEGISLATIVE DECREE WHICH REPRESENTS THE GENERAL REGULATION ON THE MATTER, IN PARTICULAR: CHAPTER IV - PROMOTION OF EQUAL OPPORTUNITIES

Adoption and purpose of positive actions .

Positive actions are measures aimed at removing the obstacles which in fact prevent the creation of equal opportunities are aimed at promoting female employment and achieving substantial equality between men and women in the workplace.

Positive actions therefore have a remedial nature, they arise as a tool for the removal of conditions of inequality determined and identifiable by a historical-social factor.

ANALYSIS AND PURPOSE OF POSITIVE ACTIONS

CASE CASE

To this special discipline is added, however, a very complex legislation, which cannot be fully mentioned here but the main rules are listed below:

- **Law n. 903 of 1977** – Equal treatment of men and women in matters of work
- **Law n. 125 of 1991** – Positive actions for the realization of equality between men and women in the workplace
- **Law n. 53 of 2000** – Provisions for the support of maternity and paternity, for the right to care and training and for the coordination of city times
- **Legislative decree n. 165 of 2001** – General rules on the organization of work employed by public administrations
- **Legislative decrees n. 215 and 216 of 2003** – Legislative decrees implementing the

directives on equal treatment

- **Legislative Decree n. 198 of 2006** – Code of equal opportunities between men and women
- **Legislative Decree 25 January 2010** , n. 5 – Implementation of Directive 2006/54/EC on the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

the **Department for Equal Opportunities** .

In 1996, the Office of the Minister for Equal Opportunities was established at the Presidency of the Council of Ministers . On 12 July 1997, with the decree of the President of the Council of Ministers , the functions of the Minister were established. The Department for Equal Opportunities was established with DPCM n. 405 of 28 October 1997 , modified with the DM of 8 April 2019, the DM of 30 November 2000 , the DM of 30 September 2004 , the DPCM of 1 March 2011 and the DM of 4 December. 2012 .

FUNCTION ANALYSIS

The 2021 budget law (article 1, paragraphs 104 and 106 of Law no. 178/2020) provides for the establishment of a Women's Business Committee at the Ministry of Economic Development.

FUNCTION ANALYSIS

At the European level, the achievement of gender equality and the empowerment of all women and girls is one of the **17 Sustainable Development Goals** that countries have committed to achieve by 2030.

In Italy, legislative action in recent years has focused, on the one hand, on the world of work, which has been the subject of numerous regulatory interventions aimed at recognizing equal rights and greater protection for working women. In particular, the provisions aimed at promoting the reconciliation between life and work times (also through a bonus for babysitting services) and parenting support, as well as the provisions for contrasting the so-called blank resignation. The support instruments aimed at the creation and development of enterprises with predominantly or wholly female participation have also been strengthened .

Another line of interventions concerned the implementation of art. 51 of the Constitution, on equal access between women and men to elected offices , affecting the electoral systems present at the various levels (national, regional, local and in the European Parliament), as well as on the promotion of women's participation in the bodies of listed companies.

Increasing attention has also been paid to measures aimed at combating violence against women , pursuing three objectives: to prevent crimes, to punish the perpetrators and to protect the victims.

The centrality of issues relating to overcoming gender inequalities is also reaffirmed in the National Recovery and Resilience Plan (**PNRR**) to relaunch national development following the pandemic. In fact, the Plan identifies gender equality as one of the three transversal priorities pursued in all the missions that make up the Plan. The entire Plan will also have to be evaluated from a gender mainstreaming perspective.

In Italy, the **actions were aimed above all at work-life balance and the world of work** , in particular:

Maternity leave .

paternity leave

Mandatory paternity leave

Family leave

The parent, employee of public administrations ,)

The public administrations

Adoption of a national strategic plan for gender equality

Transfer of personnel between administrations.

Agile work

Instead of parental leave
Corporate welfare ..
Return to work of working mothers. .
Equal pay fund.
Contribution to unemployed or single-earner mothers .
Suspension of tax obligations

ANALYSES

Incentive for hiring women

Law 92/2012 recognized private employers, including non-entrepreneurs, including employers in the agricultural sector, an incentive for hiring women who find themselves in disadvantaged conditions.
SPECIFICATION OF CATEGORY OF WOMEN IN DISADVANTAGED CONDITIONS

Recent actions are aimed at increasing female employment which aim to condition their execution to the hiring of young people and women, also through training/specialization contracts which can be activated before the start of the same projects through the implementation with the art. 47 of Legislative Decree 77/2021 which indicates for the procedures relating to the stipulation of public contracts financed, in whole or in part with the resources envisaged by the National Recovery and Resilience Plan (PNRR) **and** by the National Plan for Complementary Investments (**PNC**), the Requirement of the quota of 30 per cent of recruitments to be allocated to new youth and female employment (Article 47, paragraph 4);

a Directive COM(2021) 93 - on which the Chambers have expressed the expected opinion - is being examined by the European Parliament and the Council, which aims to counter the inadequate application of the fundamental right to equal pay pay and to ensure that this right is respected throughout the EU. The proposed directive pursues these objectives:

- ensuring pay transparency within organisations;
- facilitating the application of key equality concepts
- pay, including those of "pay" and "work of equal value";
- strengthening enforcement mechanisms.

With regard to gender-based violence, the activity of the legislator continued in the XVIII legislature to introduce measures to prevent crimes of violence against women, severely punish the perpetrators and offer adequate protection to the victims. This activity is in line with the regulatory evolution already accomplished on the subject in the last legislature, with the ratification of the **Istanbul Convention (Law No. 77 of 2013)**, the amendments to the penal code and criminal procedure aimed at exacerbating the penalties for some crimes most often committed against women (Decree-Law No. 93 of 2013), the issuing of the first "Extraordinary action plan against gender-based violence" and the provision of funds to support victims.

With the Decree-law n. 93 of 2013, the legislator asked the Government to adopt extraordinary plans to combat violence against women.

The 2021-2023 Plan re-proposes the structure of the previous Plan, with an articulation in 4 thematic Axes (prevention, protection and support, prosecution and punishment, assistance and promotion) according to the lines indicated by the Istanbul Convention, each of which **are** linked specific **priorities**.

PLAN ANALYSIS

In relation to the world of work, the constitutional references already indicated in art. 37 of the Constitution:

The working woman has the same rights and, for equal work, the same wages as the worker. The working conditions must allow the fulfillment of its essential family function and ensure the mother and the child adequate special protection.

The law establishes the minimum age limit for paid work.

The Republic protects the work of minors with special rules and guarantees them, for equal work,

the right to equal pay.

With reference to elected offices and the world of work, a large step forward was made with the introduction of Legislative Decree Of 11 April 2006, n. 198, containing the " **Code of equal opportunities between men and women** ". ANALYSIS OF THE MAIN STEPS.

Other legislation is added to this special discipline.

With regard to **elected offices** , in Italy, the prohibition of discrimination is set forth in art. 51 of the Constitution:

All citizens of either sex can access public offices and elected offices on equal terms, according to the requirements established by law. To this end, the Republic promotes equal opportunities between women and men with specific measures.

The law may, for admission to public offices and elected offices, make Italians not belonging to the Republic equal citizens.

Whoever is called to elective public functions has the right to have the time necessary for their fulfillment and to keep his job.

In relation to gender discrimination in elected offices, the Constitution then underwent modifications of a certain importance.

In particular, the art. 51 underwent a change: initially, it only established that "All citizens of one or the other sex can access public offices and elected offices in conditions of equality, according to the requirements established by law". Now, with the Constitutional Law of 30 May 2003, n. 1, a second sentence was added, "To this end, the Republic promotes equal opportunities between women and men with specific provisions".

Even with the reform of the art. 117, paragraph 7, introduced by art. 3 of the Constitutional Law. of 18 October 2001, n. 3, there is something new: " The regional laws remove all obstacles that prevent the full equality of men and women in social, cultural and economic life and promote equal access between women and men to elected offices".

Alongside these references, other important indications follow :

- in the text reformed by the law 3 November 2017, no. 165, establishes that in each list candidates must be placed "according to an alternating order of gender" and an identical rule is dictated by art. 9, paragraph 4, of Legislative Decree lgs. 20 December 1993, no. 533 ("Consolidated text of the laws on the election of the Senate of the Republic").
- the art. 56 of the Equal Opportunities Code, provides for favorable rules for women's access to the European Parliament;
- the art. 4, paragraph 1, lett. c-bis) of the Law of 2 July 2004, n. 165, regarding regional elections, establishes that the regional electoral laws must respect some fundamental principles; in particular, they must observe that of the "promotion of equal opportunities between women and men in accessing elected offices, providing that:
 - if the electoral law provides for the expression of preferences, in each list the candidates are present in such a way that those of the same sex do not exceed 60 per cent of the total and the expression of at least two preferences is permitted, one of which is reserved for a candidate of a different sex, under penalty of annulment of the preferences subsequent to the first one.
 - if lists without expression of preferences are envisaged, the electoral law provides for the alternation between candidates of different sexes, in such a way that candidates of one sex do not exceed 60 percent of the total;
 - if single-member constituencies are envisaged, the electoral law regulates the balance between candidates presented with the same symbol in such a way that candidates of one gender do not exceed 60 per cent of the total".

In recent legislatures, regulatory measures have been introduced aimed at promoting gender balance within elective assemblies, not only in Europe, but also local, regional and national (Law No. 215/2012 for municipal elections; the Law No. 56/2014 for the elections - of second degree - of the metropolitan and provincial councils; Law No. 20/2016 for the elections of the regional councils; Law

No. 165/2017 for the elections to Parliament.

Promotional measures of equal opportunities have also been included in the most recent provisions concerning the regulation of political parties.

The provisions of the 2008 Finance Law also derive from the constitutional amendment of article 51, which, by regulating the organization of the national government, establish that its composition must be consistent with the constitutional principle of equal opportunities in accessing public offices and elective offices (art. 1, paragraphs 376-377, Law 244/2007)

In terms of **the labor market and business** :

- Law n. 125 of 1991 – Positive actions for the realization of equality between men and women in the workplace
- Law n. 53 of 2000 – Provisions for the support of maternity and paternity, for the right to care and training and for the coordination of city times
- Legislative decree n. 165 of 2001 – General rules on the organization of work employed by public administrations
- Legislative decrees n. 215 and 216 of 2003 – Legislative decrees implementing the directives on equal treatment
- Legislative Decree n. 198 of 2006 – Code of equal opportunities between men and women
- Legislative Decree 25 January 2010, n. 5 – Implementation of Directive 2006/54/EC on the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.
- Already in 1992, the legislator provided for positive actions for female entrepreneurship with the Law of 25 February 1992, n. 215, providing provisions for companies with predominantly female participation and on its legitimacy, the Constitutional Court ruled in favour , with sent . Sent. no. 109 of 1993. providing that the interventions envisaged by Law 215/1992, constituted "interventions of a positive nature aimed at filling or, in any case, at attenuating an evident imbalance to the detriment of women, who, due to discrimination accumulated over the course of past history due to the domination of certain social behaviors and cultural models, it has led to favoring males in the occupation of the positions of entrepreneur or company manager".
- the modification, first in 2011, then, in 2019 of the art. 147-ter of Legislative Decree lgs. 24 February 1998, no. 58 "Consolidated text of provisions on financial intermediation" establishing that the statute of listed companies provides that the distribution of directors to be elected is carried out on the basis of a criterion that ensures balance between genders. the least represented gender must obtain at least two-fifths of elected directors. This distribution criterion is applied for six consecutive mandates" (paragraph 1-ter).

At the European level, the achievement of gender equality and the empowerment of all women and girls is one of the 17 Sustainable Development Goals that countries have committed to achieve by 2030.

In Italy, legislative action in recent years has focused, on the one hand, on the world of work, which has been the subject of numerous regulatory interventions aimed at recognizing equal rights and greater protection for working women. In particular, the provisions aimed at promoting the reconciliation between life and work times (also through a bonus for babysitting services) and parenting support, as well as the provisions for contrasting the so-called blank resignation. The support instruments aimed at the creation and development of enterprises with predominantly or wholly female participation have also been strengthened .

Another line of interventions concerned the implementation of art. 51 of the Constitution, on equal access between women and men to elected offices , affecting the electoral systems present at the various levels (national, regional, local and in the European Parliament), as well as on the promotion of women's participation in the bodies of listed companies.

Increasing attention has also been paid to measures aimed at combating violence against women ,

pursuing three objectives: to prevent crimes, to punish the perpetrators and to protect the victims. The centrality of issues relating to overcoming gender inequalities is also reaffirmed in the National Recovery and Resilience Plan (**PNRR**) to relaunch national development following the pandemic. In fact, the Plan identifies gender equality as one of the three transversal priorities pursued in all the missions that make up the Plan. The entire Plan will also have to be evaluated from a gender mainstreaming perspective.

The resources of the **PNRR** definitely strengthen the picture. The law of 30 December 2020, n. 178 established the Women's Enterprise Fund and provided that the Fund could grant non-repayable grants for the start-up of women's enterprises (with particular attention to sole proprietorships, freelance activities and activities started by unemployed women of any age); as well as zero-interest or subsidized loans to start and support the activities of women's businesses. The combination of grants and loans is also permitted.

The activities must focus on collaboration with the regions and local authorities, with trade associations, with the chambers of commerce system and with the committees for women's entrepreneurship, also through forms of co-financing between the respective programs on the subject. The Minister of Economic Development must then annually submit to the Chambers a report on the activity carried out and on the possible measures to be taken to solve the problems relating to the participation of the female population in the economic and entrepreneurial life of the country. To this end, the law provides for the establishment of the Women's Business Committee, which the Minister uses to carry out the activities indicated above.

The Interministerial Decree of 30 September 2021, adopted by the Ministry of Economic Development in agreement with the Minister of Economy and Finance and with the Minister for Equal Opportunities and the Family, regulates the scope of application, the aims of the intervention, the distribution of the financial endowment of the Fund and the implementation methods of the subsidy interventions from it, divided into the following lines of action:

incentives for the birth and development of women's businesses
incentives for the development and consolidation of women's businesses;
actions for the dissemination of culture and entrepreneurial training for women.

The Legislative Decree n. 34/2019 (L. n. 58/2019) introduces measures aimed at supporting, through facilitated conditions of access to credit, the creation of micro and small enterprises with predominantly or total participation by young people or women, throughout the national territory. The subsidized zero-interest mortgages have a maximum duration of ten years (instead of 8 as envisaged before decree-law no. 34/2019) and for an amount not exceeding 75% of the eligible expenditure within the limits permitted by the state aid regulations of minor importance, so-called "de minimis " (Regulation (EU) No. 1407/2013), whereby the amount of the aid - in terms of interest relief - cannot exceed 200,000 euros over three financial years. The intervention in question was strengthened with the 2020 budget law (Law n. 160/2019 art. 1, paragraph 90, letter d)), which introduced the possibility of integrating the subsidized loans referred to in chapter 01 of Legislative Decree no. 185/2000, with a non-repayable quota (cf. infra), granted with an over the counter procedure, in an amount not exceeding 20 per cent of eligible expenses.

The investment initiatives must concern the production of goods in the sectors of industry, handicrafts, the transformation of agricultural products or the provision of services in any sector, including commerce and tourism, as well as initiatives relating to other sectors of particular relevance for the development of youth entrepreneurship (identified by the implementing inter-ministerial decree).

The beneficiaries are the companies:

- **established no more than sixty months before the date of submission of the application for subsidy;**
- **of micro and small size;**
- **established in corporate form;**

- in which the team is made up, for more than half of the members and participation shares, by persons aged between 18 and 35 or by women.

The XI Commission (Labour) of the Chamber is examining some bills which contain provisions aimed at the employment of women victims of gender-based violence. In particular, the proposals intend to ensure this objective both through the recognition of tax breaks for the hiring of women victims of violence, and through the inclusion of the same in protected categories for the purposes of compulsory placement in the workplace.

The tools to support the creation and development of enterprises with a prevalent or total female participation have undergone a consistent implementation. Recent legislative interventions have on the one hand strengthened credit support and on the other introduced forms of direct support, together with actions for the dissemination of entrepreneurial culture among the female population, entrusted to public bodies in charge of this. The Women's Business Committee was set up - pursuant to the provisions of the 2021 budget law - at the Ministry of Economic Development and its powers include that of formulating recommendations relating to the state of legislation and administrative action, national and regional, in subject of female entrepreneurship and on the themes of the presence of women in business and in the economy.

The resources of the **PNRR** definitely strengthen the picture. The law of 30 December 2020, n. 178 established the Women's Enterprise Fund and provided that the Fund could grant non-repayable grants for the start-up of women's enterprises (with particular attention to sole proprietorships, freelance activities and activities started by unemployed women of any age); as well as zero-interest or subsidized loans to start and support the activities of women's businesses. The combination of grants and loans is also permitted.

The activities must focus on collaboration with the regions and local authorities, with trade associations, with the chambers of commerce system and with the committees for women's entrepreneurship, also through forms of co-financing between the respective programs on the subject.

The Minister of Economic Development must then annually submit to the Chambers a report on the activity carried out and on the possible measures to be taken to solve the problems relating to the participation of the female population in the economic and entrepreneurial life of the country. To this end, the law provides for the establishment of the Women's Business Committee, which the Minister uses to carry out the activities indicated above.

3.3 Discrimination of persons with disabilities

The United Nations Convention on the Rights of Persons with Disabilities , of 13 December 2006 ratified by Italy with Law 18/2009 commits Member States to recognize the right of persons with disabilities, to "Promote, protect and guarantee the full and equal enjoyment of all rights, rights and all fundamental freedoms by persons with disabilities, and to promote respect for their intrinsic dignity". [...] "Respect for intrinsic dignity , individual autonomy, including the freedom to make one's own choices, and people's independence; non-discrimination; full and effective participation and inclusion in society; respect for difference and acceptance of people with disabilities as part of human diversity and humanity itself; equal opportunities; accessibility ; _ equality between men and women; respect for the development of the abilities of children with disabilities and respect for the right of children with disabilities to preserve their identity" [...] " To raise awareness in society as a whole, including at the family level, on the situation of people with disabilities ; increase respect for the rights and dignity of persons with disabilities; combat stereotypes, prejudices and harmful practices concerning persons with disabilities, including those based on gender and age, in all areas; promote awareness of the capabilities and contributions of persons with disabilities" [...] to live independently and be included in society, to the recognition of the right to education, work and participation in cultural and recreational life,

The Convention on the rights of children and adolescents , adopted by the United Nations General Assembly on 20 November 1989, ratified by the Italian Parliament with Law no. 176 of 1991,

provides in art. 23, co. 3, that "minors with disabilities have effective access to education, training [...] and can benefit from these services in a manner capable of realizing the most complete social integration and their personal development, also in the cultural and spiritual", by virtue of the right to education recognized to them in **art. 28**;

Law 104/1992 "Framework law for assistance, social integration and the rights of disabled people" is important . GU 17 February 1992, n. 39 (the text to be consulted is the one in force after the last modifications introduced by the Law of 8 March 2000, n. 53 and by the legislative decree of 26 March 2001, n. 151). ART. ANALYSIS 1;12;13.

The right to education is also guaranteed **by art. 14 of the Charter of Fundamental Rights of the European Union** of 2000 which underlines the centrality of the person, the right of every individual to education and professional training, as well as recognizes and respects the right of persons with disabilities to benefit from measures aimed at guaranteeing their autonomy, social and professional integration and participation in the life of the community.

The revised **European Social Charter** (ETS n. 163), opened for signature on 3 May 1996 and ratified by Italy on 5 July 1999. ANALYSIS ART. 15

Rec Recommendation (2006) 5 of the Committee of Ministers to member states on the Council of Europe Action Plan for the promotion of the rights and full participation of persons with disabilities : Improving the quality of life of persons with disabilities in Europe 2006-2015, adopted on 5 April 2006, provides for several lines of action, including the fourth .
ANALYSIS OF ACTION LINE N. 4 EDUCATION and of the specific actions to be taken by the Member States

On 30 January 2015, the Parliamentary Assembly of the Council of Europe adopted **Recommendation 2064 (2015)**, entitled
«Equality and inclusion of people with disabilities»,
STEPS ANALYSIS

Since 2013, the Ministry of Labor has launched an experiment to create a homogeneous model in all 20 Regions regarding the independent life of people with disabilities to ensure equality and inclusion.

The **goal is to apply article 19** of the **UN Convention** in a concrete way , relating to independent life and inclusion in society, sharing criteria, requirements, indicators on the part of Regions and local bodies.

The first action proposed is to counter the isolation and segregation of people with disabilities.

The promoters are the Ministry of Labor and Social Policies and the State-Regions Conference. The collaborators are **OND, ANCI, ISTAT** , the Organizations of people with disabilities and others of the Third Sector and the Ministry of Health.

SPECIFICATION : Two-year action program for the promotion of the rights and integration of people with disabilities :

The support structure used by the Minister for the promotion and coordination of government action in the field of disability is the Office for policies in favor of persons with disabilities ANALYSIS OF FUNCTIONS AND COMPETENCES.

In March 2021, the European Commission adopted the Strategy for the Rights of Persons with Disabilities 2021-2030 . With this ten-year strategy, the European Commission intends to improve the lives of people with disabilities in Europe and in the world. The strategy builds on the achievements of the previous European Disability Strategy 2010-2020 , which paved the way towards a barrier-free Europe and towards the empowerment of people with disabilities to enjoy their rights and participate fully in society and life. 'economy.

This new, enhanced strategy takes into account different disabilities, including long-term physical, mental, intellectual or sensory impairments (in line with Article 1 of the United Nations Convention on the Rights of Persons with Disabilities), often invisible.

It takes into account the risks of multiple disadvantage faced by women, children, the elderly, refugees with disabilities and people with socio-economic difficulties, and promotes a cross-sectoral perspective in line with the United Nations 2030 Agenda for Sustainable Development and the Sustainable Development Goals (OSS).

The new strategy therefore includes an ambitious set of actions and initiatives in various sectors and has numerous priorities, including:

accessibility: the possibility to move and reside freely, but also to participate in the democratic process, a decent quality of life and the possibility to live independently, as it focuses in particular on deinstitutionalisation, social protection and non-discrimination in the workplace , equal participation, as it aims to effectively protect persons with disabilities from all forms of discrimination and violence, to ensure equal opportunities and access to justice, education, culture, sport and tourism, but also equal access to all health services.

Main initiatives

AccessibleEU : a database with information and good practices on accessibility in all sectors **(by the end of 2022)**

European Disability Card : will be proposed by the European Commission and will be valid in all EU countries. The card will make it easier for disabled people to obtain adequate support when traveling or moving to another EU country **(by the end of 2023)**.

Guidelines with recommendations to Member States on how to improve independent living and inclusion in the community of people with disabilities, allowing them to choose whether to live in accessible and supported accommodation or to continue living in their own homes (2023) .

A framework for social services of excellence for people with disabilities **(2024)**

A package to improve the integration of people with disabilities into the labor market **(to be launched in the second half of 2022)**

Platform on Disability : Brings together national authorities responsible for implementing the Convention, organizations of persons with disabilities and the Commission. It supports the implementation of the strategy and strengthens collaboration and exchanges to this end.

New human resources strategy of the European Commission, including actions to promote the diversity and inclusion of people with disabilities.

3.4. Religious discrimination

The reference point of the European legislation in the anti-discrimination law on the basis of religious confession is article 17 of the Treaty on the Functioning of the European Union (TFEU)

- The Union respects and does not prejudice the status of which churches and associations or communities
- religious rights enjoy in the Member States by virtue of national law.
- The Union equally respects the status which philosophical and non-confessional organizations enjoy under national law.
- Recognizing their identity and specific contribution, the Union maintains an open, transparent and regular dialogue with these churches and organisations.

The European Parliament has implemented the provisions of the Treaty through the designation by the President of a Vice-President responsible for conducting the dialogue, as well as through a number of specific decisions aimed at establishing the relevant framework.

ANALYSIS OF THE ELEMENTS OF THE IMPLEMENTATION OF ARTICLE 17 TFEU by the European Parliament.

With regard to internal regulatory sources :

The art. 8 of the Constitution provides

All religious denominations are equally free before the law [cf. articles 19 , 20].

Religious confessions other than the Catholic have the right to organize themselves according to their own statutes, as long as they do not conflict with the Italian legal system.

Their relations with the State are regulated by law on the basis of agreements with the relative representations.

The art. 19

Everyone has the right to freely profess their religious faith in any form, individually or in groups, to advertise it and to worship it in private or in public, provided that the rites are not contrary to morality

Article 20

The ecclesiastical character and the religious or cult purpose of an association or institution cannot be the cause of special legislative limitations, nor of special tax burdens for its constitution, juridical capacity and any form of activity.

Many agreements have been entered into with the law with individual religious confessions, in particular with:

- the Waldensian Table (law 11 August 1984, no. 449; law 5 October 1993, no. 409; law 8 June no. 68);
- the Italian Union of Seventh- day Adventist Christian Churches (Law No. 516 of 22 November 1988; Law No. 637 of 20 December 1996; Law No. 67 of 8 June 2009);
- the Assemblies of God in Italy (law 22 November 1988, n. 517);
- the Union of Italian Jewish Communities - UCEI (law 8 March 1989, no. 101; law 20 December 1996, no. 638);
- the Christian Evangelical Baptist Union of Italy - UCEBI (l. 12 April 1995, n. 116; l. 12 March 2012, n. 34);
- the Evangelical Lutheran Church in Italy - CELI (l. 29 November 1995, n. 520);
- the Sacred Archdiocese of Italy and Exarchate for Southern Europe (l. 30 July 2012, n. 126);
- the Church of Jesus Christ of Latter-day Saints (l. 30 July 2012, n. 127);
- the Apostolic Church in Italy (law 30 July 2012, n. 128);
- the Italian Buddhist Union - UBI (law 31 December 2012, n. 245);
- the Italian Hindu Union - UII (law 31 December 2012, n. 246).

Legislative Decree 216/2003 – **Art. 1:** "This decree contains the provisions relating to the implementation of equal treatment between people regardless of religion, personal beliefs ..." More limited scope of application pursuant to art. 3: employment related matters only, access, employment, vocational guidance and training, affiliations within professional organisations.

Legislative Decree no. 286/1998 (Consolidated law on immigration) – **Art. 43** : "For the purposes of this chapter, discrimination is constituted by any behavior which, directly or indirectly, involves a distinction, exclusion, restriction or preference based on ... the beliefs and practices religious beliefs"

Statute of workers - Art. 8: Prohibition of investigations into the religious opinions of the aspiring worker and the worker

Legislative Decree 276/2003 – **Art. 10** : Prohibition for employment agencies and other authorized or accredited public and private subjects to carry out any investigation or in any case data processing or to pre-select workers, even with their consent, on the basis of personal beliefs and religious creed. With regard to what can be defined as religion, the ECtHR considers religious beliefs, convictions endowed with «sufficient strength, seriousness, cohesion and importance».

The Legislative Decree no. 251/2007, implementation of directive 83/2004 on the subject of refugee status: the term religion includes "theistic, non-theistic and atheistic beliefs".

3.5 Discrimination based on sexual orientation

The prohibition of discrimination based on sexual orientation is clearly expressed both in the Treaty on the Functioning of the European Union (TFEU), which establishes that the Union aims in all its activities to combat discrimination on the basis of various factors, including sexual orientation, taking the appropriate measures (articles 10 and 19), both in art. 21 of the Charter of Fundamental Rights.

Directive 2000/78/EC , which establishes a general framework for equal treatment in the field of employment and working conditions, transposed into Italian law with Legislative Decree no. 216 of 9 July 2003, in reaffirming the universal right of everyone to equality before the law and to protection against discrimination as a universal right, is aimed at making the principle of equal treatment effective in the Member States by combating discrimination based on religion or belief, disability, age or sexual orientation in the workplace.

At the European level, the Guidelines for the promotion and protection of the exercise of all human rights by lesbian, gay, bisexual, transgender and intersex people adopted by the European Council on 24 June 2013 (11153/13) and the Conclusions of the European Council of 16 June 2016 which invite "Member States to strengthen and continue to support the action of institutional mechanisms, including national bodies for equal opportunities, which are essential tools for the non-discrimination of LGBTI **people** ", as well as to "act to combat discrimination on the basis of sexual orientation and gender identity".

There are also numerous Resolutions adopted over time by the European Parliament, including the Resolution of 4 February 2014 on the EU Road Map against homophobia and discrimination linked to sexual orientation and gender identity, which invites the European Commission, the Member States and the competent agencies to collaborate in the definition of a global multiannual policy for the protection of the fundamental rights of LGBT+ people and identify the priority themes and objectives.

The "List of actions to promote LGBTI equality", adopted by the European Commission in 2016, represents an articulated framework of commitments for the Member States.

Since its publication, the Commission has undertaken different types of actions, ranging from supporting MS to improve lawmaking to awareness-raising and best practice exchange initiatives.

With the Resolution of 14 February 2019 adopted by the European **Parliament** on the future of the **LGBTI List of actions** , the European Parliament invites the Commission, among other things, to ensure that the rights of LGBT+ people are given priority in its work program for the period 2019-2024 and to strengthen cooperation between different DGs in areas where LGBT+ rights should be mainstreamed, such as education and health, to adopt a new strategic document to promote equality for LGBT+ people, to involve organizations of civil society in developing its future list of actions to advance LGBT+ equality, to integrate a cross-sectoral perspective into its future work on LGBT+ rights .

On 14 February 2019, the European Parliament approved the first **Resolution on the rights of intersex people** with which, in addition to condemning the violence and non-consensual treatments to which intersex people are exposed, it invites Member States to make commitments to guarantee non-discrimination and fight the stigmatization.

With the **Resolution of 11 March 2021**, the European Parliament proclaimed the European Union as a zone of freedom for LGBTIQ people, considering that all Member States have assumed obligations and duties, within the framework of international law and EU treaties, respect, guarantee, protection and enforcement of fundamental rights and that the fight against inequalities in the EU is a shared responsibility that requires joint commitment and action at all levels of government and that the regression against LGBT+ people is often accompanied by a wider deterioration of the situation of democracy, the rule of law and fundamental rights.

At international and European level on the equality of LGBT+ people there is also the Recommendation Rec **CM2010(05)** of the Committee of Ministers of the Council of Europe to member states on measures aimed at combating discrimination based on sexual orientation or gender identity (adopted on 31 March 2010), in implementation of which Italy has drafted the first National LGBT Strategy (2013-2015), adopted in Italy with Ministerial Decree of 19 April 2013.

The Recommendation has represented a support tool for national and local policies in the matter in question, in compliance with the obligations assumed at international and European level because it invites States to equip themselves with an adequate legal framework to guarantee equal treatment and at the same time to activate policies specifically aimed at preventing and combating discrimination.

In Italy, the National LGBT+ Strategy 2022 - 2025 for the prevention and fight against discrimination based on sexual orientation and gender identity is important, which sets four key objectives
STRATEGY ANALYSIS

THIRD LESSON – 4 HOURS

3.6 Racial discrimination in European legislation

In European legislation, different legal bases tend to generate different regulations which give individual grounds of discrimination different protections, both for the scope of application of the prohibitions and for the specific regulations contained in the various regulatory acts.

Already in the art. 19 TFEU, ethnic origin is placed side by side with race, integrating the word that most evokes physical characteristics (race) with reference to the cultural dimension of the group to which one belongs (ethnic origin).

Race and ethnic origin therefore come to constitute a single notion, such as to avoid situations that are not protected for mere terminological reasons.

On the other hand, differences in treatment based on nationality, which will be discussed later, are expressly excluded .

The source of European law is directive 2000/43/EC which implements the principle of equal treatment between people regardless of race or ethnic origin .

The directive is based on the principle of equal treatment between people and prohibits any direct or indirect discrimination, harassment and any behavior which obliges a person to discriminate against another person in various areas:

- access to employment .
- working conditions, including promotion, remuneration and dismissal.
- access at the training professional .
- the participation of workers' or employers' organizations and in any professional organisation
- access to social protection and health care.
- education
- the performance social
- access to goods and services, including housing.

The directive does not prevent EU countries from adopting positive measures, i.e. national measures aimed at avoiding or compensating for disadvantages associated with a particular racial or ethnic origin.

The directive also indicates the means of redress and enforcement.

All persons who consider themselves to be victims of discrimination on the grounds of racial or ethnic origin must have access to judicial and/or administrative procedures.

The associations or other legal persons concerned may also initiate legal proceedings on behalf of or in support of the person who considers himself injured.

The victim of discrimination need only establish a presumption of discrimination, after which it is up to the respondent party to prove that there has been no discrimination.

The directive commits states to setting up a body responsible for combating discrimination, responsible in particular for helping victims and conducting independent studies.

Despite the legislation, the conclusions of the 2019 Fundamental Rights Report by the European Union Agency for Fundamental Rights (FRA) confirmed that ethnic minorities and migrants continue to face harassment and discrimination across the EU .

The report also notes that only a few Member States have specific strategies and action plans to combat racism and ethnic discrimination and, moreover, there are still gaps in national legislation which should criminalize racism.

THE European Committee of the Regions, 7 May 2021 on the EU Action Plan against Racism 2020-2025, **COM (2020) 565** , expresses concern about the findings of the special Eurobarometer on discrimination in the EU underlines that the Commission recognizes that structural racism exists and is an integral part of the social, economic and political system in which we all live, address this issue using global policies.

A modification of the approach to racism in the EU is indicated, firstly, by indicating the Commission's commitment to carry out a comprehensive evaluation of the existing European legal framework on the fight against discrimination, racism and xenophobia and the monitoring of implementation of the Racial Equality Directive.

It welcomes the importance that the EU Action Plan against Racism **2020-2025** gives local and regional authorities a central role in finding solutions to fight racism, due to their proximity to citizens. Local and regional authorities play a crucial role in promoting and respecting European values, and that they are at the forefront of fighting racism and hate speech, protecting vulnerable groups and minorities, as well as promoting of social cohesion; calls for local and regional authorities to be recognized as strategic partners in drawing up, implementing and monitoring national action plans, given their responsibilities and the important work done in their fields of competence to combat racism;

The fundamental role played by local and regional authorities in promoting awareness, training and education against racism, especially among young people, is underlined.

It is considered of utmost importance to allocate financial resources for local and regional authorities under the long-term budget 2021-2027, **from EU funds and Next Generation EU** , in order to promote social inclusion and fight against racism and discrimination in areas such as access to the labor market, education, social protection, health care and housing. This includes paying special attention to the most vulnerable groups and allocating resources specifically to ensure the protection of unaccompanied migrant minors, for whom local and regional authorities are in many cases responsible; stresses the importance of involving national, regional and local authorities as well as civil society in order to give legitimacy to national action plans against racism and to fight racism more effectively in Europe. It is also important to exchange good practices between different countries and local and regional authorities, sharing the objectives and actions foreseen in the anti-racism plans elaborated by the different levels of government .

In the Italian legal system, the anti-discrimination provisions relating to racial discrimination have found space within the criminal law since 1975 with the **Law, n. 654., 3 October 1975** which punishes the manifestations of racial discrimination with the penalty.

Subsequently, **the Mancino Law** (DL122/1993 converted with amendments into **Law 205/1993**) punishes:

- with imprisonment of up to three years whoever spreads in any way ideas based on racial or ethnic superiority or hatred, or incites to commit or commits acts of discrimination on racial, ethnic, national or religious grounds;
- with imprisonment from six months to four years whoever, in any way, incites to commit or commits violence or acts of provocation to violence for racial, ethnic, national or religious reasons". A new offense is then introduced which punishes "anyone who, in public meetings, makes outward displays or ostentatious emblems or symbols typical or usual of the organisations, associations, movements or groups referred to in article 3" of Law 654/1975.

Also important is Law 85/2006 and the reform of crimes of opinion. In the context of a more complex and articulated reform of **crimes of opinion** , the recent law 85/2006, in art. 13, has further modified the art. 3 paragraph 1 of law 654/1975. in particular:

- **in letter a)**, in addition to a further reduction of the penalty (which is now an alternative: imprisonment of up to one year and six months, or a fine of up to 6,000 euros), the defining terms of the criminally relevant conduct are changed: it is punished no longer

- who "spreads in any way", but who "propaganda ideas based on racial or ethnic superiority or hatred"; no longer who "incites", but who "instigates to commit or commits acts of discrimination for racial, ethnic, national or religious reasons";
- **under letter b)**, those who "incite" are now punished no longer, but those who "instigate or commit violence or acts of provocation to violence for racial, ethnic, national or religious reasons".

With legislative decree of 9 July 2003, n. 215, implementation of the community directive n. 2000/43 CE, the Office for the promotion of equal treatment and the removal of discrimination based on race or ethnic origin (**UNAR**) was established in order to ensure equal treatment between people and overcome discrimination.

The UNAR was established within the Department for Equal Opportunities of the Presidency of the Council of Ministers and carries out the function of guaranteeing, in full independence of judgment and in conditions of impartiality, the effectiveness of the principle of equal treatment between people, to supervise the effectiveness of the existing protection tools against discrimination and to help eliminate discrimination based on race and ethnic origin by analyzing the different impact that they have on gender and their relationship with other forms of racism of a cultural and religious nature.

ANALYSIS OF UNAR FUNCTIONS AND SKILLS

3.7. Discrimination based on nationality and residence permit

In directive 2000/43/EC as in art . 19 TFEU, ethnic origin is placed side by side with race, integrating the word that most evokes physical characteristics (**race**) with the reference to the cultural dimension of the group to which one belongs (**ethnic origin**). Race and ethnic origin therefore come to constitute a single notion, such as to avoid situations that are not protected for mere terminological reasons. However, differences in treatment based on nationality are expressly excluded .

The prohibition of discrimination on the basis of nationality, in fact, is exclusively governed by art . 18 TFEU with the consequence that any legal act relating to discrimination on grounds of nationality must be based on it .

The separate discipline finds confirmation in the prevailing interpretation of art. 18 TFEU as applicable only to European citizens and the current status of third country nationals.

Although the art . 18 and the various declinations of the prohibition of discrimination on grounds of nationality enshrined in the Treaty do not apply to citizens of third countries, there are now numerous obligations imposed on States to guarantee equal treatment to these citizens, sanctioned in the directives on the matter of immigration and asylum.

In fact, we observe an increasingly consistent development of both European and supranational anti-discrimination legislation, aimed at affirming a principle of equal treatment in access to social security benefits, regardless of the applicant's nationality .

In Italy, the juridical condition of the foreigner is governed by the Law of 6 March 1998, n. 40 containing "Regulations on immigration and rules on the condition of foreigners" in which there is explicit or implicit reference to the prohibition of discrimination.

CASE EXAMPLES

In particular:

Article 17, paragraph 1

"In no case can expulsion or refoulement be ordered to a State in which the foreigner may be subject to persecution for reasons of race, sex, language, citizenship, religion, political opinions, personal or social conditions , or may risk being sent back to another State where he is not protected from persecution"

Article 40, paragraph 1, lett. c)

"The State, the regions, the provinces and the municipalities, within the scope of their competences, also in collaboration with the associations of foreigners and with the organizations permanently operating in their favour, as well as in collaboration with the authorities or with public and private

bodies of the countries of origin, favor: [...] the knowledge and enhancement of the cultural, recreational, social, economic and religious expressions of foreigners legally residing in Italy and any information initiative on the causes of immigration and the prevention of racial or of xenophobia, also through the collection in school and university libraries of books, periodicals and audiovisual material produced in the original language of the countries of origin of foreigners residing in Italy or coming from them"

Article 41, paragraph 1

"For the purposes of this chapter, discrimination is any conduct which, directly or indirectly, leads to a distinction, exclusion, restriction or preference based on race, colour, ancestry or national or ethnic origin, religious beliefs and practices , and which has the purpose or effect of destroying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural and any other fields sector of public life

Article 42, paragraph 1

"When the behavior of a private individual or public administration produces discrimination on racial, ethnic, national or religious grounds, the judge may, upon request of a party, order the cessation of the prejudicial behavior and adopt any other suitable measure, according to the circumstances, to remove the effects of discrimination".

For a long time, access to social benefits was limited only to foreigners holding an EU residence permit for long-term residents.

However, albeit through a lengthy judicial process in recent years - foreign family members of citizens, holders of refugee status and international protection have also been included among the potential beneficiaries.

Directive 2011/95 establishes that EU Member States must ensure “ that beneficiaries of international protection receive, in the Member State which granted such protection, adequate social assistance, on the same basis as nationals of the Member State in question ” .

Reading the various regulatory provisions contained in the successive European directives for regulating the status of third-country nationals legally residing in one of the Member States allows, on the other hand, to include among the subjects entitled to use these services all citizens from third countries who are legally resident on Italian territory according to a residence permit which allows them to be classified as a permanent and not an occasional residence.

The categories of foreigners basically excluded from these rights and the reference provisions which instead extend the protection in their favor, through the provision of a non-discrimination clause, are schematically indicated:

1. **Holders of a single work permit : a principle of** equal treatment applies to them pursuant to article 12 of directive 2011/98 which provides that " the workers referred to in paragraph 1, letters b) c) (i.e. citizens third-country nationals who have been admitted to a Member State for purposes other than employment who are allowed to work and third-country nationals who have been admitted to a Member State for employment purposes) benefit from the same confidential treatment to citizens of the Member State in which they reside e) the sectors of social security as defined by EC regulation 883/2004 "
2. **Blue Card holders** (highly specialized workers): art . of 14 Directive 2009/50 establishes that " Holders of an EU Blue Card benefit from the same treatment as that reserved for citizens of the Member State which issued the Blue Card as regards (...) e) the provisions of the national law relating to the sectors of social security defined by Regulation (EEC) No. 1408/71. the special provisions set out in the Annex to Regulation (EC) No 859/2003, apply accordingly ” ; (...) g) access to goods and services available to the public and their provision, including the procedures for obtaining accommodation , as well as the information and consultancy services provided by the employment centres " .

3. **Holders of humanitarian protection** : art . 34 paragraph 5 of Legislative Decree 251/2007 establishes that " Holders of the humanitarian residence permit referred to in paragraph 4 are recognized the same rights established by this decree in favor of holders of subsidiary protection status " .

Precisely starting from these provisions, a jurisprudential orientation has been consolidating aimed at qualifying the limitation in access to social services only to citizens holding an EU residence permit for long-term residents as a hypothesis of direct discrimination. With respect to this essential service, there are already many jurisdictional rulings that have recognized the discriminatory nature of the limitations and that are progressively leading to an adjustment, albeit in a discretionary way on the national territory, of the various local authorities.

3.8 Multiple discrimination

Identity is complex. As the theory of symbolic interactionism has shown, (social) identity is the product of interactions that attribute on the basis of status and corresponding "suitable " roles. The theory of labeling and that of stigma underline even more the process of assigning roles and the construction of stereotypes.

Every single status can be the object of discrimination, it becomes a factor of discrimination.

But identity is a complex concept also because at the same time an individual has more than one status (disabled person, woman, refugee, non-EU citizen, nationality status, ethnicity, etc ...) and this creates problems in defence, protection from the point of view of one single discriminatory factor at a time. From a theoretical point of view, the point of reference in the European legal context is the systematization of multiple discrimination. Based on Makkonen 's tripartition , whereby the term multiple discrimination includes both multiple and intersectional discrimination.

The first occurs when a person is discriminated against on the basis of several factors, but each discrimination occurs at different times and is based on different factors each time. For example, a disabled woman is excluded from an economic progression because she is a woman and, in another circumstance, she is transferred to an office which does not allow her easy access due to architectural barriers. The legal protection of the person from this type of discrimination does not present particular problems, because it is enough to present an appeal for each episode of discrimination.

Intersectional discrimination, on the other hand, occurs when the discrimination is based on multiple factors that interact with each other so that they can no longer be distinguished and separated. A reference comes from American studies in which some subjects find themselves on a crossroads where multiple attribution statuses converge and the act of discrimination derives from the simultaneous existence of the factors.

In terms of legislation production, it should be emphasized that the 2008 European Union Council Directive Proposal , concerning the "application of the principle of equal treatment between persons regardless of religion or personal beliefs, disability, age or 'sexual orientation', mean by 'multiple factor discrimination' as 'discrimination, in any of its forms, that occurs on the basis of any combination of two or more of the following factors, including when the situation would not give rise to multiple discrimination against the data subject if they were taken separately: religion or belief, disability, age or sexual orientation. Multiple factor discrimination needs to be recognized to reflect the complex reality of cases of discrimination, as well as to enhance the protection of victims of it.

The variety of definitions and cases accepted shows that discrimination is not always referable to a single dimension of the person.

The existence of several concomitant factors had already been introduced in the United Nations Convention «on the rights of persons with disabilities» of 2006 , in particular in the art. 6 entitled «Women with disabilities»

On a practical level, with reference to multiple discrimination, the Disability project should be noted

: discrimination does not add up, it multiplies. Innovative actions and tools to recognize and combat multiple discrimination , launched in June 2019, proposed by FISH, the Italian Federation for Overcoming Handicap (FISH) and financed by the Ministry of Labor and Social Policies with the Project Financing Fund and activities of general interest in the third sector .

PROJECT ANALYSIS

Collaterally, in Italy, to the empirical studies on **Diversity Management of ISTAT** , research was conducted on multiple discrimination experienced by women with disabilities, foreigners with disabilities and LGBT people with disabilities, aimed at investigating the living conditions and the multiple risks of exclusion.

Qualitative and quantitative elements emerged from the researches, which contribute to profiling multiple discriminations, also emphasizing the gaps in regulations, policies and services that contribute to amplify them.

3.9 Gender-based violence as a phenomenon of discrimination against women

Worldwide research shows alarming data on the percentage of women physically or sexually by a partner or by other men. The data on sexual harassment directed against women is also a phenomenon of alarming dimensions.

Studies carried out in **Australia, Canada, Israel, South Africa and the United States** correlate, in the range between 40 % **and 70%** , the total number of homicides with the partner. Child brides around the world and genital mutilation are persistent practices.

With regard to gender-based violence, Italy has ratified, with **Law no. 77/2013** , the **Council of Europe Convention** on preventing and combating violence against women and domestic violence , or the so-called Istanbul Convention, opened for signature on 11 May 2011.

The Istanbul Convention is the legally binding international instrument aimed at creating a comprehensive regulatory framework for the protection of women against all forms of violence.

The Convention also intervenes specifically in the field of domestic violence, which does not only affect women, but also other subjects, such as children and the elderly, to whom the same protection rules also apply.

In the preamble of the Convention it is recalled that, within the framework of the Council of Europe and the United Nations, the reference is the **CEDAW UN Convention** of 1979 on the elimination of all forms of discrimination against women and its Optional Protocol of 1999 which recognizes the competence of the Commission on the Elimination of Discrimination against Women to receive and deal with complaints from individuals or groups within its jurisdiction.

The **CEDAW** , recognized as a kind of Bill of Rights for Women, defines discrimination against women as any distinction, exclusion or limitation based on sex, which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status and on conditions of equality between men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field".

The **Preamble of the Convention** also recognizes that violence against women is a manifestation of the historically unequal power relations between the sexes and aspires to create a Europe free from such violence.

In addition to what has already been explained in the title of the Convention itself, it appears important to highlight the objective of creating a global and integrated framework that allows for the protection of women, as well as international cooperation and support for the authorities and organizations appointed for this purpose.

Furthermore, the provision that establishes the applicability of the Convention both in peacetime and in situations of armed conflict is significant, a circumstance, the latter, which has always been a moment in which violence against women knows particular exacerbation and ferocity.

Article 4 from the Convention establishes the principle according to which every individual has the right to live free from violence in the public and private spheres. To this end, the Parties undertake to protect this right in particular with regard to women, the main victims of gender-based violence. Ample space is given by the **Convention** to the prevention of violence against women and domestic violence. Prevention requires a profound change in attitudes and the overcoming of cultural stereotypes which favor or justify the existence of these forms of violence. To this end, the **Convention** commits the Parties not only to adopt legislative measures to prevent violence, but also to promote awareness campaigns, to promote new educational programs and to train adequate professional figures.

Another fundamental point of the **Convention** is the protection of victims. Particular emphasis is placed on the need to create collaborative mechanisms for coordinated action between all state and non-state bodies that play a role in the function of protecting and supporting women victims of violence, or victims of domestic violence. To protect the victims it is necessary that emphasis be given to the structures suitable for their reception, through an adequate information activity which must take into account the fact that the victims, in the immediacy of the fact, are often not in the psycho-physical conditions to assume fully informed decisions.

Support services can be general (eg social or health services offered by the public administration) or specialized. These include the creation of shelters and that of telephone support lines active night and day. Ad hoc structures are also provided for the reception of victims of sexual violence.

- **The Convention** establishes the obligation for the Parties to adopt legislation that allows victims to obtain justice, in the civil field, and compensation, primarily from the offender, but also from the state authorities if they have not implemented all preventive measures and protection aimed at preventing violence (we have already mentioned compensation from the State above).
- **The Convention** also identifies a series of crimes (physical and psychological violence, sexual violence, rape, genital mutilation, etc.), punishable by law, when the violence is committed intentionally and promotes a harmonization of legislation to fill regulatory gaps at national level and facilitate the fight against violence also at an international level . Stalking is included among the criminally prosecutable crimes, defined as intentional and threatening behavior towards another person, which leads them to fear for their own safety. With regard to forced marriage, cases in which a person is forced to contract a marriage are distinguished from those in which a person is deceived into a foreign country in order to force him to contract a marriage; in the latter case, solicitation alone is also punishable by law, even in the absence of celebration of the marriage.
- **The Convention** returns in several points to the unacceptability of religious or cultural elements, including the so-called "honor" to justify the violence, asking the Parties, among other things, to introduce measures, legislative or otherwise, to ensure that in proceedings prosecutions for crimes covered by the Convention, these elements cannot be invoked as mitigating factors . In the area of sanctions, the Convention calls on Parties to take measures to ensure that the offenses covered by it are subject to effective, proportionate and dissuasive punishment commensurate with their severity.
- **The Convention** then contains a large chapter of provisions concerning judicial investigations, criminal proceedings and legal procedures, reinforcing the provisions that outline rights and duties in the Convention itself. A special Chapter is dedicated to migrant women, including those without documents, and to women asylum seekers, two categories particularly subject to gender-based violence. The Convention aims to introduce a gender perspective towards the violence of which migrants are victims, for example by granting them the possibility of obtaining a resident status independent of that of their spouse or partner.

Furthermore, the obligation to recognize gender-based violence as a form of persecution is established (pursuant to the 1951 Convention on the Status of Refugees) and the obligation to respect the right of non-refoulement for victims of violence against women.

- **the Convention** establishes a Group of Experts on Combating Violence against Women and Domestic Violence (GREVIO) made up of independent experts, charged with monitoring the implementation of the Convention by the acceding States. Monitoring will take place through questionnaires, visits, surveys and reports on the state of compliance of internal regulations with conventional standards, general recommendations, etc.). The privileges and immunities and members of GREVIO are the subject of the Annex to the Convention.
- **The Convention** intervenes specifically in the field of domestic violence, which not only affects women but also other subjects, such as children and the elderly, to whom the same protection rules apply.
- **The Convention** consists of a Preamble, 81 articles grouped into twelve Chapters and an Annex. Its structure follows that used in the most recent conventions of the Council of Europe and is based on the "three Ps": prevention, protection and support of victims, prosecution of perpetrators. To these is added a fourth "P", that of integrated policies, in order to act effectively on a phenomenon characterized by great complexity and multiple determinants; each of these four areas of intervention is the subject, within the framework of the Convention, of a distinct section containing specific measures.

As previously indicated, the Italian Parliament authorized the ratification of the Istanbul Convention, by approving the law of 27 June 2013, n. 77.

Government and Parliament have tried to fill this ratification with content with the Decree-law n. 93 of 2013 converted into law, with amendments, by art. 1, paragraph 1, **Law 15 October 2013, n. 119**. In particular, the measure:

- **intervenes on the penal code**, introducing a common aggravating circumstance (art. 61, n. 11-quinquies) for crimes against life and individual safety, against personal freedom as well as for abuse in the family, to be applied if the facts are committed to the detriment or in the presence of minors;
- **new the crime of persecutory acts** (art. 612-bis, so-called stalking), providing for an aggravating circumstance when the fact is committed by IT or telematic means and modifying the regime of the party's complaint. In particular, with respect to the original wording of the decree-law, which qualifies the lawsuit as irrevocable, the Chamber has limited the hypotheses of irrevocability to the most serious cases, providing in any case that any remission can only take place during the trial;
- **intervenes on the penal procedure code**, allowing wiretaps to be ordered even when stalking is being investigated;
- **introduces the preventive measure of** reprimanding the questore also for conduct of domestic violence, along the lines of what is already envisaged for the crime of stalking;
- **always to protect the victims**, it inserts some measures relating to the removal - even urgently - from the family home and the mandatory arrest in flagrante delicto of the perpetrator. In this regard, the Chamber has introduced the possibility of also operating a remote control (so-called electronic bracelet) of the alleged perpetrator of acts of domestic violence;
- **provides for specific communication obligations** by the judicial authority and the judicial police to the person offended by the crimes of stalking and abuse in the family as well as protected methods of taking evidence and testimony of minors and particularly vulnerable adults;
- **modifies the implementation provisions of the code of procedure**, including the crimes of abuse in the family, sexual violence and stalking among those which have absolute priority in the formation of hearing records;
- **extends to the victims of the crimes of stalking**, abuse in the family and female genital

- mutilation the admission to free legal aid also in derogation from the income limits;
- **establishes that the annual report to Parliament** on the activity of the police forces and on the state of public order and security must contain a criminological analysis of gender-based violence;
- the possibility of obtaining a specific residence permit **for foreign victims of domestic violence** ;
- **requests the Minister** for Equal Opportunities to draw up an extraordinary plan against sexual and gender-based violence, for which funding of 10 million euros is envisaged for 2013, providing for actions to support women victims of violence.

In the XVIII legislature, the activity of the legislator continued to introduce measures to prevent crimes of violence against women, severely punish the perpetrators and offer adequate protection to the victims. This activity is in line with the regulatory evolution already accomplished on the matter in the last legislature, with the ratification **of the Istanbul Convention** (Law No. 77 of 2013), the amendments to the penal code and criminal procedure aimed at exacerbating the penalties for some crimes most often committed against women, the issuing of the first "Extraordinary action plan against gender-based violence" and the provision of funds to support victims.

During the **XVII legislature**, the **Parliament**:

- **has provided** - with the Law n. 161 of 2017, reforming the so-called Anti-Mafia Code - that preventive measures may also be applied to suspects of stalking (special public security surveillance, prohibition of stay in one or more municipalities and patrimonial measures) and that, with the consent of the concerned, the so-called electronic bracelet can also be applied to the stalker, once its availability has been ascertained;
- **has modified** - with the Law n. 4 of 2018 - the crime of murder aggravated by personal relationships, pursuant to art. 577 of the Criminal Code, providing for life imprisonment if the victim of the crime of homicide is the spouse, even if legally separated, the other part of the civil union, the person linked to the murderer by a stable emotional relationship and permanently cohabiting with him. The murder of the divorced spouse or part of the terminated civil union is instead punished with imprisonment from 24 to 30 years.

Prevention, punishment and protection of victims of gender-based violence crimes are the objectives of **Law no. 69 of 2019** , known by public opinion with the expression Red Code, to underline a specific path of protection, including in the process, of victims of violent crimes, with particular reference to crimes of sexual and domestic violence.

In particular, with regard to criminal law, the law introduced four new crimes into the code:

- **the crime of deformation of a person's appearance through permanent injuries to the face** (new art. 583-quinquies of the criminal code), punished with imprisonment from 8 to 14 years. At the same time, the crime of very serious personal injury pursuant to art. 583, second paragraph, n. 4 cp, which punished very serious personal injuries with permanent deformation or disfigurement of the face with imprisonment from 6 to 12 years. When the commission of this crime results in homicide, the penalty is life imprisonment. Furthermore, the reform includes this new crime in the catalog of violent intentional crimes which give the right to compensation from the State;
- **the crime of illicit dissemination of sexually explicit images or videos without the consent of the persons represented** (so-called Revenge porn , included in article 612-ter of the criminal code after the crime of stalking), punished with imprisonment from 1 to 6 years and fine from 5,000 to 15,000 euros; the penalty also applies to those who, having received or in any case acquired the images or videos, disseminate them in turn in order to cause harm to the interested parties. The offense is aggravated if the facts are committed in the context of an affective relationship, even if it has ceased, or with the use of IT tools;
- **the crime of coercion or inducement to marry** (art. 558-bis of the criminal code), punished with imprisonment from 1 to 5 years. The case is aggravated when the crime is committed to the detriment of minors and it also proceeds when the fact is committed abroad by, or to the detriment, of an Italian

citizen or a foreigner residing in Italy;

- **the crime of violation of the provisions of removal from the family home and of the prohibition of approaching places frequented by the offended person** (art. 387-bis), punished with imprisonment from 6 months to 3 years.

With further interventions on the penal code, the law n. 69 of 2019 provided for amendments to the crime of ill-treatment against family members and cohabitants (art. 572 of the criminal code) aimed at:

- increase the penalty;
- provide for a special aggravated case (punishment increased by up to half) when the crime is committed in the presence or to the detriment of a minor, a pregnant woman or a disabled person, or if the fact is committed with weapons;
- always consider the minor who witnesses the abuse as a person offended by the crime.

Furthermore, the crime of ill-treatment of family members and cohabitants is included in the list of crimes which allow the application of preventive measures against suspects, including the measure of the prohibition of approaching places frequented by the person to be protected.

The law also changed:

- **the crime of persecution** (article 612-bis of the criminal code), with an increase in the sentence;
- **crimes of sexual violence** (articles 609-bis et seq. of the Criminal Code), by tightening the penalties and extending the time limit granted to the offended person to lodge a complaint (from the current 6 months to 12 months). The provision also reformulates and exacerbates the aggravating circumstances when sexual violence is committed to the detriment of a minor;

- **the crime of sexual acts with a minor** (art. 609-quater of the criminal code) with the provision of an aggravating circumstance (penalty increased by up to one third) when the acts are committed with minors under the age of 14 in exchange for money or any other benefit, even if only promised. This crime also becomes prosecutable ex officio;

- **the crime of murder, with the extension of the field of application of the aggravating circumstances of homicide aggravated by personal relationships**. Finally, with an amendment to the art. 165 criminal code, the law n. 69 of 2019 established that the granting of the conditional suspension of the sentence for crimes of domestic and gender-based violence is subject to participation in specific recovery courses.

As far as criminal procedure is concerned, the structure of the law aims to speed up the establishment of criminal proceedings for crimes of domestic and gender-based violence, consequently speeding up any adoption of measures to protect victims (the so-called Red Code).

To this end, the law n. 69 of 2019 provides, in the face of crime reports relating to crimes of domestic and gender-based violence:

- that the judicial police, having acquired the news of the crime, immediately report to the public prosecutor, even orally; oral communication will be followed without delay by written communication;
- that the public prosecutor, within 3 days of registering the news of the crime, obtain information from the offended person or from whoever reported the crime; this term can be extended only in the presence of unavoidable needs for the protection of minors or for the confidentiality of investigations, also in the interest of the offended person;
- that the judicial police carry out the investigative acts delegated by the Public Prosecutor without delay and make the documentation of the activities carried out available to the Public Prosecutor without delay.

With further interventions on the criminal procedure code, the law, among other things:

- **introduces** the obligation for the criminal judge - if civil proceedings for the separation of spouses or cases relating to the custody of minors or relating to parental responsibility are in progress - to transmit to the civil judge without delay the measures taken against one of the parties relating to crimes of domestic or gender-based violence;

- **modifies** the precautionary measure of the ban on approaching places frequented by the offended person to allow the judge to guarantee compliance with the coercive measure through control procedures using electronic means or other technical instruments (so-called electronic bracelet);
- **provides for** a series of communication obligations to the person offended by a crime of domestic or gender-based violence and to his relative lawyer.

With the decree-law **n. 93** of 2013, the legislator asked the Government to adopt extraordinary plans to combat violence against women.

The provisions of the Plan have been partially modified recently **by art. 1, paragraph 149**, of the 2022 budget law (law n. 234/2021), which changed the name from an extraordinary action plan against sexual and gender-based violence to a national strategic plan against violence against women and Domestic violence. This denomination follows the terminology used in the Istanbul Convention; moreover, the Plan loses its status as "extraordinary" to become a "strategic" tool in the fight against violence against women.

The 2021-2023 Plan re-proposes the structure of the previous Plan, with an articulation in **4 thematic Axes (prevention, protection and support, prosecution and punishment, assistance and promotion)** according to the lines indicated by the **Istanbul Convention**, each of which are linked specific priorities.

PLAN ANALYSIS

FOURTH LESSON – 2 HOURS

4. THE "NEW" FORMS OF DISCRIMINATION:

4.1 *The language of hate and cyberbullying*

According to Recommendation **(97)20 of the Committee of Ministers of the Council of Europe** : "the term hate speech (Hate Speech) means any form of expression that spreads, incites, promotes or justifies racial hatred, xenophobia, anti-Semitism or other for hate speech based on intolerance, including intolerance expressed through aggressive nationalism and ethno -centrism, discrimination and hostility against minorities , migrants and people of migrant background".

A further definition is taken from the framework decision 2008/913/GAI4, for which hate speech is "any behavior consisting in the public incitement to violence or hatred against a group of people, or one of its member, defined by reference to race, color, religion, ancestry national or ethnic ancestry or origin".

In the field of "hate speech", the need to balance the principles which, in the national legal system, are established in articles 2 (recognition of inviolable rights) and 3 (equal dignity and equality before the law) of the Constitution with the principle of free expression of thought pursuant to art. 21 of the same Charter.

In this regard, the principle established by the **Court of Cassation must be considered**, in harmony with the indications of the European Court of Human Rights, according to which:

"In the possible contrast between the freedom of expression of thought and the equal dignity of citizens, pre-eminence should be given to the latter only in the presence of conduct that reveals a concrete danger to the protected legal asset" (Cass. Pen. 36906/2015) .

In any case, the regulatory instrument used to criminally combat hate speech is **art. 604 bis** criminal code (ex art. 3 l. 654/75) "Propaganda and incitement to commit a crime for reasons of racial, ethnic and religious discrimination",

, they have made communication ever more immediate, thanks to an easily accessible technology that makes the diffusion of information on a global level instantaneous. Even hate speech has found fertile ground for diffusion online, forcing all the actors involved - public institutions, including the

police, civil society organizations and individual users - to face new challenges. .

The Code defines hate speech (" **Illegal hate speech**"), recalling framework decision **2008/913/GAI** . In June 2016, the European Commission then established the "High-level group on the fight against racism , **xenophobia and other forms of intolerance** " (in which Osdad participates with its own representatives) in which context it was, among other , a working table on online hate speech was activated which provides for a mechanism for monitoring the application of the Code of Conduct, with particular reference to the percentages and timing for the removal of reported illicit content, which in three years, from 2016 to 2019, has recorded constant improvement some data.

ANALYSIS OF THE CHARACTERISTICS OF HATE SPEECH (Case Studies)

At the national level, there are considerable difficulties in prosecuting those contents which, pursuant to the aforementioned legislation (**art. 604 bis of the criminal code**), constitute a criminally unlawful conduct. In many cases, in fact, the servers of social networks (or sites) on which illegal contents are present are located in countries, such as the United States of America, which do not criminalize the so-called "crimes of opinion" 7, among which includes hate speech.

This discourages the activation of "**international rogatory** " procedures aimed at acquiring the necessary evidence abroad, given that the operational experience has repeatedly shown the rejection of the request by the judicial authorities of those countries.

Dailymotion also joined the Code .

A legitimate question and when a hate speech can repent a hate crime.

In Italy there is no legal definition of hate crime.

(**ODIHR**) of the Organization for Security and Cooperation in Europe (OSCE) is generally used according to which the hate crime is a crime, committed against an individual and/or assets associated with it, motivated by a prejudice that the perpetrator has towards the victim, due to a "protected characteristic" of the latter.

The hate crime , therefore, is characterized by the presence of two elements: a fact foreseen by the criminal law as a crime and the motivation of prejudice on the basis of which the aggressor chooses your "target".

This is why hate crimes are also called target crimes or message crimes to highlight that they are crimes with a specific target, through which the perpetrator intends to send a message of non-acceptance of that person and the relative belonging community. With protected characteristics we refer to the fundamental distinctive traits, shared by a group of people, which reflect a profound aspect of an individual's identity and create a typical identity of the group.

Among the characteristics most widely protected by democratic legal systems are: "**race**" (or, more correctly, **ethnic origin**), **religious beliefs**, **nationality**, **sexual orientation**, **gender identity**, **disability**.

These characteristics can be real, when the victim (or an asset, such as a place of worship, in some way connected to the group) possesses, in fact, the characteristic that identifies it as belonging to a specific minority or presumed, when the the offender chooses the victim by mistakenly assuming that she is related to the minority group.

We speak of "**discrimination by association**" when the victim, although not belonging to a specific "minority community", is affected because he is somehow linked to it (for example, an individual can be attacked because he is married to a black person) .

Hate crimes are characterized by their multi-offensiveness , under-reporting, under-recording and risk of escalation and have multi-layered effects.

When a hate crime is committed, it primarily affects the victim (who has been chosen precisely because of one or more protected characteristics). However, taking into account that that characteristic helps to define a shared identity for a given community, aggression does not limit its harmful effects to the victim, but also indirectly damages the "minority group" to which it belongs. In the most serious cases, social cohesion can even be jeopardized, with serious repercussions on public order and safety.

Under-reporting is the phenomenon whereby victims and witnesses of hate crimes tend, for various and complex reasons, not to report them.

Among the main reasons why victims and witnesses find it difficult to report are:

- not being aware of (or denying) the fact that the aggression is motivated by prejudice against that protected characteristic for which one often blames oneself ;
- lack of trust in the police force and fear that accurate investigations will not be activated;
- fear of compromising one's privacy (this is the case of many crimes committed against members of the LGBTI community); fear of retaliation;
- lack of knowledge of the national language and legal system.
-

When we speak of under-recording, however, we refer to the phenomenon for which the police forces do not recognize the discriminatory nature of the crime reported and, consequently, do not record it or investigate it as such. This can happen for various reasons: failure to recognize the so-called bias indicators (or " bias indicators "), i.e. the circumstantial elements that allow the discriminatory motivation of the crime to be detected (which will be discussed in detail later); low sensitivity/lack of adequate training on the phenomenon; lack of resources.

Finally, the risk of escalation arises from the social acceptance of discrimination against certain minority groups (so-called normalization of hate) which favors the increase of hate crimes.

In fact, where low -intensity discriminatory behavior is accepted by society because it is not perceived as offensive - but, perhaps, interpreted as jokes or goliardic episodes - and therefore not adequately contrasted, there is a strong risk of escalation.

From attitudes or behaviors based on prejudice we can pass to acts of discrimination (in access to public services, to work, etc.), up to real crimes: vandalism, desecration of sacred places, threats, aggressions.

This concept is represented by the so-called
defamation pyramid of hate league (Adl)

1. **GENOCIDE**
2. **VIOLENCE** to the person: threats; assaults (violence, rapes...); murders; terrorism. to the property : fires, desecration (of places of worship or cemeteries); vandalism
3. **DISCRIMINATION** Discrimination at work, for housing, in study; harassment (hostile acts based on race, religion, nationality, sexual orientation, gender identity...)
4. **BEHAVIORS BASED ON PREJUDICE** Insulting; ridicule; socially avoid/exclude; tell belittling stories
5. **ATTITUDES BASED ON PREJUDICE**
accept stereotypes; don't dismiss belittling stories; scapegoating (blaming people for their own group)

The indicators or markers of bias, known internationally with the term " Bias indicators ", are facts and circumstances that allow us to assume that we are in the presence of a hate crime, i.e. a crime committed due to the prejudice that the perpetrator has towards the victim, due to one or more protected characteristics (real or only presumed by the author) that distinguish it.

ODIHR, the OSCE Office for Democratic Institutions and Human Rights , defines them as: "Objective facts, circumstances, modalities relating to an offense which, alone or in connection with other facts or circumstances, suggest that the perpetrator's actions are motivated, in whole or in part, by some form of prejudice".

From the same definition, their importance for investigative purposes is evident: they are, in fact, the elements that allow the investigator to bring out the reasons of a discriminatory nature that prompted the perpetrator to commit the crime by choosing precisely that victim (basically , the motive).

An accurate transcription in the documents will allow the judicial authority (public prosecutor and

judge) to have the information elements necessary to evaluate the opportunity to treat the crime as a crime of hate (for example, contesting - and applying - the aggravating circumstance of referred to in **Article 604 ter of the Criminal Code**).

The importance of injury indicators and, on the other hand, the need for a coordinated reading of the overall context in which the crime occurs – are well highlighted in some sentences of the Court of Cassation (Cass. 434/99 and Cass. 16328 /12) from which it can be deduced that the presence or absence of a specific indicator is not in itself decisive for establishing the discriminatory motivation of a crime. An accurate reading of the whole context is therefore necessary.

The main injury indicators are as follows:

- perception of the victim/witness: the perception of the victim (or of any witnesses) with respect to what happened is an important indicator which should give the police operator a further impulse in the search for objective elements to determine the possible discriminatory motivation of the crime;
- denigrating comments, gestures, written statements, drawings, symbols and graffiti: often the perpetrator of a hate crime intends to highlight the motivation of prejudice, non-acceptance or even real hatred at the basis of the crime (not by chance hate crimes are also defined message crimes, i.e. crimes that send a message);
- differences between perpetrator and victim on ethnic, religious or other grounds (e.g. sexual orientation): they are a significant indicator, mostly – but not necessarily and the victim belongs (or is perceived to belong) to a so-called minority group;
- involvement of so-called organized hate groups (i.e., dedicated to hate crimes or hate speech) or their components: the perpetrator may not be structurally organic to any such group, but share its ideology and the violent methods;
- place: the crime was committed near a place of worship (synagogue, mosque, Christian church) or a place mainly frequented by people at risk of discrimination (Lgbti people, migrants);
- date, timing; the offense took place on the occasion of a particular anniversary, religious celebration or other event of particular significance for a community;
- patterns/frequency of previous crimes or incidents: the incident is similar to others of a similar nature that occurred in a given period; there is a certain pattern of crime, a seriality;
- nature of the violence: in hate crimes the level of violence can be particularly high and is often accompanied by serious physical offenses or humiliations often made public, by the author himself, through the Web;
- lack of other motivations: sometimes there are no obvious reasons that can justify the commission of the crime: the victim and the suspect do not know each other, any argument that may have triggered the attack appears clearly pretext, there is no economic motive, in such cases the discriminatory one could be the only plausible motivation.

Electronic bullying, cyberbullying , is a phenomenon described by international research only starting from the early 21st century.

ANALYSIS OF THE DIFFERENCES BETWEEN BULLYING AND CYBERBULLYING.

Scholars who have dealt with cyberbullying have identified some categories to describe the different forms in which the phenomenon can manifest itself.

In English terminology, we talked about:

- **flaming** ,
- **harassment** ,
- **denigration** ,
- **Impersonation** ,
- **Outing and trickery**

SPECIFICATIONS AND CASE CASE

The European legislation in this regard has the following references:

- Resolution of the European Council n. 2144/2017- Put an end to discrimination and hatred on the Web Broadcast on February 2, 2017.
- Decision n.1351/2008/EC of the European Parliament and of the Council, of 16 December 2008, concerning a multiannual Community program for the protection of children using the Internet and other communication technologies.
- Community legislation on the protection of personal data also applies to bullying via the internet, telephone and any means of communication. These rules also provide for sanctions for acts involving identity theft and persecutory acts.
- The European Data Protection Supervisor has underlined how this legislation can be effectively applied to protect people from cyberbullying (see report of the conference "Violence via the internet and school, good practices for the protection of teachers" , 2010).
- The Parliament and the European Council plan to discuss reforms of EU legislation in 2014 in order to broaden the protection for victims of persecution via the internet.
- The European Commission has promoted agreements to combat bullying with the main global social network providers, including Facebook and Myspace.
- Every year, actions to combat violence against minors via the Internet are financed with the Daphne European Union Programme. The actions range from exchanges of good practices between European states, awareness campaigns, data collection of the phenomenon of online bullying and comparative research.
- Among the most recent projects, E-ABC (Europe Anti- Bullying -Project)
- Creation of the European Anti-bullying Network, made up of 17 organizations from different EU member states, including Telefono Azzurro,

In Italy, the Ministry of Education has been involved for years in the prevention of the phenomenon of bullying and cyberbullying and, more generally, of all forms of violence. There are several intervention strategies useful for curbing risky behaviour. The legislator has intervened on several occasions on the subject.

- **Prot. decree no. 1176 of 05/18/2022** - Allocation of funds to combat the phenomenon of cyberbullying (Law n.234/2021) ;
 - **Decree allocating funds** to counter the phenomenon of cyberbullying to be allocated to the Regional School Offices;
 - **Law 107 of 2015** introduced, among the priority educational objectives, the development of digital skills in students for a critical and aware use of social networks and the media. The development is set out in the National Digital School Plan.
 - **Law 71 of 2017** sanctioned a further strategic objective: to counter the phenomenon of cyberbullying in all its manifestations. Preventive actions and attention, protection and education strategies enter the field towards the minors involved, both as victims and as perpetrators of crimes, to ensure the implementation of the interventions without distinction of age within the educational institutions.
 - **The 2021 update of the Guidelines for the prevention and contrast of bullying and cyberbullying** (Ministerial Decree 18 of 13 January 2021 issued with note 482 of 18 February 2021) allows managers, teachers and school operators to understand, reduce and combat the negative phenomena affecting girls and kids, girls and boys, with new tools.
 - **The 2021 update of the MIUR Guidelines for the prevention and contrast of bullying and cyberbullying** (Ministerial Decree 18 of 13 January 2021 issued with note 482 of 18 February 2021) allows managers, teachers and school operators to understand, reduce and counter negative phenomena affecting girls and boys, girls and boys, thanks to tools of proven scientific evidence.
- Below are the main updates, compared to the previous version of the Guidelines (2017):
- **Useful tools and best practices** to combat bullying and cyberbullying: Safer Internet

- centre-Generazioni Connesse project;
- **E-learning training for contact teachers ELISA platform** (teachers' e-learning on anti-bullying strategies);
 - **Indications of operating procedures** to be implemented through effective actions, divided in turn into "priority" and "recommended";
 - **Models of prevention** at multiple levels (universal-selective and indicated) and examples of implementation;
 - **Invitation to set up Working Groups** (Anti-bullying Team and Emergency Team) at school and territorial level, integrated by specialist figures of reference, where one is unable for objective reasons, it is invited to set up networks of purpose;
 - **Intervention protocol** for an initial examination of emergency cases;
 - **Recommendations and responsibilities** of school bodies and staff;
 - **Evidence on institutional school websites** of bullying and cyberbullying referents;
 - **Appendix with facsimile model** for reporting crimes or risk situations to the Police/Judicial Authorities.

With the one **law no. 71/2017** , containing " **Provisions for the protection of minors for the prevention and fight against the phenomenon of cyberbullying** ", the legislator has chosen to tackle the problem by avoiding recourse to criminal law instruments, preferring "preventive actions and with a strategy of attention, protection and education towards the minors involved, both in the position of victims and in that of perpetrators of crimes, ensuring the implementation of the interventions without distinction of age within the educational institutions".

Text analysis

4.2. *Discriminatory images as a vehicle of discrimination*

ANALYSIS OF THE MAIN SOURCES

Istanbul Convention Article 17

Guarantor Authority for Communications Functions and measures

The TUSMAR (Consolidated text of radio and television Legislative Decree 177/2005

Agcom resolution 157/19/CONS of 15 May 2019) which intended to anticipate the contents of the new **SMAV directive** on the matter of contrasting hate speech.

Audiovisual **Media Services Directive**

FIFTH LESSON – 3 HOURS

5. PREVENTION OF DISCRIMINATION: THE ROLE OF INTERNATIONAL ORGANIZATIONS, NGOS AND INSTITUTIONS

5.1 *The role of institutions in preventing and combating discrimination*

Equinet , the European network of bodies for equality, has developed .

Equinet Network " **European network of Equality Bodies** "

ANALYSIS , OBJECTIVES, COMPOSITION

Alongside the national bodies and offices of the Member States, more and more in Europe, in fact, the need arose to make the institutions that represent the territories and the school institution more responsible. In particular, there is a greater responsibility of the **local authorities** and of the **school institution**, important players in the field of contrast and prevention of discrimination.

Because of their proximity to citizens, local and regional authorities play a crucial role in promoting and respecting European values, against racism and incitement to hatred, in protecting vulnerable groups and minorities, as well as in all the forms of discrimination.

With regard to the educational institution, its role as a key player in the prevention of discrimination is tackled for the first time with art. 1, paragraph 16, of the **law n. 107/2015**.

MIUR ANALYSIS AND NOTE

In 2017 there are in Italy the **National guidelines** of the Ministry of Education:

“ Educate to respect : for gender equality, the prevention of gender-based violence and all forms of discrimination.”

The principle of equal opportunities, the implementation of which - pursuant to paragraph 16 of art. 1 of Law 107 of 2015 – must be ensured by the scholastic institutions through the Three-Year Plan of the Educational Offer (**PTOF**), therefore constitutes a transversal principle that invests the entire didactic and organizational planning.

ANALYSIS OF MIUR GUIDELINES

Positive EXPERIENCES already started

Working in the educational field on discrimination means first of all deconstructing the limits and opportunities imposed by the attribution of specific roles to specific statuses.

The theoretical starting point of school education as a democratic training ground is the approach of structural -functionalism, precursor and basis of the perspective of symbolic interactionism which had a strong influence in psychology and pedagogy.

structural -functionalist theoretical approach , the social system is defined in terms of interaction.

The sets of relatively stable relationships based on symbolic mediations constitute a social structure, the web of relatively stable relationships between individuals.

It is the relationships between elements that characterize the structure and meaning/functions of the elements in the system. It is not an interaction between personalities, but between statuses/roles. The status defines the position of the subject with respect to the other subjects in the relationship structure, while the role refers to what the subject does in his relations with others.

Statuses/roles exist and are relatively predictable regardless of the particular personalities who fill them.

Each status corresponds to «role expectations»: a certain behavior is expected.

The role, a set of stable behavior models aimed at fulfilling functions of social relevance, is configured as the meeting point between the culture system and the personality system within the social system. The orientation of individual actions is determined by the system of culture, models internalized through socialization, a process by which an individual develops throughout his life, in the course of social interaction with a long series of socializing agents (family, school, peer group, work organizations, social-political movements, mass media, etc.), the internalization of social norms.

The theory of symbolic interactionism, with the postulate that the social world, through interactions and the process of socialization, provides the individual with information and models that serve to define themselves, will introduce the concept of (**social**) **Identity which** becomes humus for the transition in psychology from behaviorism to cognitivism and the birth of social psychology, becoming an interdisciplinary domain, a bridge between sociology and psychology.

Furthermore, sociology, with the theory of differential associations and the theory of labelling , marks the transition for learning psychologists from considering, in addition to direct experience, also the role of imitating the behavior of others.

We begin to theorize that part of learning does not take place through direct experience, but through mediated experience, ie the observation of models, social definitions and self-definitions.

The pioneer of symbolic interactionism, **George Hebert Mead** . he also had great influence in pedagogy.

Philosopher and educator **John Dewey** , a colleague of **GH Mead** , will lay the foundations of pedagogical activism on the assumption that learning is a social activity, intimately associated with our ties to other human beings, teachers, peers, family as well as casual acquaintances, including

people in front of or next to us (relationships).

With **Dewey** , pedagogy begins to recognize the social aspect of learning and teaching methodologies begin to be designed starting from the interaction with others.

With **Lev Semenovich Vygotsky** developed the postulate that all communicative processes and consequent cognitive development always occur in a social and cultural context.

Jerome Seymour Bruner will lay the foundations for urging those involved in learning to examine the nature of the subject's development by focusing on his active (actions), iconic (images) and symbolic (linguistic symbols) "representation system", defining thought as a process constructive that elaborates the culturally determined data of experience.

The widely shared assumption that knowledge is a culturally determined human construction and the conception of the student as an active subject in the learning process, implies the choice of teaching strategies differently inspired by the transmission/reception learning model.

School is one of the most important agents of socialization and, as such, it can be the privileged place for socializing differences, to promote democracy and equality, to become the man and woman you want.

Socialization to social norms of behavior, to values, is not neutral and, in the 1970s, **Montessori** pedagogist **Elena Belotti** had the merit in Italy of starting a reflection on the role of the teacher within the educational processes, focusing on socialization to status-dependent role expectations, gender at birth.

In *On the girls' side* , the author highlights how teachers and parents make choices in the playful sphere according to gender through mechanisms of positive or negative reinforcement, which legitimized unequal relationships between boys and girls.

Gender education is the set of behaviours, actions and attentions put in place on a daily basis, more or less intentionally, by those who have educational responsibilities (parents, teachers...) regarding the experience of gender, the roles of gender and gender relations.

At school, gender education can instead be conceived, organised, provide ad hoc courses aimed at avoiding the crystallization of stereotypes related to gender identity, gender roles and relationships, and promote the individual construction of the subject, recognized in its possibilities and development. Gender differences are socially constructed, symbolically mediated and ritually supported and the feminine and the masculine build each other, intertwining in an order, in a system of relationships, conflicts and accommodation.

Since gender is a social construction, deconstructing it , undoing gender means making it clear that the visible differences between women and men in a given society have been established through the attribution to a status, a role, a system of expectations, a stereotype and that this creates differentiated access in social spheres.

Undoing does not mean eliminating gender differences in the direction of a neutrality scenario, but renegotiating the possibilities of role expectations of what is socially appropriate for the male category and the female category.

With regard to the issues of deconstructing gender to produce cultural changes, the disparity of family roles, training choices based on **STEM disciplines (science, technology , engineering and mathematics)** and the consequences on the labor market, professions, public office; violence against women; the body, homophobic bullying.

All the teaching methodologies that are presented below, in addition to being oriented towards the deconstruction of gender, contribute to the development of other skills, those that the WHO in 1993 identified **as** the 10 essential skills that the school should foster for psychophysical well-being (life skills) of children and adolescents:

- **decision-making ability** : knowing how to make motivated decisions;

- **problem solving** : analysing, tackling and constructively solving problems;
- **creativity** : explore alternatives, identify different options with flexibility and originality;
- **critical thinking** : analyze, evaluate the pros and cons;
- **effective communication**: express yourself effectively and appropriately;
- **interpersonal relationship skills** : living together, interacting positively;
- **self-awareness**: knowing oneself, in its weak and strong points;
- **empathy**: listening and understanding others;
- **managing emotions**: recognizing and controlling them;
- **stress management**: managing tensions and sources of anxiety.

In order for the teaching of psychosocial skills to become an integral part of European school curricula, the school requires teachers to undergo a profound professional transformation that gives rise to a different relationship with students, colleagues and parents. Assuming the function of mediator and facilitator of learning, the teacher plays a fundamental role in the life of his students, as an educator who directs the educational process.

Compared to traditional teaching, based on expository methods linked to the transmission of information, active teaching methodologies of a heuristic and experiential type should be privileged which engage the teacher and the student in a dynamic process which allows the student to be an aware and responsible subject of the learning, the protagonist of one's educational success.

There are studies that are accrediting coding and robotics as laboratory educational approaches useful for the development of a sense of self-efficacy towards STEM disciplines of girls who suffer from a greater sense of insecurity than their male peers due to their cultural heritage and curriculum secret that they have internalized since childhood. Another important didactic aspect is the training orientation in a gender perspective, that is aimed at deconstructing stereotypes in an interdisciplinary way, giving equal dignity to male and female when it comes to professions or when providing representations both in the field of personal services both in science and technology. Directing students according to predefined paths based on gender, but also not paying attention to the question, thinking that such choices are immune from predefined conceptions of masculine and feminine, does not allow the full development of one's abilities and, therefore, can cause failure formative.

In general, the teaching methodology can be broadly divided into the architectures proposed by **Antonio Calvani** which differ according to the variables: control required of the teacher or the student, structuring of the teaching material, quantity of interactions between teacher and student and between students, and between students and the system. In particular:

Transmissive reception.

- Control by the teacher,
- Information pre -structuring,
- No or little interaction
- Behavioral.
- Directive-interactive.
- Control by the teacher with high pre -structuring of information,
- Continuous teacher/learner interaction, Importance of feedback,
- Interactive sequential instruction.
- Tools Modeling (apprenticeship)
- Positive behavior support.

Simulation.

- Control by the student
- Information pre -structuring,
- Strong interaction between learner and model/system.
- Tools : Case study,
- symbolic simulation,
- Game Based Learning,

- Role playing/dramatization.

Collaborative.

- Pupil control Minor/major,
- Goal pre -structuring Strong peer interaction.
- Tools: Peer Learning, Cooperative Learning
- Exploratory Discussion.
- Control by the student, Poor or absent pre -structuring of information, Poor interaction Tools: Problem Based Learning, Method for projects.
- Self-regulatory metacognitive.
- Transfer of control from the teacher to the student.
- Growing ability of the learner to organize information.
- Complete control by the student.
- Tools: Metacognition and self-regulation

Since the purpose of gender education is the development of critical autonomy, the use of active teaching must be privileged to achieve it.

Gender education at school often makes use of the instrument of the laboratory, with coordinates induced by a conductor in a learning place how to otherwise make young people develop a different way of looking at reality, discovering it full of coordinates never glimpsed before, except in small and large relational groups (the group) in which doing and thinking, experience and reflection, metacommunication and metacognition are intertwined.

The scaffolding will try to bring out: shared social representations, everyone's prejudices, stereotypes through various stimuli: fairy tales, photographs, magazines, stories, documentaries, etc. to allow discussion. The individual or the individual in a group is allowed to make his thoughts explicit to others but also to himself.

and expressive activities are proposed which, in the event that rigid beliefs about the genre are revealed, prove to be useful for learning to "play" by experimenting with new repertoires. The aim is to help change the gaze and examine the social world with new coordinates; as well as making girls and boys reflect on their power, on their "capacity for action", on their being co-builders of gender in the multiple aspects of daily life. Everyone, in understanding their active role, is thus preparing to deconstruct the dominant order in everyday life, in practices, in language, in the symbolic, and in relationships with others. To implement this second phase, in which the circularity between deconstructing and constructing the genre is clearly manifested, some methodological indications and teaching proposals are already available in the literature. In the last phase it will be evaluated whether the training experience has implemented the empowerment of the subjects involved.

With reference to the empowerment process, **Donata Francescato, Anna Putton and Simona Cudini**, in *Feeling good together at school* introduce and indicate the strategies for a socio-affective education for the development of a series of skills necessary for growth. Through pathways, adolescents can experiment with different relational modes, gain self-experience, getting to know aspects of their own personality hitherto unknown and, for this reason, socio-emotional education is configured as a real strategy of empowerment and promotion of well-being, as it is oriented towards the development of skills such as the recognition and expression of needs and emotions, but also towards the promotion of positive relationships within the various contexts of life. The educational path, focused on students' feelings, attitudes, emotions and beliefs, allows both personal and social development of adolescents, in order to promote their self-esteem, give meaning to those emotions that are still developing, begin to assume their own responsibility, thus being able to actively manage their emotional life.

It also allows the development of relational, communicative and social skills, they learn to face problems and make decisions in a creative way, various skills are transmitted, such as listening, communication, adaptability, the ability to work well in a group, encouraging moreover a cooperative, negotiating and personal style Donata Francescato has adapted to the Italian context the

methodologies that in England and the United States were used in a single and sectoral way, proposing an integrated method. The learning place is the group, a relational space where you can get to know each other and compare, made possible through the circle time technique and the attention has been paid to the relationship of the children in the group.

The aim of the circle time is to make teenagers live a group experience that allows them to get to know each other better, being able to discuss topics of common interest and at the same time to ensure that they acquire greater ability to express their thoughts and their own opinions, to mediate between different points of view, to listen, to facilitate the participation of members. The method has been widely used in primary schools, research tells us that this can also be proposed in lower secondary schools.

In the late 1960s, an activity called “magic” spread in California circle time”, where teachers and pupils sitting in a circle began to discuss and discuss topics proposed by the students themselves or by their teacher. Circle time has renewed the traditional way of organizing and structuring the classroom environment, it is in fact one of the most important moments of socio-affective intervention, but it could also easily be used as a common and integrated moment within school life and beyond. During the circle time those roles that organize the traditional school context are put into the background, there are no longer students and trainers, but participants and facilitators. Even the setting undergoes a transformation, there are no more desks and chairs, but chairs arranged in a circle and the typical descending communication is replaced by circular communication, which facilitates the establishment of a climate of listening and abstention from criticism, judgments and ratings.

The boys and girls gathered during the circle time become a real discussion group, characterized by a low, formal hierarchy, with the main objective of fostering a friendly and collaborative atmosphere between them. Using this methodology it will be possible to deepen a knowledge reciprocal, the process of exchanging opinions and establishing more rewarding interpersonal relationships will be facilitated; in fact, thanks to circle time it is possible to recognize the positive value of relational variables. As indicated by Stefano Castelli, especially in America, the school is a place where instances based on numerous variables come to confront and clash and the school system lends itself to rich and articulated conflicts; mediation, group management, introduced in many training programs have promoted skills in managing their conflicts. In which the circle time was applied, the positive contribution of this tool was observed in terms of affective and emotional development, greater ability to accept individual differences, as well as an improvement in interpersonal relationships.

Circle time is also a valid tool, capable of promoting prosocial behavior, improving relationships between adolescents, reducing exclusion, encouraging mutual help and also promoting greater self-esteem and self-awareness, one's feelings and feelings of others. Communication takes place according to shared rules aimed at promoting active listening and everyone's participation (it may be useful, for example, to establish that speaking turns are ritualized by passing an object). It helps to facilitate communication and mutual knowledge, to establish a favorable class climate, to recognize and manage one's own emotions and those of others, to stimulate the assumption of responsibility, to value individual resources and differences, to educate for equality and gender equality. It also allows teachers to get to know their class better and students to get to know each other better. It can be useful for resolving conflicts, through the analysis of problems and the common identification of possible solutions (which, among other things, are real problem solving tasks), avoiding the need for authoritarian interventions by teachers as if it is only the teacher who proposes the solutions, these will never be internalized and fully experienced by the pupils.

It is important that the rules are proposed by the teacher and once accepted by the class, maintained throughout the course of the experience, for this to become a valid point of reference in school life (fix a day and the maximum duration of the discussion, the disposition chairs in a circle, the criterion for choosing the topic). The topics that can be proposed:

Favorite games, with a reflection on gender identity stereotypes in gaming;

What are my passions and my interests and what meaning do they have for me, with a reflection on the future and how everyone imagines themselves when they grow up;

What are the lessons that have fascinated me the most. It can be useful for teachers to adapt didactics to pupils, be more incisive and have metacognitive feedback in order to shape their educational proposal; or discover the hidden curriculum :

What makes me feel angry in the behavior of my classmates and how I manage these moments, to help recognize one's own emotions and those of others and manage any conflicts.

The role of the teacher

- **Observe** : How the pupils arrange themselves in the circle; whether everyone is involved in the discussion; emotional reactions, punctuation between speaker and listener, direction of communication.
- **Facilitate discussion** : offer support and encouragement to the shyest ones, ask for clarifications.
- **To summarise briefly**, at the end of each discussion, the opinions that emerged. **Express an opinion on how the discussion took place**, beyond the contents discussed, highlighting above all the positive aspects. In the event of a conflict, it will be a question of finding a solution acceptable to all.

The inclusion of differences is a theme that moves the world of teachers a lot: the conformation that classes often present reflects today's social complexity which, compared to the past, is more articulated and pluralistic.

In this complexity, the school work, the attempts to make teaching more meaningful, the emotion of the relationship and of learning, are aimed at an ever greater and better inclusion. Presentation of Tools and Based on Educational Projects of Educational Toolkits to Tackle Gender Stereotypes in Primary School, Educational Toolkits to Tackle Gender Stereotypes in High School.

Methodological indications Planning: Learning place, theme, scaffolding, tool, evaluation. Information on the role of mediator

GOALS

1. integrate a gender perspective into the daily educational activity of teachers, trainers
2. deconstruction on experience in relation to gender

5.2. The role of NGOs and international organizations

The term non-governmental organization refers to organizations that make up civil society.

These organizations are generally characterized by having something other than profit as the purpose of their existence.

NGOs range from small groups capable of lobbying or mobilizing for causes concerning, for example, specific aspects of pollution or specific human rights violations, to educational, charitable, cultural, religious, refugee women's associations, foundations, **programs** from humanitarian assistance - and the list goes on and on - to large international organizations with hundreds or perhaps thousands of local branches and members in different parts of the world.

NGOs play a significant role in protecting human rights around the world . At almost every level, **NGOs** have made various attempts to preserve the dignity of citizens when it is endangered by state power.

NGOs play a crucial role in :

- fight individual human rights violations both directly and by supporting "test cases" through the relevant courts;
- offer direct assistance to those whose human rights have been violated;

- press for changes in national, regional or international laws; collaborate in the definition of the contents of these laws; promote knowledge and respect for human rights among the population.

The contribution of **NGOs** is important not only in terms of results achieved and therefore for the optimism that people have towards the defense of human rights in the world, but also because **NGOs are**, strictly speaking, tools that can be used by all individuals and world groups. They are coordinated and directed – by private individuals but also draw their strength from other members of the community who voluntarily champion their cause.

In 1993 at the **Human Rights Conference of the UN**, also known as the **Vienna Conference**, there were **841 NGOs** from all over the world, each of which came with an associative mission related to human rights. While the number is high in itself, this can only be considered a small representation of the total number of human rights **NGOs in the world**.

Many of the associations that call themselves "human rights organizations" deal with the protection of civil and political rights.

The best known of these organizations, at least internationally, include **Amnesty International, Human Rights Watch, the International Federation for Human Rights, Human Rights First and Interights**.

Civil and political rights are only one category of the many human rights recognized by the international community, and new rights continue to emerge. When we take this into consideration and look at the work of **NGOs** dealing with poverty, violence, racism, health issues, homelessness, environmental issues, to name a few, then the actual number of NGOs dealing with human rights protection in one form or another runs into the hundreds of thousands worldwide.

NGOs take action for the protection of rights at different times and at different levels and the strategies they adopt vary according to the nature of their objectives, depending on **whether** they are specific or general, long-term or short-term, whether they are local, national or international and so on.

Strategies:

- **Direct assistance**
- **Information gathering**
- **Campaigns and lobbying**
- **Human rights education and awareness**.

STRATEGIC SPECIFICATIONS AND CASE CASES

EXAMPLES OF SUCCESSFUL ACTIVISM

Center on Housing Rights and Evictions (COHRE)

International Organizations, on the other hand, are bodies created by States through international agreements and endowed with a permanent institutional apparatus in order to achieve common goals through the performance of unitary activities.

Based on the definition contained **in the art. 2 of the 1986 Vienna Convention** on the law of treaties concluded between international organizations and between international organizations and States, the expression international organization means "an organization between governments", regardless of its denomination.

International Organizations have their legal basis in an international agreement concluded between States.

The phenomenon of international organizations originated in the second half of the 19th century, with the establishment of the so-called International Administrative Unions and, after the **Washington Conference of 1889-90**, with the establishment of the first international organization of a regional nature, the International Union of the American Republics.

After the experience of the League of Nations and the International Labor Organization, created by the **Versailles Peace Treaties of 1919**, the **phenomenon** of international organizations has developed since the Second World War.

Between 1942 and 1945 , the Allied Powers convened numerous international conferences with the aim of creating new international organizations, later to become specialized institutions of the United Nations , such as the **Food and Agriculture Organization, the World Bank and the International Monetary Fund (International Financial Institutions)**, the **International Civil Aviation Organization** , and the **United Nations Educational, Scientific and Cultural Organization** , The United Nations system, of which the specialized institutes are part, identifies international organizations of a universal nature.

The diffusion of the phenomenon has grown over time, so much so that today there are **about 300 international organizations** , most of which are regional or sub-regional in nature.

Within the framework of the United Nations , the main forums in which issues relating to human rights and fundamental freedoms are addressed are: **the Commission on Social, Humanitarian and Cultural Affairs (Third Commission) of the General Assembly in New York and the Human Rights Council in Geneva.**

Every year, the Third Commission examines around 70 proposed resolutions on human rights, which, after being negotiated and approved, are submitted for final adoption by the General Assembly. Italy actively participates in the negotiations in the Third Commission and boasts a recognized leading role in numerous campaigns (including those in favor of a universal moratorium on capital punishment and against female genital mutilation).

The **Human Rights Council (HRC)** is a subsidiary body **of the UN General Assembly** , established in 2006 with the task of promoting universal respect for and protection of human rights, intervening in the event of their violation and promoting the coordination of the structures operating in the United Nations system for human rights issues.

The UNHRC is made up of 47 member states elected for a three-year term by the General Assembly, with seats distributed according to the principle of equitable geographical distribution. The Council meets in ordinary session three times a year (March, June and September) and in special session at the request of 1/3 of its members.

Italy is currently a member of the **CDU** for the three-year period 2019 - 2021, elected in October 2018 with a numerical result that saw it first in the WEOG (Western European and Others Group) group and, in general, among the very first elected in relation to the other regional groups.

During its mandate, Italy pays particular attention to some priority issues:

- the fight against all forms of discrimination,
- women's rights
- children's rights
- the universal moratorium on the death penalty
- freedom of religion or belief and the protection of religious minorities
- the fight against trafficking in human beings
- the rights of people with disabilities
- the protection of cultural and religious heritage
- human rights defenders.

Italy actively participates in the various activities of the **UNHRC** , including the Universal Periodic Review (UPR) mechanism, the exercise for monitoring the human rights situation to which all UN member states **undergo** approximately every 4 years .

Italy has adhered to all the main international conventions adopted within the UN on human rights. The promotion and protection of human rights are also an integral part of the "2030 Agenda" for sustainable development adopted in September 2015, as an action program for people, the planet and prosperity signed by all UN countries . The United Nations agency responsible for promoting and protecting human rights enshrined in the Universal Declaration of Human Rights of 1948.

FUNCTIONS AND COMPOSITION

The UN 2030 Agenda consists of 17 **Sustainable Development Goals (SDGs)** framed within a broader action program made up of 169 targets or goals, associated with them, to be achieved in the environmental field, economic, social and institutional by 2030.

The innovative nature of the 2030 Agenda and the new SDGs lies precisely in the overcoming of the idea of sustainability as a purely environmental issue and in the affirmation of a holistic vision of development, which balances its three dimensions - economic, social and environmental - providing an ambitious model of shared prosperity in a sustainable world that hinges on the so-called five **Ps** :

- **People** : eliminate hunger and poverty in all forms and ensure dignity and equality;
- **Planet** : Protect the planet's natural resources and climate for future generations
- **Prosperity**: ensuring prosperous and full lives, with economic, social and technological progress in harmony with nature;
- **Peace** : promote peaceful, just and inclusive societies;
- **Partnerships**: Implement the agenda through strong partnerships built on a spirit of enhanced global solidarity.

THE 17 Sustainable Development Goals are as follows:

End all forms of poverty in the world;
 End hunger, achieve food security, improve nutrition and promote sustainable agriculture;
 Ensuring health and well-being for all at all ages;
 Provide inclusive and equitable quality education and lifelong learning opportunities for all;
 Achieve gender equality and empower all women and girls;
 Ensure the availability and sustainable management of water and sanitation for all;
 Ensure access to affordable, reliable, sustainable and modern energy systems for all;
 Promote lasting, inclusive and sustainable economic growth, full and productive employment and decent work for all;
 Build a resilient infrastructure and promote innovation and equitable, responsible and sustainable industrialisation;
 Reduce inequality between and within nations;
 Make cities and human settlements inclusive, safe, resilient and sustainable;
 Ensuring sustainable models of production and consumption;
 Promote actions, at all levels, to combat climate change;
 Conserve and sustainably use the oceans, seas and marine resources for sustainable development;
 Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, halt and reverse land degradation and halt the loss of biological diversity;
 Promote peaceful and inclusive societies for sustainable development, ensure access to justice for all and build effective, accountable and inclusive institutions at all levels;
 Strengthen implementation tools and renew the global partnership for sustainable development.

These objectives can be traced back to the interconnected areas of intervention identified by the five Ps: People (**objectives from 1 to 5**), Prosperity (**objectives from 6 to 12**), Planet (**objectives from 13 to 15**) , Peace (**objective 16**), Partnership (**objective 17**) .

Specification: control over the adoption of the 2030 Agenda

Specification: control over the results of the policies put in place for this purpose .

EUROPEAN UNION is an international regional organization of economic and political integration, which arose from the process started in the 1950s with the establishment of the **European Coal and Steel Community (ECSC)** , the **European Economic Community (EEC)** and the **European Community of Atomic Energy (EAEC)** .

Introduced into the Community legal system by the Maastricht Treaty of 1992, the EU initially took the form of a political and economic body of a supranational and intergovernmental nature, without its own legal personality , distinct from that of the member states (International Personality). The **Treaty of Lisbon** of 13 December 2007 (in force since 1 November 2009) then amended both the **Treaty on the EU** , and the one establishing the **European Community (EC)**, replacing the **European Union with the European Community** , as the successor international organization of

the EC, with legal personality (Articles 1 and 47 of the Treaty).

Consequently, the Treaty establishing the EC took on the new denomination of Treaty on the Functioning of the European Union.

The EU is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights (Article 2 of the Treaty); it has general aims, aiming in particular at: the creation of an area of freedom, security and justice without internal frontiers; the establishment of an internal market and the sustainable development of Europe, based on balanced economic growth, a competitive market economy and a high level of protection and improvement of the environment; the fight against social exclusion and discrimination; economic, social and territorial cohesion and solidarity between Member States; the economic and monetary union, whose currency is the euro; and, in external relations, the promotion of EU values and interests, contributing to peace, security and sustainable development, the eradication of poverty, the protection of human rights and respect for international law and the principles of the Charter of the United Nations.

OSCE (Organization for Security and Co-operation in Europe)

the ODIHR (Office for Democratic Institutions and Human Rights),

The Osce-Odihr

OSCAD (Observatory for Security against Discriminatory Acts)

WHO (World Health Organization)

In its factsheet on "human rights and health" it commits to integrate human rights into national and regional health programs and policies, examining the determinants of health as part of a comprehensive approach to health and human rights.

Respect for medical ethics, sensitivity to gender, health care facilities, goods, services and programs that are person-centred and respond to the specific needs of different population groups. in accordance with international standards of medical ethics for confidentiality and informed consent, they are the qualities that WHO emphasizes and deems necessary in its fact sheet on "human rights and health", to be included in national health programs and policies and regional, examining the determinants of health as part of a comprehensive approach to health and human rights. In particular:

Responsibility

Equality and non-discrimination.

Participation

Universality, indivisibility and interdependence

Availability

Accessibility

The quality

Conclusions

The school as a fundamental agent of socialization for global citizenship already finds a clear reference to its role in the Universal Declaration of Human Rights in 1948:

Art. 26. Education must be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial and religious groups, and shall further the work of the United Nations for the maintenance of peace.

As underlined in 1996 by the **UNESCO Commission** on Education for the Twenty-First Century in the report "Education is a treasure", it is necessary to put the tension to learn to *live together*, to *cooperate*, to *plan together at the center of education: a education that knows how to pay attention to the rights of both the person and the international community*, should therefore consider among its foundations the ability to live together, developing an understanding of others and their history, their traditions and their spiritual values, and creating this basis a new spirit which, guided by the recognition of our growing interdependence and by a common analysis of the risks and challenges of the future, can lead humanity to implement common projects and to face conflicts intelligently and peacefully.

Educating for global citizenship is one of the objectives of the Global Agenda for Sustainable Development 2030, with the goal that commits the international community to "providing quality, equitable and inclusive education and learning opportunities for all".

In particular, education for global citizenship is directly mentioned in section 4.7: "Ensure by 2030 that all learners acquire the knowledge and skills necessary to promote sustainable development, including through development-oriented and lifestyle-oriented education of sustainable living, human rights, gender equality, the promotion of a peaceful and non-violent culture, global citizenship and the valorisation of cultural diversity and the contribution of culture to sustainable development."

Based on these assumptions, in order to create participatory, inclusive learning places that implement psychosocial skills and empowerment, it is essential that teaching staff and trainers insert teaching methodologies within the learning place which, compared to traditional teaching, based on expository methods linked to the transmission of information, favor active methodologies of a heuristic and experiential type.

These methodologies engage the teacher and the student in a dynamic process that allows the student himself to be an aware and responsible subject of learning.

The use of a simulative, exploratory, collaborative, metacognitive and self-regulatory teaching methodology allows you to change your gaze and stimulates you to examine the social world with new coordinates, to make girls and boys reflect on their power, their ability to act and the them to be co-builders in the multiple aspects of daily life and develop life skills.

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