

Integrating European Values modules in studies
(IN EU VALUES)

Project 101085537

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

Synthesis

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.

The first objective of the project is to inform the operators on the Community, international and internal normative sources, on the protection from discriminatory acts and treatments.

The types of discrimination on which attention is focused are gender discrimination, discrimination referring to disability, race and ethnicity, nationality, but also to hate speech and cyberbullying, multiple discrimination and that relating to sexual orientation.

For each type of discrimination, the definitions, the reference legislation, the framework of the sanctioning behaviors but also the contrasting policies are introduced.

Alongside the regulatory framework oriented towards definitional and contrasting aspects and provisions aimed at making the anti-discrimination principle substantial, attention is paid to the dimension of prevention of the phenomenon in line with the professional profile that operates within educational structures.

Precisely with reference to prevention, a theoretical approach and transversal good practice of education for inclusion is indicated through a teaching methodology and teaching tools that can be adopted in training contexts.

The teaching methodology that is presented allows for the deconstruction of stereotypes and allows for the development of life skills, fundamental competences in the complexity of the current social context.

Today, working in the educational field means working on the construction of an active citizenship. The school can be a training ground for democracy and its founding principles: pluralism, participation, inclusion, equality.

Introduction

Discrimination, in all its possible forms and expressions, is one of the most common forms of violation and abuse of human rights.

Intolerance can manifest itself in a wide range of actions, from exclusion to avoidance, through hate speech, to physical violence or even murder.

Discrimination occurs when a person is treated differently from another in a similar situation only because he belongs, or is perceived as belonging, to a certain group or category of people.

Individuals may be discriminated against on the basis of age, disability, ethnicity, ancestry, race, religion, gender, sexual orientation, language, culture or for other reasons.

Discrimination, the result of prejudices or of the structures of opportunities inherent in social stratification, renders people impotent, prevents them from becoming active citizens, limits them in the development of their skills and possibilities/opportunities.

Very often, the possibilities or rather the impossibilities refer to resources and also to access in many areas: the world of work, politics, health services, education, housing, etc.

Discrimination has direct consequences on those individuals and groups that are discriminated against, but it has indirect and profound consequences on society as a whole.

A society where discrimination is allowed or tolerated is one where people are deprived of the free exercise of their full potential for themselves and for society.

This work focuses on international, European and national anti-discrimination legislation.

In Europe the prohibitions of discrimination, contained in the founding Treaties from the very

beginning, have had an extraordinary development, jurisprudential and normative, to such an extent that they have become a specific sector of Union law.

Anti-discrimination protection, born within the context of racial segregation in the United States and the caste system in independent India, acquired an international dimension starting from the second post-war period and helps to lay the foundations of a Europe of rights thanks to the innovative drive of the jurisprudence of the Court of Justice of the European Union and the European Court of Human Rights.

In Italy, the constitutional paradigm incorporates two seemingly opposing forces which form the basis of Italian anti-discrimination law: The principle of equality in art. 3 and the principle of legal pluralism (Articles 2 and 6 of the Constitution), important for the legal decoding of the types of discrimination. On the one hand, the principle of equality, in its formal form, but above all in its substance, appears to be the normative basis of all interventions aimed at achieving social equality, the transformation of society in an egalitarian sense, also through the redistributive instruments of the State.

On the other hand, it is probably the art. 2 to constitute the main innovative drive on the issue of discrimination when it opens up to the perspective of social pluralism.

The current awareness of the existence of structural discrimination puts States today in the position of having to adopt policies that take into account not only the legal framework but also other incentives, which consider patterns of behavior and how the various institutions operate.

Human rights education should be one of the answers to this problem.

While on the one hand the legislation has focused on definitions, casuistry and sanctions (punishment), it is even more urgent to consider the structural dimension of discrimination: routines, patterns of behavior and attitudes that create obstacles to the achievement of real equality or equal opportunities.

The challenge of discrimination is to make it visible, as we often grow up, we live, with its evidence and indisputability.

Therefore, an education in equality involving the Union, States, Institutions, organisations, regional and local bodies which is not only theoretical but which gives the possibility of developing an awareness of equality is fundamental.

The work, in fact, is dedicated to the professional figure of **the OEPAC** who performs his role with the aim of increasing the autonomy of the disabled and those in disadvantaged conditions for social inclusion and participation.

Its legitimacy as a profession arises precisely from the principle of school inclusiveness of the disabled, **art. 37** of the Italian Constitution "The school is open to all".

Those who play their role in the school institution, but also in other types of structures that deal with education/training processes, cannot underestimate its strength as an agent of socialization towards equality and global citizenship.

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 system European anti - discrimination , consists of a framework of rules elaborated in multiple contexts but mainly from the law of the ECHR and by law of the Union .

The ECHR, the Convention European Union for Safeguarding of the rights of man and of freedom Fundamentals of 1950, is the first human rights treaty humans inspired from the Declaration universal of the rights humans of the United Nations.

The ECHR sanctions the obligation legally binding on the States contractors to acknowledge to each person subjected at the They jurisdiction the rights humans that I am statements in Convention .

The prohibition of discrimination is enshrined from the arts . 14 that ensures equal treatment __ in the enjoyment of the rights recognized in Convention :

The enjoyment of the rights and of freedom recognized in here I'm Convention needs to to be insured without any discrimination , especially well- founded ones on gender , race , color , language, religion , opinion policies or those of others genus , origin national or social , membership in a minority nationality , wealth , birth od every other condition .

Protocol no . 12 (2000) to the ECHR , broadens the scope of the prohibition of discrimination ensuring equal treatment __ in the enjoyment of each right included the rights foreseen from the legislation national . According to the report explanatory of the protocol , his adoption moves from the desire to consolidate protection against discrimination , considered _ basic in warranty of the rights humans . In particular , the protocol arises from the debate on reinforcement of the parity between the genders and between races . _

In the Union European legislation _ anti- discrimination , has its own legitimacy in the Treaty on Operation of the Union European (**TFEU**) that constitutes , together with the Treaty on the Union European (**TEU**), one of the two ' pivotal ' treaties of the Union European , fundamental basis of law of the itself (already Treaty institutive of the Community economic European Union , signed in Rome on 25 March 19571 ; then modified by later Treaties , bro the Which yes can to recall in particular the **Maastricht Treaty** of 7 February 1992; the current text was last modified by the **Treaty of Lisbon** entered into force on 1 December 2009)

At the art . 19 of the TFEU (previously art. 13 of the TEC), authorizes the Council, after deliberation unanimously of the itself and approved by Parliament European , to « take the measures appropriate to combat discrimination _ founded on gender , race or origin ethnicity , religion or beliefs personalities , disability , age or orientation sexual ".

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 rights fundamental of the Union European Union , proclaimed in Nice on 7 December 2000 and adapted in Strasbourg on 12 December 2007 , provides in art . 21 « It is prohibited any form of discrimination founded , in particular , on the gender , race , color of the skin or origin ethnic or social characteristics _ genetics , language, religion or beliefs personal opinions _ policies or any other nature, belonging to one minority nationality , property , birth , handicap, age or sexual orientation.² . In scope of application of the Treaty that establishes the community European Union and the Treaty on the Union European is prohibited any discrimination founded on the citizenship , subject to the provisions details contained in the treated 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

- 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.

Given the 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, *Convention international on the elimination of all forms of discrimination racial* , concluded in New York on December 21, 1965 and in force since January 4, 1969, the statement concerning the discriminatory phenomenon that it was intended to combat, indicated the concepts of discrimination and racial hatred as descriptive parameters.

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 1 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)*

Art. 28 Discrimination disputes

1. Disputes regarding discrimination referred to in article 44 of legislative decree **25 July 1998**, n. 286 , those referred to in article 4 of the legislative decree of 9 July 2003, no. 215 , those referred to in article 4 of legislative decree 9 July 2003, n. 216 , those referred to in article 3 of the law of 1 March 2006, n. 67 , and those referred to in article 55-quinquies of the legislative decree of **11 April 2006** , n. 198 , are regulated by the summary procedure of cognition, unless otherwise provided for by this article.
2. The court of the place where the appellant has his domicile has jurisdiction.
3. In the trial of first instance the parties can stand trial personally.
4. When the plaintiff provides factual elements, also deduced from statistical data, from which it can be presumed the existence of discriminatory acts, agreements or behaviours, the defendant has the burden of proving the non-existence of discrimination. Statistical data may also relate to recruitment, contribution schemes, assignment of tasks and qualifications, transfers, career progression and dismissals of the company concerned.
5. With the order that defines the judgment, the judge can order the defendant to pay compensation for damages, including non-pecuniary damages and order the cessation of the prejudicial discriminatory behaviour, conduct or act, adopting, also towards the public administration, any other appropriate measure to remove its effects. In order to prevent the repetition of the discrimination, the judge may order the adoption, within the time limit set in the provision, of a plan to remove the established discrimination. In cases of discriminatory behavior of a collective nature, the plan is adopted after hearing the appellant collective body.
6. For the purposes of liquidating the damage, the judge takes into account the fact that the discriminatory act or behavior constitutes retaliation to a previous judicial action or an unjust reaction to a previous activity by the injured party aimed at obtaining compliance with the principle of equal treatment.
7. When accepting the proposed request, the judge can order the publication of the measure, only once and at the defendant's expense, in a national newspaper. The ordinance is communicated in the cases provided for by article 44, paragraph 11, of the legislative decree 25 July 1998, n. 286 , from article 4, paragraph 1, of the legislative decree 9 July 2003, n. 215 , from article 4, paragraph 2, of the legislative decree 9 July 2003, n. 216 , and by article 55-quinquies, paragraph 8, of legislative decree 11 April 2006, n. 198 .

The text of article 44 of the aforementioned legislative decree n. 286 of 1998, as amended by this legislative decree:

Art. 44 (Civil action against discrimination). (Law 6 March 1988, n. 40, art. 42)

1. When the behavior of a private individual or public administration produces discrimination on racial, ethnic, linguistic, national, geographical origin or religious grounds, it is possible to resort to the ordinary judicial authority to request the cessation of the prejudicial behavior and the removal of the effects of the discrimination.
2. Article 28 of Legislative Decree 1 September 2011, n. 150.

Paragraphs 3 - 7 (repealed).

8. Whoever evades the execution of provisions, other than the sentence to pay compensation for damages, rendered by the judge in the disputes envisaged by this article is punished pursuant to article 388, first paragraph, of the penal code.
9. (repealed).
10. If the employer carries out a discriminatory act or behavior of a collective nature, even in cases where the workers affected by the discrimination cannot be identified immediately and directly, the appeal can be presented by the local representatives of the most representative trade union organizations nationwide.
11. Any ascertainment of discriminatory acts or behavior pursuant to article 43 by companies

to which benefits have been granted pursuant to the laws in force of the State or regions, or which have entered into procurement contracts relating to the execution of public works, of services or supplies, is immediately communicated by the Magistrate, according to the methods provided for by the implementing regulation, to the public administrations or public bodies that have ordered the granting of the benefit, including financial or credit facilities, or the contract. These administrations or entities revoke the benefit and, in the most serious cases, order the exclusion of the manager for two years from any further granting of financial or credit facilities, or from any contract.

12. The regions, in collaboration with the provinces and municipalities, with immigrant and social voluntary associations, for the purpose of applying the provisions of this article and of studying the phenomenon, set up observation, information and legal assistance centers for foreigners, victims of discrimination on racial, ethnic, national or religious grounds."

The text of article 4 of the legislative decree 9 July 2003, n. 215 (Implementation of directive 2000/43/EC for equal treatment between people irrespective of race and ethnic origin.), as amended by this legislative decree:

«Art. 4 (Judicial protection of rights). –

1. Civil proceedings against the acts and behaviors referred to in article 2 are governed by article 28 of legislative decree 1 September 2011, n.150. In the event of ascertainment of discriminatory acts or behaviour, as defined by article 2 of this decree, article 44, paragraph 11, of legislative decree no. 286.
2. Whoever intends to take legal action for the recognition of the existence of one of the discriminations referred to in article 2 and does not consider making use of the conciliation procedure provided for by the collective agreements, can promote the attempt at conciliation pursuant to article 410 of the code of procedure civil law or, in the case of employment relationships with public administrations, pursuant to article 66 of the legislative decree of 30 March 2001, n. 165, also through the associations referred to in article 5, paragraph 1, paragraphs 3 - 6 (repealed).

The text of article 4 of the legislative decree 9 July 2003, n. 216 (Implementation of directive 2000/78/EC for equal treatment in employment and working conditions), as amended by this legislative decree:

«Art. 4 (Judicial protection of rights).

1. In article 15, paragraph 2, of law 20 May 1970, n. 300, after the word «sex» the following are added: «, of handicap, age or based on sexual orientation or personal beliefs».
2. Civil proceedings against the acts and behaviors referred to in article 2 are governed by article 28 of legislative decree 1 September 2011, n. 150. In the event of ascertaining discriminatory acts or behaviour, as defined by article 2 of this decree, article 44, paragraph 11, of legislative decree no. 286.
3. Whoever intends to take legal action for the recognition of the existence of one of the discriminations referred to in article 2 and does not consider making use of the conciliation procedures provided for by the collective agreements, can promote the attempt at conciliation pursuant to article 410 of the code of procedure civil or, in the case of employment relationships with public administrations, pursuant to article 66 of the legislative decree of 30 March 2001 , n. 165, also through the local representations referred to in article 5.

paragraphs 4 - 7 (repealed).

8. The jurisdiction of the administrative judge for the personnel referred to in article 3, paragraph 1, of the legislative decree 30 March 2001, n. 165.». i shows the text of article 3 of law 1 March 2006, n.67 (Measures for the judicial protection of people with disabilities who are victims of discrimination).

«Art. 3 (Jurisdictional protection). –

- Civil proceedings against the acts and behaviors referred to in article 2 are governed by

article 28 of legislative decree 1 September 2011, n. 150. paragraphs 2 - 4 (repealed).

The text of article 55-quinquies of Legislative Decree No. 198 of 11 April 2006 (Code of equal opportunities between men and women, pursuant to the article of Law No. 246 of 28 November 2005), as amended by this legislative decree.

«Art. 55-quinquies (Procedure for the protection against discrimination for reasons of sex in access to goods and services and their supply) .

1. In the event of violation of the prohibitions referred to in article 55-ter, it is possible to appeal to the ordinary judicial authority to request the cessation of the prejudicial behavior and the removal of the effects of the discrimination.
2. Article 28 of legislative decree 1 September 2011, n. 150.
paragraphs 3 - 7 (repealed).
8. In the event of ascertained violation of the prohibition referred to in article 55-ter, by public or private subjects to whom benefits have been granted pursuant to the laws in force of the State or the regions, or who have entered into procurement contracts pertaining to the execution of public works, services or supplies, the judge immediately notifies the public administrations or public bodies that have ordered the granting of benefits, including financial or credit facilities, or of the contract. These administrations or bodies revoke the benefits and, in the most serious cases, order the exclusion of the manager for two years from any further granting of financial or credit facilities, or from any contract.
9. Article 28 of legislative decree 1 September 2011, n. 150.».

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

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:

- that to the waist (art. 2),
- the prohibition of torture and inhuman or degrading treatment (art. 3),
- the prohibition of slavery and forced labor (art. 4),
- the right to liberty and security (art. 5),
- the right to a fair trial (art. 6),
- the recognition of the principle *nulla poena sine lege* (art. 7),
- the right to respect for private and family life (art. 8),
- the right to freedom of thought, conscience and religion (art. 9),
- that of freedom of expression (art. 10),
- the right to freedom of assembly and association (art. 11),
- that of marriage (art. 12),
- the right to an effective remedy (Article 13),
- the prohibition of discrimination (art. 14).

To these rights, as mentioned, others have been added with the adoption of specific Protocols such as the additional one of 20 March 1952 which provides for:

- the protection of the right to property (art. 1),
- the right to education (art. 2) and the right to free elections (art. 3);
- Protocol no. 4 of 16 September 1963 on the right to freedom of movement (art. 2),
- the ban on the expulsion of citizens (art. 3) and the ban on collective expulsions (art. 4)¹⁷;
- Protocol no. 6 of 28 April 1983 on the abolition of the death penalty (art. 1)¹⁸;

- Protocol no. 719 whose art. 1 includes the procedural guarantees for the expulsion of foreigners,
- the right to two levels of judgment in criminal matters (art. 2),
- the right to compensation in the event of judicial errors (Article 3),
- the right to equality between spouses (art. 5)

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**.

Its function is to monitor compliance by the states with the obligations envisaged by the Charter. It is made up of fifteen independent and impartial members elected by the Committee of Ministers of the Council of Europe for a term of six years, renewable once. The Committee decides whether the national situation of the contracting states complies with the Charter.

The form of control is the examination of the reports and the comparison with the dictates of the Charter.

Its decisions, published annually, are called " conclusions".

In the event of non-compliance by a state, if it fails to take the necessary measures to comply, the Committee of Ministers recommends that state to amend the situation in its domestic law or practice.

The work of the Committee of Ministers is prepared by the Governmental Committee composed of representatives of the governments of the contracting states of the Charter, assisted by observers representing the European social partners.

A Protocol, opened for signature in 1995 and entered into force in 1998, allows complaints alleging violations of the Charter to be submitted to the European Committee of Social Rights.

European Union law against discrimination based on racial or ethnic origin, religion or belief, disability, age or sexual orientation is now transposed into national law in all Member States.

The main challenges are the lack of public awareness of their rights and the insufficient level of reporting of discriminatory events.

To support this process, the Commission provides funding to raise public awareness and train legal practitioners on equality law.

The principle of non-discrimination is one of the fundamental principles of the European Union and thanks to the EU anti-discrimination rules and the measures taken by the Commission to enforce them, citizens can make use of these rights in all Member States.

The real challenge is to ensure that victims of discrimination can effectively exercise their rights, that is, that they know where to turn for assistance and have access to justice.

To ensure that EU rights to equal treatment are properly implemented in practice, the Commission recommends that Member States continue to raise awareness of anti-discrimination rights and focus on those most at risk, involving employers and labor unions.

The Commission provides funding to support this kind of activity; facilitate the reporting of discrimination by improving victims' access to reporting mechanisms. National equality bodies play a crucial role and the Commission will continue to support their network and ensure that they effectively carry out their tasks under EU law; ensure access to justice for those who have suffered discrimination. The Commission's guidelines indicate concrete how to lodge a complaint and the Commission funds training on the application of equality law for legal practitioners and NGOs representing victims of discrimination;

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 certain annulment actions and appeals;
- **the General Court** which rules on actions for annulment brought by private citizens, businesses and, in some cases, governments of EU countries.

Judges and Advocates General are jointly appointed by national governments for a renewable term of **6 years** . The judges of each section elect a president who remains in office for a renewable term of **3 years**.

An individual or business and you have suffered damage as a result of an act or omission on the part of an institution, if you believe that the authorities of any country have breached EU law, you can follow the official complaints procedure and refer them to the Court in one of two ways: indirectly, through national courts (which may decide to refer the case to the Court of Justice) or directly, before the General Court, if it is a decision by an EU institution which directly and individually affects you.

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.

Directive 2000/78/EC establishes a general framework for equal treatment in employment, occupation, occupational conditions and vocational training (Employment Equality Directive). The directive, or prohibits any discrimination based on religion or belief, handicap, age or sexual orientation based on religion or belief, handicap, age or sexual orientation, specifically provides for the obligation to adopt reasonable accommodation for the disabled.

The Commission has opened infringement proceedings against Italy (IP/09/1620) for failing to fully transpose the EU directive. Italy is referred to the Court of Justice of the EU for incorrect transposition of the directive.

Article 5 of the Directive requires the employer to provide reasonable accommodation for disabled people to have access to employment and career progression. Italy had not fully transposed this provision, since the Italian legal system does not contain a general rule requiring the employer to

provide reasonable solutions for people with any type of disability and for all aspects of employment. Judgment of the Court of Justice of the EU (Fourth Section) of 4 July 2013
Cause no. C-312/11 Assignment: On: 06/08/2013

The Court rules on the infringement action brought by the European Commission against Italy for failure to correctly transpose Article 5 of Directive 2000/78/EC which establishes a general framework for equal treatment in employment and conditions of employment work of the disabled, transposed into Italian law by legislative decree no. 216/2003.

In the view of the European Commission, by failing to oblige all employers to provide solutions applicable to all disabled people, Italy has failed in its obligation to correctly and completely transpose Article 5 of the directive. In particular, after a pre-litigation phase opened by the Commission with a letter of formal notice to Italy on 15 December 2006, the European Commission issued a reasoned opinion on 29 October 2009 and, after the Italian reply confirming its position on 13 January 2010 presented the appeal in question on 20 June 2011.

In particular, according to the European Commission, the legislative decree n. 216/2003 does not contain all the implementing measures of this directive and, in particular, those referred to in article 5, given however that the measures relating to the treatment of disabled people in terms of employment are envisaged by law no. 68/1999.

In any case, according to the Commission, there is no provision in Italian law which transposes the general obligation set forth in **article 5** of the directive.

The guarantees and benefits provided by Italian legislation do not concern all disabled people, do not affect all employers and do not even concern all the different aspects of the employment relationship. Finally, the implementation of the solutions in favor of the disabled provided for by the Italian legislation, requiring the adoption of further provisions by the local authorities or the conclusion of special agreements, does not confer rights to the disabled that can be invoked directly in court.

In its defence, Italy reaffirms the extremely advanced nature of national legislation on the protection of the disabled and underlines the fact that it does not fall within the exclusive competence of the State. Furthermore, the concept of disability at the basis of the Framework Law n. 104/1992 is fully compliant with that of the European legislation (although directive 2000/78 does not define the concept of handicap) as well as that of adequacy and proportionality of the measures, which, according to Italy, is found verbatim in article 5 of Directive 2000/78. Even the categories of disabled people, to whom the law n. 68/1999, are based on the international classification developed by the World Health Organization. As for the immediacy and effectiveness of the measures, in Italy's opinion, law no. 104/1992 applies to all disabled people and to all employers.

The provision of the size threshold of 15 employees below which there is no obligation for companies to hire workers with a certain percentage of disabilities, as established by law no. 68/1999, complies with the principle of proportionality and does not exclude the same companies from the application of the rules which provide for the elimination of unequal treatment linked to disability, just as it does not prevent them from stipulating agreements for the job placement of the disabled and to benefit from certain incentives linked to the employment of disabled people.

Finally, also the dispositions introduced by the law n. 381/1991 and by the legislative decree n. 81/2008 are applicable to all disabled people. Finally, the legislative decree n. 216/2003, which implements the directive, provides for the judicial protection, on a civil level, of the principle of equal treatment, without distinction according to the severity of the handicap and, on a public law level, the Presidential Decree n. 333/2000 (Execution regulation of law n. 68/1999, containing rules for the right to work of the disabled) provides for a system of sanctions at various levels in the event of non-compliance with the obligations established by law n. 68/1999.

In the Commission's opinion, however, the provisions cited by Italy, which were never referred to during the pre-litigation procedure, cannot be considered, even as a whole, sufficient for the implementation of article 5 of the directive. In fact, the Italian system for promoting the work integration of disabled people is essentially based on incentives, concessions and initiatives paid by the public authorities and is only minimally based on obligations imposed on employers, contrary to

the provisions of article 5 of the directive.

On the basis of Article 5 of the Directive, read in conjunction with recitals 20 and 21, the Court therefore states that Member States must establish an obligation for all employers to take effective and practical measures according to the needs of the concrete situations (without however imposing a disproportionate burden on them), since the provision of incentive and support measures is not sufficient. With reference to the Italian legislation, according to the Court, neither the law n. 104/1992 nor the law n. 381/1999 guarantee that all employers are required to adopt effective and practical measures, according to the needs of concrete situations; the law n. 68/1999, having the aim of facilitating access to employment for certain disabled people, is not aimed at regulating what is required by article 5 of the directive; the legislative decree n. 81/2008 regulates only the aspect of adapting duties to the disability of the person concerned.

Therefore, the Italian legislation does not ensure a correct and complete transposition of Article 5 of Directive 2000/78.

The Court, deeming the reasons for the appeal well founded, therefore declares that Italy has failed in its obligation to correctly and completely transpose article 5 of directive 2000/78 and orders it to pay the costs.

Lastly, it should be noted that with article 9, paragraph 4-ter, of decree-law no. 76/2013 (converted, with amendments, by law no. 99/2013), Italy has taken steps to adapt our legal system to the provisions of article 5 of directive 2000/78, introducing the principle of the obligation to provide for public and private employers.

The case concerns the impossibility for the appellant, a thirteen-year-old girl now suffering from autism with a lack of verbal language, to benefit from specialized scholastic support during the first two years of elementary school (2010/2011 and 2011/2012).

The appellant was born in 2004 and lives in Eboli. Before the Court she was represented by Mr. AL (his father) and by the lawyer ME D'Amico of the Court of Milan. Since her entry to kindergarten in 2007, the applicant has always benefited, on account of her handicap, in accordance with Article 13 of Law no. 104 of 1992, twenty-four hours a week accompaniment provided by a support teacher, and specialized assistance. During her first year of primary school (2010-2011), the applicant no longer benefited from this specialized assistance and, at the end of the school year, it was decided to have her repeat the preparatory course. On 10 August 2011, with a view to beginning of the new school year, the applicant's parents asked the municipality of Eboli to arrange for their daughter to benefit from the specialized assistance provided for by article 13 of law no. 104 of 1992. In the absence of a response from the municipal authorities, they reiterated their request on 30 January 2012. On 21 February 2012, in view of the silence of the municipal administration, the applicant's parents requested access to their daughter's file .

From January 2012, they paid for private specialized assistance so that their daughter could still benefit from school support. On 19 March 2012, the municipal administration let them know that it would be difficult to put public specialized assistance back in place, as the latter had only been foreseen until the end of 2011, but that it could still be hoped that the applicant would have benefited from it as soon as possible – which did not happen. The Government argued that the applicant received support which was paid for by the school. In that regard, it produces a document signed by the director of the educational establishment, which states that, since the applicant was unable to benefit from specialized educational services during the years 2010-2011 and 2011-2012, the school provided her with assistance basic and physical aid, and has appointed some of its employees to provide material assistance to teachers. In support of its claims, the Government encloses an invoice for 476.56 euros (EUR).

The appellant believes that the documents produced by the Government do not make it possible to establish the veracity of those statements. It notes first that these documents do not specify what kind of assistance was provided, what activities were carried out, or whether the persons concerned were competent and qualified to care for an autistic child. Secondly, the applicant considers that the

amount of the certified expenses (EUR 476.56 for six employees, i.e. an average cost of EUR 80 per employee and per year) demonstrates that the support in question certainly cannot be regarded as permanent. On 15 May 2012 the applicant's parents, acting in the name and on behalf of the latter, applied to the administrative court of the Campania region ('the TAR'), complaining that their daughter could not benefit from the specialized assistance she had right pursuant to article 13 of law n. 104 of 1992, and asking the court to ascertain the failure to respect this right and order the administration to indemnify their daughter.

With a sentence of 27 November 2012, the TAR rejected this appeal, deeming that the municipality had started the necessary procedures in good time and taking into account the fact that the region had had to deal with a reduction in the resources allocated by the state. The applicant's parents challenged this judgment before the Council of State. With a sentence filed in the chancellery on 26 May 2015, the Council of State rejected their appeal, deeming that the request for compensation was vague and did not demonstrate a causal link between the lack of specialized assistance and the alleged damage. The Council of State also held that the region could not be held responsible as it had faced a reduction in the resources allocated by the state.

It considered that it was not necessary to grant the applicant's parents reimbursement of the expenses they incurred in paying for specialized private care, excluding any charge to the municipal administration. Finally, with regard to the request to order the municipality of Eboli to provide the assistance required by law, he recalled that the judge could issue an injunction against the municipal administration to do so only when the case fell within the exclusive competence of the administrative jurisdiction, but this was not the case.

The Committee defined discrimination against persons with disabilities as "any distinction, exclusion, restriction or preference based on a disability or lack of adequate accommodation which has the effect of nullifying or limiting the recognition, enjoyment or exercise economic, social or cultural rights". The deprivation of reasonable accommodation should be included in national legislation as a prohibited form of discrimination based on disability. States parties must remedy discrimination manifested, for example, in prohibitions on exercising the right to education, or lack of reasonable accommodations in public places such as public health facilities and workplaces, as well as in private places; Indeed, if the design and layout of the workplace does not allow access for wheelchair users, they cannot effectively exercise their right to work.'

- In light of the United Nations Convention on the Rights of Persons with Disabilities:

It is appropriate to recall the following passages of the Convention on the Rights of Persons with Disabilities ('CRDPH'), adopted on 13 December 2006 by the United Nations General Assembly (United Nations Treaty Series, vol. 2515, p. 3), signed on March 30, 2007, then ratified by Italy on May 15, 2009.

- **-of the revised European Social Charter** (ETS No. 163), opened for signature on 3 May 1996 and ratified by Italy on 5 July 1999, states in particular the following: Article 15 – Right of disabled persons to independence, social integration and participation in the life of the community To guarantee people with disabilities the effective exercise of the right to independence, social integration and participation in the life of the community, regardless of age and the nature and origin of the their infirmities, the Parties undertake in particular to take the necessary measures to provide incapacitated or handicapped persons with guidance, education and vocational training within the framework of the common law whenever possible or, if this is not the case, through specialized institutions public or private (..) to favor their complete integration and participation in social life through measures, including technical aids, aimed at overcoming the obstacles to communication and mobility and allowing them to have access to transport, housing, cultural and leisure activities.

Part V Article E – Non-discrimination

- **The Recommendation n. R (92) 6** of the Committee of Ministers on a coherent policy for persons with disabilities, adopted on 9 April 1992, calls on Member States to 'guarantee the right of persons with disabilities to an independent life and integration into society' and to "recognize the duty of society to guarantee this right", in order to ensure that people with disabilities have real "equal opportunities" compared to other people. The action of the public authorities must aim, among other things, to ensure that people with disabilities can "enjoy the widest possible mobility, allowing them, in particular, to access buildings and means of transport", "play a full role in society" and "participate in economic, social, recreational and cultural activities".

Article 14 of the Convention in conjunction with Article 2 of Protocol No. 1

The Court observes as a preliminary point that the Italian legal system guarantees the right to education of children with disabilities through inclusive education within mainstream schools. In Italy, all children are educated in a single type of school for the entire duration of compulsory schooling: children with disabilities are integrated into the ordinary classes of public school, and the State has created psycho-pedagogical services which they must ensure the presence in these classes of a so-called "support" teacher, who coordinates the action of the assistants and collaborates with the teacher in charge of the class, sharing responsibility. If the pupil's situation requires it, other professionals are envisaged, such as assistants for autonomy and communication, who have the task of «eliminating perceptive and sensory barriers», and educational assistants, who accompany the pupil for the purpose to promote independence and socialization.

In the present case, the appellant, a child with non-verbal autism, claimed that she was unable to benefit from the specialized assistance required by law.

The task of the Court is therefore to verify whether the national authorities have actually fulfilled their obligations under **Article 14** of the Convention, read in conjunction with **Article 2 of Protocol No. 1 to the Convention**, to the applicant within the limits of their margin of appreciation, and whether they made reasonable arrangements to ensure that she enjoyed her rights under **Article 2 of Protocol No. 1** in conjunction with **article 14**. The Court must therefore evaluate the diligence with which the authorities have reacted to the situation brought to their attention.

In the present case, the applicant claims that the fact that she was unable to benefit from specialized assistance during the first two years of primary school constitutes discriminatory treatment against her. On this point, the Court observes that, at the material time, various legislative provisions enshrined the right of children with disabilities to education and to be protected against discrimination (see the relevant domestic law,

The **Court** points out that, by providing for the inclusion of disabled children in mainstream schools, the national legislature made a choice which falls within its margin of appreciation.

It observes that, in the present case, it is clear from the documents in the file that, although the law provided in an abstract way for the implementation of reasonable "accommodations" without leaving the administration the slightest leeway in this regard, the authorities competent national authorities did not specifically specify how those arrangements were to be implemented from 2010 to 2012, and that in this way the applicant did not benefit, during that period, from specialized assistance corresponding to her specific teaching needs.

Reiterating that the Convention aims to guarantee concrete and effective rights, the Court recalls that, in the context of the present case, it must take account of the evolution of international and European law and respond, for example, to the consensus that may emerge at these levels regarding the standards to be achieved in the sector in question

The Court therefore considers that **Article 14** of the Convention must be interpreted in the light of the conditions set out in the aforementioned texts, and above all of the a **UN Convention** on the Rights of Persons with Disabilities.

According to this instrument, "reasonable accommodations" that persons with disabilities have the right to expect are "necessary and appropriate modifications and adjustments which do not impose a disproportionate or undue burden" made "where necessary in cases special" to ensure to such persons "the enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms", and discrimination based on disability "includes all forms of discrimination, including the refusal of a reasonable accommodation". Indeed, the above measures are intended to correct de facto inequalities.

Certainly, it is not for the Court to define the "reasonable arrangements" - which can take various forms, both material and immaterial - to be made in the field of education to respond to the educational needs of people with disabilities, and the national authorities find themselves better placed to do so than the Court. However, it is important that States pay particular attention to the choices they make in this area, given the impact that such choices have on children with disabilities, whose particular vulnerability cannot be ignored.

In the present case, the Court must therefore verify, having regard to the fact that the State had planned to offer inclusive education to children with disabilities, whether the administration had valid reasons for depriving the applicant of access to specialized assistance.

The Government based its thesis mainly on the argument that due to the allocation of the only funds available to the needs of people with ALS, the authorities did not have financial resources that could be rapidly allocated to school support. The Government further stated that, in any event, the school administration had implemented, at its own expense, specialized assistance provided by some of the school employees, without however providing any information on the specific skills of these persons or on the help provided, nor any details about the periods and hours concerned.

In this regard, the Court further observes that, according to the information communicated to it, the school spent EUR 476.56 for services provided by six people for one school year (66).

Having regard to the explanations given by the Government, the Court considers that there is no doubt that the applicant was unable to continue attending primary school in conditions equivalent to those enjoyed by pupils without a handicap, and that this disparity in treatment was due to his disability. It can only state that, for two school years, apart from private assistance paid for by the applicant's parents and the interventions of some school employees, about whom the Government has not provided any details, the applicant has not received the specialized assistance to which she was entitled and which was intended to enable her to benefit from the educational and social services offered by the school on an equal footing with other pupils .

In the light of all the elements set out above, the Court concludes that, in the present case, the authorities did not attempt to determine the applicant's real needs and the solutions that could respond to them in order to allow her to attend primary school in equivalent conditions, for as far as possible, to those benefiting other children without thereby imposing a disproportionate or excessive burden on the administration.

The Court also considers that the discrimination suffered by the applicant is even more serious as it occurred in the context of primary education, which provides the basis for education and social integration and the first experiences of social life - and which is compulsory in most countries.

Having considered all these elements, the Court concludes that, in the present case, the Government have failed to demonstrate that the domestic authorities acted with due diligence to ensure that the applicant enjoyed her right to education on an equal footing with others pupils, so as to ensure a fair balance between the coexisting interests at stake.

Thus, there has been a violation of Article 14 of the Convention read in conjunction with **the Article 2 of Protocol no. 1**.

The applicant further claims that she has suffered an infringement, in her opinion discriminatory, of her right to respect for private life, and considers that the fact of not having benefited from specialized education services has prejudiced her personal and intellectual development and reduced her present and future possibilities of leading a dignified life as a full member of the community. The Government, for their part, stated that the authorities had adopted adequate support measures to ensure the applicant's education, training, socialization and integration into school.

FOR THESE REASONS THE COURT UNANIMOUSLY

- **Declares the application admissible ;**
- **Holds that there has been a violation of Article 14** of the Convention read in conjunction with Article 2 of Protocol No. 1;
- **Declares that it does not have to examine separately** the merits of the complaints formulated from the point of view of Article 2 of Protocol No. 1;
- **Declares that** the merits of the complaints raised from the point of view of Article 8 of the Convention taken in conjunction with Article 14 do not have to be examined separately;
- **Holds that the respondent State must pay the applicant** , within three months of the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following sums:
 - **2,520 EUR** (two thousand five hundred and twenty euros), plus any amount due on this sum by way of tax, for material damage,
 - **EUR 10,000** (ten thousand euros), plus any amount due on this sum by way of tax, for non-pecuniary damage,
 - **EUR 4,175** (four thousand one hundred and seventy-five euros), plus any amount due on that sum by way of tax by the appellant, for costs.

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

With reference to the Charter of Social Rights, the Commission has launched infringement proceedings against **25** Member States (**except Luxembourg** ; examination of Bulgarian and Croatian laws is still ongoing). By now almost all cases are closed. In only one case (against Italy), the infringement procedure led to a decision of the Court of Justice of the European Union (case C-312/11, judgment of 4 July 2013).

The complaint file must contain the following information: a. the name and address of the organization introducing the complaint; b. proof that the person submitting and signing the complaint is entitled to represent the complaining organisation; c. the state involved; d. the provisions of the Charter in respect of which the violation is alleged; And. the object of the complaint, i.e. the measure or measures that do not comply with the Charter in the state in question and the arguments in support of this conclusion, with attached documents.

A complaint must be written in English or in French for organizations belonging to categories **1** and **2** mentioned above. For the other categories, **3** and **4** , it can be written in or in one of the official languages of the state in question.

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 (**ECHR**) 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. In the course of the years, a huge number of appeals against the state Italian it was introduced forward to the Court of Rights of Man for violation of the aforementioned " term reasonable " in duration of the processes .

The criterion of admissibility which is necessary meet :

- *ratione materiae* i.e. the right for which yes invoke protection _ of the Court concerns an infringement of the law protected from the Convention or come on his Protocols ;
- *ratione personae* or the defendant needs to be a State obliged to respect the ECHR and subsequent ones protocols.
- *ratione loci* i.e. it is necessary that the violation denounced have had place within a territory that yes find under the jurisdiction of the State defendant , within a territory on which said State exercises formally and substantially his _ control , *ratione temporis* i.e. the event denounced is happened subsequently at the ratification of the state of the Convention .
-

A novelty significant in procedure , there was , with Protocol **n . 11** of 11 May 1994, which he formed a single Court, eliminating the Commission . Thanks to such changes , today an individual can call on directly to the Court to obtain international protection of the rights conventional , too against one's own state , without necessity of the preliminary declaration of acceptance of competence by _ of the State in dispute. With the latter Protocol was _ expected also the Grand Chamber made up of 17 judges , to which, as we shall see , it is possible ask for review within 3 months from the pronounce which , therefore , becomes definitive course said term .

Protocol no . 14 of 13 May 2004 introduced the figure of the judge unique which has competence on declarations of inadmissibility acceptance of competence by _ of the State in dispute. With the latter Protocol was _ expected also the Grand Chamber made up of 17 judges , to which it is possible ask for review within 3 months from the pronounce which , therefore , becomes definitive course said term . **Protocol no . 14** of 13 May 2004 introduced the figure of the judge unique who has competence on declarations of inadmissibility .

The appeal can to be proposed only by those who claim to be victim of one violation of the Convention and Gods his Protocols aside _ of the State that through an act or omission does not permit acknowledgment of the rights conventional to an individual subjected to its own jurisdiction . Also , it is required that the quality of victim persist during the proceedings before at the European Court itself . However , the Court has provided that in notion of victim they return even indirect ones : it is the case of the heirs of one victim who filed the appeal and that _ dies in the course of proceedings , provided that the heirs demonstrate that they have a legitimate interest at the continuation of the appeal . It is possible furthermore present appeal by those _ _ that can to be defined victims potentials , i.e. those hit by one measure , such as extradition , not yet disposed towards a country that apply the death penalty . _

The sentences of the European Court which , in general , are rendered in French or English, have , as content inevitable , verification of the violation . The pronunciations , which they have to be motivated (**art. 45 of the Convention**) , with the possibility for i judges to attach their separate or dissenting opinion , they are mandatory for the State in question, to which the Court, as we shall see , can to ask the adoption of measures individual or general . Also , since the judgments they serve

also to interpret the same Convention which , as mentioned , is a tool living , is of all highlight the scope general of the aforementioned sentences .

The sentences they have effectiveness mandatory i.e. there is the obligation of the States to comply with the final judgments of the Court relating to disputes to which they are parties.

The Court can pronounce also on the fair satisfaction in the cases in which “the right internal of the Alta part contractor does not allow than imperfectly to remove the consequences of such a violation ”. it is the latter a measure subsidiary to the cessation of the violation and recovery . Regarding the measures to be taken give it State , it's up to you garlic themselves Villages contractors individuate the means under condition obviously that they are compatible with the conclusions of the Court Provisions are indicated below __ in legislation Italian about it at the civil procedure in the field of the discrimination . In particular , relatively to civil action :

1. LEGISLATIVE DECREE 1 September 2011, n. 150

Provisions complementary to the code of civil procedure on reduction and simplification of the proceedings civil cognizance , pursuant to article 54 of the law 18 June 2009, n. 69. (11G0192), Entry into force of the measure : 06/10/2011

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

Art. 28 Of the discrimination disputes _ _ _

1. Discrimination disputes referred to in article 44 of the legislative decree **25 July 1998** no. 286 , those referred to in article 4 of the legislative decree of 9 July 2003, no. 215 , those referred to in article 4 of legislative decree 9 July 2003, n. 216 , those referred to in article 3 of the law of 1 March 2006, n. 67 , and those referred to in article 55-quinquies of the legislative decree of **11 April 2006** , n. 198 , are regulated by the summary procedure of cognition, unless otherwise provided for by this article.
2. The court of the place where the appellant has his domicile has jurisdiction.
3. In the trial of first instance the parties can stand trial personally.
4. When the plaintiff provides factual elements, also deduced from statistical data, from which it can be presumed the existence of discriminatory acts, agreements or behaviours, the defendant has the burden of proving the non-existence of discrimination. Statistical data may also relate to recruitment, contribution schemes, assignment of tasks and qualifications, transfers, career progression and dismissals of the company concerned.
5. With the order that defines the judgment, the judge can order the defendant to pay compensation for damages, including non-pecuniary damages, and order the cessation of the prejudicial discriminatory behaviour, conduct or act, adopting any other suitable measure, also against the public administration. to remove its effects. In order to prevent the repetition of the discrimination, the judge may order the adoption, within the time limit set in the provision, of a plan to remove the discrimination ascertained. In cases of discriminatory behavior of a collective nature, the plan is adopted after consultation with the appellant collective body.
6. For the purposes of liquidating the damage, the judge takes into account the fact that the discriminatory act or behavior constitutes retaliation to a previous judicial action or an unjust reaction to a previous activity by the injured party aimed at obtaining compliance with the principle of equal treatment.
7. When he accepts the proposed request, the judge can order the publication of the provision, only once and at the defendant's expense, in a national newspaper. The ordinance is communicated in the cases provided for by article 44, paragraph 11, of the legislative decree 25 July 1998, n. 286 , from article 4, paragraph 1, of the legislative decree 9 July 2003, n. 215 , from article 4, paragraph 2, of the legislative decree 9 July 2003, n. 216 , and by the article 55-quinquies, paragraph 8, of the legislative decree 11 April 2006, n. 198 .

The text of article 44 of the aforementioned legislative decree n. 286 of 1998, as amended by this legislative decree:

(Law 6 March 1988, n. 40, art. 42)

1. When the behavior of a private individual or public administration produces discrimination on racial, ethnic, linguistic, national, geographical origin or religious grounds, it is possible to appeal to the ordinary judicial authority to request the cessation of the prejudicial behavior and the removal of the effects of the discrimination.
2. Article 28 of Legislative Decree 1 September 2011, n. 150.

Paragraphs 3 - 7 (repealed).

8. Whoever evades the execution of provisions, other than the sentence to pay compensation for damages, rendered by the judge in the disputes envisaged by this article is punished pursuant to article 388, first paragraph, of the penal code.
9. (repealed).
10. If the employer carries out a discriminatory act or behavior of a collective nature, even in cases where the workers affected by the discrimination cannot be identified immediately and directly, the appeal can be presented by the local representatives of the most representative trade union organizations nationwide.
11. Any ascertainment of discriminatory acts or behavior pursuant to article 43 by companies to which benefits have been granted pursuant to the laws in force of the State or regions, or which have entered into procurement contracts relating to the execution of public works, of services or supplies, is immediately communicated by the Magistrate, according to the methods provided for by the implementing regulation, to the public administrations or public bodies that have ordered the granting of the benefit, including financial or credit facilities, or the contract. These administrations or entities revoke the benefit and, in the most serious cases, order the exclusion of the manager for two years from any further granting of financial or credit facilities, or from any contract.
12. The regions, in collaboration with the provinces and municipalities, with immigrant and social voluntary associations, for the purpose of applying the provisions of this article and of studying the phenomenon, set up observation, information and legal assistance centers for foreigners, victims of discrimination on racial, ethnic, national or religious grounds."

The text of **article 4** of the legislative decree 9 July 2003, n. 215 (Implementation of directive 2000/43/EC for equal treatment between people irrespective of race and ethnic origin.), as amended by this legislative decree:

«Art. 4 (Judicial protection of rights).

1. Civil proceedings against the acts and behaviors referred to in article 2 are governed by article 28 of legislative decree 1 September 2011, n.150. In the event of ascertainment of discriminatory acts or behaviour, as defined by article 2 of this decree, article 44, paragraph 11, of legislative decree no. 286.
 2. Whoever intends to take legal action for the recognition of the existence of one of the discriminations referred to in article 2 and does not consider making use of the conciliation procedure provided for by the collective agreements, can promote the attempt at conciliation pursuant to article 410 of the code of procedure civil law or, in the case of employment relationships with public administrations, pursuant to article 66 of the legislative decree of 30 March 2001, n. 165, also through the associations referred to in article 5, paragraph 1.
- paragraphs 3 - 6 (repealed).

The text of article 4 of the legislative decree 9 July 2003, n. 216 (Implementation of directive 2000/78/EC for equal treatment in employment and working conditions), as amended by this legislative decree:

«Art. 4 (Judicial protection of rights).

- In article 15, paragraph 2, of law 20 May 1970, n. 300, after the word «sex» the following are added: «, of handicap, age or based on sexual orientation or personal beliefs».
- Civil proceedings against the acts and behaviors referred to in article 2 are governed

by article 28 of legislative decree 1 September 2011, n. 150. In the event of ascertaining discriminatory acts or behaviour, as defined by article 2 of this decree, article 44, paragraph 11, of legislative decree no. 286.

- Whoever intends to take legal action for the recognition of the existence of one of the discriminations referred to in article 2 and does not consider making use of the conciliation procedures provided for by the collective agreements, can promote the attempt at conciliation pursuant to article 410 of the code of procedure civil law or, in the case of employment relationships with public administrations, pursuant to article 66 of the legislative decree of 30 March 2001, n. 165, also through the local representations referred to in article 5.

paragraphs 4 - 7 (repealed).

8. The jurisdiction of the administrative judge for the personnel referred to in article 3 , paragraph 1, of the legislative decree 30 March 2001, n. 165.». i shows the text of article 3 of the law of 1 March 2006, n.67 (Measures for the judicial protection of people with disabilities who are victims of discrimination).

«Art. 3 (Jurisdictional protection).

Civil proceedings against the acts and behaviors referred to in article 2 are governed by article 28 of legislative decree 1 September 2011, n. 150.

paragraphs 2 - 4 (repealed).

The text of article 55-quinquies of Legislative Decree No. 198 of 11 April 2006 (Code of equal opportunities between men and women, pursuant to the article of Law No. 246 of 28 November 2005), as amended by this legislative decree:

«Art. 55-quinquies (Procedure for the protection against discrimination for reasons of sex in access to goods and services and their supply).

In the event of violation of the prohibitions referred to in article 55-ter, it is possible to appeal to the ordinary judicial authority to request the cessation of the prejudicial behavior and the removal of the effects of the discrimination.

Article 28 of legislative decree 1 September 2011, n. 150.

paragraphs 3 - 7 (repealed).

8. 8. In the event of ascertained violation of the prohibition referred to in article 55-ter, by public or private subjects to whom benefits have been granted pursuant to the laws in force of the State or of the regions, or who have entered into procurement contracts pertaining the execution of public works, services or supplies, the judge immediately notifies the public administrations or public bodies that have ordered the granting of benefits, including financial or credit facilities, or the contract. These administrations or bodies revoke the benefits and, in the most serious cases, order the exclusion of the manager for two years from any further granting of financial or credit facilities, or from any contract.
9. . Article 28 of legislative decree 1 September 2011, n. 150.».

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 facing the proposal by Nilde Iotti, also supported by Dossetti and Togliatti, to introduce the paragraph "the same rights and the same treatment as workers", the honorable Merlin created indignation on the part of Nilde Iotti as she believed that the formula was equivocal since it would have generated 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** that establishes a framework General for Equal Treatment in Employment and Occupational Conditions ; _ _ _ _
- **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.

In 2020, the European Commission adopted a series of policy documents on gender equality, which foresee the adoption of specific measures and actions for the coming years.

On 5 March 2020, the 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.

The implementation of the strategy will proceed through the adoption of targeted measures to achieve gender equality, combined with greater gender mainstreaming.

The strategy includes, among other things:

- **broadening** the range of offenses where harmonization can be introduced across Europe, extending it to specific forms of violence against women, including sexual harassment, abuse of women and female genital mutilation;
- **a law** on digital services to clarify what measures are expected of platforms to tackle illegal online activities, including violence against women;
- **the strengthening** of the presence of women in sectors characterized by skills shortages, in particular the technological sector and that of artificial intelligence;
- **the launch** of a public consultation on pay transparency and the presentation of binding measures to tackle pay inequality;
- **strengthening** efforts to implement EU rules on work-life balance.

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". This is the general regulation on the matter and at least the passages in which it is envisaged that:

- "Equal treatment and opportunities between women and men must be ensured in all fields, including those of employment, work and pay" (**art. 1, paragraph 2**);
- the principle of equal opportunities does not prevent positive actions in favor of the under-represented gender (**art. 1, paragraph 3**);
- a "National Committee for the implementation of the principles of equal treatment and equality of opportunity between male and female workers" (**art. 8**) is set up;
- there are councilors for equal opportunities operating at the local level (**art. 12 ss.**);
- (**art. 25, paragraph 1**) and indirect (**art. 25, paragraph 2**) discrimination are prohibited ;
- sexual harassment is considered a form of discrimination (**art. 26**);
- the differentiation of wages and other treatments concerning work is prohibited (**art. 28 ss.**);
- dismissal due to marriage is forbidden (**art. 35**);
- special instruments of jurisdictional protection are guaranteed (**art. 36 ss. and 55-quinquies ss.**);
- **l)** positive actions are admitted and promoted (**art. 42 ss.**);
- **m)** equal access to goods and services is guaranteed (**art. 55-bis ss.**).

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.

Important in this regard is 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 .

The Department takes care of the fulfilments concerning:

the direction, the proposal and the coordination of the normative and administrative initiatives in all the subjects pertaining to the planning and implementation of the equal opportunities policies;

- the acquisition and organization of information, also through the creation of databases, as well as the promotion and coordination of fact-finding, verification, control, training and information activities in matters of equality and equal opportunities;
- the adoption and coordination of study and project development initiatives relating to issues of equality and equal opportunities;
- the definition of new intervention, study and promotion policies for projects and initiatives, as well as the coordination of the initiatives of the administrations and other public bodies in matters of equality and equal opportunities;
- the guidance and coordination of the competent central and local administrations, in order to ensure the correct implementation of government regulations and guidelines in the field of equality and equal opportunities;
- the promotion of the necessary checks on the matter by the competent administrations, also for the purpose of requesting, in cases of particular importance, specific reports or the review of particular provisions pursuant to art. 5, paragraph 2, letter c), of the law of 23 August 1988, n. 400;
- the adoption of the initiatives necessary for the adaptation of the national legal system to the principles and provisions of the European Union and for the implementation of the Community programs in the fields of equality and equal opportunities;
- the care of relations with the state, regional and local administrations, as well as with the bodies operating in the field of equality and equal opportunities in Italy and abroad, with particular regard to the European Union, the United Nations World Organization, the Council of Europe and the OECD;
- the adoption of the initiatives necessary for the representation of the Italian Government, on the subject, in international relations and in national and international bodies, also through the designation of representatives;

- the organization and functioning of the secretariat of the Commission for equal opportunities between men and women;
- the acquisition and organization of information, also through databases, as well as the promotion of consequent initiatives, in relation to the matters of prevention, assistance and protection of minors from the exploitation and sexual abuse of minors object of the delegation of functions to the Minister referred to in Article 2, paragraph 1, of the Prime Ministerial Decree of 14 February 2002;
- the performance of the functions referred to in **art. 7** of legislative decree 9 July 2003 n.215 and art. of the Prime Ministerial Decree of 11 December 2003, containing regulations for the office for the promotion of equal treatment and the removal of discrimination pursuant to art. 29 of the community law 1 March 2002, n.39.
- the functions of monitoring and supervising the implementation of the law of 12 July 2011, n. 120, concerning "equal access to the administrative and control bodies of companies listed on regulated markets", in order to ensure the achievement of adequate gender representation in economic activities and a more incisive female presence in corporate governance under the control of Public Administrations;
- tasks related to the promotion, analysis, control and support of equal treatment in access to goods and services and their supply, in implementation of Directive 2004/113/EC.

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, which is assigned the function of:

- contribute to updating the guidelines for the use of Fund resources;
- conduct economic, statistical and legal analyzes relating to the gender issue in the company;
- formulate recommendations relating to the state of legislation and administrative action, national and regional, in the field of female entrepreneurship and on the themes of the presence of women in business and in the economy;
- contribute to the drafting of the Annual Report that the Minister presents every year to Parliament 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 life
- economy and business of the country.

Equal Opportunity Code from formality to substance

Chapter IV - Promotion of Equal Opportunities Art. 42. 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.

Positive actions in relation to achieving gender equality aim in particular at:

- eliminate disparities in education and professional training, access to employment, career progression, working life and periods of mobility;
- favor the diversification of women's professional choices, in particular through scholastic and professional guidance and training tools;
- favoring access to self-employment and entrepreneurial training and the professional qualification of self-employed women and entrepreneurs;
- overcoming conditions, organization and distribution of work which cause different effects, depending on gender, for employees with prejudice to training, professional and career advancement or economic and remuneration treatment;
- promote the inclusion of women in activities, professional sectors and levels in which they are under-represented and in particular in technologically advanced sectors and at levels of responsibility;
- to promote, also through a different organization of work, conditions and working time, the balance between family and professional responsibilities and a better division of these responsibilities between the two sexes;
- **f-bis)** enhance the professional content of the tasks with the strongest female presence.

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 . Compulsory paid leave for a total duration of five months as follows, based on the choice of the worker:

- two months before the birth and three months after the birth, or, if medical conditions permit, one month before the birth and four months after the birth;

- only after the birth, within five months following the birth, provided that the competent doctor certifies that this option does not harm the health of the woman and the child.

Time extension in case of premature delivery or hospitalization of the newborn. Currently:

- for female workers enrolled in the separate management:
 - maternity allowance also recognized in the event of non-payment of contributions by the client and, in the event of adoption or foster care, for the 5 months following the entry of the minor into the family;
 - the effective abstention from work is no longer necessary, as also foreseen for self-employed women.
- for pregnant self-employed women:
 - the employment relationship does not end;
 - the worker may request the suspension (without payment) of the employment relationship for a period not exceeding 150 days per calendar year;
 - (subject to the client's consent) the self-employed maternity worker can be replaced, totally or partially, by her family members
 - maternity leave is also recognized in the case of adoption or foster care, under the same conditions as for other female workers.
- female workers enrolled in the separate management, self-employed female workers and agricultural entrepreneurs, as well as female freelancers enrolled in a professional fund, are paid a maternity allowance for a further three months following the end of the maternity period, if in possession, in the year preceding the start of the maternity leave, with an income of less than 8,145 euros.
- for women who practice the legal profession, the legitimate impediment of the defender is foreseen in the period between the two months preceding the presumed date of the birth and the three months following the birth.

Since 2018, for female researchers, fixed-term research contracts entered into by universities have been suspended during the period of compulsory maternity leave and the deadline has been extended for a period equal to that of compulsory leave.

Paternity leave . Right of the working father to abstain from work for the entire duration of the maternity leave or for the residual part that would have been due to the female worker, in the event of death or serious illness of the mother, or abandonment, as well as in the event of exclusive custody of the child to the father. Recognized: - even if the mother is self-employed

Mandatory paternity leave . From 2022 equal to 10 days and extended to cases of perinatal death. Covered by notional contribution Optional paternity leave Structural from 2022, equal to an additional day of abstention (by agreement with the mother and in her replacement in relation to maternity leave) and extended to cases of perinatal death.

leave . Optional abstention from work for the male or female worker. In particular, once the period of maternity leave has elapsed, each parent has the right to abstain from work in the first 12 years of the child's life, with an overall maximum limit of 10 months (the same term also applies in the case of adoption and fostering). . In particular:

- use is also permitted on an hourly basis;

- compensation for further periods of leave (due only in the presence of certain conditions) is provided up to the eighth year of age;
- the indemnity (30% for a maximum total of 6 months) is provided up to the sixth year of age.
- For male and female workers enrolled in the separate management, an extension to 6 months has been arranged, with the possibility of using it up to the third year of age for a maximum total period of 6 months (even if used in another management or social security fund).
- With minor children with disabilities, extension of parental leave up to the twelfth year of age.

The parent, employee of public administrations , with minor children up to three years of age can ask to be assigned (under certain conditions) to an office in the same province or region in which the other parent works (any dissent must be motivated)

Public administrations enter into agreements with nursery schools and kindergartens and organize parenting support services, open during periods when school is closed.

Adoption of a National Strategic Plan for Gender Equality , with the aim, among other things, of creating a National Gender Equality Certification System. From 1 January 2022, possession of this certification is linked to the granting of a special partial contribution relief.

Transfer of personnel between administrations. The parent, an employee of public administrations, with minor children up to three years of age can request to be assigned (under certain conditions) to an office in the same province or region in which the other parent works (any dissent must be motivated).

Agile work. Employers (public and private) who enter into agreements for the performance of work in agile mode are obliged to give priority to requests for work execution according to the aforementioned method made by female workers in the three years following the conclusion of the leave maternity leave, or to workers with disabled children who require permanent, continuous and global assistance.

Instead of parental leave (or within the limits of the portion still due), the transformation of the full-time employment relationship into a part-time relationship can be requested, only once (provided with a reduction in working hours not exceeding 50 percent). In addition, priority is recognized in the transformation of the employment contract from full-time to part-time in the event of a request by a male or female worker, with a cohabiting child aged thirteen or less or with a disabled cohabiting child.

Corporate welfare . Possibility of converting cash prizes into company welfare services (exempt from any form of taxation) including education and training services (including supplementary and canteen services connected with educational services) not necessarily related to attendance at nursery schools and attendance at playrooms, summer and winter centres.

Return to work of working mothers. Increase of 50 million euros for 2021 of the Fund for family policies to be allocated to support the organizational measures adopted by companies to encourage the return to work of working mothers after giving birth.

Equal pay fund. The Fund for the support of gender equality pay is set up at the Ministry of Labor and Social Policies, with a budget of 2 million euros per year from 2022, increased by 50 million from 2023, for interventions aimed at supporting and recognition of the social and economic value of gender pay equality and equal opportunities in the workplace, as well as the financial coverage of interventions aimed at supporting women's participation in the labor market.

Contribution to unemployed or single-earner mothers . Introduction of a monthly contribution, up to a maximum of 500 euros net, for each of the years 2021, 2022 and 2023, in favor of

unemployed or single-income mothers who are part of single-parent families with dependent children with a disability recognized to an extent not less than 60 percent.

Suspension of tax obligations. The expiry of terms relating to tax obligations to be paid by the freelancer is suspended in the following cases:

- premature birth. In this case, the terms relating to tax obligations are suspended from the day of hospitalization for childbirth until the thirtieth day following;
- termination of pregnancy occurring more than three months after the start of the pregnancy. In this case the terms are suspended until the thirtieth day following the termination of the pregnancy .

Incentive for hiring women

Law 92/2012 recognized private employers, including non-entrepreneurs, including employers in the agricultural sector, an incentive for the hiring of women who find themselves in disadvantaged conditions, meaning women:

- at least fifty years of age and unemployed for over twelve months;
- of any age, residing in regions eligible for funding under the European Union's structural funds, without a regularly paid job for at least six months;
- of any age who carry out professions or work activities in economic sectors characterized by a marked gender employment disparity²⁰ and without a regularly paid job for at least six months;
- of any age without a regularly paid job for at least twenty-four months, wherever they reside.
- For these hirings, a 50 per cent reduction in the employer's contributions is recognized for the duration of twelve months (eighteen if the aforementioned hiring is for an open-ended contract or if there is a transformation of the contract from a fixed-term to an open-ended contract).
- The 2021 budget law provides that on an experimental basis, for the two-year period 2021-2022, the aforementioned contribution exemption will apply to the extent of 100 percent and up to a maximum amount of 6,000 euros per year.

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);

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.

During the XVII legislature, the Parliament: a) provided for - 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; b) 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 n. 69 of 2019, approved by Parliament in this legislature, and 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 housekeeper.

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, inserted in article 612-ter of the criminal code after the crime of stalking), punished with imprisonment from 1 to 6 years and a 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 for removal from the family home and 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 persecutory acts** (art. 612-bis of the criminal code), with an increase in the sentence;
- **crimes of sexual violence** (articles 609-bis et seq. of the Italian Criminal Code), tightening the sentences and extending the term allowed 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 homicide**, with the extension of the scope 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 the person who has reported the facts of the crime; this term can be extended only in the presence of essential needs for the protection of minors or the confidentiality of
- investigations, also in the interest of the offended person;
- **that the judicial police** proceed without delay to carry out the investigative acts delegated by the

PM and makes the documentation of the activities carried out available to the PM 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 No. 234/2021), which changed the name from the Extraordinary Action Plan against sexual and gender-based violence to the National Strategic Plan against violence against women and Domestic violence.

This denomination follows the terminology used in **the Istanbul Convention**.

The Plan also loses the status of "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**.

As for prevention, the **priorities** are:

- raising the level of awareness in public opinion and in the education and training system on the causes and consequences of male violence against women;
- the involvement of the private sector (social media, platforms, mass media) on the role of stereotypes and sexism, also in relation to cyber -violence and the illicit dissemination of sexually explicit images or videos; the promotion of female empowerment;
- the activation of actions for the emergence and contrast of violence against women victims of multiple discrimination; reinforcement for the prevention of recidivism for male perpetrators;
- the training of professionals who, for various reasons, interact with women victims and with minors in the process of prevention, support and reintegration;
- the connection of regulatory measures also in the area of prevention of secondary victimisation.

In terms of protection and support for victims, the priorities are: taking care of women victims of violence and minors victims of witnessing violence; the activation of paths of economic, financial, work and housing autonomy empowerment; the monitoring and improvement of the effectiveness of the "Paths aimed at women who suffer violence" active in healthcare and hospital establishments;

the strengthening of the free national anti-violence telephone line 1522; the protection and psychosocial support of minors who are victims of witnessing violence; the implementation of operational solutions to guarantee access to prevention, support and reintegration services, in particular for women victims of multiple discrimination (migrants, asylum seekers and refugees).

With regard to the prosecution and punishment axis, the priorities are: to guarantee procedures and tools for the protection of women victims of violence that allow for an effective and rapid assessment and management of the risk of lethality, recurrence and recidivism; define a shared approach, management and risk assessment model within the security department; improve the effectiveness of judicial proceedings in the application of precautionary measures and suspended sentences; define guidelines for the analysis and qualitative and quantitative monitoring of the interventions carried out in the context of programs for abusive men.

Finally, in the field of assistance and promotion, the priorities are:

- the implementation of the integrated information system for the collection and analysis of data on the phenomenon;
- the implementation of a national level monitoring and evaluation system of interventions, policies, activities and resources;
- the preparation of guidelines, in agreement with the regions, to standardize the qualitative and quantitative standards of the services provided by the anti-violence centres, the territorial networks and the social and health system at a national level;
- the construction of stable places of discussion and planning for political bodies, institutions and administrative structures;
- communication and regulatory tools and operational interventions in support of women victims of male violence. As regards the financial resources to support the interventions envisaged by the Plan, reference must be made to the resources of the Equal Opportunities Fund which are placed - together with any other further interventions charged to the Fund - in chap. 2108 of the estimates of the Ministry of Economy and Finance (MEF), to be subsequently transferred to the budget of the Presidency of the Council, where the chap. 496 contains the sums to be allocated to the Plan against violence against women.

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** ". Briefly, the main steps of the provisions are:

- "Equal treatment and opportunities between women and men must be ensured in all fields, including those of employment, work and pay" (art. 1, paragraph 2);
- the principle of equal opportunities does not prevent positive actions in favor of the under-represented gender (art. 1, paragraph 3);
- a "National Committee for the implementation of the principles of equal treatment and equality of opportunity between male and female workers" (art. 8) is set up;
- there are councilors for equal opportunities operating at the local level (articles 12 ss.);
- both direct (art. 25, paragraph 1) and indirect (art. 25, paragraph 2) discrimination are prohibited;

- sexual harassment is considered a form of discrimination (art. 26);
- the differentiation of wages and other treatments concerning work is prohibited (articles 28 ss.);
- dismissal due to marriage is forbidden (art. 35);
- special instruments of jurisdictional protection are guaranteed (articles 36 ss. and 55-quinquies ss.);
- l) positive actions are admitted and promoted (art. 42 ss.);
- m) equal access to goods and services is guaranteed (articles 55-bis ss.).

To this discipline special add another _ legislation

Regarding the charges elective , in Italy, the prohibition of discrimination is provided for 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 revised text from l. 3 November 2017, no. 165, establishes that in each list the candidates they have to be placed "according to an order gender alternating " and a norm identical 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 Code of the even opportunity, he predicts preferential rules for access _ of the women in Parliament European.
- the art . 4, paragraph 1, lett . c-bis) of the Law of 2 July 2004, n. 165 , concerning elections regional , he establishes that you read them electoral regional they have to respect some principles fundamental ; in particular , they must to observe that of the " promotion of the even chance between women and men in access to office elective , disposing that :
 - if the law electoral foresee the expression of preferences , in each list the candidates they are present in such a way that those of the same sex do not exceed 60 per cent of the total and either allowed the expression of at least two preferences , one of which reserved for a candidate of gender different , sorry the cancellation of the preferences following the first.
 - so far as they are foreseen lists without expression of preferences, the law electoral have the alternation between gender candidates different, such that the applicants of one sex

- do not exceed 60 per cent of the total:
- so far as they are foreseen colleges uninominal , the law electoral have the balance between applications submitted with the same symbol such that the applicants of one sex 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 the field of labor market and business :

- Law n. 125 of 1991 – Positive actions for implementation of the parity man -woman in work
- Law n. 53 of 2000 – Provisions for support of the maternity and of authorship , for the right at the care and to training and coordination of the times of city
- Decree legislative no. 165 of 2001 – Standards generals on the organization of employment of the administrations public
- decrees legislative n. 215 and 216 of 2003 – Decrees implementing legislation _ of the directives on equal treatment _
- Decree Legislative n. 198 of 2006 – Code of the even chance between man and woman
- Decree Legislative January 25 , 2010, n. 5 – Implementation of the Directive 2006/54/EC on the principle of even opportunity and of equal treatment _ between men and women in employment and employment .
- The legislator has done so already in 1992 to positive actions for entrepreneurship female with Law 25 February 1992, n. 215 expecting provisions for predominantly enterprises _ participation feminine and on her legitimacy had yes, he pronounced in favor of the Constitutional Court, with sentence Sent. no. 109 of 1993. arranging that the interventions foreseen by Law 215/1992, constituted “ interventions of a positive nature aimed at filling or, in any case , at mitigating an evident unbalance against _ of the women , who , due to discrimination accumulated in the course of the past history for the dominion of certain behaviors social and models cultural , has led to favoring people of the same gender male in the occupation of the entrepreneurial or managerial positions _ company ”.
- 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 the brokerage provisions _ _ _ financial ” by establishing that the statute of the society quoted predicts that the allotment of the directors to be elected is made on the basis of a criterion that make sure the balance between the genera . gender less represented needs to obtain at least two fifths of the administrators elected . This division criterion _ yes apply for six terms consecutive ” (paragraph 1-ter).

Chapter IV - Promotion of Equal Opportunities (Legislative Decree No. 198 of 11 April 2006)

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.

Positive actions in relation to achieving gender equality aim in particular at:

- eliminate disparities in education and professional training, access to employment, career progression, working life and periods of mobility;
- **b)** favoring the diversification of women's professional choices in particular through scholastic and professional guidance and training tools;
- **c)** favoring access to self-employment and entrepreneurial training and the professional qualification of self-employed women and entrepreneurs;
- **d)** overcoming conditions, organization and distribution of work which cause different effects, depending on gender, on employees with prejudice to training, professional and career advancement or economic and remuneration treatment;
- **e)** promote the inclusion of women in activities, professional sectors and levels in which they are under-represented and in particular in technologically advanced sectors and at levels of responsibility;
- **f)** promote, also through a different organization of work, working conditions and time, the balance between family and professional responsibilities and a better division of these responsibilities between the two sexes;
- **f-bis)** enhance the professional content of the tasks with the strongest female presence.

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 . Compulsory paid leave for a total duration of five months as follows, based on the choice of the worker:

- two months before the birth and three months after the birth, or, if medical conditions permit, one month before the birth and four months after the birth;
- exclusively after the birth, within the five months following it, on condition that the competent doctor certifies that this option does not harm the health of the woman and the child Time extension in case of premature birth or hospitalization of the newborn.

Currently:

- for female workers enrolled in the separate management:
 - maternity allowance also recognized in the event of non-payment of contributions by the client and, in the event of adoption or foster care, for the 5 months following the entry of the minor into the family; – the effective abstention from work is no longer necessary, as also envisaged for self-employed women.
- for pregnant self-employed women:
 - the employment relationship does not end;
 - the worker may request the suspension (without payment) of the employment relationship for a period not exceeding 150 days per calendar year;
 - (subject to the client's consent) the self-employed maternity worker can be replaced, totally or partially, by her family members
 - maternity leave is also recognized in the case of adoption or foster care, under the same conditions as for other female workers.
- female workers enrolled in the separate management, self-employed female workers and agricultural entrepreneurs, as well as female freelancers enrolled in a professional fund, are paid a maternity allowance for a further three months following the end of the maternity period, if in possession, in the year preceding the start of the maternity leave, with an income of less than 8,145 euros.
- for women who practice the legal profession, the legitimate impediment of the defender is foreseen in the period between the two months preceding the presumed date of the birth and the three months following the birth.
- from 2018 for female researchers, fixed-term research contracts stipulated by universities are suspended during the period of compulsory maternity leave and the deadline is extended for a period equal to that of compulsory leave.

Paternity leave . Right of the working father to abstain from work for the entire duration of the maternity leave or for the residual part that would have been due to the female worker, in the event of death or serious illness of the mother, or abandonment, as well as in the event of exclusive custody of the child to the father. Recognized: - even if the mother is self-employed.

Mandatory paternity leave . From 2022 equal to 10 days and extended to cases of perinatal death. Covered by notional contribution Optional paternity leave Structural from 2022, equal to an additional day of abstention (by agreement with the mother and in her replacement in relation to maternity leave) and extended to cases of perinatal death.

Family leave. Optional abstention from work of the male or female worker. In particular, once the period of maternity leave has elapsed, each parent has the right to abstain from work in the first 12 years of the child's life, with an overall maximum limit of 10 months (the same term also applies in the case of adoption and fostering). .

In particular:

- use is also permitted on an hourly basis;
- compensation for further periods of leave (due only in the presence of certain conditions) is provided up to the eighth year of age;
- the indemnity (30% for a maximum total of 6 months) is provided up to the sixth year of age.
- For male and female workers enrolled in the separate management, an extension to 6 months has been arranged, with the possibility of using it up to the third year of age for a maximum total period of 6 months (even if used in another management or social security fund). With minor children with disabilities, extension of parental leave up to the twelfth year of age.
- The parent, an employee of public administrations, with minor children up to three years of age can request to be assigned (under certain conditions) to an office in the same province or region in which the other parent works (any dissent must be motivated).
- Public administrations enter into agreements with nursery schools and kindergartens and organize parenting support services, open during periods when school is closed.
- Adoption of a national strategic plan for gender equality, with the aim, among other things, of creating a national gender equality certification system. From 1 January 2022, possession of this certification is linked to the granting of a special partial contribution relief.

Transfer of personnel between administrations. The parent, an employee of public administrations, with minor children up to three years of age can request to be assigned (under certain conditions) to an office in the same province or region in which the other parent works (any dissent must be motivated).

Agile work . Employers (public and private) who enter into agreements for the performance of work in agile mode are obliged to give priority to requests for work execution according to the aforementioned method made by female workers in the three years following the conclusion of the

leave maternity leave, or to workers with disabled children who require permanent, continuous and global assistance.

Instead of parental leave (or within the limits of the portion still due), the transformation of the full-time employment relationship into a part-time relationship can be requested, only once (provided with a reduction in working hours not exceeding 50 percent). In addition, priority is recognized in the transformation of the employment contract from full-time to part-time in the event of a request by a male or female worker, with a cohabiting child up to thirteen years of age or with a disabled child living with him.

Corporate welfare . Possibility of converting cash prizes into company welfare services (exempt from any form of taxation) including education and training services (including supplementary and canteen services connected with educational services) not necessarily related to attendance at nursery schools and attendance at playrooms, summer and winter centres.

Return to work of working mothers . Increase of 50 million euros for 2021 of the Fund for family policies to be allocated to support the organizational measures adopted by companies to encourage the return to work of working mothers after giving birth.

Equal pay fund . The Fund for the support of gender equality pay is set up at the Ministry of Labor and Social Policies, with a budget of 2 million euros per year from 2022, increased by 50 million from 2023, for interventions aimed at supporting and recognition of the social and economic value of gender pay equality and equal opportunities in the workplace, as well as the financial coverage of interventions aimed at supporting women's participation in the labor market.

Contribution to unemployed or single-earner mothers . Introduction of a monthly contribution, up to a maximum of 500 euros net, for each of the years 2021, 2022 and 2023, in favor of unemployed or single-income mothers who are part of single-parent families with dependent children with a disability recognized to an extent not less than 60 percent.

Suspension of tax obligations. The expiry of terms relating to tax obligations to be paid by the freelancer is suspended in the following cases:

- premature birth. In this case, the terms relating to tax obligations are suspended from the day of hospitalization for childbirth until the thirtieth day following;
- termination of pregnancy occurring more than three months after the start of the pregnancy. In this case the terms are suspended until the thirtieth day following the termination of the pregnancy.

Incentive for hiring women

Law 92/2012 recognized private employers, including non-entrepreneurs, including employers in the agricultural sector, an incentive for the hiring of women who find themselves in disadvantaged conditions, meaning women:

- at least fifty years of age and unemployed for more than twelve months.
- of any age, residing in regions eligible for funding under the European Union's structural funds, without a regularly paid job for at least six months.
- of any age who carry out professions or work activities in economic sectors characterized by a marked gender employment disparity²⁰ and without a regularly paid job for at least six months.
- of any age without a regularly paid job for at least twenty-four months, wherever they reside.
- For these hirings, a 50 per cent reduction in the employer's contributions is recognized for the duration of twelve months (eighteen if the aforementioned hiring is for an open-ended contract or if there is a transformation of the contract from a fixed-term to an open-ended contract).

- The 2021 budget law provides that on an experimental basis, for the two-year period 2021-2022, the aforementioned contribution exemption will apply to the extent of 100 percent and up to a maximum amount of 6,000 euros per year.

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);

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 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 concepts relating to equal pay, including those of "pay" and "work of equal value";
- strengthening enforcement mechanisms.

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 diffusion 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.

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.**

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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.

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- **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 recent introduction of gender medicine is important, of which origins, *rationale* and planning are mentioned with reference to Italy in the Plan for the application and dissemination of the Gender medicine (in implementation of article 3, paragraph 1, Law 3/2018) of 6 May 2019.

3.3 Discrimination of the people with disabilities

The Convention of the United Nations rights of the people with disabilities , December 2006, commits the States States to recognize the right of the persons with disabilities , to " Promote , protect and ensure full and equal enjoyment of all rights_humans and all freedoms _ fundamentals aside _ of the people with disabilities , and to promote respect for them intrinsic dignity ". [...]

"Respect for dignity intrinsic autonomy individual , including the freedom to make one 's own choices , and independence of the people ; non- discrimination ; full and effective participation and inclusion in company ; respect for difference and acceptance of the people with disabilities as part of the diversity human and of humanity itself ; equal opportunities ; accessibility ; parity between men and women ; respect for development of the capacity of the minors with disabilities and respect for the law of the minors with disabilities to preserve their identity ";

to " Raising awareness in society in the his together , even at the level familiar , on situation of the people with disabilities ; increase respect for rights and dignity of the people with disabilities ; fight the stereotypes , i prejudices and practices harmful relating to persons with disabilities , including those founded on gender and age , in all scopes ; promote awareness _ of the capacity and i contributions of the people with disabilities " [...] to live independently and be included in society , to the recognition of the right to education , work and participation to cultural and recreational life ,

The UN Convention on the rights of children and adolescents, ratified by the Italian Parliament with Law no. 176 of 1991, provides in art. 23, co. 3, that "minors with disabilities have actually access to education , to training [...] and can benefit from these services in a manner suitable to realize the most complete integration social and their development personal , too in scope cultural and spiritual ", by virtue of the law to education to they recognized to **art . 28**;

In later Italy more important is the Law 104/1992 " Framework law for assistance , integration social and i rights of the people handicapped ." GU February 17, 1992, n. 39 (the text from consult is that effective after the last changes introduced from the Law 8 March 2000, n. 53 and by the decree legislative March 26, 2001, n. 151)

At the art . 1 is arranged :

The Republic:

- guarantees full compliance with the dignity human and i rights of freedom and autonomy of the handicapped person and promotes full integration in family , in school , in work and in company ;
- prevents and removes conditions _ disabling that prevent development _ of the human person, the attainment of the maximum autonomy possible and participation of the handicapped person to the life of community, as well as the realization of the rights civil, political and patrimonial;
- pursue recovery _ functional and social of the person with disabilities physical , psychic and sensory and ensures the services and benefits for prevention , treatment and rehabilitation of the minorities , as well as legal and economic protection of the handicapped person ;
- prepares interventions to overcome states of marginalization and exclusion social of the handicapped person .

In article 12 “Law to education and instruction” comes enshrined that the inclusion education has development as its goal of the potential of the person differently skilled in all its manifestation: **learning, communication, relationship, socialization** to which yes, they add **autonomy and communication personal**.

Article 13 provides for integration school of the disabled person in sections and in classes common of the schools of each order and rank and in university yes accomplish , without prejudice how much planned give her read 11 May 1976, n. 360, and 4 August 1977, no. 517, and subsequent modifications , too through : a) programming coordinated of the services school with those health , social welfare , cultural , recreational , sporting and other activities on territory managed by institutions public or private .

For that purpose the entities local , the organs schools and units sanitary premises , within the scope of the respective skills , they stipulate the program agreements referred to in article 27 of the law 8 June 1990, n. 142 Such program agreements I am finalized at the preparation , implementation and verification project joint _ educational , rehabilitation and socialization individualized , as well as forms of integration between activities school and supplementary extracurricular activities . Over chords I am likewise foreseen the requirements that they have to to be possessed give it entities public and private purposes _ of the participation in coordinated collaborative activities .

The law to education is guaranteed **by art . 14 of the Charter of rights fundamental of the Union European Union** of 2000 which emphasizes centrality _ of the person, the right of each individual to education and training professional as well recognize and respect the law of the people with disabilities to benefit from measures intended to guarantee autonomy , inclusion social and professional and participation to the life of community .

Social Charter European revised (ETS No. 163), open at the signed on May 3 , 1996 and ratified from Italy on July 5 , 1999, he states in particular the following:

Article 15 – Law of the people disabled people to autonomy , to integration social and to participation to the life of community

“To guarantee the people handicapped the effective exercise of the right to autonomy , to integration social and to participation to the life of community , regardless by age and by nature and origin of the They infirmity , the Parties yes undertake in particular :

to adopt the measures needed to administer to people disabled or handicapped an orientation , an education and a training professional in the framework of law common every sometimes that is is possible or , if that is not the case , through institutions specialized public or private (..) to favor theirs complete integration and participation to social life by measures , including the principals technicians , aimed at overcoming the obstacles at the communication and to mobility and to allow them to have access to transport , housing , activities culture and leisure.

The Rec Recommendation (2006) 5 of the Committee of the Ministers garlic States members on the Council 's Action Plan of Europe for promotion of the rights and of full participation of the people with disabilities :

improve the quality of life of people with disabilities in Europe 2006-2015, adopted on 5 April 2006, provides several lines of action , among which the fourth is like this formulated :

Action line no. 4:

Education « 3.4.1. Introduction .

Education represents a factor fundamental to the ends of the insertion social security and independence for all people , including those with disabilities . The flu social, for example coming from families and friends, contributes also , but for the purposes of this line of action education will have to cover up all phases of life, including education preschool , elementary , middle, high and education professional as well the learning that lasts a lifetime . Creating opportunities for i _ _

disabled that allow their participation _ to education traditional is not only important for i disabled , but will benefit from it also understanding _ of the diversity human aside _ of the non - disabled . Most _ part of the education systems _ provide access to education traditional and structured school specialized for i disabled , where indicated .

It should encourage the combination of structures traditional and specialized , in order to support the disabled in community local , but this should to be coherent to the full target insertion .

(...) **Insure** that all people , regardless by the nature and degree of disability , they have equal access to education and develop their personalities , talents , creativity and their own capacity intellectual and physical at best .

Ensure that the disabled have the opportunity to look for a place in education traditional encouraging the authorities competent to formulate education measures that meet the needs of the population disabled.

support and promote the learning that hard all life for i disabled people of all ages and facilitate steps effective and efficient between each phase of the They education and between education and work .

promote to all levels of the education system , even in all children from early childhood , an attitude of respect for the rights of the people with disabilities .

Actions specs aside _ of the States members

To promote legislation , policies and planning aimed at preventing discrimination against children, young people and adults with disabilities in accessing all stages _ of the They education , from early childhood at the phase adult .

In doing so , consult – if necessary – with i users , i parents and children assistants home care , organizations volunteers and others authority competent .

- encourage and support the development of an education system unified , that include the provision of education traditional and specialized , which promote the sharing of skills and a major insertion of children, gods youth and gods adults disabled in community .
- allow preventive _ right assessment of the need education specials _ _ _ of children, gods youth and gods adults disabled , in order to give shape to the supply and to planning in the sector of education .
- to monitor the implementation of the singles plans in education and facilitate an approach _ _ coordinated at the supply of education during and towards employment .
- ensure that people with disabilities , including _ children receive support _ _ required , within the education system _ traditional , in order to facilitate the presence of an education effective . In cases exceptional , where their _ need education specials _ _ _ evaluate professionally they are not _ satisfied within the education system _ traditional , the States members will ensure the presence of effective alternative support measures consistent with the full target _ insertion . The provision of education , either special that traditional , it should encourage the transition to education traditional and reflect the themselves objectives and criteria .
- encourage the development of one training starting and continuing for all professionals and staff that operate in all stages _ of education , in order to embed awareness of the disability and use of the techniques and gods materials suitable for support , where indicated , of the schoolchildren and _ students disabled .
- ensure that all materials and _ _ education schemes _ _ _ provided through the education system _ general they are accessible to people with disabilities .

- include , in programs education schools _ civics , themes relating to persons with disabilities considered to be persons with themselves rights of the others .
- ensure that awareness _ on the disability is an element key of the programs didactic in schools and in institutions traditional .
- to take steps to make the places of education and training accessible to people with disabilities , providing support staff and arrangements needed (including equipment) to meet their needs necessity .
- ensure that the parents of disabled children are active partners in the development process _ of the plans didactic customized of the They sons .
- guarantee access to non - formal education that allow young people disabled to develop skills _ requests otherwise unreachable _ through education formal . (...)»

The Assembly Member of the Council of Europe , aside his , he faced these themes in her Recommendation 1185 (1992) on rehabilitation policies for i _ the handicapped , adopted on 7 May 1992. This text emphasizes in particular that « ours society they have a duty to adapt their specification standards _ needs of the people with disabilities to ensure these _ latest independent life " . To this end, i governments and authorities competent I am called to «research and encourage a participation effective and active of the people with disabilities to community and social life " and, to this end, to ensure " the elimination of the barriers architectural " .

January 30 , 2015, the Assembly adopted Recommendation 2064 (2015) , entitled « Equality and inclusion of the people with disabilities ' , which contains the following steps :

1. The Assembly MP refers _ at the her Resolution 2039 (2015) « Equality and inclusion of the people with disabilities " .
2. The Assembly MP welcomes the contribution of the Council Action Plan _ of Europe «for the promotion of the rights and of full participation of the people with disabilities in society : improve the quality of life of people with disabilities in Europe 2006-2015» allo policy development _ national that hold I count of the rights of the people with disabilities . The Action Plan also has helped change perceptions _ _ of the disability in one question relevant to i rights humans .
3. The Assembly notes , however , that the full enjoyment of the rights of the people with disabilities is far from reached up in States Council members _ of Europe . A gap remains significant between the principles content in instruments international and reality lived daily basis give her people with disabilities . Remains so necessary an action resolution of the Council of Europe and the States members in the field of disability .
4. Consequently , the Assembly recommended to the Committee of the Ministers :
 - **4.1.** to evaluate the implementation of the action plan for people with disabilities 2006-2015 and draw teachings come on ten years of her implementation in States members .
 - **4.2.** to define on this base one new roadmap for 2016-2020, in close consultation with organisations representative of the people with disabilities ;
 - **4.3.** to concentrate this new roadmap up _ of the issues priorities, such as capacity legal of the people with disabilities and the measures aimed at guaranteeing them dignity and theirs full inclusion in company:
 - **4.4.** to invite the Development Bank Council of Europe to to insist on respect for

- accessibility requirements _ in concession of the loans for construction and rehabilitation projects; and not to finance large construction structures intended for the placement of people with disabilities.
- **4.5** . to insure that disability _ be taken into consideration in the various activities sectoral carried out by the Council of Europe , in particular in activities and in Council campaigns _ of Europe against violence . _

In Italy the principle dictated in article 34 of the Constitution becomes substantial in the **1992** with the Law of 5 February 1992, n. 104 " Framework law for assistance , integration social and i rights of the people handicapped ." GU 17 February 1992, n. 39 (the text to be consulted is that effective after the last changes introduced from the Law 8 March 2000, n. 53 and by the decree legislative March 26 , 2001, n. 151).

In fact :

At the art . 1 is arranged :

The Republic:

- guarantees full compliance with the dignity human and i rights of freedom and autonomy of the handicapped person and promotes full integration in family, in school, in work and in company ;
- prevents and removes conditions _ disabling that prevent development of the human person, the attainment of the maximum autonomy possible and participation of the handicapped person to the life of community, as well as the realization of the rights civil, political and patrimonial:
- pursue recovery _ functional and social of the person with disabilities physical, psychic and sensory and ensures the services and benefits for prevention , treatment and rehabilitation of the minorities , as well as legal and economic protection of the handicapped person ;
- prepares interventions to overcome states of marginalization and exclusion social of the handicapped person .

In article 12 " Law to education and instruction " comes enshrined that the inclusion education has development as its goal of the potential of the person differently skilled in all its manifestations : learning , communication , relationship , socialization to which yes they add autonomy and communication personal

Article 13 provides for integration school of the disabled person in sections and in classes common of the schools of each order and rank and in university yes accomplish , without prejudice how much planned give her read 11 May 1976, n. 360, and 4 August 1977, no. 517, and subsequent modifications , too through : a) programming coordinated of the services school with those health , social welfare , cultural , recreational , sporting and other activities on territory managed by institutions public or private . For that purpose the entities local , the organs schools and units sanitary premises , within the scope of the respective skills , they stipulate the program agreements referred to in article 27 of the law 8 June 1990, n. 142.

Such program agreements _ I am finalized at the preparation , implementation and verification project joint _ educational , rehabilitation and socialization individualized , as well as forms of integration between activities school and supplementary extracurricular activities . Over chords I am likewise foreseen the requirements that they have to to be possessed give it entities public and private purposes _ of the participation in coordinated collaborative activities .

Since 2013 the Ministry of Labor has started a experimentation to create a model homogeneous in all 20 Regions in this regard to independent living of the people with disabilities to ensure equality and inclusion .

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

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

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

Program action plan for promotion of the rights and integration of the people with disabilities :

- Recognition of the disability status , assessment _ multidimensional aimed at supporting the system of access to services and benefits and planning personalized
- Health, right to life, habilitation and rehabilitation
- Inclusion education and processes training courses of which (104/1992 is one of the first sources)
- Work and occupation
- Promotion and implementation of the principles of accessibility and mobility
- Cooperation international and projection international of the policies on the disability
- System development statistics and monitoring of the implementation of the policies

The support structure of which yes avails the Minister for promotion and coordination of Government action in the field of disability is the Office for policies in favour of the persons with disabilities whose functions and competences are :

Cure the fulfillments necessary for the realisation of the interventions connected to implementation of the policies aimed at guaranteeing the protection and promotion of the rights of the people with disabilities and to promote theirs full and effective participation and inclusion social , as well as their own autonomy , in line with the Convention of the United Nations rights of the people with disabilities and the Charter of rights fundamental of the Union European .

The office carries out the activities inquiries connected to adoption of the deeds , too normative , of competence in matter of disability . Treatment the activity investigation for the purpose of the promotion of agreements in the Conference _ unified pursuant to article 8 of the decree legislative August 28 1997, n. 281, aimed at developing coordinated governance _ between the different levels of government of the performance and gods socio- medical and educational services in favour of the people with disabilities .

- Insure information and communication activities _ institutional in matters within its competence , ibid including disclosure _ of the positive actions and best practices . Guarantees government representation _ _ in organisms national , European and international competent in the field of disabilities and provides the necessary support to authority politics in the exercise of the same functions .
- In collaboration with **ISTAT and INPS** , it promotes collection activities of the data concerning persons with disabilities .
- Treatment the investigation of the instances inherent questions or reports on the condition of disability . Promotes and coordinates study , research in scope of the favorable policies _ of the people with disabilities .

- Prepares the opinions on the sponsorship request _ at the Presidency of the Council of the Ministers on Disability.
- Promotes a constant comparison with federations and associations more disability representatives.

In March 2021 the Commission European Union has adopted the strategy for i rights of the people with disabilities 2021-2030 . With this strategy the Commission for ten years European means improve the life of people disabled people in Europe and in the world. The strategy yes based on results of the previous one strategy European on the disability 2010-2020 , which paved the way towards a Europe without barriers and towards empowerment of the people with disabilities , so that they can to enjoy of the They rights and participate completely at the society and the economy . Despite the progress accomplished in the last decade , people with disabilities they face still remarkable obstacles and present a major risk of poverty and exclusion social .

The target of the new strategy is to accomplish progress to ensure that all people with disabilities in Europe , regardless of gender , race or origin ethnicity , religion or beliefs personalities , age or orientation sexual , they can :

- to enjoy of the They rights humans
- to have even opportunities and equal access to society and the economy
- being able to decide where, how and with whom to live
- circular freely in the EU independently give her They assistance needs
- don't be more victims of discrimination.

This new one strategy strengthened holds I count of the different disabilities , including minorities physical , mental , intellectual or sensory for a long time deadline (in line with Article 1 of the Convention of the United Nations rights of the people with disabilities), often invisible .

Take into account of the risks of the downside multiple faced by women , children, the elderly, refugees with disabilities and people with difficulties socioeconomic factors , and promotes a prospect intersectoral in line with the Agenda 2030 of United Nations for development sustainable and the development goals _ sustainable **(OSS)**.

The new one strategy predicts therefore a series ambitious of actions and initiatives in various sectors and has numerous priorities , including :

accessibility : the possibility of moving and staying freely , but also to participate in the process democratic

a decent quality of life and the possibility of living independently, since yes focus in particular on the deinstitutionalization, on protection society and on non - discrimination on workplace

equal participation, as aims to protect effectively people with disabilities from any form of discrimination and violence, to ensure even opportunities and access for how much it concerns justice, education, culture, sport and tourism, but also equal access to all services sanitary.

The role of the EU in leading by example

the intention of the EU to do the strategy a reality concrete

the promotion of the rights of the people with disabilities at the level worldwide .

Main initiatives

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

European card of the disability : will come proposal from the Commission European and will be valid in all villages of the EU . The card will allow people disabled to get more easily a prop adequate when they travel or yes they transfer to another country of the Union European (**by the end of 2023**).

Guidelines with recommendations garlic States members on how to improve independent living and inclusion in community of the people disabled , allowing them to choose whether to live in lodgings accessible and assisted or continue to live in their own homes (**2023**).

A framework for i services social excellence _ intended for people with disabilities (**2024**)

A package to improve the insertion of the people with disabilities in the job market _ (**to start in the second half of 2022**)

Platform on the disability : brings together the authorities national in charge to implementation of the Convention , organizations of the people with disabilities and the Commission . argues the implementation of the strategize and strengthen collaboration and _ _ exchanges for this purpose. New resource strategy _ human of the Commission European , including actions aimed at promoting diversity and inclusion of the people with disabilities .

3.4. Religious discrimination

Landmark of the legislation European in the right antidiscrimination on basis of religious denomination is Article 17 of the Treaty on functioning of the Union European Union (TFEU)

- The Union respects and does not prejudice the status of which churches and associations or communities
- religious enjoy in States members by law national .
- The Union respect equally the status they enjoy , by virtue of the law national , organizations philosophical and non- denominational .
- Recognizing it identity and contribution specifically , the Union maintains a dialogue open , transparent and regular with such churches and organizations .

Parliament _ European gave _ implementation of the provisions of the treaty through the designation, by the President, of a vice president responsible of the conducting the dialogue, as well as through a series of decisions specific aimed at setting up the relevant framework.

In particular , the elements of the implementation of Article 17 TFEU by the Parliament European are :

- Designation of a Vice President responsible of the conducting the dialogue .
- Introducing a relation annual to the Bureau of Parliament by the Vice - President .
- Secretariat dedicated to standard of article 17 for the management of the dialogue .
- Further support administration to dialogue by all relevant services of the Parliament
- Dedicated pages on Parliament 's website to increase transparency and awareness

- Reflection documents by the Service Search for Parliament European.
- Organization periodical of seminars and others dialogue initiatives with external partners .
- Dialog connection to the activity parliamentarian and debate on political, with the participation of office holders 3. Types of activities referred to in Article 17 TFEU to the Parliament European .
- Seminars organized by the Parliament within the framework of the dialogue referred to in Article 17.
- Other dialogue activity organized by the Parliament
- Seminars organized by others actors MPs on themes connected in article 17
- Activities organized in cooperation with one or more dialogue partners referred to in Article 17
- Reception to the Parliament of delegations of partner organizations referred to in Article 17
- Representation of Parliament at events organized by partner organizations referred to in Article 17 TFEU
- Cooperation with others institutions of the EU on implementation of Article 17 TFEU
- Every year the Parliament is usual organize two or three seminars on dialogue referred to in Article 17. Such seminars I am public, and they come broadcast live on the web. All dialogue partners register, they are they religious or non- denominational, they are invited to participate to the whole of the seminars and other activities referred to in article 17. The themes of the dialogue can concern any scope of intervention of the EU . The dialogue partners referred to in Article 17 of the Parliament they come consulted about it at the choice of the themes and format of the seminars . On the sidelines of the dialogue seminars, Parliament maintains a dialogue settle with the partners referred to in Article 17 to various levels, including that administrative through his secretariat dedicated.

With regard to internal regulatory sources :

The art . 8 of the Constitution has

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

Religious confessions other than catholic they have right to organize according to i own statutes , as they do not conflict with the law legal Italian .

Theirs relations with the state I am regulated by law on the basis of agreements with the relative representations.

The art . 19

Everyone has right to profess freely their religious faith in any form, individual or associated, to make propaganda and to exercise their cult in private or in public , provided that they do not traits of rituals contrary to morality.

Art.20

The ecclesiastical character and the purpose of religion or cult dune Association od institution can not be due to special legislative limitations , nor special ones burden me tax for his constitution ,

ability juridical and any form of activity .

With law quite a few agreements have been stipulated with singles religious confessions , in particular with:

- Waldensian Table (law 11 August 1984, no. 449; law 5 October 1993, no. 409; law 8 June no. 68);
- the Union Italian of the Churches Christian Seventh - day Adventists (Law No. 516 of November 22 , 1988; Law No. 637 of December 20 , 1996; Law No. 67 of June 8, 2009);
- the Assemblies of God in Italy (l. 22 November 1988, n. 517);
- the Union of the Community Jewish Italian - 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 Church Lutheran in Italy - CELI (law 29 November 1995, n. 520);
- the Sacred Archdiocese of Italy and Exarchate for Europe southern Italy (law July 30, 2012, n. 126);
- the Church of Jesus Christ of the Saints of last days (law July 30, 2012, n. 127);
- Apostolic Church in Italy (law 30 July 2012, n. 128);
- the Union Buddhist Italian - UBI (law 31 December 2012, n. 245);
- the Union Hindu Italian - UII (law of 31 December 2012, n. 246).

Legislative Decree 216/2003 – **Article 1:** "The present decree contains the provisions relating to implementation of equal treatment among people independently from the religion , come on convictions personal ... " Scope more limited pursuant to art . 3: matter only relating to the employment relationship , access, employment , orientation and training professional , affiliations within organizations professional .

Legislative Decree no. 286/1998 (TU on immigration) – **Art. 43** : "For the purposes of this chapter, it constitutes discrimination every behavior which , directly or indirectly , entails a distinction , exclusion , restriction or preference based on ... religious beliefs and practices " Statute of the workers - Article 8: Prohibition of investigations on religious views of the applicant worker and of the worker

Legislative Decree 276/2003 – Art. **10:** Prohibition for employment agencies and others subjects public and private authorized or accredited to carry out whatever investigation or otherwise treatment data or to pre -select the workers, even with their own consensus, based on beliefs personal and religious beliefs. Relating to that that yes can to define religion the ECtHR considers religious beliefs , n 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 " beliefs theistic , non - theistic and atheistic ".

3.5 Discrimination based on sexual orientation

The prohibition of discrimination based about orientation sexual , is clearly expressed both in the Treaty on functioning of the Union European Union (TFEU), which establishes that the Union aims in all its activities to combat discrimination _ based on several factors , including the orientation sexual , taking the opportune provisions (articles 10 and 19), both in the art . 21 of the Charter of Rights Fundamentals .

Directive 2000 /78/EC, which establishes a framework framework for equal treatment in employment and occupation, transposed in sorting Italian with Legislative Decree. no. 216 of 9 July 2003, in reaffirm the right universal of all to equality front at the law and to protection against discrimination as a right universal, is aimed at making actual in States members the principle of equal treatment through contrast of the discrimination founded on the religion or beliefs personalities , disability , age or orientation sexual in the field working .

Level European Union , the Lines were relevant guide for the promotion and protection of the exercise of all rights by lesbians , gays , bisexuals , transgenders and intersex people adopted by the Council European Parliament on 24 June 2013 (11153/13) and the Council Conclusions European Union of 16 June 2016 with which yes they invite “ the States Members to strengthen and continue to support the action of the mechanisms institutions , including the entities national peers _ opportunity , that I am instruments essential for non- discrimination of the people **LGBTI** ”, as well as to “ take action to combat discrimination based on orientation sexuality and gender identity ” .

Several I am also the Resolutions , adopted over time by Parliament European , including yes _ points out the Resolution of 4 February 2014 on the EU Road Map versus homophobia and discrimination tied up to orientation sexuality and gender identity , which _ calls on the Commission European , the States members and agencies competent to cooperate at the definition of one politics global multiannual for the protection of rights fundamental of the LGBT+ people and locate i themes and the targets priority .

The “List of actions to promote LGBTI equality”, adopted from the Commission European in 2016, represents a painting articulated commitments for the States members .

From his publication , the Commission has undertaken different types of shares , which they range from support to MS to improve the activity legislation to initiatives to raise awareness and exchange good news practices .

With the Resolution of 14 February 2019 adopted by **the Parliament** European on future of the **List of LGBTI actions** , Parliament European invites the Commission , among the other , to ensure than to rights of the LGBT+ people both attributed priority in the his work program for 2019-2024 and to strengthen cooperation between the different DGs in the sectors where they should to be integrated the rights of the LGBT+ people , such as education and health , to adopt a new document strategy to promote equality for LGBT + people , to involve organisations of the civil society in the elaboration of its future list of actions to move forward equality of the LGBT+ people , to integrate a prospect cross-sectoral in the his future rights work of the LGBT+ people .

Also , in view of the fact that research , surveys and reports show that discrimination in public , incitement to hate and i hate crimes in the comparisons of the LGBT+ people are on the rise throughout the EU , in violation of the rights fundamental of the LGBT+ people , Parliament European Union on 18 December 2019 approved the Resolution on the discrimination in public and on incitement to hate in the comparisons of the people **LGBTI** , with which, in condemn all forms of discrimination and violence based about orientation sexuality , gender identity or characteristics _ sex , encourages the Commission European Union to submit a programme that guarantee equal

rights and opportunities for all citizens in compliance with skills of the States members and to monitor the adequate transposition and implementation of the legislation of the EU relevant to LGBT + people

On 14 February 2019 the Parliament European Union approved the first **Resolution on rights of the people intersex** with which, in addition to condemning the violence and i non - consensual treatments to which intersex people are exposed , invite the States Members to assume commitments to ensure non - discrimination and combat stigmatization .

With the Resolution of 11 March 2021, Parliament European proclaimed the Union European Union as an area of freedom for LGBTIQ people , considered that all the States members they have hired obligations and duties , in framework of law international and gods treated of the Union , as regards respect, the guarantee , protection and enforcement of the rights fundamentals and that the fight against inequalities in the EU it is one responsibility shared that it requires a commitment joint and actions at all levels of government and that the regression in the comparisons of the LGBT+ people is often accompanied by a plus ample deterioration of the situation of the democracy , of Rule of law and gods rights fundamentals .

Level international and European equality issues of the LGBT + people there is also the Recommendation Rec CM2010(05) of the Committee of the Ministers of the Council of Europe garlic States members on measures aimed at combating discrimination founded about orientation sexual or gender identity (adopted March 31, 2010), in implementation of which Italy developed the first National LGBT Strategy (2013-2015), adopted in Italy with Decree ministerial of 19 April 2013.

The Recommendation indicated above, represented a support tool of the policies national and local in matter in question , in compliance with the obligations hired at the level international and European why invite the States to provide a framework legal appropriate to ensure equal treatment and in while activating policies specifically finalized at the prevention and contrast of the discrimination , it is necessary mention the

In Italy, the National LGBT+ Strategy 2022 - 2025 for prevention and contrast is important of the orientation discrimination _ sexuality and gender identity that set four goals key :

- Fighting discrimination _ in the comparisons of the LGBTIQ people . through improvement of the protection legal against discrimination To promote inclusion and diversity on workplace in education , in healthcare , in culture and in sport
- Guarantee safety of the LGBTIQ people by strengthening protection legal of the LGBTIQ people vs the crimes generated from hatred , incitement to hatred and violence ; measures to fight _ the incitement to online hate against LGBTIQ people and misinformation ; create a crime reporting system generated from anti-LGBTIQ hate and exchange of good practices promoting physical and psychological health of the of the LGBTIQ people
- To build inclusive societies for LGBTIQ people through protection legal of the family's rainbow in situations cross-border Improving the recognition of transgender and non - binary identities and people intersex
- Lead the fight in favor of equality through strengthening of the commitment of the EU

3.6 Discrimination racial in legislation European

In the legislation European , several bases legal tend to generate different regulations that give to individuals grounds of discrimination different protections , both for the field of application of the prohibitions , both for the specific regulations contained in the different deeds regulatory .

Already in the art . 19 TFEU, the origin ethnic is flanked at the race, integrating the word that more conjures features physical (the race) with the reference at the dimension culture of the group to which they belong (the origin ethnic).

Race and origin ethnic they come then to constitute one notion that should be avoided that there are situations not protected for mere reasons terminological .

I'm instead expressly excluding treatment differences based on the nationality of which later yes will treat.

Regulatory source European is the directive 2000/43/CE that implement the principle of equal treatment among people independently from the race and origin ethnic , whose goals are :

- combating discrimination on grounds of origin racial or ethnic.
- Fix requirements minimum for the implementation of the principle of equal treatment among people in the Union European.
- discourage discrimination,

The directive yes base on principle of equal treatment between people and forbids _ any discrimination direct or indirect , harassment and any behavior that obligations a person to discriminate another person in miserly scopes :

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

The directive does not preclude that the villages of the EU adopt positive measures, i.e., measures national aimed at avoiding or compensate disadvantages connected with one determined race or origin ethnic.

The directive also states the remedies and enforcement.

All people that yes, they believe victims of discrimination because of race or origin ethnic they have to be able to access judicial and/or administrative procedures.

Associations or other people legal interested can furthermore initiate judicial proceedings on behalf of or in support of the person who yes believes injured.

The victim discrimination he just has to establish a presumption of discrimination , after that it belongs at the part defendant try that there was no discrimination .

The directive commits the States to set up an organization in charge to the fight against discrimination , responsible in particular for helping victims and leading Education independent .

Despite the legislation, the conclusions of the rights report 2019 basic , elaborate by the Agency of the Union European for i rights fundamentals (FRA), they confirm that minorities ethnic and i migrants they continue to be victims of harassment and discrimination throughout the EU .

The relationship detects furthermore that only a few States States members have strategies and

plans of action specifically to combat racism and discrimination ethnicity and, moreover , gaps persist in the legislations national that they should criminalizing racism .

THE Committee European of the regions , on 7 May 2021 regarding the action plan of the EU against racism 2020-2025 , **COM (2020) 565**, expresses concern for i results of the special Eurobarometer on the discrimination in the EU points out that the Commission recognize that racism structural exists and constitutes part integral to the system social , economic and political in which all of us we live , face the matter using policies global .

One is indicated modification of the approach to racism in the EU first pointing the commitment of the Commission to carry out a assessment overall picture legal European existing in the field of combating discrimination , racism and the xenophobia and monitoring of the implementation of the directive on equality racial .

welcomes the importance that the action plan of the EU against **racism 2020-2025** attribute garlic entities local and regional a central role in search for solutions to combat racism , for effect of the They proximity to citizens . The entities local and regional they play a role crucial in promotion and in respect of values Europeans , and that they I'm first in line in the fight against racism and incitement to hate , in the protection of the groups vulnerable and of minorities as well in promotion of the cohesion social ; he asks that the entities local and regional they are recognized as strategic partners in the development , implementation and in the monitoring of the plans of action national , by virtue of the They responsibility and what is important work done in the They areas of expertise to combat racism ;

The role is emphasized basic done give it entities local and regional in promotion of the awareness , of training and education against racism , in particular between the young .

It is believed of the maximum importance allocate resources financial for the entities local and regional in the budget framework for a long time term 2021-2027, **by title of the funds of the EU and of Next Generation EU**, in order to promote the inclusion social and combat racism and discrimination in sectors Which access to the labor market, education , protection social , health care and housing . This includes an attention especially for groups more vulnerable and allocating resources specifically to ensure protection of the minors unaccompanied foreigners, for i which many cases I am responsible the entities local and regional; points out the importance of involving the authorities national, regional and local as well as civil society in order to confer legitimacy of the plans of action national against racism and to fight more effectively racism in Europe.

It is also important proceed to an exchange of vouchers practices between different countries and institutions local and regional , sharing the goals and actions foreseen in the plans against racism _ processed come on different levels of government .

33 . believes that, to realize the potential of future proposals of the Planning Commission of action national against racism , they are necessary robust processes to ensure it implementation according to schedule established and with goals clear and measurable , as well as monitoring of the level progress is national that European and recruitment by of the Commission of the full responsibility for the follow -up part that falls to it .

34 . emphasizes the need for planning a assessment of effectiveness of the plans of action national against racism two years after theirs institution , having complete information provided _ give it entities local and regional . The Committee European of the regions, institutions of the EU and initiatives against racism

35 . he claims the initiative of **UNESCO** « Coalition European of the city against racism »

(ECCAR) and welcomes with particular attention favor the projects Europeans concerning to the fight against racism, including that _ more recent entitled « SUPport Everyday Fight Against Racism» (Support the daily struggle against racism, SUPER), in framework of the programme Rights , equality and citizenship of the Commission European ;

36. invites the Commission to involve him formally in designation, on an annual basis, of one or more « Capitals European of inclusion and diversity » as a tool for recognizing and making visible the efforts of the city in the implement solid level inclusion policies local.

37 . expresses a strong desire to participate as a formal partner to the organization of the summit against racism, which _ yes held on March 21, 2021, in conjunction with the Day international for elimination of the discrimination racial.

38 . points out that the Committee European of the regions and the entities local and regional they should play a role formal in exchanges, in consultations periodicals and in dialogue with the institutions of the EU, given that I'm first in line in the fight against racism and discrimination.

39 . welcomes with satisfaction the remarkable efforts accomplished from the Commission to strengthen policies _ based on values fundamentals and build the Union of equality of the EU by different plans of action and strategies aimed at combating discrimination on grounds specific (race , gender equality , LGBTIQ people , Roma, people with disabilities , anti- Semitism); however , given the transversal nature of the aforementioned strategies , he believes appropriate have not only relationships individual on progress , but also of relationships _ intersectional , that evaluate the interaction between the different strategies and i They effects cumulative in the case of multiple forms of discrimination at the level national , regional and local;

40 . he claims the efforts of the Commission aimed at creating a Union of equality which , with the help of the new working group internal for equality , will protect the interests of all people , regardless _ from the race or origin ethnic , integrating equality and intersectionality in all policies , regulations and i funding programs _ of the EU ;

41. looks forward to being involved and to collaborate with the future coordinator anti-racism that Sara appointed from the commission.

42. will follow the invitation of the Commission European Union to lead by example and improve the representativeness of its own personal adopting recruitment and selection measures . _ _ _

In sorting legal Italian, the provisions anti- discrimination , relating to discrimination racial , they find space within the law penal since 1975 with the Law , n. 654., October 3, 1975 which punishes manifestations of discrimination with punishment _ racial .

In his formulation original ,

the art . 3, paragraph 1, imposes imprisonment of four years to (lett a) “who spreads well- founded ideas in any way on the superiority or hatred racial ”, or (letter b) "anyone who incites in any way the discrimination , or incites to commit or commits acts of violence or provocation at the violence , in comparisons of people Why belonging to a group national , ethnic or racial ”.

The case criminal contains however a safeguard clause (“ unless the fact constitute more serious crime).

In paragraph 2) with imprisonment from one to five years i participants (or those that lend assistance) ad associations od organizations having between the purposes that “to incite to hate or to discrimination racial ”; for i leaders or promoters of such organizations or associations the penalty was increased .

The hypothesis of crime referred to in art . 3 paragraph 1 Law 654/1975 was However significantly

modified , as we will see , first by art . 1 of Legislative Decree 122/1993 (converted in law 205/1993), then by art . 13 of the Law 24 February 2006, n. 85.

Subsequently , **The Law Left -handed** (DL122/1993 converted with modifications in law 205/1993) punishes :

- with imprisonment up to three years anyone who spreads well- founded ideas in any way on the superiority or hatred racial or ethnic, i.e incites to commit or commits acts of discrimination on grounds racial , ethnic , national , or religious ;
- with imprisonment from six months to four years who, in any way, incites to commit or commits violence or acts of provocation at the violence for reasons racial , ethnic , national or religious ". It is then introduced a new crime hypothesis _ that punishes " anyone , in public meetings , accomplish manifestations exterior od flaunt emblems or symbols own or usual of the organisations , associations , movements or groups referred to in article 3" of Law 654/1975.

Of fundamental importance , especially for the potential extension to many type of crime , however the aggravating circumstance introduced from

'art. 3 of Legislative Decree 122/1993 , which , in the text modified upon conversion , provides as follows :

1. for i crimes punishable with penalty different from that of life imprisonment committed for the purpose of discrimination or hatred ethnic , national , racial or religious nature, or in order to facilitate the activity of organizations , associations , movements or groups that they have between the They purposes the same purpose , the penalty is increased by up to half.
2. The extenuating circumstances, other than those provided for by article 98 of the penal code , competing with the aggravating circumstance referred to in paragraph 1, cannot be considered equivalent or prevalent with respect to this and the reductions of the penalty are applied on the amount of the penalty resulting from the 'increase resulting from the aforementioned aggravating circumstance".
3. Law 85/2006 and the reform of crimes of opinion. In the framework 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".

Naturally one wonders about the difference in meaning underlying the terminological change that defines the offending conduct: where, for example, is the distinction between "dissemination in any way" and "propaganda", and where is the distinction between "incitement" and "instigation". the use of the expressions "incitement" and "propaganda" instead of the expressions "incitement" and "diffusion" does not modify, according to the jurisprudence of legitimacy, the legislative framework of reference.

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.

In particular, **UNAR**:

- provides assistance to victims of discriminatory behavior in proceedings undertaken by the latter both in administrative and jurisdictional settings, through the dedicated action of a specific contact centre;
- carries out inquiries in order to verify the existence of discriminatory phenomena in compliance with the prerogatives of the judicial authority;
- promotes the adoption of positive action projects in collaboration with non-profit associations;
- disseminates maximum knowledge of protection tools through awareness-raising actions and communication campaigns;
- formulates recommendations and opinions on issues related to discrimination on the basis of race and ethnic origin;
- draws up two annual reports, respectively for Parliament and for the President of the Council of Ministers ;
- promotes studies, research, training courses and exchange of experiences, also in collaboration with associations and non-governmental organizations operating in the sector, also with a view to drawing up guidelines or codes of conduct in the sector of the fight against discrimination based on race or ethnic origin.

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.
in treatment based on nationality are expressly excluded .

The art . Article 3, in fact, excludes from the scope of the directive " [...] differences of treatment based on nationality and does not affect the provisions and conditions relating to the entry and residence of third-country nationals and stateless persons in the territory of the Member States nor is any processing deriving from the legal status of the third-country nationals or stateless persons concerned.

The provision is strengthened by recital **n. 13** according to which the " prohibition of discrimination should also apply to third-country nationals, but does not include differences in treatment based on nationality and does not affect the provisions governing the entry and residence of third-country nationals and their access to employment and employment " . The rules, therefore, do not exclude the application to citizens of third countries, but they do exclude that may be invoked against immigration laws or for discrimination based on citizenship.

Technically, the exclusion of the application of directive **2000/43/EC** to discrimination on grounds of nationality is also justified on the basis of respect for the principle of attribution of powers, given that art . **19 TFEU** , the legal basis of the directive, does not concern nationality which is instead the

object of art. **18 TFEU** .

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.

Therefore, despite the prohibition of discrimination on grounds of nationality has always been present in the legal system of the European Union, with the development of the integration process and with the development of anti-discrimination law, its protection is less extensive than that granted to other prohibitions of discrimination and, above all, its discipline appears to be separate from that of the other prohibitions of discrimination.

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.

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 as regards: 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.

The aim of the project is to introduce actions and processes to elaborate, in a participatory and shared way, tools to contrast the phenomenon, promoting the dissemination of a culture based on inclusion and equal opportunities.

To achieve this goal, five communities of practice have been created for the construction of shared knowledge and tools, each for each of the main risk factors that can add up to disability (gender, age - both with regard to minors and the elderly - citizenship sexual orientation). Communities, made up

of groups of experts on the subject, belonging both to the associative world of people with disabilities and to realities operating on the various risk factors, have intended to vitalize places of exchange, study and work, where knowledge and experience can be shared, so as to favor the identification and dissemination of tools for recognizing and combating multiple discrimination.

Collaterally, in Italy, to the empirical studies on **Diversity Management by ISTAT**, research was conducted on the multiple discriminations 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.

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 of 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 attempted to fill this ratification with content with the Decree Law n. 93 of 2013 converted into law, with amendments, by **art. 1, paragraph 1, L. 15 October 2013, no. 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 the public 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.

As for prevention, the **priorities** are:

- raising the level of awareness in public opinion and in the education and training system on the causes and consequences of male violence against women;
- the involvement of the private sector (social media, platforms, mass media) on the role of stereotypes and sexism, also in relation to cyber -violence and the illicit dissemination of sexually explicit images or videos;
- the promotion of female empowerment;
- the activation of actions for the emergence and contrast of violence against women victims of multiple discrimination;
- reinforcement for the prevention of recidivism for male perpetrators;
- the training of professionals who, for various reasons, interact with women victims and with minors in the process of prevention, support and reintegration;
- the connection of regulatory measures also in the area of prevention of secondary victimisation.

In terms of protection and support for victims, the priorities are: taking care of women victims of violence and minors victims of witnessing violence; the activation of paths of economic, financial, work and housing autonomy empowerment; the monitoring and improvement of the effectiveness of the "Paths aimed at women who suffer violence" active in healthcare and hospital establishments; the strengthening of the free national anti-violence telephone line 1522; the protection and psychosocial support of minors who are victims of witnessing violence; the implementation of operational solutions to guarantee access to prevention, support and reintegration services, in particular for women victims of multiple discrimination (migrants, asylum seekers and refugees).

Regarding the **prosecute and punish axis** , the priorities are:

- guarantee procedures and tools for the protection of women victims of violence that allow for an effective and rapid assessment and management of the risk of lethality, recurrence and recidivism;
- define a shared approach, management and risk assessment model within the security department;
- improve the effectiveness of judicial proceedings in the application of precautionary measures and suspended sentences;
- define guidelines for the analysis and qualitative and quantitative monitoring of the interventions carried out in the context of programs for abusive men.

Finally, in the field of **assistance and promotion** , the priorities are:

- the implementation of the integrated information system for the collection and analysis of data on the phenomenon; the implementation of a national level monitoring and evaluation system of interventions, policies, activities and resources;
- the preparation of guidelines, in agreement with the regions, to standardize the qualitative and quantitative standards of the services provided by the anti-violence centres, the territorial networks and the social and health system at a national level;
- the construction of stable places of discussion and planning for political bodies, institutions and administrative structures; communication and regulatory tools and operational interventions in support of women victims of male violence.

As regards the financial resources to support the interventions envisaged by the Plan, reference must be made to the resources of the Equal Opportunities Fund which are placed - together with any other further interventions charged to the Fund - in chap. 2108 of the estimates of the Ministry of Economy and Finance (**MEF**), to be subsequently transferred to the budget of the Presidency of

the Council, where the chap. 496 contains the sums to be allocated to the Plan against violence against women.

Within the **United Nations** , institutional attention and the legal and regulatory framework have matured and grown over time: from the creation of the **CSW** and the adoption of **CEDAW** by the United Nations General Assembly, to the World Conferences of Women, at the sensitivity and positions taken by the Security Council and the International Criminal Court on theme of women in conflicts.

In this context, the adoption of the **Convention of Istanbul** by the Council of Europe represents a significant example of the ongoing process, tending towards the regionalization of tools to combat the phenomenon.

Furthermore, the Convention presents itself as a very innovative instrument, characterized by the wide attention dedicated to the participation of civil society and by the role of information and communication in the prevention and fight against the phenomenon, by the enunciation of specific responsibilities for the States signatories, and by a monitoring system aimed at promoting regulatory harmonization in the various contracting states.

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",

With the advent of social networks, 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. .

According to several authors, online hate is characterized by being:

- permanent over time: hate speech tends to remain online for a long time; the longer it remains accessible, the higher the risk of producing harmful effects;
- itinerant and recurring: the architecture of web platforms greatly influences the dynamics of diffusion, which can be itinerant and recurring. In fact, a removed content can appear under another name and/or title on the same platform or elsewhere (it is no coincidence that it is said that the Web does not forget);
- associated with the idea of anonymity and impunity: the proliferation of expressions of hate is favored by the idea of anonymity and impunity associated with the use of the internet and the methods of interaction on social networks. Authors of hate speech often do not reflect on the possible consequences of their acts and do not perceive the potential impact of their hate messages on people's real lives. Several studies have shown that so-called "keyboard lions" do not express their hatred in those terms when they are offline.

The very nature of the web makes it clear that the fight against online hate speech cannot be tackled by individual countries, but instead requires an international approach.

Important steps forward have recently been taken at EU level, starting with the signing, in May 2016, of the "Code of Conduct to fight against illegal forms of hate speech online" by the European Commission and Facebook, Microsoft, Twitter and YouTube.

The subscription commits IT companies to react more quickly to address the content of incitement to racial and xenophobic hatred that is reported to them. The goal is to give a more appropriate response to users who report such content and ensure greater transparency on notifications and cancellations made, thanks also to the creation of a network of "trusted speakers" (trusted flaggers) that transmit quality flags.

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 Osce 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.

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.

The one elaborated by the Office for Democratic Institutions and Human Rights (**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.

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 of 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.

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

Anti 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 as 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.

The main variable that distinguishes Cyberbullying from traditional bullying is the relationship that young people have with new technologies. One could say that the medium transforms and affects the characteristics of cyberbullying.

It has common characteristics with traditional bullying but, in fact, differs from it in many aspects.

In general, the phenomenon of bullying is based on aggression, which manifests itself through a form of intentional arrogance, exercised by the aggressor, which creates an asymmetry of power, carried out over time, causing the victim great suffering.

The asymmetry of power that is exercised by the bully towards the victim in conventional bullying is however of a physical or social nature, in this new form of aggression power is imposed through the skills and competences acquired in the new technologies.

Those who engage in cyberbullying, in fact, use e-mail, instant messaging, blogs, text messages, mms or the use of websites with offensive content to carry out bullying actions. Power is exercised anonymously even if it is actually possible to trace the cyberbully. The power lies precisely in the ability to be able to harass others while ensuring one's anonymity by reducing the sense of responsibility on the part of the cyberbully.

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** , consisting in the publication of messages with aggressive, violent, vulgar, denigrating content, to the detriment of a user when he performs a certain online activity (for example when he expresses his thoughts by intervening on a social network);
- **Harassment** , consisting in the continuous and repeated sending of a multitude of computer messages of a vulgar, aggressive and threatening nature (through communication tools such as text messages, e-mails, chats, social networks, etc...) by one or more subjects against a targeted individual; the phenomenon of cyber-stalking can be assimilated to this type of conduct - albeit with due distinctions as to motivations and triggering causes, often carried out by those who, by not accepting a rejection or the end of a relationship, begin to tenaciously persecute the person from which it was rejected, making use of IT or telematic channels to implement a prolonged series of harassment or threats;
- **Denigration** , consisting in the electronic or telecommunication diffusion of news, photographs or videos (real or even artifacts concerning embarrassing behaviors or situations involving the victim), with the aim of harming their image, offending their reputation or in any case violating their confidentiality; within this category we also include some hypotheses in which more traditional forms of bullying make use of the sharing potential offered by the new means of communication to guarantee a wider audience of spectators, through online dissemination or messaging systems of content (often video) that the bullies themselves record while subjecting their victim to ill-treatment and abuse (a practice known as cyber- bashing or happy slapping);
- **Impersonation** , consisting of unauthorized activities carried out by a subject who, after having somehow obtained the access credentials to one or more online service accounts used by the victim, uses them to create harm or embarrassment (for example through the sending of messages or the publication of inappropriate contents, making believe that they come from the victim);
- **Outing and trickery** , consisting in the conduct of those who, having received or in possession of data, intimate images or other sensitive material of the victim (received directly from the latter or, in any case, created with his consent), disseminate them via messages, chats or social networks network or in any case uploads them to the network without the victim's approval or even against his explicit will, thus making them accessible to a multitude of users

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 2 February 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".

The news:

- It provides for the possibility for each minor over the age of fourteen who has been the victim of acts of cyberbullying, as well as for the relative parents and for the other subjects exercising responsibility for the same minor, to contact the online data controller or manager of an internet site or social media in order to obtain "the obscuring, removal or blocking of

any other personal data of the minor, disseminated on the internet”.

- The recipient of the notification must take prompt action, communicating within twenty-four hours that the request has been taken over and providing for the obscuring, removal or blocking requested within forty-eight hours. In the event of inaction by the person in charge or faced with the impossibility of identifying the data controller or the manager of the website or social media, the interested parties may directly contact the Guarantor for the protection of personal data, an administrative authority which in the following forty-eight hours will solicit the adoption of measures by the site manager or) will directly order the blocking of the data subject of the report or complaint.
- Forecast of the establishment at the Presidency of the Council of Ministers of a technical table for the prevention and fight against cyberbullying.
- In the school environment, the Ministry of Education has been assigned the task of adopting guidelines for the prevention and contrast of cyberbullying in schools, having to promote in particular the training of staff, the involvement of students in awareness-raising initiatives and the support of minors involved both as victims and as perpetrators of aggressive behavior on the web.
- Identification at each school of a teacher as contact person and coordinator of all initiatives to prevent and combat cyberbullying;
- Initiatives for educational courses on legality and on the conscious and respectful use of the internet and new technologies, to be implemented also in synergy with other bodies operating in the area.
- Promotion of projects aimed both at supporting minors who are victims of cyberbullying and at re-educating the minors responsible for such conduct, also through the exercise of remedial or socially useful activities.
- Duty for the headteacher who becomes aware of acts of cyberbullying to inform the families of the minors involved, simultaneously activating actions of an educational nature (and possibly also adopting disciplinary measures against the students who have become perpetrators of such conduct).
- Extension to cyberbullying of the reprimand of the commissioner already provided for the crime of stalking by art. 8, paragraphs 1 and 2, of Legislative Decree 23.02.2009, n. 11, converted with amendments into Law 23.04.2009, n. 38. The questore to whom such episodes have been reported - having acquired any further information useful for better framing the facts - can summon the minor identified as the perpetrator, in the presence of at least one parent or other person exercising parental responsibility, to admonish him orally and invite him to "follow a lawful conduct".

4.2. Discriminatory images as a vehicle of discrimination

Already the Istanbul Convention is the particular attention paid to the role of the media and communication in the fight against gender-based violence.

Article 17 in fact establishes that the parties have the duty to encourage the ICT sector and the media to actively participate not only in the development of national, regional and local policies to prevent violence, but also in the implementation of those same policies, respecting the freedom of expression and the independence of the media themselves. In particular, the commitment of the contracting states to encourage the adoption by the media of guidelines and self-regulation codes aimed at avoiding the reproduction of gender stereotypes and degrading visions of women, or images that associate the sexual relationship to violence, thanks to the adoption of codes of conduct that lead the media to deal with the issue of violence against women from a non-sensational but gender-sensitive perspective.

The purpose of this provision is to favor as much as possible the achievement of the long-term objective of preventing all forms of violence against women: the removal of gender stereotypes from the collective imagination is in fact characterized as an important step to reduce the inequalities.

The Guarantor Authority per le Comunicazioni has always paid particular attention to ensuring respect for the fundamental rights of the person in the communications sector and in exercising the function of guaranteeing users by contrasting all forms of discrimination.

The Authority's sphere of action is determined by the law and it must be noted that today the system is dichotomous: the legislation in force today attributes to the Authority monitoring and control powers only with respect to traditional media, excluding the online world, with respect to which an intervention by the Legislator would be appropriate both to standardize the audiovisual system and to strengthen the powers of the Authority with respect to the new media.

With particular reference to television broadcasters, currently the reference legislation for the protection of fundamental human rights is contained in the Consolidated Act on audiovisual and radio media services (legislative decree no. 177 of 2005); in particular, article 3 includes respect for human dignity among the fundamental principles, art. 10, paragraph 1, entrusts the Authority with the task of ensuring respect for the fundamental rights of the person in the communications sector, while article 32, paragraph 5, provides that all audiovisual media services must not allow any incitement to hatred based on differences of race, sex, religion or nationality.

The TUSMAR (Consolidated text of radio and television Legislative Decree 177/2005) has implemented the Media and Minors Code in its regulatory body - which was a self-regulation code of TV broadcasters and **the Media and Minors Committee** , approved in 2002 and implemented by the TU in art. . 34 - which contributed, in particular, to introducing a system of protection differentiated by time slots.

More recently, the Authority has intervened with Resolution no. 442/17/CONS of 24 November 2017, through a Recommendation "on the correct representation of the image of women in information and entertainment programs" - specifying that the recommendation assumes the value of an interpretative guideline of the provisions contained in articles 3, 7, paragraph 2, lett. a), 10, paragraph 1, and 32, paragraph 5, of the Consolidated Law on audiovisual and radio media services.

With the aim of guaranteeing a real and non-stereotyped representation of the multiplicity of roles in the female world and the promotion of programs that do not lead to a misleading perception of the female image, the Recommendation calls, in particular, television broadcasters on the to guarantee complete, objective, impartial and pluralistic information that clearly brings out the subject of the news and the difference between criminally relevant cases, such as any form of violence, and those not criminally relevant but in any case inadequate. In the latter cases, information is called upon to make an effort to denounce and report critical reports also by virtue of the multiplication of episodes that are seriously harmful to human dignity, but in particular to female dignity, safeguarding the victims who report abuses with regard to the right to speak and to the guarantee of being able to

express oneself in a serene and balanced context.

The use of traditional media, linear television, has steadily decreased in recent years in favor of the consumption of video on demand or the use of audiovisual content (including user-generated content) on demand and through video sharing platforms.

The paradigm of the States-Network relationship has so far been that of non-intervention and therefore the absence of any mandatory regulation of the Net. As regards the extension of some rules envisaged for audiovisual media services also to online platforms, we point **out the Regulation by Agcom** on respect for human dignity and the principle of non-discrimination and the fight against hate speech (Agcom resolution 157/19/CONS of 15 May 2019) which intended to anticipate the contents of the new **SMAV directive** on the fight against hate speech.

The new EU Directive 2018/1808 Directive on Audiovisual Media Services has in fact provided for, pending the transposition of Directive 2018/1808 into our legal system, the launch of co-regulation procedures so that not only audiovisual media service providers, but also video sharing platforms prepare codes of conduct containing suitable measures to prevent and counter any form of incitement to hatred and violation of the principles established for the protection of human dignity. A regulation of Internet platforms is therefore required with reference to the organization of the hosted content and imposes obligations not only in relation to illegal content but also to content considered harmful to the public or which may harm some vulnerable subjects.

As regards the powers of the national regulatory authorities, the directive introduces provisions of principle aimed at strengthening "the legal independence from the government and the functional independence from the respective governments and from any other public or private body"

The Directive commits the Member States to adopt appropriate measures also for video sharing platform services to protect:

- minors from user-generated video programs and audiovisual commercial communications that may impair their physical, mental or moral development;
- the general public from programmes, user-generated videos and audiovisual commercial communications that incite violence or hatred against a group of people or a group member.

The solution identified by the European legislator is based on shared action: on the one hand, encouraging co-regulation; on the other, continue to allow video-sharing platform providers the possibility to adopt more stringent measures on a voluntary basis, in accordance with Union law and with respect for freedom of expression and information as well as media pluralism.

Self-regulation of platforms is indeed an effective means, but perhaps not entirely sufficient: consider, for example, the results deriving from the latest report on the application of the Code of Conduct to counter illegal hate speech online, signed in May 2016, by the European Commission and the major social media platforms (Facebook, Twitter, YouTube and Microsoft).

In the report published in February 2019, the companies involved removed an average of 71.7% of the content reported by users and civil society organizations. Of course, the cases of removal have grown steadily from May 2017 to December 2018 (date of the last elaboration of the values), nevertheless there are significant national differences: the percentages of content removal range from 38% in Portugal to 100% in Cyprus. There are also differences between platforms: Twitter, for example, is rather slow or reluctant to remove content, following up on only 43.5% of reports.

Perplexities therefore remain about the effectiveness of the choice made to entrust control and supervisory functions to private operators. It is true that the co-regulatory regime makes it possible to limit their power, but we cannot forget that these subjects operate by virtue of profit-related logics. regulation acts of the representative bodies of the sector had the obligation to comply: leave to the good will of the platforms the protection of fundamental rights on the web and entrusting the large Internet multinationals with the power to decide on what should or should not circulate in the public arena, risks weakening the effectiveness of the protection.

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

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

A fundamental role within the member states of the EU are the bodies for equality which perform the function of law enforcement, prevention and control and Equinet, the European network of bodies for equality, has developed.

The Equinet Network " **European network of Equality Bodies** " is a European project which has as its objective the creation of a European network which brings together all the specialized Anti-discrimination Offices operating within the various Member States.

Equinet brings together **31** bodies belonging to **28 European countries** engaged in the fight against discrimination based on age, disability, gender, race and ethnic origin, religion, opinions and sexual orientation.

The network creates an important cooperation action to strengthen and make synergistic the action of the various bodies appointed at national level to counter all discriminatory phenomena and to which UNAR has adhered by becoming an active part of the project itself.

The purpose of the European network, in addition to creating transnational collaboration between the bodies, is above all to convey the exchange of experiences and information between the bodies themselves in order to standardize the application of anti-discrimination laws and guarantee equal legal protection for the victims discriminate.

The main objectives of the project primarily concern the strengthening of relations and cooperation between European specialist bodies dealing with equal treatment (**Equality Bodies**) in order to:

- contribute to the implementation of the functions of the various bodies through a fruitful exchange of experiences and strategies of implementation of the legislation;
- deepen common knowledge on the interpretation of equal treatment legislation;
- increase the dialogue between the European institutions and specialist bodies so that attention to the theme of equality is always present in European programs and policies;
- link Equinet activities to those planned by the European Commission, in order to give greater importance and impetus to the project initiatives.

Being a project, the present work directed to the figure of **OEPAC** in this place the role of the school is developed which can represent one of the places in which to socialize with democratic values. 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.

2020 – 2025 strategies

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.

"16. The three-year training offer plan ensures the implementation of the principles of equal opportunities by promoting education on gender equality, the prevention of gender-based violence

and all forms of discrimination in schools of all levels, in order to inform and to sensitize students, teachers and parents on the issues indicated by article 5, paragraph 2, of the decree-law of 14 August 2013, n. 93, converted, with amendments, by law 15 October 2013, n. 119, in compliance with the expenditure limits referred to in article 5-bis, paragraph 1, first sentence, of the aforementioned decree-law no. 93 of 2013."

It is a paragraph that has produced much debate in Italy, and requests for clarification from families, which were supplied with the note from the Ministry of Education n. 1972/2015, which states:

"The greatest doubts of parents arise from an incorrect interpretation of paragraph 16 of the Reform Law 107/2015 on "The Good School" which reads verbatim: "The three-year plan of the educational offer ensures the implementation of the principles of equal opportunities, promoting education on gender equality, the prevention of gender-based violence and all types of discrimination in schools of all levels, in order to inform and raise awareness among students, teachers and parents on the issues indicated in article 5 , paragraph 2, of the decree-law of 14 August 2013, n. 93, converted, with amendments, by law 15 October 2013, n. 119".

The provision of this provision responds to the need to promptly implement the constitutional principles of equal dignity and non-discrimination referred to in the articles:

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 society of the country),

4 (the Republic recognizes all citizens the right to work and promotes the conditions that make this right effective),

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),

37 (Working women have the same rights and, for equal work, the same wages as workers. Working conditions must allow for the fulfillment of her essential family function and ensure the mother and child special, adequate protection. The law establishes the minimum age limit for wage work. The Republic protects the work of minors with special rules and guarantees them, for equal work, the right to equal pay.)

51 (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. To this end, the Republic promotes equal opportunities between women and men with specific provisions The law may, for admission to public offices and elective offices, make Italians not belonging to the Republic equal citizens. Anyone called to elective public functions has the right to have the time necessary for their fulfillment and to keep his or her job of work) as well as the provisions of European law which prohibits discrimination for reasons related to gender, religion, personal beliefs, handicap, age, sexual or political orientation.

The note from the **MIUR** had to clarify to those who were against the introduction of "gender issues" into school programs that *the purpose of the aforementioned article is not, therefore, to promote thoughts or actions inspired by ideologies of any kind, but rather to transmit knowledge and awareness of the rights and duties of the person constitutionally guaranteed, also to achieve and develop the key skills of Citizenship, national, European and international, which include the promotion of conscious self-determination and respect for the person, as well as also established by*

the Lisbon Strategy 2000.

In the context of the skills that pupils must acquire, a fundamental aspect is education in the fight against all types of discrimination, and the promotion at all levels of respect for the person and for differences without any discrimination.

It should also be noted that the provisions of paragraph 16 of law 107/2015, as resulting from the same regulatory text, was an application of the provisions of the decree-law of 14 August 2013 (converted into law n.193/2013):

"... the aims of the " Extraordinary **action plan** against sexual and gender-based violence" which the School is also called to pursue:

- prevent the phenomenon of violence against women through information and sensitization of the community, strengthening the awareness of men and boys in the process of eliminating violence against women;
- promote education about relationships and against gender-based violence and discrimination within the curriculum of schools of all levels, in order to raise awareness, inform, train students and prevent violence against women and discrimination gender, also through an adequate enhancement of the theme in textbooks;
- envisage specific positive actions that also take into account the skills of the Administrations involved in the prevention, contrast and support of victims of gender-based violence and stalking;
- define a structured system of governance between all levels of government, which is also based on the different experiences and good practices already implemented in local networks and on the territory."

The aforementioned note from the Ministry of Education also emphasizes the training of school staff in relation to the topic covered by the article:

"It must also be emphasized that the school staff, who are entrusted with the task of educating our children on these sensitive issues, must be duly trained and updated, as also required by law 128/2013 which in art. 16 let . D which brings to the attention of schools the need to encourage: "the increase of skills relating to education for affectivity, respect for diversity and equal gender opportunities and overcoming gender stereotypes, in implementation of the provisions by article 5 of the decree-law of 14 August 2013, n. 93, converted, with amendments, by law 15 October 2013, n. 119".

The note concludes:

"In the light of this reference regulatory framework, the MIUR intends to actively support and support the many students, teachers and school administrators engaged in the difficult daily work, addressing problems relating to all forms of discrimination and combating all forms of violence and aggression against the dignity of the person. In this context, schools have the task - in the forms and methods they deem most appropriate and effective and which they will identify, on the basis of the teaching and managerial autonomy attributed to them - to prepare actions in compliance with the general guidelines that will be specifically disclosed by the **MIUR**.

These guidelines - which will be elaborated with the contribution of representatives of associations and experts gathered in a special working table which will be set up at the Miur - will be useful for monitoring and supporting schools in the actions envisaged by paragraph 16 of article 1 of Law 107/2015, also verifying the implementation of the extraordinary plan against sexual and gender-based violence, exclusively for the part pertaining to education. We cannot fail to underline the fundamental task entrusted to parents to participate and contribute, together with the school, to the educational and training path of their children by exercising the right/duty that art. 30 of our Constitution recognizes them: "It is the duty and right of parents to maintain, educate and educate their children, even if born out of wedlock". As already clarified in the aforementioned note of 6 July

2015, "families have the right, but also the duty, to know the contents of the Educational Offer Plan before enrolling their children in school and, for secondary school, formally sign the co-responsibility educational pact to share rights and duties in detail in the relationship between an independent school, students and families".

This opportunity offered to parents will allow them to choose their children's school after having carefully analyzed and evaluated the educational activities, projects and topics that teachers will address during the year which, in any case, must be consistent with the programs envisaged by the current school system and with the guidelines issued by the MIUR."

In 2017 Italy has 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.

Therefore, education to respect, understood in all its meanings, does not have a defined space and time, but is interconnected to the contents of all disciplines and to the work of teachers and teachers who must be oriented towards a sensitive approach to differences (for example by enhancing the presence of women in major historical and social processes, and their contribution to the progress of the sciences and the arts, above all in the second half of the 1900s), also through the choice of textbooks which, respecting the own freedom of teaching, take these guidelines into account. The **PTOF** must be inspired by this principle by declining it in the various areas of intervention, through the promotion of education for gender equality, the prevention of gender-based violence, the prevention of all forms of discrimination. Paragraph 16 of law 107/2015 therefore finds in the **PTOF** the main strategic planning tool for its implementation: not only statements of principle, but also forecast of concrete actions to be implemented over the three-year period both in terms of information , and on that of raising awareness, involving the various actors of the school community and with the informed consent of the parents in accordance with the provisions of the school-family educational co-responsibility pact. The principle of equal opportunities must find the right place in the **PTOF** as a strategic line of school activities, both as an inspiring principle of its identity and through planning activities, enhancing the contribution of the territory and the educating community (families, associations, institutions).

To this end, it is important to value the positive experiences that have already started; The Miur institutional website **www.noisiamopari.it** can be used by schools both to publicize and promote their own initiatives and to learn and transfer good practices implemented by other institutions.

The declination of the principles of equal opportunities, as well as the lines of intervention, must take into account the different levels of education, the age of the pupils, the school curriculum, the various disciplinary areas involved, and the project lines. Scholastic institutions will be able to create, in accordance with these guidelines, special courses even in extra-curricular hours, exploiting, among other things, the opportunities offered by the human resources of the autonomy staff, favoring laboratory teaching and the cooperative learning. The participation of male and female students in these courses may eventually be recognized by educational institutions also as training credit.

At the same time, the educational institutions will be able to adhere, in compliance with their autonomy, to national initiatives proposed by the Ministry of Education, University and Research, or by the latter in coordination with other Ministries, with public and/or private bodies with foundations. In line with the planning of the activities envisaged by the **PTOF**, training and updating on issues related to education to respect must be addressed to all school staff (**executives, teachers and ATA staff**), involved in various capacities in the management of the school . The training of the teaching staff on these topics, in particular, can be implemented both in the context of the compulsory initial training and in the spaces provided for individual in-service training. A truly inclusive school

can encourage the construction of social and personal identity by students, and its educational role is even more important in accompanying and supporting even the most delicate phases of their growth, interacting positively with families in full compliance with the “school-family educational co-responsibility pact”, sanctioned by **Presidential Decree 235/2007**

School institutions are therefore called to provide specific spaces, times and tools for informing and involving parents during the implementation of the various initiatives envisaged within the PTOF. Scholastic institutions are invited to make use of the support of other subjects present in the area, also by promoting networks, developing memoranda of understanding and collaboration agreements with local authorities and with associations active in the area, or even making use of the contribution of the Forces of the Order and social health structures to deal with more critical situations. It is necessary to identify common and shared paths, create synergies and open the school to the local area. For the development and implementation of these guidelines, collaboration with third sector associations active on issues of human rights, violence against women and gender, the promotion of equal opportunities and non-discrimination may be fundamental, both it concerns project activities for male and female students, as well as training activities for school staff.”

According to the legislation, the activities to combat gender-based discrimination and violence in schools must be defined not only through the Academic Board and the School Council, but also through a process of involvement of all the stakeholders of the Educating Community.

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.

In the 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 Semenovitch 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 pedagogue **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;
- : analyzing , 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,
- 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.

In the second part of the workshops, educational, playful 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 precisely to the process of empowerment, **Donata Francescato, Anna Putton and Simona Cudini**, in *Star well 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 alone. 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 .

Design: Learning place, theme, scaffolding, tool, assessment.

Information on the role of mediator

TARGETS

1. integrate a gender perspective in 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. The types of **NGOs** dealing with human rights.

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**

It is particularly common among **NGOs** working in the field of economic and social rights to offer some services to people who are victims of human rights violations. These types of services often involve some form of humanitarian assistance, protection or help in developing new skills. Alternatively, where rights are protected by law, these services include legal assistance or help with filing complaints. However, in many cases direct assistance to victims of violations or human rights defenders is not possible or is not the best use of the organisation's resources. On these occasions, and probably in most cases, NGOs need to take a long-term perspective and think of other ways to ensure that the violation is corrected or to prevent similar incidents from happening in the future.

- **Information gathering**

If there is a fundamental strategy that underlies the different forms of NGO activism, it is perhaps the idea of trying to "show" the perpetrators of injustices. Governments are often able to shirk their obligations under international treaties, or other rights standards, to which they have signed up because the impact of their policies is simply unknown to the general public. Collecting this information and using it to promote transparency is essential for holding Governments accountable: this tool is often used by NGOs. They try to put pressure on people or governments by identifying a problem that appeals to people's sense of injustice, making it public. Two of the best-known examples of organizations known for their thorough monitoring and reporting are Amnesty International and the International Committee of the Red Cross. Both of these organizations have authority not only among the general public but also at the UN level, where their reports are considered as part of the official monitoring process of governments that have agreed to be bound by the terms of international treaties.

- **Campaign and lobbying**

'Letter writing' campaigns are the most successful method used by Amnesty International and other **NGOs**. Street actions or demonstrations, supported by the media that are naturally attracted to them, can be used when NGOs want to have the support of the public or when they want to highlight some fact to denounce publicly and of which the Government should be ashamed. The media often play an important role in lobbying actions, social media and the internet are now taking on an increasingly important role. Shadow reports are presented to the UN human rights monitoring bodies to show the **NGO perspective of** the real situation of the enjoyment of human rights in a particular country. In addition to demonstrations of support or public outrage, NGOs organize information meetings with officials.

- **Human rights education and awareness .**

Many human rights **NGOs include, at least in part, some type of educational or public awareness activities**. Considering that the main support comes from the general public, NGOs try to get more knowledge about human rights issues to everyone. A broad knowledge of these issues and the methods to defend them generates a great respect for them and this, in turn, will increase the number of people who will mobilize to support particular instances concerning the violation of human rights. It is this support, real or potential, that underpins the NGO community's success in improving the field of human rights.

- **Examples of successful activism**

Center on Housing Rights and Evictions (COHRE)

This human rights organization was established in 1994 to work for the protection of housing rights and the prevention of forced evictions around the world. COHRE uses the definition of 'home' as outlined in international human rights law, which implies more than a roof over one's head.

- **COHRE points out that “approximately half of the world 's population currently lacks access to adequate housing as guaranteed by international human rights jurisprudence”**. In ensuring the

protection of adequate housing rights, COHRE and its partners around the world conduct analysis, advocacy, public education, training and redress in relation to:

- forced evictions
- property security
- access to land
- water and sanitation
- water and sanitation
- appeals and legal defense
- return and return
- the impact of major events on the right to housing.

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 in the field of human rights: the International Convention on the Elimination of All Forms of Racial Discrimination (**1976**); the two International Covenants on Civil and Political Rights (**1978**) and on Economic, Social and Cultural Rights (**1978**) and their Optional Protocols; the Convention on the Elimination of All Forms of Discrimination Against Women (**1985**) and its Optional Protocol; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1989) and its Optional Protocol; the Convention on the Rights of the Child (**1991**) and its three Optional Protocols; the International Convention for the Protection of All Persons from Enforced Disappearance (2015); the International Convention on the Rights of Persons with Disabilities (**2009**) and its Optional Protocol.

Furthermore, within the framework of the United Nations system, **Italy** :

- supports the independent role and activities of the United Nations High Commissioner for Human Rights by contributing financially to his Office's programmes;
- collaborates with independent experts and United Nations Special Rapporteurs on thematic issues and country situations relating to human rights in the world;
- actively participates in the activities of **the Treaty Bodies responsible** for the implementation of the international conventions on human rights to which Italy is a party, providing information and submitting periodic reports.

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. It is chaired by the High Commissioner, who coordinates human rights activities throughout the UN

system and oversees the Human Rights Council is HCHR, the Office of the High Commissioner for Human Rights.

The UN has a role in action programs a program of action for people, the planet and prosperity through the tool of the Agenda The 2030 UN Agenda for Sustainable Development was signed on 25 September 2015 by the governments of 193 countries members of the United Nations, and approved by the UN General Assembly in resolution 70/01 .

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**) .

The central role for monitoring the adoption of the 2030 Agenda and the results of the policies implemented for this purpose is assigned to the High - level Political Forum on Sustainable Development-HLPF , which includes all member states of the United Nations and member states of specialized agencies. The task of the HLPF, which is the main UN platform on sustainable development, is to assess progress, achievements and challenges for all countries, as well as to ensure that the Agenda remains "relevant and ambitious".

The HLPF meets every year, at ministerial level, under the auspices of the UN Economic and Social Committee (ECOSOC); every four years the meeting, which envisages the participation of heads of state and government, takes place under the aegis of the General Assembly.

The first **6 objectives** are developed here.

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)

With 57 participating States from North America, Europe and Asia, the OSCE – the Organization for Security and Co-operation in Europe – is the largest regional security organization in the world. It works to ensure stability, peace and democracy through political dialogue and projects on the ground, in the physical and political space extending from Vancouver to Vladivostok.

The OSCE's approach to security is comprehensive and co-operative. It deals with a wide range of security-related issues, including arms control, preventive diplomacy, confidence- and security-building measures, human rights, democratization, and economic and environmental security. All States participating in OSCE activities enjoy equal status and decisions are taken on the basis of the principle of consensus.

The Organization's activity is carried out in three fundamental sectors: **the political-military dimension, which deals with the military aspects of security; the economic-environmental dimension, which mainly addresses the issues of energy, the environment and economic development; the human dimension, dedicated to issues of the rule of law and the protection of human rights.**

The Foreign Ministries of the OSCE participating States hold annual meetings, called Ministerial Councils. The Heads of State and Government can meet in ad-hoc summits. The regular body of the OSCE in charge of political consultations and the decision-making process is the Permanent Council, which brings together the permanent representatives of the participating States.

The human dimension, that is to say the set of questions relating to human rights, democratization and the rule of law, has as its instrument the ODIHR (Office for Democratic Institutions and Human Rights), based in Warsaw. In addition to developing assistance in the field of human rights protection, electoral observation and legal-constitutional advice in transition countries, the ODIHR also organizes the Human Dimension every year in Warsaw Implementation Meeting (HDIM), which represents the most important meeting occasion within the OSCE on the issues of human rights and democracy, attended by the delegations of the 57 member countries of the Viennese Organization and hundreds of NGOs, representatives of civil society.

The OSCE-ODIHR provides assistance to participating States and civil society to promote democracy, the rule of law, human rights, tolerance and non-discrimination. It sends its own observers on the occasion of elections, it supports the countries of the area in matters of legislation and for the purpose of developing and supporting democratic institutions. It conducts training programs on the promotion and monitoring of human rights.

The ODIHR collected good practices from OSCE participating States in addressing hate crimes and shared them in a series. ODIHR hate crime guides are available on its website. For more information on gender-based hate crimes and

on how civil society can report incidents to ODIHR , see the ODIHR website dedicated to hate crimes
[: www.hatecrime.osce.org](http://www.hatecrime.osce.org)

OSCAD, the "Observatory for Security against Discriminatory Acts" ("OSCAD") was established in order to facilitate individuals belonging to minorities in the concrete enjoyment of the right to equality before the law and protection against Discrimination

OSCAD, part of the Department of Public Security – Central Directorate of the Criminal Police, is chaired by Prefect Vittorio Rizzi, OSCAD has joined the TAHCLE program through the signing of a Memorandum of Understanding with the OSCE.

This program, in the context of an international agreement, facilitates and standardizes the training of the Italian Police Forces in the activities of prevention and repression of Hate Crime .

OSCAD maintains relationships with the associations representing the interests harmed by the various types of discrimination and with the other public and private institutions that deal with the fight against discrimination. In particular, close contacts are established with the Office for the promotion of equal treatment and the removal of discrimination based on race or ethnic origin

(UNAR) of the Department for Equal Opportunities of the Presidency of the Council of Ministers , with which a memorandum of understanding was signed on 7 April 2011 aimed at defining the contents of the collaboration relationship between the two bodies, with the aim of optimizing the results;

Human rights and the principle of non-discrimination are also part of the prerogatives of the World Health Organization (WHO)

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

States and other duty bearers are responsible for respecting human rights. However, there is also a growing movement to recognize the importance of other non-state actors such as businesses in respecting and protecting human rights.

Equality and non-discrimination

The principle of non-discrimination seeks "...to ensure that human rights are exercised without discrimination of any kind based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status such as disability, age, marital and family status, sexual orientation and gender identity, health status, place of residence, economic and social situation".

Any discrimination, for example in access to health care, as well as in the means and rights to obtain this access, is prohibited on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, state of health (including HIV/AIDS), sexual orientation, and marital, political, social or other status, which has the intention or effect to impair the equal enjoyment or exercise of the right to health.

The principle of non-discrimination and equality requires WHO to address discrimination in guidance, policies and practices, such as those relating to the distribution and provision of health resources and services. Non-discrimination and equality are the key measures needed to address the social determinants affecting the enjoyment of the right to health. The functioning of national health information systems and the availability of disaggregated data are essential to be able to identify the most vulnerable groups and different needs.

Participation

Participation requires that all stakeholders, including non-state actors, have ownership and control of development processes at all stages of the planning cycle: evaluation, analysis, planning, implementation, monitoring and evaluation. Participation goes far beyond consulting or a technical addition to the project design; it should include explicit strategies to empower citizens, especially the most marginalized, so that their expectations are recognized by the state.

Participation is important to accountability as it provides "... checks and balances that do not allow unified leadership to wield power in an arbitrary fashion."

Universality, indivisibility and interdependence

Human rights are universal and inalienable. They apply equally to all people, everywhere, without distinction. Human rights standards - for food, health, education, to be free from torture, inhuman or degrading treatment - are also interrelated. The improvement of one right facilitates the progress of others. Similarly, the deprivation of a right negatively affects others.

Availability

It refers to the need to have sufficient health care and health care facilities, goods and services in place, as well as programs for all. Availability can be measured through the analysis of disaggregated data at different and multiple strata, including age, gender, location, and socioeconomic status, and qualitative surveys to understand coverage gaps and coverage of the health workforce.

Accessibility

It requires that health care facilities, goods and services are accessible to all.

Accessibility has four overlapping dimensions:

- non-discrimination
- physical accessibility
- affordability (affordability)
- information accessibility.

Assessing accessibility may require analyzing the barriers – financial, physical or otherwise – that exist and how they may affect the most vulnerable, and require the establishment or enforcement of clear norms and standards in both law and policy to address these barriers, as well as robust systems for monitoring health-related information and whether this information is reaching all populations.

The strategy envisages "...the highest attainable standard of health as a fundamental right of every human being". Understanding health as a human right creates a legal obligation for states to ensure access to timely, acceptable and accessible health care of appropriate quality, as well as to provide the underlying determinants of health, such as clean and safe water, sanitation, health, food, housing, information on health and education, and gender equality.

The obligation of States to uphold the right to health - including through the allocation of "maximum available resources" to progressively realize this goal - is reviewed through various international human rights mechanisms, such as the Universal Periodic Review, or the Economic Commission, social and cultural rights. In many cases, the right to health has been embodied in domestic law or constitutional law.

A rights-based approach to health requires that health policy and programs prioritize the needs of the most backward towards greater equity, a principle that has been echoed in the recently approved 2030 Agenda for Sustainable Development and Health Coverage universal.

The right to health must be enjoyed without discrimination based on race, age, ethnicity or any other status. Non-discrimination and equality require states to take steps to correct any discriminatory law, practice or policy.

Another feature of rights-based approaches is meaningful participation. Participation means ensuring that national stakeholders, including non-state actors such as non-governmental organisations, are meaningfully involved in all phases of programming: evaluation, analysis, planning, implementation, monitoring and evaluation.

Violations or lack of attention to human rights can have serious health consequences. Implicit or excessive discrimination in the provision of health services - both within the health workforce and between health professionals and service users - is a powerful barrier to health services and contributes to poor quality care.

Poor mental health often leads to a denial of dignity and autonomy, including forced treatment or institutionalisation, and a disregard for individual legal capacities to make decisions. Paradoxically, mental health still receives inadequate public health attention, despite high levels of violence, poverty and social exclusion that contribute to worsening mental and physical health outcomes for people with mental disorders.

Human rights violations not only contribute to and exacerbate ill health, but for many, including people with disabilities, indigenous peoples, women living with HIV, sex workers, drug users, trans and intersex people, the healthcare environment presents an increased risk of exposure to human rights violations – including coercive or forced treatment and procedures.

In addition, WHO has actively strengthened its role in providing technical, intellectual and political leadership on the right to health including:

- strengthen its capacity and that of its Member States to integrate a human rights-based approach to health;
- promote the right to health in international law and in international development processes;
- uphold health-related human rights, including the right to health.

According to WHO, addressing people's needs and rights at different stages of the life course requires a comprehensive approach in the broader context of promoting human rights, gender equality and equity.

As such, WHO promotes a concise and unifying framework that builds on gender, equity and human rights approaches to generate more accurate and robust solutions to health inequalities.

The integrated nature of the framework is an opportunity to build on the foundations and complementarities between these approaches to create a cohesive and efficient approach to promoting health and well-being for all. From the point of view of quality, the WHO fact sheet highlights seven rules that must characterize the services that must be approved scientifically and from a clinical point of view.

The quality

Quality is a key component of Universal Health Coverage and includes the experience and perception of health care.

Quality health services should be:

- **Safe** : avoid injury to people to whom care is intended;
- **Effective** : Providing evidence-based health services to those who need them;
- **People-centred**: providing care that is responsive to individual preferences, needs and values;
- **Timely** : reduction of waiting times and sometimes harmful delays.
- **Equitable**: Providing care that does not vary in quality based on gender, ethnicity, geographic location, and socioeconomic status;
- **Integrated** : providing care that makes the full range of health services available throughout the life course;
- **Efficient** : maximize the benefit of available resources and avoid waste .

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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