



Lodi: if the Municipality discriminates

Martino Mazzonis

The story begins in October 2017, when the council of the Municipality led by the mayor Sara Casanova (Lega Nord party) issues a resolution¹, in agreement with the social policy councillor Suellen Belloni, amending the *Regulations for access to social benefits in school cafeterias and for the use of the school bus*. One year later, before the start of the school year, the parents of foreign children attending schools in the Lombard city realise that the amendments made to the Regulations contain discriminatory elements.

The Regulation, as amended by the Ordinance, provides that in order to obtain the benefits of the law and not to pay the full rate for meals and transport to school, the families of foreign children must present, in addition to the ISEE (equivalent economic situation indicator) required to Italians, also a certificate attesting the absence of real estate in the country of origin. In the absence of these papers, foreigners must pay the maximum rate: 5 euros per meal and 210 euros for the annual transport service. An amount that many of the families involved (more than 300) are unable to pay. So much so that, as the *Fatto Quotidiano*² has written, the number of questions drops to 132, and among these, 125 are rejected. The children, dozens of them, for a few weeks have to bring their lunch from home and eat in places separate from the Italians, who enter in a cafeteria whose entrance is guarded by security guards.

The regulation is wrong and discriminatory for many reasons.

First of all, the bureaucratic ones: certificates attesting the ownership of a house exist in Italy, but not in all the countries of the world. Or they exist but are issued only to the owner or only from offices in the country's capital and not in individual municipalities.

¹ Resolution n. 28 of 4 October 2017.

² D. Milosa, "Niente più bambini stranieri a scuola", *Il Fatto Quotidiano*, 22 September 2018, available here <https://www.ilfattoquotidiano.it/in-edicola/articoli/2018/09/22/niente-piu-bambini-stranieri-a-scuola/4642477/>.



This means that foreign families who try to obtain these documents should spend money or travel to get them. In other words, they should spend the hundreds of euros they are trying to save, as various media have pointed out after according to the families involved. The second problem is of practical order: having a house owned in a small urban centre or in a village in Senegal, Salvador or Bangladesh, bought maybe having saved for years in Italy (something normal for an emigrant, since always) is not equivalent to being well off in Italy. Not even being a small owner of a small flat on the outskirts of a town. How to establish the value of the possible home ownership? The resolution of course does not explain it.

The resolution, once it became a national case following protests by families and associations dealing with these issues in Lodi, produced several results: first of all, a great mobilisation in solidarity of the families that in a few days collected the necessary sums to cover the costs of the meals and transport for the whole school year and for all the families that need it; and also an appeal to legal action, presented by ASGI (Association for Immigration Legal Studies) and NAGA to the Court of Milan. The appeal points out that the Municipality of Lodi is in collision with national legislation on access to subsidised benefits, regulated by Ministerial Decree no. 159 of 5 December 2013 establishing ISEE (Indicator of the Equivalent Economic Situation) as *"a tool for assessing, through unified criteria, the economic situation of those who apply for subsidised social benefits"*. In other words, the Italian State identifies ISEE, which is not a declaration by individuals or families, but a public certification, as the document that certifies whether or not a person or family is entitled to pay a reduced rate for a certain essential service. And it does so, among other things, by referring to the levels of income and wealth traceable and identifiable by the Italian tax authorities. Asking more from foreigners is not only discriminatory towards them. As ASGI and NAGA write, it presents *"a problem of substantial equality not only between citizens and foreigners, but also between Italian citizens since, if each municipality could establish according to its own criteria who is rich and who is poor, the choice of the legislator, made in 2013, to establish uniform criteria throughout the national territory, with regard to access to*



social benefits, would be negated". As a reminder, the right to uniform essential benefits throughout the national territory is inscribed in Article 3 of the Constitution of the Republic (Article 117, paragraph m).

The appeal is accepted in its entirety by the Court of Milan, both because the Regulation is in conflict with national law and with the way in which the Italian State has determined the level of income, and because it is discriminatory given that it adds demands *"only to citizens of States not belonging to the European Union and requires them to produce the certification issued by the competent authority of the external State, since self-certification is not sufficient. It is therefore a matter of direct discrimination, being treated differently subjects in the same conditions of departure and aspiring to the same facilitated social benefit"*. Moreover, adds the judge, the discrimination is direct because: *"In the present case, there is not an apparently neutral provision, which in reality creates particularly burdensome conditions for some subjects, but a direct imposition of a specific additional performance - thus an objective disparity of treatment - on some subjects compared to others"*³.

This is not the first time that a court or the Constitutional Court has referred to the sender administrative acts that appear to be neutral, but which are aimed to discriminate foreign people. Other recent cases submitted to the Council concern a 2008 Lombardy regional law on rent subsidies, declared unconstitutional in 2018⁴, a Veneto law that gave priority to Italians in access to kindergartens ⁵ and one of the Liguria Region in the field of social housing⁶.

The local administrators who adopt this kind of measures probably know that these will conflict with national laws and the constitutional charter, but they write them anyway. These are not policies that will change in nothing the quality of life of the places

³ The full text of the ordinance is available here:

https://coordinamentougualidoveri.it/doc/Ordinanza_lodi.pdf.

⁴ See Const. Court, n. 166 of 20 June 2018 available here : <https://www.asgi.it/wp-content/uploads/2018/07/CORTE-COST.-166-2018.pdf>.

⁵ See Const. Court, n. 177 of 10 April 2018, available here: <https://www.cortecostituzionale.it/actionSchedaPronuncia.do?anno=2018&numero=107#>.

⁶ See Const. Court, n. 106 of 10 April 2018, available here: <https://www.cortecostituzionale.it/actionSchedaPronuncia.do?anno=2018&numero=106>.



administered by these politicians, but choices aimed at flattering an electorate that does not want foreigners or wants them discriminated against, ready to work, but without rights. These are “manifest” ordinances adopted to show that there is a political part governing the migration phenomenon. The truth is that the discriminatory laws and regulations are not acts of government, but government propaganda.