



January 2014

## **European Social Charter (revised)**

European Committee of Social Rights

Conclusions 2013

(ITALY)

Articles 3, 11, 12, 13, 14, 23 and 30  
of the Revised Charter

*This text may be subject to editorial revision*



The function of the European Committee of Social Rights is to rule on the conformity of the situation in States with the European Social Charter. In respect of national reports, it adopts conclusions; in respect of collective complaints, it adopts decisions.

Information on the Charter and the Committee as well as statements of interpretation and general questions formulated by the Committee appear in the General Introduction to the Conclusions.<sup>1</sup>

*The European Social Charter (revised) was ratified by Italy on 5 July 1999. The time limit for submitting the 12th report on the application of this treaty to the Council of Europe was 31 October 2012 and Italy submitted it in several parts on 6 December 2012 and 5 February 2013. On 3 April 2013, a letter was addressed to the Government requesting supplementary information regarding Article 23 and on 27 May 2013 on Article 13§2. The Government submitted its reply on Article 23 on 19 June 2013 and did not submit any reply on Article 13§2. Comments on the report from the Working Group "Social Charter" of the Human Rights Committee of the Conference of International Non-Governmental Organisations to the Council of Europe were registered on 3 March 2013 and comments from the Italian LGBT Network and ILGA-Europe were registered on 19 April 2013.*

This report concerned the accepted provisions of the following articles belonging to the thematic group "Health, social security and social protection":

- the right to safe and healthy working conditions (Article 3)
- the right to protection of health (Article 11)
- the right to social security (Article 12)
- the right to social and medical assistance (Article 13)
- the right to benefit from social welfare services (Article 14)
- the right of elderly persons to social protection (Article 23)
- the right to protection against poverty and social exclusion (Article 30).

Italy has accepted all the Articles from this group.

The reference period was 1 January 2008 to 31 December 2011.

The present chapter on Italy concerns 19 situations and contains:

– 8 conclusions of conformity: Articles 3§2; 11§2; 11§3; 12§2; 13§3; 13§4; 14§1 and 14§2;

– 7 conclusions of non-conformity: Articles 3§1; 12§1; 12§3; 12§4; 13§1; 23 and 30.

In respect of the other four situations concerning Articles 3§3, 3§4, 11§1 and 13§2, the Committee needs further information in order to assess the situation. The Committee considers that the absence of the information required amounts to a breach of the reporting obligation entered into by Italy under the Charter. The Committee consequently asks the Government to comply with its obligation to provide this information in its next report on the articles in question.

The next report from Italy deals with the accepted provisions of the following articles belonging to the thematic group "Labour rights":

- the right to just conditions of work (Article 3)
- the right to a fair remuneration (Article 4)

- the right to organise (Article 5)
- the right to bargain collectively (Article 6)
- the right to information and consultation (Article 21)
- the right to take part in the determination and improvement of the working conditions and working environment (Article 22)
- the right to dignity at work (Article 26)
- the right of workers' representatives to protection in the undertaking and facilities to be accorded to them (Article 28)
- the right to information and consultation in collective redundancy procedures (Article 29).

The deadline for the report was 31 October 2013.

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<sup>1</sup>*The conclusions as well as state reports can be consulted on the Council of Europe's Internet site ([www.coe.int/socialcharter](http://www.coe.int/socialcharter)).*

### **Article 3 - Right to safe and healthy working conditions**

#### *Paragraph 1 - Safety and health regulations*

The Committee takes note of the information contained in the report submitted by Italy.

#### **General objective of the policy**

The Committee previously examined the general objective of the policy on occupational health and safety (Conclusions 2007 and 2009). It concluded that the situation was not in conformity with the Charter on the ground that it had not been established that there was an appropriate national policy in this area (Conclusions 2009).

The report, which also refers to the Government representative's statements in the Governmental Committee's report concerning Conclusions 2009,<sup>1</sup> presents the administrative framework put in place by Legislative Decree No. 81/2008 of 9 April 2008, implementing Act No. 123 of 3 August 2007 on measures to protect health and safety at work, as amended by Legislative Decree No. 106/2009 of 3 August 2009 containing integrative and corrective provisions. This framework regulates the application of the levels of protection, the exercise of central government and regional powers and the standardisation of public policies in the following areas:

- determination of national strategies for the prevention of work related accidents and occupational diseases;
- the implementation of the approved guidelines at the regional and provincial levels;
- the sharing and dissemination of data on accidents at work, occupational diseases and monitoring activities;
- tripartite consultation;
- the development of support policies.

The report explains that the Standing Advisory Commission on Occupational Health and Safety (the Advisory Commission) established under Article 6 of Legislative Decree No. 81/2008 has initiated a process of framing a national occupational health and safety policy, which should be consistent with the EU strategy on health and safety at work. The intention is that this policy will be periodically updated by an Occupational Health and Safety Policy Guidance and Evaluation Committee (the Guidance and Evaluation Committee) set up by Article 5 of Legislative Decree No. 81/2008. In addition, the consultative committee attached to the Ministry of Labour and Social Policy, established under Article 12 of the same legislative decree and composed of representatives of central and regional government agencies, participates in the harmonisation of occupational health and safety policies by providing uniform interpretations of the legislative and regulatory provisions.

According to another source,<sup>2</sup> a decree issued by the Ministry of Labour and Social Policy on 13 April 2011 concerning the application of Article 3 paragraph 3 of Legislative Decree No. 81/2008 adapts the regulatory requirements to assistance intervention operations by the fire brigade, the mountain and underground search and rescue teams and the Red Cross. According to another source,<sup>3</sup> an infringement procedure is under way before the Court of Justice of the European Union in relation to the alleged failure to transpose Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (infringement procedure No. 210/4227 of 21 November 2012).<sup>4</sup>

The Committee takes note of this information. It observes that Legislative Decree No. 81/2008 establishes a unified administrative system to permit the formulation of an occupational health and safety policy, but no such policy was adopted during the reference period. It is accordingly unable to conclude that there is an occupational health and safety policy in conformity with the Charter. It asks that the next report provide information on the policy's content and goal, in particular the extent to which it is consistent with the EU strategy on health and safety at work, 2007-2012,<sup>5</sup> and whether it is intended to foster and preserve a culture of prevention in the occupational health and safety field. It also wishes to know whether the Guidance and Evaluation Committee re-appraises the existing policies in the light of new risks. In addition, it wishes to be informed of the follow-up given to the above-mentioned procedure No. 210/4227.

### ***Organisation of occupational risk prevention***

In its earlier conclusions (Conclusions 2007 and 2009) the Committee examined the organisation of work-related risk prevention under the occupational health and safety policy. It asked that the next report contain information on organisation of the assessment of work-related risks; the determination of appropriate preventive measures taking account of the nature of the risks concerned; and provision of information and training for employees. It concluded that the situation was not in conformity with the Charter on the ground that it had not been established that there was an appropriate national policy on occupational health and safety (Conclusions 2009).

The report describes the proposed system of licensing undertakings from the standpoint of occupational health and safety, as envisaged in Article 6 of Legislative Decree No. 81/2008. It will consist in determining, in occupational health and safety terms, the particular working conditions existing in specific sectors and identifying which undertakings are authorised to operate in these sectors. Pending the system's general implementation, Presidential Decree No. 177/2011 of 14 September 2011 on the licensing regulations concerning undertakings and self-employed workers operating in potentially polluted environments or confined spaces, applies the system to work in confined spaces, improves the organisational aspects and introduces prior information and training requirements concerning the risks specific to work undertaken in such environments. A forthcoming presidential decree will concern the introduction of a points-based licence in the building industry.

The report states that the monitoring of fatal and serious accidents carried out by the National Institute for Occupational Accidents Insurance (INAIL), the autonomous regions and provinces and the High National Institute for Occupational Prevention and Safety (ISPESL) has resulted in the creation of a database on work related accidents. This database facilitates analyses by type of accident, activity sector and category of worker, as well as the development of guidelines, recommendations and risk profiles, with a view to a prevention approach. The system is supplemented by boards at undertaking level, which are responsible for analysing the causes of work accidents and reporting on them to employers, with a view to facilitating risk assessment and to determining the appropriate prevention and protection measures. The report also indicates that standardised procedures for the assessment of specific risks in undertakings with less than ten employees, as provided for in Article 29 of Legislative Decree No. 81/2008, have been approved by the Advisory Commission and should be introduced shortly via an inter-ministerial decree.

The report also explains that the autonomous regions and provinces participate in the preparation of prevention and monitoring plans through the intermediary of the Regional Co-ordination Committees set up under Article 7 of Legislative Decree No. 81/2008. Under the

national prevention plan in the agricultural sector the regional and provincial authorities are required to enhance monitoring with a view to countering life-threatening risks; the national prevention plan for the building industry requires these authorities to increase the quantity and quality of their activities in this sector and to co-ordinate their monitoring measures in occupational safety, undeclared work and public procurement matters.

The report also mentions the resources made available via the manual on assessment and management of work-related stress, which draws on the methods developed by the Advisory Commission and has been published on-line.

The Committee takes note of this information. It notes the existence of a system for gathering and managing data on occupational accidents and diseases, as well as of protection and monitoring plans in the agricultural and building sectors. However, it also notes that the system for licensing undertakings in occupational health and safety matters and the standardised procedures for assessing specific risks in undertakings with less than ten employees were not in force during the reference period. It is accordingly unable to conclude that a system organising occupational risk prevention in conformity with Article 3§1 of the Charter exists. It reiterates its request for information concerning the proposed measures for the organisation of the assessment of work-related risks; the determination of appropriate preventive measures taking account of the nature of the risks concerned; and the provision of information and training for employees within the workplace. It also asks that the next report contain information on the labour inspectorate's role in developing an occupational health and safety culture among employers and employees and in the sharing of knowledge of occupational hazards and prevention it acquires during inspection activities (in the form of practical instructions, prevention measures and advice).

### ***Improvement of occupational safety and health***

The Committee previously examined (Conclusions 2007 and 2009) the issue of improvement of the health and safety of workers through an occupational health and safety policy. It asked that the next report contain information on the preparation and development of information, training, research and quality assurance programmes. It concluded that the situation was not in conformity with the Charter on the ground that it had not been established that an appropriate national policy on occupational health and safety existed (Conclusions 2009).

The report refers to the creation, in 2010 following a multi-annual process, of an occupational health pole through the incorporation within the INAIL of the ISPEL and the Maritime Social and Health Insurance Institute (IPSEMA). This pole brings together a range of competences, simplifies the procedures and offers a single-access point for undertakings, workers, regional authorities and local health care agencies.

The report also mentions the creation of the National Information System on Prevention at Work (SINP), which centralises data on occupational accidents and diseases; facilitates the thematic study of such accidents and diseases; fosters research through a prevention based approach and provides assistance with guiding, planning and evaluating prevention activities.

The report indicates that, pursuant to Article 11 of Legislative Decree No. 81/2008, the government provided financial support for a number of activities during the reference period, with the following aims:

- investment in the development of occupational safety organisation and management schemes for small and medium-sized undertakings and the replacement of obsolete equipment in such undertakings;

- occupational health and safety training for small and medium-sized undertakings;
- inclusion of occupational health and safety in the curricula of schools, universities and vocational training establishments.

According to another source,<sup>6</sup> bodies such as INAIL, the "Sprint" Study and Research Centre, the National Health Institute (ISS) and the National Workers' Prevention Centre (SNOP) are involved in training and the provision of information, scientific and technical research, the supply of specialist advice, the development of occupational health and safety methods, strategies and instruments and support for a culture of prevention in the workplace.

In the light of this information, the Committee notes that there is a system aimed at improving occupational health and safety through research, development and training. It asks that the next report contain information on the manner in which the above-mentioned bodies participate alongside the public authorities. It would also like to receive information as to how the public authorities ensure that the necessary research in occupational health and safety matters is effectively commissioned, including in the autonomous regions and provinces' spheres of competence, and how the training of qualified professionals, such as prevention officers, is guaranteed in practice.

### ***Consultation with employers' and workers' organisations***

The Committee previously examined (Conclusions 2003, 2007 and 2009) the issue of consultation with employers' and workers' organisations.

The report indicates that Legislative Decree No. 81/2008 introduces a genuine system of tripartite governance in occupational health and safety matters. The Guidance and Evaluation Committee brings together central and regional government agencies' representatives to determine prevention and monitoring policy guidelines. The Advisory Commission is a joint body with equal representation of central government agencies, regional authorities and employer and employee organisations, the aim of which is to discuss occupational health and safety policy guidelines, the standardised monitoring of the application of health and safety legislation and regulations and co-ordination of prevention activities.

The report states that the guidelines laid down at national level are transmitted to the regional co-ordinating committees, in which the inspection bodies participate, with a view to adapting monitoring activities to the specific regional context in consultation with employer and employee representatives.

The Committee takes note of this information. It notes that a system for consulting employers' and workers' organisations, conducive to fostering social dialogue, exists at the level of the national and regional authorities. It asks that the next report provide information on the consultation of undertaking level bodies with responsibility for occupational health and safety issues.



## Conclusion

The Committee concludes that the situation in Italy is not in conformity with Article 3§1 of the Charter on the grounds that:

- there is no appropriate occupational safety and health policy;
- there is no adequate system to organise occupational risk prevention.

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<sup>1</sup>[http://www.coe.int/t/dghl/monitoring/socialcharter/GovernmentalCommittee/2009\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/GovernmentalCommittee/2009_en.pdf)

<sup>2</sup>[http://www.ilo.org/dyn/natlex/natlex\\_browse.details?p\\_lang=en&p\\_country=ITA](http://www.ilo.org/dyn/natlex/natlex_browse.details?p_lang=en&p_country=ITA)

<sup>3</sup><http://eur->

[lex.europa.eu/Notice.do?val=149704:cs&lang=fr&list=161296:cs,149765:cs,149763:cs,149704:cs,&pos=4&page=3&nbl=24&pgs=10&hwords=](http://eur-lex.europa.eu/Notice.do?val=149704:cs&lang=fr&list=161296:cs,149765:cs,149763:cs,149704:cs,&pos=4&page=3&nbl=24&pgs=10&hwords=)

<sup>4</sup><http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2013-013992+0+DOC+XML+V0//EN>

<sup>5</sup>*Improving quality and productivity at work: Community strategy 2007-2012 on health and safety at work, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Doc. COM(2007)62final, 21 February 2007.*

<sup>6</sup><https://osha.europa.eu/en/oshnetwork/focal-points/italy>

### **Article 3 - Right to safe and healthy working conditions**

#### *Paragraph 2 - Safety and health regulations*

The Committee takes note of the information contained in the report submitted by Italy.

#### ***Risks covered by the regulations***

The Committee previously examined (Conclusions 2003, 2007 and 2009) the extent of the risks covered specifically by the legislation and regulations on health and safety at work. It concluded that the situation was in conformity with the requirements of the Charter (Conclusions 2009).

The report does not contain any information on the incorporation into domestic law of international reference standards covering occupational hazards during the reference period. According to another source,<sup>1</sup> during the reference period, Commission Directive 2006/15/EC of 7 February 2006 establishing a third list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC was incorporated into domestic law by Legislative Decree No. 81/2008 of 9 April 2008 implementing Act No. 123 of 3 August 2007 on the protection of occupational health and safety and the Decree of the Ministry of Labour and Social Security of 4 February 2008 transposing Directive No. 2006/15/EC into domestic law; Commission Directive 2010/52/EU of 11 August 2010 amending, for the purposes of adaptation of their technical provisions, Council Directive 76/763/EEC relating to passenger seats for wheeled agricultural or forestry tractors and Directive 2009/144/EC of the European Parliament and of the Council on certain components and characteristics of wheeled agricultural or forestry tractors was transposed by the Decree of the Ministry of Infrastructure and Transport of 7 April 2011 transposing Directive 2010/52/EU.

The Committee takes note of this information. It notes that, according to another source,<sup>2</sup> the number of relevant ILO Conventions ratified by Italy is relatively high and most Community occupational health and safety law has been incorporated into domestic law. The Committee considers therefore that the current legislation and regulations meet the general obligation under Article 3§2 of the Charter, which requires that most of the risks listed in the general introduction to Conclusions XIV-2 (pp. 37-38) be specifically covered, in line with the level set by international reference standards. It nevertheless points out that the report must provide full, up-to-date information on changes in the legislation and regulations during the reference period and asks for information in the next report on the measures taken to transpose Directive 2000/54/EC of the European Parliament and the Council of 18 September 2000 on the protection of workers from risks related to exposure to biological agents at work, Directive 2009/127/EC of the European Parliament and of the Council of 21 October 2009 amending Directive 2006/42/EC with regard to machinery for pesticide application, Commission Directive 2009/161/EU of 17 December 2009 establishing a third list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC, Directive 2010/32/EU of 10 May 2010 implementing the Framework Agreement on prevention from sharp injuries in the hospital and healthcare sector and Directive 2010/35/EU of the European Parliament and of the Council of 16 June 2010 on transportable pressure equipment. It also asks for information on the measures taken to remedy the failing found by the Court of Justice of the European Communities in the transposition into domestic law of Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites.

### ***Levels of prevention and protection***

The Committee examines the levels of prevention and protection provided for by the legislation and the regulations in relation to certain risks.

### ***Establishment, alteration and upkeep of workplaces***

The report does not contain any information on the installation, modification and upkeep of workstations. According to another source,<sup>3</sup> the relevant ILO Conventions, namely No. 119 on guarding of machinery (1963), No. 120 on hygiene in commerce and offices (1964) and No. 127 on maximum weight, are in force. Another source<sup>4</sup> also states that most of the Community law on the guarding of machinery, the use of display screen equipment and noise has been incorporated into national legislation and regulations. During the reference period, Directive 2006/25/EC of the European Parliament and the Council of 5 April 2006 on the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (artificial optical radiation) was transposed into domestic law by Legislative Decree No. 81/2008 while Directive 2004/40/EC of the European Parliament and the Council of 29 April 2004 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) was transposed by Legislative Decree No. 257/2007 of 19 November 2007, Directive 2008/46/EC of the European Parliament and of the Council of 23 April 2008 amending the aforementioned Directive 2004/40/EC by Act No. 96/2010 making provisions for the execution of obligations resulting from Italy's membership of the European Communities and Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery by Legislative Decree No. 17/2010 of 27 January 2010.

In the light of the above information, the Committee considers that levels of prevention and protection in relation to the establishment, alteration and upkeep of workstations comply with the Charter. It nevertheless points out that the report must provide full, up-to-date information on changes in the legislation and regulations during the reference period and asks for information in the next report on the transposition into domestic law of Directive 2009/104/EC of the European Parliament and of the Council of 16 September 2009 concerning the minimum safety and health requirements for the use of work equipment by workers at work. It also asks for details on the requirement for employers to assess the occupational risks of workstations and the deadlines for compliance.

### ***Protection against hazardous substances and agents***

The Committee previously examined (Conclusions 2003, 2007 and 2009) the levels of prevention and protection against asbestos and ionising radiation. Pending receipt of information on the transposition of Commission Directive 1999/77/EC of 26 July 1999 adapting to technical progress for the sixth time Annex I to Council Directive 76/769/EEC (asbestos), along with the establishment of an inventory of all contaminated buildings and materials, it concluded that the situation was in conformity with the Charter (Conclusions 2009).

In reply to the Committee's requests, the report explains that Directive 1999/77/EC was transposed into domestic law by the Decree of the Ministry of Health of 14 December 2004 prohibiting the intentional installation of materials containing asbestos. In addition, Act No. 93/2001 of 23 March 2001 establishing environmental provisions and Decree No. 101/2003 of 18 March 2003 of the Ministry of the Environment and Protection of the Territory on the mapping of areas of the national territory affected by the presence of asbestos within the meaning of Section 20 of Act No. 93/2001 of 23 March 2001 provide for the inventory and classification of sites on which the presence of asbestos or the use of materials containing it has been

recorded. 34 148 sites have been identified throughout the country. These measures were supplemented by emergency decontamination operations, the establishment of a database, the organisation of training seminars, and the development of guidelines for the proper management of buildings identified.

The Committee takes note of this information. It asks for information in the next report on the measures adopted to transpose Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work and to incorporate the exposure limit of 0.1 fibres per cm<sup>3</sup> introduced by Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work. It also asks for information about the Government's intentions concerning the ratification of ILO Convention No. 162 on Asbestos (1986).

The report does not include any information about the levels of prevention and protection against ionising radiation. According to another source,<sup>5</sup> Directive 2006/117/EURATOM of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel was transposed into domestic law during the reference period by Legislative Decree No. 23/2009 of 20 February 2009 and by Legislative Decree No. 100/2011 of 1 June 2011 containing implementing and corrective provisions relating to Legislative Decree No. 23/2009.

In the light of this information and the previous conclusions, the Committee confirms that the levels of prevention and protection against ionising radiation comply with the Charter. It nevertheless points out that the report must provide full, up-to-date information on changes in the legislation and regulations during the reference period.

### ***Personal scope of the regulations***

The Committee examines the personal scope of legislation and regulations with regard to workers in insecure employment.

### ***Temporary workers***

The Committee previously examined (Conclusions 2003, 2007 and 2009) the protection of temporary workers, interim workers and workers on fixed-term contracts. It noted that the protection of occupational health and safety and the information and training provided by Legislative Decree No. 81/2008 covers all employees irrespective of their contractual status and concluded that the situation was in conformity with the Charter in this respect (Conclusions 2009). It asked for information on the access of temporary workers, interim workers and workers on fixed-term contracts to medical supervision and representation in the workplace.

In reply to the Committee's question, the report states that temporary workers, interim workers and workers on fixed-term contracts have access to medical supervision and representation in the workplace on the same terms as employees on permanent contracts, in accordance with the arrangements set out in Legislative Decree No. 81/2008.

The Committee takes note of this information. To assess whether temporary workers, interim workers and workers on fixed-term contracts actually do have the same level of protection as employees on permanent contracts,<sup>6</sup> it asks for the next report to include examples of the way in which the particular nature of the employment of these categories of worker is taken into account, particularly when they are rehired, through the provisions of Legislative Decree No. 81/2008 on employer's obligations with regard to information, training, medical supervision and representation in the workplace.

### ***Other types of workers***

The Committee previously examined (Conclusions 2003, 2007 and 2009) the protection of self-employed workers, home workers and domestic staff. It concluded that the situation was in conformity with the Charter (Conclusions 2009).

In view of the fact that the protection granted by Legislative Decree No. 81/2008 covers self-employed workers and Act No. 339/1958 of 2 April 1958 protects the physical and psychological integrity of domestic staff, the Committee reiterates its previous conclusion that the situation is in conformity in this respect. It asks for information in the next report on the measures making it possible to check and ascertain whether the protection provided by the regulations for self-employed workers, home workers and domestic staff is applied in practice.

### ***Consultation with employers' and workers' organisations***

The Committee previously examined (Conclusions XIV-2, 2003, 2007 and 2009) the consultation of employers' and employees' organisations. It concluded that the situation was in conformity with the Charter pending receipt of updated information on the composition and tasks of the Standing Advisory Committee on Health and Safety (Advisory Committee) (Conclusions 2009).

According to the report, Legislative Decree No. 81/2008 introduced the full tripartite governance of occupational health and safety. A Guidance and Evaluation Committee brings together the representatives of central and regional government to decide on the course of prevention and supervision policies. The Advisory Committee in turn brings together, on an equal footing, representatives of central and regional government and employers' and employees' organisations to discuss the main lines of occupational health and safety policy, the standard supervision of the application of the legislation and regulations in this sphere, and the co-ordination of prevention activities.

The report states that the policy guidelines decided on at national level are passed on to regional co-ordinating committees, where inspection bodies gear their inspection activities to specific regional characteristics in consultation with the social partners.

The Committee takes note of this information. It confirms that a system for consulting employers' and workers' organisations exists at the level of the national and regional public authorities and is conducive to social dialogue. It asks for information in the next report on the consultation of the relevant bodies for the health and safety of temporary workers, interim workers and workers on fixed-term contracts within companies.

## Conclusion

Pending receipt of the requested information, the Committee concludes that the situation in Italy is in conformity with Article 3§2 of the Charter.

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<sup>1</sup>[http://eur-lex.europa.eu/SuiteLegislation.do?T1=V112&T3=V1&RechType=RECH\\_legislation&Submit=Rechercher](http://eur-lex.europa.eu/SuiteLegislation.do?T1=V112&T3=V1&RechType=RECH_legislation&Submit=Rechercher)

<sup>2</sup>[http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:789390336848155:::P11200\\_INSTRUMENT\\_SORT:4](http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:789390336848155:::P11200_INSTRUMENT_SORT:4)

<sup>3</sup>[http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:2898137891236126:::P11200\\_INSTRUMENT\\_SORT:4](http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:2898137891236126:::P11200_INSTRUMENT_SORT:4)

<sup>4</sup>[http://eur-lex.europa.eu/SuiteLegislation.do?T1=V112&T2=V1&T3=V1&RechType=RECH\\_legislation&Submit=Search](http://eur-lex.europa.eu/SuiteLegislation.do?T1=V112&T2=V1&T3=V1&RechType=RECH_legislation&Submit=Search)

<sup>5</sup>[http://eur-lex.europa.eu/SuiteLegislation.do?T1=V112&T3=V1&RechType=RECH\\_legislation&Submit=Rechercher](http://eur-lex.europa.eu/SuiteLegislation.do?T1=V112&T3=V1&RechType=RECH_legislation&Submit=Rechercher)

<sup>6</sup>Conclusions II, Observations on Article 3§1 ESC, p. 12.

### **Article 3 - Right to safe and healthy working conditions**

#### *Paragraph 3 - Enforcement of safety and health regulations*

The Committee takes note of the information contained in the report submitted by Italy.

#### **Occupational accidents and diseases**

The Committee previously (Conclusions 2003, 2007 and 2009) considered the situation of work accidents and occupational diseases. It requested explanations on the major discrepancies between the data on fatal work accidents supplied by the report and those published by EUROSTAT. It also asked for information on measures adopted to halt the sharp increase in work accidents suffered by workers in insecure jobs and the impact of Legislative Decree No. 81/2008 on the number of work accidents suffered by immigrant workers (Conclusions 2009).

The report explains that the number of work accidents (insured persons, compensated accidents, including accidents while traveling from home to the workplace) decreased (from 875 144 in 2008 to 775 374 in 2010) and the number of fatal work accidents also fell (from 1 120 in 2008 to 980 in 2010) during the reference period.

The data published by EUROSTAT,<sup>1</sup> which since 2009 have been confined to paid workers, confirm that the number of work accidents (apart from transport accidents) decreased overall during the reference period (from 351 031 in 2008 to 277 235 in 2010), as did the rate of incidence of such accidents (from 2 209.70 in 2008 to 1 681.32 in 2010). This rate corresponds to the average rate observed in the EU of the 15 and the EU of the 27 (from 2 269.42 in 2008 to 1 582.71 in 2010). The number of fatal accidents also dropped (from 379 in 2008 to 254 in 2010), as did the rate of incidence of such accidents (from 2.40 in 2008 to 1.57 in 2010). This rate also corresponds to the average rate observed in the EU of the 15 and the EU of the 27 (from 2.27 in 2008 to 1.87 in 2010).

The data published by the ILO,<sup>2</sup> which are only available for 2008, mention 499 210 work accidents (insured persons, compensated accidents, over four days' incapacity for work) and a rate of incidence of such accidents of 2 445.00, as well as 780 fatal accidents and a rate of incidence of 4.00.

In reply to Committee's question, the report states that the discrepancies between the data in the report and those published by EUROSTAT stem from the fact that EUROSTAT excludes transport accidents. It adds that clandestine work generates a considerable number of undeclared accidents which are not reflected in statistics, estimated at 165 000 for 2009. It also explains that while the number of foreign residents increased over the reference period, the number of legal foreign workers fell slightly (from 2 732 848 in 2008 to 2 669 808 in 2010). The report does not address the question about measures adopted to halt the increase in work accidents suffered by workers in insecure jobs and immigrant workers. According to another official source,<sup>3</sup> the number of work accidents suffered by foreign workers decreased during the reference period (from 143 641 in 2008 to 120 135 in 2010), as did the number of fatal accidents (from 188 in 2008 to 138 in 2010). However, the figures are still disproportionate to the number of foreign workers in the working population. The rate of incidence is very high in the personal services sector (77% of all work accidents affect foreign workers). The source explains these figures by the fact that foreign workers are predominantly employed in high-risk sectors in which manual work predominates, working hours are long and vocational training is inadequate.

The report points to a major increase in the number of declared cases of occupational diseases (from 29 963 in 2009 to 42 347 in 2010), including musculoskeletal disorders, pathologies

caused by asbestos and work-related stress. It attributes this increase to a recent increase in awareness of the problem by workers and employers, and also to the recognition of musculoskeletal disorders by the social security schemes after the entry into force of Legislative Decree No. 81/2008 of 9 April 2008 enforcing Act No. 123 of 3 August 2007 on protection of health and safety at the workplace.

The Committee takes note of this information. It considers that the major discrepancies between the data on fatal work accidents provided in the report and those published by EUROSTAT could not stem solely by the exclusion by EUROSTAT of transport accidents. Recalling that the state is required to transmit accurate data on work accidents and that the number, frequency and evolution of work accidents are decisive factors in appraising respect for the right enshrined in Article 3§3 of the Revised Charter,<sup>4</sup> it reiterates its request for explanations regarding the major discrepancies between the data in the report and those published by EUROSTAT, and demands that the next report contain reliable data on the indicators submitted for examination.

The Committee also requests that the next report contain information on the declaratory obligations and monitoring processes for work accidents and vocational diseases, notably in the framework of implementation of the National Computer System for the prevention of work accidents and occupational diseases (SINP). It also reiterates its request regarding measures adopted to halt the sharp increase in work accidents suffered by workers in insecure employment and the impact of Legislative Decree No. 81/2008 on the number of work accidents suffered by immigrant workers.

Pending receipt of the information requested, the Committee defers its conclusion on this point. It draws the Government's attention to the fact that unless this information is set out in the next report, it will lack the requisite information to establish whether the situation in Italy is in conformity with Article 3§3 of the Charter.

### ***Activities of the Labour Inspectorate***

The Committee previously examined the activities of the Labour Inspectorate (Conclusions XIV-2, 2003, 2007 and 2009). It concluded that the situation was not in conformity with the Charter on the grounds that the efficacy of the various Labour Inspectorate departments had not been established (Conclusions 2009). It requested information on the rate of inspection visits specifically concentrating on health and safety; the number of workers employed in the enterprises inspected; violations of the specific regulations on health and safety at work; and Labour Inspectorate activities specifically aimed at health and safety at work (Conclusions 2009).

The report draws a distinction between the building sector, which is subject to supervision by the Ministry of Labour and Social Policy, and the other sectors, which come under the responsibility of the Local Health Agencies (ASLs). According to the report, the reserved jurisdiction of the Ministry of Labour and Social Policy reduces disputes as to jurisdiction and prioritises supervision of clandestine work, work performed by irregular migrants and safety at work as provided for in the 18 September 2008 Directive from the Ministry of Labour and Social Policy on Inspectorate services and surveillance activities. The 17 December 2007 Prime Ministerial Decree enforcing the 1 August 2007 agreement on the Pact for health and safety in the workplace reinforces co-ordination among the ASLs and activity planning by means of the prevention and surveillance plans devised by the Regional Co-ordinating Committees set up under Article 7 of Legislative Decree No. 81/2008. The Pact envisages increasing the rate of inspection to cover 5% of enterprises employing paid workers; orienting inspections towards



high-risk sectors; exchanging computer data among the different ASLs; and monitoring fatal accidents and occupational diseases on the basis of the ASLs' investigations.

The report explains that in the building sector, the number of inspection visits aimed at health and safety in the workplace increased as compared with overall inspections of enterprises during the reference period (21 776 out of 188 655 enterprises inspected in 2008; 29 729 out of 149 261 in 2010). In the other sectors of activity, the number of inspection visits to enterprises (138 510 in 2008; 162 525 in 2010), mobile worksites (51 913 in 2008; 53 165 in 2010) and agricultural enterprises (4 178 in 2008; 5 980 in 2010) also increased, continuing the previous trend. On the other hand, the number of investigations into work accidents (21 682 in 2008; 16 337 in 2010) and cases of occupational diseases fell (10 417 in 2008; 8 863 in 2010). According to the report, the rate of inspection of enterprises employing paid workers increased (5.4% in 2008; 6.6% in 2010) and the rate of violation decreased correlatively, for both mobile worksites (44.3% in 2008; 36.6% in 2010) and agricultural enterprises (15.9% in 2008; 17.6% in 2010).

The report explains that in the building sector, the Ministry of Labour and Social Policy imposed 28 892 administrative sanctions in 2008 and 35 780 in 2010; registered 24 830 criminal offences in 2008 (relating to violations of regulations on health and safety at work) and 24 321 in 2010; and ordered 3 978 suspensions of activity in 2008 and 7 651 in 2010. In the other sectors of activity, the ASLs registered 69 039 violations in 2008 and 53 939 in 2010, continuing the trend noted during the previous reference period. The overall volume of administrative and criminal sanctions imposed increased over the reference period (45 873 238 in 2008; 55 564 068 in 2010).

The Committee takes note of this information. It finds that, according to the data supplied in the report, the vast majority of work accidents do not give rise to investigations. It reiterates its previous request for information on the rate of workers covered by the inspection visits carried out. In order to gauge the efficacy of inspections and the deterrence of sanctions, it also requests that the next report include information on the number of labour inspectors working in the Ministry of Labour and Social and Policy the ASLs; the Ministry and ASL inspectors' powers to establish violations, make orders and impose sanctions; the existence of sectors of activity which also come under the Ministry's special jurisdiction; the categories of measures and sanctions actually ordered by labour inspectors in cases of violation of occupational health and safety regulations; the consequences of the criminal offences recorded; and the number of criminal sentences passed on cases referred to the public prosecutor's office.

Pending receipt of the information requested, the Committee defers its conclusion on this point. The Committee draws the Government's attention to the fact that unless this information is set out in the next report, it will lack the requisite information to establish whether the situation in Italy is in conformity with Article 3§3 of the Charter.

## Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

The Committee considers that the absence of the information required amounts to a breach of the reporting obligation entered into by Italy under the Charter. The Government consequently has an obligation to provide the requested information in the next report on this provision.

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<sup>1</sup>[http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=hsw\\_mi03&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=hsw_mi03&lang=en)

<sup>2</sup>[http://www.ilo.org/ilostat/faces/home/statisticaldata/data\\_by\\_country/country-details/indicator-details?subject=INJ&indicator=INJ\\_FATL\\_SEX\\_ECO1\\_NB&datasetCode=YI&collectionCode=YI&\\_afLoop=977584236014#%40%3Findicator%3DINJ\\_FATL\\_SEX\\_ECO1\\_NB%26subject%3DINJ%26\\_afLoop%3D977584236014%26datasetCode%3DYI%26collectionCode%3DYI%26\\_adf.ctrl-state%3Db5tqhdi4s\\_313](http://www.ilo.org/ilostat/faces/home/statisticaldata/data_by_country/country-details/indicator-details?subject=INJ&indicator=INJ_FATL_SEX_ECO1_NB&datasetCode=YI&collectionCode=YI&_afLoop=977584236014#%40%3Findicator%3DINJ_FATL_SEX_ECO1_NB%26subject%3DINJ%26_afLoop%3D977584236014%26datasetCode%3DYI%26collectionCode%3DYI%26_adf.ctrl-state%3Db5tqhdi4s_313)

<sup>3</sup>Istituto Nazionale per l'Assicurazione contro gli Infortuni sul Lavoro: *Rapporto Annuale 2010*, Roma: INAIL 2011 (pp. 170-175), available on

[http://www.inail.it/internet\\_web/wcm/idc/groups/internet/documents/document/ucm\\_portstg\\_099151.pdf](http://www.inail.it/internet_web/wcm/idc/groups/internet/documents/document/ucm_portstg_099151.pdf)

<sup>4</sup>See, for example, *Conclusions 2009, Slovenia*, p. 7.

### **Article 3 - Right to safe and healthy working conditions**

#### *Paragraph 4 - Occupational health services*

The Committee takes note of the information contained in the report submitted by Italy.

The Committee previously examined (Conclusions 2003, 2007 and 2009) the context of occupational health services under the provisions of Legislative Decree No. 81/2008 of 9 April 2008 applying Act No. 123 of 3 August 2007 on the protection of health and safety at the workplace and concluded that the situation was in conformity with Article 3§4 of the Charter (Conclusions 2007 and 2009). It asked for information on the proportion of undertakings equipped with occupational health services or sharing them in practice (Conclusions 2009).

The report states that this figure cannot be provided at this point in time.

According to the provisions of Article 40 of Legislative Decree No. 81/2008, occupational physicians must submit data on risks to which workers are exposed, occupational diseases, and also undertakings under supervision to the Regions and Autonomous Provinces, which collect and send the data to the Higher Institute for Occupational Prevention and Safety (ISPESL).

In view of this information, and given that the National Information System for the Prevention of Occupational Accidents (SINP) has been set up, the Committee renews its request for information on the proportion of undertakings equipped with medical services or sharing them in practice. It would alert the Government to the fact that, if this information is not provided in the next report, it will not have the information it needs to establish that the situation in Italy is in conformity with Article 3§4 of the Charter.

Pointing out that in accepting Article 3§4 of the Charter, States undertake to ensure that all workers have access to occupational health services in all branches of economic activity and in all business enterprises,<sup>1</sup> the Committee asks that the next report provide information on the following aspects: the tasks of occupational health services; the proportion of in-house occupational health and services; the proportion of external occupational health and safety services; the number of listed occupational health physicians in relation to the labour force; any sanctions and supervision mechanisms to ensure that undertakings comply with legal obligations on the matter.

In view of the progressive nature of the obligations set out in Article 3§4 of the Charter, and given the increase in occupational accidents suffered by workers in insecure jobs and the high level of such accidents suffered by immigrant workers, in particular in the personal services sector (see conclusion relating to Article 3§3 of the Charter), the Committee asks for information in the next report on existing strategies, in consultation with employers' and workers' organisations, to improve access to occupational health services for independent, home and domestic workers.

#### *Conclusion*

Pending receipt of the information requested, the Committee defers its conclusion.

The Committee considers that the absence of the information required amounts to a breach of the reporting obligation entered into by Italy under the Charter. The Government consequently has an obligation to provide the requested information in the next report on this provision.

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<sup>1</sup>Conclusions 2003, Italy, p. 17.

## **Article 11 - Right to protection of health**

### *Paragraph 1 - Removal of the causes of ill-health*

The Committee takes note of the information contained in the report submitted by Italy.

### ***Right to the highest possible standard of health***

The Committee notes from WHO data that life expectancy at birth (average for women and men together) was 82.07 years in 2009 (the average observed the same year for the EU 27 was 79.0 years). The report states that when the population is analysed by region, there is some diversity in the overall ageing trend. Liguria is still the region with the oldest population while at the opposite extreme is Campania, where the ageing process is in a less advanced stage.

The mortality rate (number of deaths per 1000 inhabitants) remained virtually the same in 2008 and 2009, increasing from 9.72 to 9.78.

The Committee notes that cardiovascular diseases and cancers are the two main causes of death, accounting for 7 deaths out of every 10 in 2008 (396 692 out of a total of 578 190). Among men, diseases of the circulatory system became the main cause of death in 2008 (97 953 deaths out of a total of 281 824), overtaking cancer (97 441). Among women, on the other hand, cardiovascular diseases were confirmed as the main cause of death, at 126 531 deaths (43 % of the total), while cancers accounted for 76 767 deaths (25 %), making them the second most common cause. The report describes certain measures that have been taken for the prevention of cardiovascular diseases and cancer.

The report also points out that dementia was made one of the priority action areas of the 2010-2012 National Prevention Plan. It is left to the regions to incorporate specific projects into their Regional Prevention Plans. In the agreement between the state and the regions of 8 July 2010, provision was made for the allocation of €20 million to the regions to finance specific projects in the field of care for patients suffering from dementia.

Infant mortality has remained stable since the previous reference period. In 2009 it stood at 3.62 deaths for 1000 live births (compared with a rate of 4.2 for the EU 27 in 2009).

The maternal mortality rate has also remained stable since the last reference period. In 2009, it stood at 3.37 deaths for 100 000 live births.

### ***Right of access to health care***

The Committee refers to the information submitted in previous reports on the right of access to health care. It points out nonetheless that it is organised at three levels (national, regional and local) and provides universal cover (Conclusions 2009).

The report mentions the report on the nation's state of health in 2009-2010, which shows that the Italian national health service has responded positively to the major challenges arising from demographic and epidemiological changes by improving rates of survival as a result of a reduction in the population's mortality rate and an increase in its life expectancy. These results were attained through joint policies run by the state and the regions, whose aim is to ensure that essential assistance standards (LEAs) are properly applied throughout the country by combating unequal access to and enjoyment of services. New health care models have been developed, paying particular attention to primary care and consistency of care between hospitals and the local level and actively involving general practitioners, who must provide 24-hour cover in the field, with the additional goal of easing congestion in hospital emergency wards. To date hospitals are the area of health care which absorb the most economic resources

but they are in a process of shifting their focus to the treatment of the most serious and the most complex conditions in an attempt to rationalise the use of resources and transfer services which require low-intensity medical care to local health care practices.

With regard to measures to reduce waiting lists, the report highlights the new National Waiting-List Plan for 2010-2012, which forms part of the agreement between the state and the regions. The Plan provides for a stronger commitment on the part of the regions to guarantee suitable access for citizens to health services, which must be carried out through the application of strict treatment adaptation criteria, respect for priority treatment categories and a transparent system at all levels. Among the new elements are an update of the list of specialised outpatient services and hospital care for which maximum waiting times are set by the regions and the autonomous provinces, a decision to make cardiovascular diseases and cancer priority areas for the development of therapeutic diagnosis mechanisms guaranteeing rapid diagnosis and treatment, a new information system for follow-up to both outpatient and hospital services and transparent information for the public through the posting of waiting lists on the websites of the regions, the autonomous provinces, and public and certified private health agencies. The Committee also takes note of the information provided by the Italian representative to the Governmental Committee (Report on Conclusions 2009, Doc. T-SG(2011)1 final). On the basis of all this information, the Committee considers that suitable measures are being introduced and therefore the situation is no longer in breach of the Charter on this ground.

As to the contribution of citizens to the cost of services, the report states that the recent financial reform (Article 17, paragraph 6 of Legislative Decree No. 98 of 2011, as transformed into Law No. 111/2011) reintroduced the obligation for non-exempt patients to pay a fixed sum of €10 for all specialised outpatient treatment in addition to the standard patient contribution already applied, equal to the fee for each service up to a maximum amount of €36.15 per prescription. Only a few regions (Emilia-Romagna, Tuscany and Umbria) have decided to break down the fixed sum of €10 into several different amounts depending on the beneficiaries' incomes, and have set up special means of verifying these incomes.

The Committee notes from another source<sup>1</sup> that equitable access to health care is a core objective of the Italian health care system. Despite having achieved universal coverage for a fairly comprehensive set of health services for decades, there is still evidence of inequities systematically associated with income. The Committee invites the Government to submit comments on the latter.

The Committee is currently examining a complaint related to the right to protection of health in Italy. The case is *International Planned Parenthood Federation – European Network (IPPF EN) v. Italy*, Complaint 87/2012. In this context, the complainant organisation alleges that the wording of Article 9 of Law No. 194 of 1978, which regulates the conscientious objection of medical practitioners in relation to the termination of pregnancy is in breach of Article 11 of the Charter, read alone or in conjunction with Article E. In particular, the complainant organisation considers that the breach is due to the difficulties encountered by women in having access to termination of pregnancy procedures due to the very high number of medical practitioners and other health personnel exercising their right to conscientious objection. The Committee declared the complaint admissible on 22 October 2012. Given the subject of the complaint, the Committee decides to reserve its position regarding the implementation of Article 11§1 by Italy.

As regards the right to protection of health of transgender persons the Committee received submissions from the International Lesbian and Gay Association (European Region) (ILGA) stating that "in Italy there is a requirement that transgender people undergo sterilisation as a

condition of legal gender recognition". In this respect, the Committee refers to its question on this matter in the General Introduction.

*Conclusion*

Pending receipt of the information requested, the Committee defers its conclusion.

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<sup>1</sup>*Equity in access to health care in Italy: a disease-based approach.*

## **Article 11 - Right to protection of health**

### *Paragraph 2 - Advisory and educational facilities*

The Committee takes note of the information contained in the report submitted by Italy.

#### ***Education and awareness raising***

The report describes several measures relating to health education in schools. It mentions a study conducted by the Ministry of Health, whose aim is to estimate the prevalence of excessive weight and obesity among primary-school children and investigate the related problems so as to adopt effective measures to improve children's living conditions and health. The Ministry of Health has also looked into school catering arrangements, setting up a special working group, which has drawn up national school catering guidelines. Following on from this, in 2011, the Ministry of Education, Universities and Research published guidelines on nutritional education in Italian schools. These guidelines are intended to incorporate these principles progressively into school syllabuses. The Committee asks to be kept informed of the implementation of these measures.

The report also mentions other programmes and projects for the prevention of health problems and promotion of good health in childhood (on themes such as nutrition, sport and movement, games and reading and responsible behaviour) and in adolescence (on issues such as smoking, alcohol and use of other substances, road accidents, sexuality, promoting healthy eating and physical activity, and well-being and mental health). Furthermore, public family advice centres run youth services, which work with other departments of the Local Health Agency and local bodies and institutions (such as municipalities, schools, sports and leisure centres and associations) on education and health projects aimed at young people and the adults responsible for them (teachers, parents, educators, sports trainers, etc.). The projects on offer include social and emotional education, sex education, prevention of AIDS and sexually transmitted diseases, nutritional education and preventing substance abuse.

The Committee would point out that under this article, states parties are required to implement health education policies for the population at large and for groups affected by specific problems, making provision in particular for awareness-raising campaigns. In the absence of any detailed information on this subject in this report, the Committee asks for updated information in the next report on all the activities carried out by the public health services or other bodies to promote good health and prevent disease.

#### ***Counselling and screening***

In its previous conclusion, the Committee noted that responsibility for school health services, which includes prevention activities among pupils, teachers and other staff of public and private schools, lies with the regions. Each local health authority has to draw up activities and a monitoring plan for schools and the pupils in its area and intervene when parents or teachers draw their attention to specific illnesses, disorders or learning difficulties. The pre-school and school departments of local health authorities provide a variety of services (Conclusions 2009). In this connection, the Committee asked how often these departments provided the various services for which provision is made in the school health system. The report states that no surveys have been carried out to date on the activities of these departments in the various Italian regions and therefore the authorities are not in a position to provide the information requested.

The Committee points out that prevention through screening must play an effective role in improving the standard of health of the population. In its previous conclusion, the Committee noted that screening of breast and cervix cancer had increased and covered 75% of the national territory. Screening of colorectal cancer was less developed but had increased significantly (69 programmes in 2006). The Committee asks the next report to provide up-to-date information on screening programmes available throughout the country. It also asks for confirmation that free and regular consultation and screening for pregnant women exists across the country.

*Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation in Italy is in conformity with Article 11§2 of the Charter.



## **Article 11 - Right to protection of health**

### *Paragraph 3 - Prevention of diseases and accidents*

The Committee takes note of the information contained in the report submitted by Italy.

### ***Healthy environment***

The Committee takes note of the legislation adopted by Italy during the reference period to reduce environmental hazards, particularly in the areas of air quality, water management and soil and subsoil pollution. In relation to other hazards, particularly noise, food safety and asbestos, the report states that there has been no change in the legislation. With regard to air quality, Italy has set up 708 monitoring stations to measure the country's main pollutants, 411 of which are located in urban areas, 205 in suburban areas and 92 in rural areas.

The Committee asks for information in the next report on the implementation of the above regulations. For example, by providing information on air pollution levels and trends, or cases of pollution of drinking water or food poisoning during the reference period.

### ***Tobacco, alcohol and drugs***

In its previous conclusion (Conclusions 2009), the Committee noted that it had been prohibited to smoke in any public place or private place to which the public had access since 2003. The report states that monitoring of the application of the law is continuing. According to statistics from the Autonomous State Monopolies Authority sales of cigarettes in 2010 fell by 2.4% compared to 2009 (namely almost one packet per month per smoker). As to the effects of this on public health, the various studies that have been conducted show a reduction in severe coronary problems between 2004 and the years following the introduction of the law, with values ranging from -4% to -13% in hospitalisations for coronaries among people of working age (under the age of 70).

The report also gives detailed information on trends in alcohol and drug consumption and on measures to combat alcoholism and drug addiction. According to statistics from the National Health Institute, in 2010, 25.4% of men and 7.3% of women over the age of 11, namely about 8 600 000 people, consumed alcoholic beverages without complying with the public health agencies' recommendations concerning consumption rates, thus exposing themselves to alcohol-related risks. The Committee takes note of the 2010-2012 National Prevention Plan relating to alcohol, which includes a series of activities designed to promote health, education, training and communication.

### ***Immunisation and epidemiological monitoring***

The report states that in March 2008, the Ministry of Health set up a national monitoring system for newly diagnosed cases of HIV infection, also adding the infection to the list of infectious diseases subject to compulsory notification. Up to 2008, only AIDS was subject to compulsory notification, whereas HIV infection (prior to developing AIDS) was not.

The report mentions that one of the aims of the 2010-2012 National Prevention Plan, in addition to preventing diseases against which persons could be immunised, was to maintain immunisation cover for diseases which were to be eliminated or significantly reduced and increase immunisation cover for high-risk persons.

In 2011, vaccinations against polio, diphtheria and tetanus (DT) or diphtheria, tetanus and whooping cough (DTC) and against hepatitis B (HBV) were evenly distributed throughout the

country, with an average coverage rate of 96%. As to vaccinations against measles, mumps and German measles (MPR), the national average coverage rate stabilised at 90.7%. In recent years there has been a progressive increase in immunisation coverage for HIB (Haemophilus Influenzae type B), reaching 95.9% in 2011. The Committee asked to be kept informed of all new developments with regard to immunisation coverage rates.

### ***Accidents***

In 2008, about 3.2 million people were involved in domestic accidents. To deal with this problem, in 2011, the Ministry of Health launched a national plan. The aim is to support and promote the regional domestic accident prevention plans by promoting refresher courses for the officials concerned. Particular attention is to be paid to the summaries of accident risk factors for dwellings, which are also linked to the characteristics of the persons living there (children, elderly people, persons with disabilities, persons with high-risk lifestyles).

The report gives the following road accident figures: in 2010, there were 211 404 reported road accidents causing bodily injuries. There were 4 090 deaths and 302 735 wounded. Compared to 2009, this amounted to a small reduction in the number of accidents (-1.9%) and the number of wounded (-1.5%) and a more substantial decrease in the number of deaths (-3.5%). The report highlights the adoption of Law No. 120 of 29 July 2010 on road safety measures, which introduced stricter penalties for persons driving while intoxicated and contains a series of new measures relating to the distribution and sale of alcoholic drinks.

### ***Conclusion***

The Committee concludes that the situation in Italy is in conformity with Article 11§3 of the Charter.

## **Article 12 - Right to social security**

### *Paragraph 1 - Existence of a social security system*

The Committee takes note of the information contained in the report submitted by Italy.

### ***Risks covered, financing of benefits and personal coverage***

In its previous conclusion (Conclusions 2009) the Committee asked for information about the personal coverage under each branch of social security. More specifically, the Committee wished to know:

- the percentage of persons insured for healthcare out of the total population;
- the percentage of persons insured against unemployment, sickness, old-age and maternity risks, out of the total active population.

The Committee notes that the report does not provide this information. It notes from the report under the European Code of Social Security that 73.8% of employees are covered against old-age risk. According to the biennial Report of Italy on the European Code of Social Security, in 2011 60% of employees were covered for sickness benefit and around 77% of employees were covered for unemployment benefit.

The Committee requests that all reports on Article 12§1 provide updated information on personal coverage under each branch of social security. It holds that if updated information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter as concerns the personal coverage of social security risks.

### ***Adequacy of the benefits***

The Committee notes from Eurostat that 50% of the median equivalised income in 2011 stood at €666 (40% at €532).

### ***Unemployment benefit***

In its previous conclusion the Committee held that it had not been established that the level of unemployment benefit was adequate. The Government had argued on the previous occasion that since only maximum amounts of unemployment benefit were set by law, no information was available on the minimum amounts. In this regard the Committee notes from the report of the Governmental Committee to the Committee of Ministers (Governmental Committee, Report concerning Conclusions 2009, Doc. TS-G (2011)1final, §146) that according to the data compiled by the INPS (the Institute of Social Security) on an *ad hoc* basis, in 2007 the minimum monthly amount of unemployment benefit stood at €584 during first six months, at €467 during the following three months and at €350 during the ten following months. The Committee notes that the report does not provide similar statistics for the reference period.

The Committee notes from the biennial report on the European Social Code of Social Security that there are two types of income-support allowances – unemployment benefit with reduced requirement and ordinary unemployment benefit. The former is paid to workers having worked at least 78 days in the year prior to their claim but not having accrued 52 weeks of contributions. The latter is paid to workers insured against involuntary unemployment or to workers who have resigned from their unemployment for a valid cause and have accrued 52 weeks of contributions.

As regards the replacement rate – i.e. the proportion of the benefit to the previous income, the Committee notes from MISSOC that persons under 50 years of age receive 60% of their salary for the first six months and 50% for the following two months.

The Committee observes that the information it finds in different sources can be confusing in so far as the figures provided are not always identical. Therefore, the Committee requests that the next report provide accurate information about the replacement rate as well as about the minimum level of benefit on an *ad hoc* basis (e.g. the amount of unemployment benefit paid to persons receiving the minimum wage). The Committee holds that if this information is not provided in the next report, there will be nothing to establish that the situation is in conformity as concerns adequacy of unemployment benefit.

In its previous conclusion the Committee asked whether there was a reasonable initial period during which an unemployed person may refuse a job or a training offer not matching his/her previous skills without losing his/her unemployment benefit. In this regard it notes from the biennial report under the European Code of Social Security that the unemployment benefit ceases in cases of unjustified refusal to attend a worker's training or job-seeking initiative organised by the competent bodies, or where the worker does not accept a job offer for a salary equal to at least 20% more than the gross amount of the unemployment benefit. In all cases of discontinuance or suspension of the unemployment benefit for a reason which the unemployed worker believes to be unlawful, he/she may file a complaint with the relevant provincial committee.

The Committee recalls that the adequacy of unemployment benefit is, *inter alia*, also established by considering whether there is a reasonable initial period during which an unemployed person may refuse a job or a training offer not matching his/her previous skills, without losing his/her unemployment benefits. The Committee asks whether the legislation defines such initial period and if yes, how long it is.

### ***Sickness benefit***

As regards the minimum level of sickness benefit, the Committee notes from the biennial report on the European Code of Social Security that the amount of the sickness benefit paid to workers between the fourth and twentieth day of sickness is set at 50% of their average daily salary. From the twenty-first day onwards the amount is increased to 66.66% of their average total daily salary. The Committee takes note of an example of third level metal worker, with a spouse and two children, earning a monthly wage of €1 575. Such worker would get €35 per day in sickness allowance.

The Committee recalls that in order to assess the adequacy of benefit in question, it considers the minimum level of this benefit as well as the proportion of this benefit to the previous income. The Committee observes from another source<sup>1</sup> that the sectoral minimum wages can range from €600 to €1 300. In this context, the Committee considers that the example of a third level metal worker does not reflect the situation of those employees who receive low or minimum wages. Therefore, the Committee wishes to receive information on the lowest minimum sectoral wages.

In the meantime, the Committee holds that it has not been established that the minimum level of sickness benefit is adequate.

### **Old-age benefit and disability benefit**

In its previous conclusion the Committee held that the minimum level of old-age benefit was inadequate. In this connection it notes from the report of the Governmental Committee (Governmental Committee, Report concerning Conclusions 2009, Doc. TS-G (2011)<sup>1</sup> final, §147) that the amount of pension is determined by the number of years worked and by the contributions paid. In the event that the amount of pension is less than what is considered 'subsistence level', it will be increased until it reaches the amount determined by law every year. The supplement tops up the income to the amount of the "annual treatment" which is equal twice the "minimum treatment" level.

The Committee further notes from MISSOC that in 2011 the amount of minimum pension (*pensione minima*) stood at €6 246.89 (€520 per month). The old-age pension (*pensione di vecchiaia*) is brought up to the amount of the minimum pension if the annual taxable income of the pensioner is less than twice the minimum pension. The Committee observes that the level of minimum pension falls below 40% of the median equivalised income (Eurostat) and is therefore inadequate.

In its previous conclusion the Committee held that the minimum level of permanent disability was inadequate. In this regard it notes from the report ISSA that the disability pension is based on notional contributions, adjusted annually according to the average rate of increase in GDP during the last five years. The minimum monthly pension is €481 for an unmarried pensioner aged 60 or older with income less than €12 506 (€25 012 for a couple). If the insured is also entitled to a work injury disability pension, only the part of the disability pension that exceeds the work injury disability pension is paid.

In this connection the Committee notes from the report of the Governmental Committee that allowance for persons with 100% of incapacity also includes the personal, continuous assistance allowance and therefore the total allowance is much higher. It notes further from the report that in 2010 52.8% of pensioners received a disability benefit in the amount inferior to €1000. The Committee asks what is the lowest level of the overall disability benefit in the reference period.

### *Conclusion*

The Committee concludes that the situation in Italy is not in conformity with Article 12§1 of the Charter on the grounds that:

- it has not been established that the minimum level of sickness benefit is adequate;
- the minimum level of pension benefit is inadequate.

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<sup>1</sup><http://www.kitech.it/Retribuzione-CCNL-Tabella-Retributive.aspx>

**Article 12 - Right to social security**

*Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security*

The Committee takes note of the information contained in the report submitted by Italy.

Italy has ratified the European Code of Social Security on 20 January 1977 and has accepted parts V to VIII of the Code.

The Committee notes from Resolution CM/ResCSS(2012)9 of the Committee of Ministers on the application of the European Code of Social Security and its Protocol by Italy (period from 1 July 2010 to 30 June 2011) that the law and practice in Italy continue to give full effect to the four parts of the Code that have been accepted.

*Conclusion*

The Committee concludes that the situation in Italy is in conformity with Article 12§2 of the Charter.

## **Article 12 - Right to social security**

### *Paragraph 3 - Development of the social security system*

The Committee takes note of the information contained in the report submitted by Italy.

According to the report, the reform process that started in 2012 (law-decree 201/2011 "Save Italy") has laid the groundwork for the global reform of the system. Among the innovative elements introduced by this law is the simplification and increased transparency of the mechanisms of calculation of the pension benefit, including the prorata calculation, possibility of derogation only for low income groups as well as the flexibility in the age of retirement which gives workers a wider range of options to advance or delay their retirement. The Committee notes that these measures have been taken outside the reference period. It asks whether and how this reform has affected the personal coverage of old-age benefit as well as its minimum levels.

As regards the reference period, the Committee notes that there have been no major amendments to the system of social security. The Committee recalls that in its previous conclusion (Conclusions 2009) it held that there was no evidence of any concrete improvements to the social security system and its old age branch in particular. It notes that the report does not provide any examples of concrete measures to raise the system to a higher level. Therefore, the Committee holds that it has not been established that the situation is in conformity with the Charter.

### *Conclusion*

The Committee concludes that the situation in Italy is not in conformity with Article 12§3 of the Charter on the ground that it has not been established that measures were taken to raise the system of social security to a higher level.

## **Article 12 - Right to social security**

### *Paragraph 4 - Social security of persons moving between States*

The Committee takes note of the information contained in the report submitted by Italy.

### ***Equality of treatment and retention of accrued benefits (Article 12§4a)***

#### ***Right to equal treatment***

Equal treatment between nationals and nationals of other States Parties in respect of social security rights shall be ensured through the conclusion of bilateral or multilateral agreements or through unilateral measures.

The coordination of social security systems of the European Union Member States (EU) is governed by Regulation (EC) No. 883/2004 and by Regulation (EC) No. 987/2009 (these regulations apply also to Member States of the European Economic Area – EEA). Article 4 of Regulation (EC) No. 883/2004 explicitly provides for equality of treatment between nationals, on the one hand, and, on the other hand, nationals of other Member States, stateless persons and refugees resident in the territory of a Member State who are or have been subject to the social security legislation of one or more Member States, as well as to the members of their families and to their survivors. Regulation (EC) No. 883/2004 and Regulation (EC) No. 987/2009 are extended by Regulation (EU) No. 1231/2010 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality, as well as to members of their families and their survivors, provided that they are legally resident in the territory of a Member State and are in a situation which is not confined in all respects within a single Member State (Article 1). This concerns, inter alia, the situation of a third country national who has links only with a third country and a single Member State.

The Committee recalls that, in any event, under the Charter, EU States are required to secure, to the nationals of other States Parties to the 1961 Charter and to the Charter not members of the EU, equal treatment with respect to social security rights provided they are lawfully resident in their territory (Conclusions XVIII-1). In order to do so, they have either to conclude bilateral agreements with them or take unilateral measures.

The report indicates that the agreement signed in 1947 between Italy and Yugoslavia continues to apply in respect of Bosnia and Herzegovina, Serbia and Montenegro. It also applies in respect of “the former Yugoslav Republic of Macedonia”, pending the specific agreement now in the process of being ratified. The report further states that there are no social security agreements with Albania, Andorra, Armenia, Azerbaijan, Georgia, the Republic of Moldova, Ukraine or the Russian Federation. The Committee therefore concludes that equal treatment with regard to the right to social security is not guaranteed to the nationals of these States Parties.

In respect of the payment of family benefits, the Committee previously considered that, under Article 12§4, any child resident in a country is entitled to these benefits on the same basis as the citizens of the country concerned. Whoever the beneficiary may be under the social security scheme – the worker or the child – the States Parties are obliged to guarantee, through unilateral measures, effective payment of family benefits to all children resident on their territory. In other words, the requirement for the child concerned to reside on the territory of the State concerned is compatible with Article 12§4 and with its Appendix. However, as not all the countries apply such a system, the States which impose a child residence requirement are under an obligation, in order to secure equal treatment within the meaning of Article 12§4, to



conclude within a reasonable period of time bilateral or multilateral agreements with those States which apply a different entitlement principle.

The Committee asked whether such agreements existed with Albania, Armenia, Georgia and the Russian Federation, or whether they were planned and on what timescale. The report indicates that Law No. 153/1988 applies to nationals of these States and imposes a requirement of residence in Italian territory for the payment of family benefits unless, on a reciprocal basis, the States of which the persons concerned are nationals pay family benefits to Italian nationals not residing in their territory. The Committee notes that Albania, Armenia and Georgia do not lay down a residence requirement, which implies that Italian nationals are entitled to receive family benefits from those States. It therefore asks whether, in practice, nationals of those States who do not live in Italy are entitled to receive Italian family benefits.

In its two previous conclusions (Conclusions 2006 and 2009), the Committee asked whether the eligibility of nationals of States Parties that are not EU or EEA member states for social security benefits is subject to any general length of residence or employment conditions. In the absence of an answer in the report, the Committee repeats its question. The Committee underlines that if the necessary information is not provided in the next report there will be nothing to show that Italy is in conformity with the Charter on this ground.

#### ***Right to retain accrued benefits***

States have the obligation, under Article 12§4, to conclude multilateral or bilateral agreements, or to take unilateral measures to ensure the right to retention of accrued benefits whatever the movements of the beneficiary.

The Committee noted in its previous conclusion (Conclusions 2009) that retention of benefits applies to nationals of States Parties covered by EU regulations or bound by a bilateral agreement with Italy. The Committee asked for confirmation, since its Conclusions 2004, that the exportability of pensions extended to nationals of States Parties not covered by EU regulations or bound by a bilateral agreement with Italy. It also asked whether and how the retention of benefits other than pensions applied to nationals of these countries. In the absence of a reply since then, the Committee concludes that there is nothing to show that Italy is in conformity with the Charter on this ground.

#### ***Right to maintenance of accruing rights (Article 12§4b)***

There should be no disadvantage for persons who change their country of employment where they have not completed the period of employment or insurance necessary under national legislation to confer entitlement and determine the amount of certain benefits. This requires, where necessary, the aggregation of employment or insurance periods completed in another territory and, in the case of long-term benefits, a pro-rata approach to the conferral of entitlement, the calculation and payment of benefit (Conclusions XIV-1, Portugal; Conclusions XV-1, Italy).

States may choose between the following means in order to ensure maintenance of accruing rights: multilateral convention, bilateral agreement or, unilateral, legislative or administrative measures. The principle of accumulation of insurance or employment periods applies to nationals of States Parties covered by EU regulations. With respect to States not bound by EU regulations, the Committee observes that the guarantee of this principle is one of the parts of the European Convention on Social Security directly applicable to both eligibility to benefits and to the calculation of benefits in all the branches of social security covered in the convention.

The Committee considers that Italy has implemented sufficient means upon ratification of the convention to guarantee the maintenance of accruing rights.

*Conclusion*

The Committee concludes that the situation in Italy is not in conformity with Article 12§4 of the Charter on the grounds that:

- equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties;
- it has not been established that the retention of accrued benefits is guaranteed to nationals of all other States Parties.

## **Article 13 - Right to social and medical assistance**

### *Paragraph 1 - Adequate assistance for every person in need*

The Committee takes note of the information contained in the report submitted by Italy.

### ***Types of benefits and eligibility criteria***

The Committee notes from the report that the programme aimed at testing the introduction of a minimum guaranteed income (RMI) has been dropped, as its full implementation would require organisational changes and additional resources that the authorities deemed they could not make available in the current economic context. The latest budgetary laws have thus rather given priority to other social policy tools, mainly aimed at fighting unemployment.

The report points out that the Framework Law No. 328 of 8 November 2000 provides for social assistance measures aimed at "indigent individuals and households", i.e. lacking the goods and services needed to ensure a decent level of life. Article 1 of the abovementioned Law provides that "In accordance with Articles 2, 3 and 38 of the Constitution, the State ensures to individuals and households an integrated system of social interventions and services, promotes interventions aimed at ensuring life quality, equal opportunities, non-discrimination and citizens' rights, it prevents, eliminates or reduces conditions of disability, need, individual or family lack of well-being resulting from inadequate income, social difficulties and lack of autonomy". The Committee understands from the Law, MISSOC and the information provided to the Governmental Committee (Governmental Committee, Report concerning Conclusions 2009, Doc. T-SG(2011)1final, §293) that the local authorities are responsible for setting the eligibility criteria, types and amounts of benefits. It notes that, according to the report, are eligible to social assistance individuals and households whose resources, calculated on the basis of the ISEE indicator (indicator of the equivalent economic situation) are below a certain threshold, set by the local entities, which depends on the size of the family. The Committee asks the next report to provide more detailed information on the eligibility criteria, functioning and benefits amounts set for each region.

In this respect, the Committee notes that, while Article 13§1 of the Charter does not set itself specific eligibility criteria, however social assistance must be guaranteed to any person on the sole ground that he/she is in need. In this connection, although the Committee has not expressly made of the existence of an income guarantee system a condition of conformity with Article 13§1, the situation of all states which have not introduced a general income guarantee system has been judged not to conform on the ground that their system of assistance does not cover the whole population. Furthermore, Article 13§1 requires that the assistance be "appropriate", i.e. that it makes possible to live a decent life and covers the individual's basic needs. In order to assess the level of assistance, the Committee takes into account basic benefits, additional benefits and the poverty threshold in the country (see below) and considers that assistance is compatible with the Charter where the monthly amount of assistance benefits – basic and/or additional – paid to a person living alone is not manifestly below the poverty threshold. In this context, the Committee recalls that the domestic legal system cannot exempt a State Party from the international obligations it entered into on ratifying the Charter: even if under domestic law local or regional authorities are responsible for exercising a particular function, States Party to the Charter are still responsible, under their international obligations, to ensure that their responsibilities are properly exercised. Thus ultimate responsibility for implementation of official policy lies with the state (European Roma Rights Centre (ERRC) v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §29). Accordingly, where social welfare services are decentralised, the Committee assesses the compliance with

the Charter taking into account the effective application also by the local bodies. In this respect, although the Charter does not require the same level of protection across the country, it requires a reasonable uniformity of treatment. The Committee considers indeed that, based on their strategic choices and priorities, the local entities (regions, provinces and/or municipalities) must nevertheless comply with Article 13 of the Charter (see, mutatis mutandis, *The Central Association of Carers in Finland c. Finland*, Complaint No. 70/2011, §§58-59). The Committee accordingly requests the next report to provide information on how, in theory and in practice, each responsible local entity ensures that benefits are effectively provided to any person in need and that their level is not manifestly below the poverty threshold. Meanwhile, it holds that not all persons in need are entitled to social assistance in Italy.

### ***Level of benefits***

To assess the situation during the reference period, the Committee takes account of the following information:

- Basic benefit: according to MISSOC and the report, the basic amounts vary from region to region – no further detail is provided allowing to assess whether, despite the local variations, the level of the benefits is adequate.
- Additional benefits: according to MISSOC and the report, the types and amounts of supplementary benefits vary from region to region – no further detail is provided allowing to assess whether, despite the local variations, the level of the benefits is adequate.
- Medical assistance: the report does not reply to the question raised in the latest conclusion (Conclusions 2009), as to whether persons without resources and recipients of assistance benefits have effective access in practice to medical assistance in case of need. The Committee notes that the latest assessment – of conformity – was in the XV-1 Conclusions (2000); it also notes from MISSOC and the authorities' reply to the Governmental Committee (Governmental Committee, Report concerning Conclusions 2009, Doc. T-SG(2011)1final, §293) that exemption from charges upon condition of resources is granted to elderly people and unemployed people, but not as such to any individual without resources. The Committee recalls that under Article 13§1 of the Charter everyone who lacks adequate resources must be able to obtain, free of charge, the care necessitated by his/her condition. This right to medical assistance should not be confined to emergency situations. It asks the next report to provide updated information on the medical assistance available to people without resources.
- Poverty threshold (defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value): it was estimated at €666 in 2011.

In the absence of relevant information concerning the amounts of benefits paid on average to a single person without resources and the medical assistance available, the Committee holds that the level of social assistance is inadequate and that it has not been established that all persons in need are entitled to medical assistance.

### ***Right of appeal and legal aid***

The Committee has previously found (Conclusions 2009) that all administrative decisions, including those concerning awarding of benefits, can be appealed before the administrative courts and that this situation is in conformity with the Charter.

### ***Personal scope***

In its previous conclusions (Conclusions 2006 and 2009) the Committee found that the situation in relation to EU nationals legally resident in Italy was in conformity with the Charter as regards access to social assistance and asked whether a length of prior residence requirement applied to non-EU nationals. In response, the report indicates that non-EU workers, resident in Italy, are granted access to social and medical assistance on the basis of reciprocity, with the exceptions provided for by the law. The Committee asks the next report to provide more detailed information as regards the specific situation of foreign non-EU residents, whether they are workers or not, who are nationals of members states to the Charter. It furthermore notes from the report that, under Article 41 of the immigration law, foreign nationals can apply for social assistance on equal footing with Italian nationals if their residence permit is granted for at least one year. It asks next report to clarify whether this means that foreign nationals must have already been legally resident for at least one year in the country or whether they can apply for a long-term residence permit without any prior length of stay condition. In the meanwhile, it reserves its position on this point.

### ***Conclusion***

The Committee concludes that the situation in Italy is not in conformity with Article 13§1 of the Charter on the grounds that:

- social assistance is not provided for everybody in need;
- the level of assistance is inadequate;
- it has not been established that medical assistance is provided for everybody in need.

## **Article 13 - Right to social and medical assistance**

### *Paragraph 2 - Non-discrimination in the exercise of social and political rights*

Italy has submitted no information on Article 13§2 in its report. The Committee notes that the situation in Italy has been established to be in conformity with Article 13§2 in the last five evaluation cycles. The Committee asks that this matter be duly addressed in the next report of Italy, by confirming that no restrictions apply, in law or in practice, to the social and political rights of beneficiaries of social assistance.

### *Conclusion*

Pending receipt of the information requested, the Committee defers its conclusion.

The Committee considers that the absence of the information required amounts to a breach of the reporting obligation entered into by Italy under the Charter. The Government consequently has an obligation to provide the requested information in the next report on this provision.

## **Article 13 - Right to social and medical assistance**

### *Paragraph 3 - Prevention, abolition or alleviation of need*

The Committee takes note of the information contained in the report submitted by Italy.

The Committee noted in its previous conclusion (Conclusions 2009) that, under Act 328/2000, people in distress or in extreme poverty have priority in the allocation of services and benefits under the integrated social services system and took note of the catalogue of benefits and services available. It also noted that 7% of resources allocated to social assistance is devoted to financing the general activities of social services, such as information and advice on how to obtain assistance, as well as preventive actions and awareness raising on how to avoid situations of need. In this respect, the report confirms that the available funding is sufficient to give appropriate assistance to all persons in need.

### *Conclusion*

The Committee concludes that the situation in Italy is in conformity with Article 13§3 of the Charter.

## **Article 13 - Right to social and medical assistance**

### *Paragraph 4 - Specific emergency assistance for non-residents*

The Committee takes note of the information contained in the report submitted by Italy.

In its previous conclusion (Conclusions 2009) the Committee held that the situation was not in conformity with the Charter as it had not been established that all persons, in particular foreigners illegally present in Italy and not sheltered in Centres for temporary stay or assistance (CTSAs), were entitled to emergency assistance.

The Committee takes note of the information provided to the Governmental Committee (Governmental Committee, Report concerning Conclusions 2009, Doc. T-SG(2011)1final, §342), that people in distress – regardless of their nationality and regularity of their presence – can get emergency assistance not only in CTSAs, but also in a number of temporary reception centres run by associations and other institutions acting either on their own initiative or in partnership with local authorities (regions, provinces and municipalities).

It notes furthermore from the report that medical assistance is available to all foreign people in need, regularly or irregularly present in the country, upon presentation of a "STP code" (temporary foreign resident code) that they can get at any local health centre. The STP code is used to ensure continuity of care, it is valid for a renewable period of 6 months and gives access not only to emergency care, but also to a broad range of preventive, primary and even secondary health services as well as maternal care, mental healthcare, immunisations and basic medicines (including HIV treatment). Unaccompanied migrant children have full access to all types of care on equal footing with Italian nationals. The migrant may also sign a declaration of poverty, allowing him/her to access care free of charge including, in some cases, the co-payment required from every citizen. In addition, some regions have specific legal provisions granting migrants in an irregular situation broader access to health care, even beyond the services ensured by the STP code (source: Migrants in an irregular situation: access to healthcare in 10 European Union Member States, Fundamental Rights Agency 2011). For example, Tuscany's regional law emphasises the basic human rights of all immigrants and grants free access to healthcare and other forms of social assistance, such as meals at municipal cafeterias and beds in shelters (source: Fundamental rights of migrants in an irregular situation in the European Union, Fundamental Rights Agency, 2011).

### *Conclusion*

The Committee concludes that the situation in Italy is in conformity with Article 13§4 of the Charter.



## **Article 14 - Right to benefit from social services**

### *Paragraph 1 - Promotion or provision of social services*

The Committee takes note of the information contained in the report submitted by Italy.

### ***Organisation of the social services***

The right to benefit from social welfare services provided for by Article 14§1 requires Parties to set up a network of social services to help people to reach or maintain well-being and to overcome any problems of social adjustment. The Committee reviews the overall organisation and functioning of social services under Article 14§1. Social services include in particular counselling, advice, rehabilitation and other forms of support from social workers, home help services (assistance in the running of the home, personal hygiene, social support, delivery of meals), residential care, and social emergency care (shelters). Issues such as childcare, domestic violence, family mediation, adoption, foster and residential childcare, services relating to child abuse, and services for the elderly are primarily covered by Articles 7§10, 16, 17, 23 and 27. Co-ordination measures to fight poverty and social exclusion are dealt with under Article 30, while social housing services and measures to combat homelessness are dealt with under Article 31. The provision of social welfare services concerns everybody lacking capabilities to cope, in particular the vulnerable groups. These latter – children, the family, the elderly, people with disabilities, young people with problems, young offenders, refugees, the homeless, alcohol and drug abusers, victims of domestic violence and former prisoners – should be able to avail themselves of social services in practice. Since many of these categories are also dealt with by more specific provisions of the Charter, under Article 14 the Committee reviews the overall availability of such services and refers to those other provisions for the detailed analysis of the services afforded (Conclusions 2005, Interpretative statement on Article 14§1).

The Committee notes that the report deals with aspects which are covered primarily by other provisions of the Charter and has little to say about the organisation and functioning of the social services in general terms. It asks therefore for specific information to be included in the reports submitted under these provisions. It also asks for an up-to-date description of the general organisation of the social services, including the legal texts governing this sector, to be included in the next report to be submitted under Article 14§1. Pending this, it refers to Conclusions 2007 for a description of the organisation and functioning of the social services. In any event, the Committee highlights the highly decentralised nature of the organisation of the social services, involving both the regions and the provinces and municipalities, in the sense that there has to be substantial co-operation with the State authorities, particularly the Ministry of Labour and Social Policies, to strike the best possible balance between each stakeholder's prerogatives.

### ***Effective and equal access***

Under Act No. 328/2000 on the organisation of social services, all service providers must adopt a Charter of Services setting out the criteria for access to social services, their modus operandi, arrangements for consultation with users and remedies for users against social service managing bodies. This Charter makes it possible to make it known what services are available. The Committee points out that the description in the report of the content of the Charter is not very clear. It asks therefore whether there is a standard charter containing a common core of basic components which have to be set up and, if so, precisely what they are. If not, it asks on what basis charters are drawn up.

The previous conclusion (Conclusions 2009) highlighted the uneven geographical distribution of social services and then that provision varies according to region. The Committee notes the measures taken by the Government and described in the report, particularly as part of the National Strategic Framework for Regional Development Policy for 2007-2013, and the reallocation of resources in the areas of support for children and dependent elderly persons towards southern Italy as a result of a reprogramming of Community funding. It points nonetheless to the disparities in the amount of spending per inhabitant, which ranges from €50.90 in southern Italy to €160.80 in the north-east and that the municipalities manage 76% of social spending. The Committee infers from this that there is a risk of unequal treatment of social service users in Italy depending on the region in which they live. It asks what warrants this disparity and what measures are being taken or planned to reduce it.

### ***Quality of services***

All social service providers must adopt the Services Charter provided for by Law No. 328/2000 to obtain accreditation.

In reply to the Committee's question about the total number of persons employed by the social services and their qualifications, the report states that the data currently available date from 2001 but data for 2011 are due to be published shortly. The Committee asks for these data to be included in the next report and next periods of reference.

### ***Conclusion***

Pending receipt of the requested information, the Committee concludes that the situation in Italy is in conformity with Article 14§1 of the Charter.

## **Article 14 - Right to benefit from social services**

### *Paragraph 2 - Public participation in the establishment and maintenance of social services*

The Committee takes note of the information contained in the report submitted by Italy.

Framework Act No. 328/2000 on the establishment of an integrated system of social welfare provision and services acknowledges the importance of the voluntary sector and other third-sector organisations (in other words non-public non-profit-making organisations).

The Committee points out that it has previously highlighted the important role played by voluntary organisations in the provision of social services. It refers to the statistics presented in its last conclusion (Conclusions 2009). It notes that the Government has undertaken to provide, in the next report, updated statistics resulting from the 2nd census of non-profit-making organisations started by the National Institute for Statistics in September 2012. It asks for the next report to provide details of the number of people using social services provided by voluntary organisations, the number of such organisations registered, their geographical distribution, the number of salaried persons and volunteers working for them and the amounts and sources of their funding. The Committee also asks for information in the next report on the practical and financial support (such as tax benefits) offered to voluntary organisations by the State

The Committee notes that an information system on non-profit-making organisations (the SIONP) is currently being set up, and that this will ultimately collect data on such organisations, particularly as regards their areas of activity and their human resources. It asks for a more detailed description of this system in the next report including an assessment of its benefits for social service users.

The Committee recalls that the arrangements for the quality control of these services provided by non-public bodies are the same as for public bodies. It therefore refers to the description of the quality control of the social welfare services which appears in its previous conclusion (Conclusions 2009) under Article 14§1.

Despite the Committee's request in its previous conclusion (Conclusions 2009), the report does not provide information on the initiatives taken to promote representation of specific user-groups in bodies where the public authorities are also represented, and action to promote consultation of users on questions concerning organisation of the various social services and the aid they provide. The Committee reiterates its request. It underlines that if the necessary information is not provided in the next report there will be nothing to show that Italy is in conformity with the Charter.

### *Conclusion*

Pending receipt of the requested information, the Committee concludes that the situation in Italy is in conformity with Article 14§2 of the Charter.

## **Article 23 - Right of the elderly to social protection**

The Committee takes note of the information contained in the report submitted by Italy.

### ***Legislative framework***

In its previous conclusions (Conclusions 2009 and 2007) the Committee asked if anti-discrimination legislation (or an equivalent legal framework) to protect elderly persons outside the field of employment existed, or was envisaged. The Committee emphasised that in the absence of a reply in the next report, there would be nothing to prove that the situation of Italy was in conformity on this point. However, again no information was provided on this matter in the current report.

Consequently, the Committee concludes that it has not been established that there is an adequate legal framework to combat age discrimination outside employment.

The Committee asks for information on the legal framework related to assisted decision making for the elderly, and, in particular, whether there are safeguards to prevent the arbitrary deprivation of autonomous decision making by elderly persons. In this respect, the Committee refers to its statement of interpretation in the General Introduction.

### ***Adequate resources***

When assessing adequacy of resources of elderly persons under Article 23, the Committee takes into account all social protection measures guaranteed to elderly persons and aimed at maintaining income level allowing them to lead a decent life and participate actively in public, social and cultural life. In particular, the Committee examines pensions, contributory or non-contributory, and other complementary cash benefits available to elderly persons. These resources will then be compared with median equivalised income. However, the Committee recalls that its task is to assess not only the law, but also the compliance of practice with the obligations arising from the Charter. For this purpose, the Committee will also take into consideration relevant indicators relating to at-risk-of-poverty rate for persons aged 65 and over.

The Committee notes from MISSOC that no statutory minimum pension is provided for in the case of workers first insured starting from 1 January 1996; therefore, only pensions paid under the earnings-related scheme can be topped up till the minimum pension amount is reached. It is a means-tested benefit, therefore, in order to be entitled to it, personal income or household income must not exceed certain limits, which are set annually (€6 247 for a single person, approx. € 521/month in 2011). The annual amount of minimum pension (*pensione minima*) amounted in 2011 to €6 076 (€ 506/month). Beneficiaries of a minimum pension may also receive a supplement or supplements. The information supplied by the Italian authorities mentions different supplements and provides different rates for these. The Committee asks for further information on the available supplements, their number, conditions for receipt and rates.

The Committee asks for information about minimum income guaranteed to pensioners insured after 1 January 1996.

In addition, the report states that the Social Card – a magnetic card, funded by public funds and private donations, distributed by the Italian Mail Company, allows elderly persons on low income to use it to purchase food in certain shops or pay utility bills up to €40/month. It is available to persons over 65 with a pension below €6 000 per year (€8 000 if aged 70 or more), and financial holdings below €15 000.

The Committee notes that 50% of the Eurostat median equivalised income in 2011 stood at €665 (40% at €532). The minimum pension falls below 40% of the Eurostat median equivalised income, therefore the Committee cannot assess the situation until it receives further information on the supplements available (see above question).

The Committee notes from the supplementary information submitted by Italy that there is a social assistance allowance payable to those over 65 years of age and who have an income below €5 749.90. In 2012 the amount payable to a single person was €442.30 per month. The Committee notes that this also falls below 40% of the Eurostat median equivalised income and again asks whether supplements or other benefits and allowance are payable.

### ***Prevention of elder abuse***

According to the report, there is no systematic collection of data on the subject. The report confirms that most cases of elderly abuse occur in the home environment and are very difficult to reveal. The few available population-based studies suggest that the phenomenon is limited to 4-6% of the elderly population, and in 2/3 of cases the maltreatment seems to be inflicted by family members (children or spouses). Thus, the family physician and geriatrician have an important role in the prevention of abuse and reporting it to the competent authorities. According to the Code of Professional Conduct, the physician must protect the elderly, especially when he believes that the environment in which they live is not suitable for their treatment or if they suffer from maltreatment, violence or sexual abuse, and must ensure that the quality of treatment and the dignity of life are guaranteed.

Furthermore, the report states that the abuse of an elderly man or a woman is criminally punishable in Italy, even if it does not constitute a specific offence – indirectly such abuse falls under "crimes against the family assistance", covered by Article 571 (Abuse of corrective and disciplinary measures) and Article 572 of the Penal Code (Maltreatment in family or towards children), as well as under Article 643 of the Penal Code (Abuse of weakness).

The Committee would like to receive more information about measures taken to evaluate the extent of the problem and to raise awareness about the need to eradicate elder abuse and neglect. It also asks if any specific legislative or other measures are envisaged in this area.

### ***Services and facilities***

The Committee notes that the Italian welfare model continues to place strong emphasis on family support structures. In this connection, it notes from the report the Constitutional Court, in its judgement No. 19 of 26 January 2009, extended the possibility to benefit from two years' paid leave also to children living with a parent with a serious disability, in the absence of other persons capable to care for them. The Constitutional Court's guidelines have been implemented by Section 4 of Legislative Decree No. 119 of 18 July 2011, which provides that the spouse living with a person with a severe disability is entitled to a special leave as referred to in Law No. 53 of 8 March 2000.

The Committee further notes that in 2009, the Ministry of Labour and Social Policy launched a project "System actions and technical assistance to achieve the target for integrated home support services (ADI) for the elderly". The project is aimed at supporting eight southern regions (Abruzzo, Basilicata, Calabria, Campania, Molise, Puglia, Sicily and Sardinia) in order to increase the percentage of elderly recipients of home support services from 1.6% to 3.5%.

The report further states that at the national level, about 52% of the resources addressed to seniors concern interventions and services, among which home support services seem to be of

major importance. Various subsidies represent 27% of the expenditure for the elderly, most of which cover accommodation costs in residential institutions, while the remaining 20% is used for financing institutions, mostly residential.

The Committee asks what kind of home support services are available and reiterates its request for information on whether the supply of services to the elderly matches the demand for them, how their quality is monitored and whether there is a procedure for complaining about the standards of services.

### ***Housing***

The Committee notes from the report that the National Plan for Housing Construction of 2009 provides for promotion of social and residential constructions. The Plan stipulates that the resources available must be divided according to agreements with the regions and the municipalities. Depending on the actual needs of local housing, each community manages the resources they have received for that purpose. The Committee would like to receive more information about the implementation of this Plan in practice, in particular whether the Plan includes construction of sheltered/supported housing adequate for the elderly, and whether the supply of such housing is sufficient.

The report again fails to provide information on whether there financial assistance is available for the adaptation/renovation of private accommodation of elderly persons. The Committee reiterates its request for information on this matter. In the meantime, it reserves its position as to whether Italy complies with this part of Article 23.

### ***Health care***

The Committee notes from the report that the problem of dementia and the anticipated increase in number of patients with Alzheimer is one of the priorities of the National Plan for Prevention 2010-2012, putting particular emphasis on overall clinical governance, promoting best practice based on clinical evidence and defining 'validated and shared care pathways'. It is up to the regions to include specific details in their Regional Prevention Plans (PRP). To support the work of the Regions, the Ministry of Health planned a series of Central Support Actions based on sharing of documents on integrated management, research projects results, and on multidisciplinary and multi-professional trainings, including trainings for family members who are involved in treatment and care. According to the Agreement between the State and the Regions of 8 July 2010, relating to the Objectives of the Regions Plan, €20 million was allocated to the regions to finance specific projects in the field of care for patients with dementia.

The report further states that the Ministerial Decree of 20 July 2000 envisaged creating of structures for the diagnosis and treatment of Alzheimer's disease (Alzheimer Evaluation Units – UEA), to ensure maximum accessibility to all patients concerned. According to the report, there are about 500 of these Units in the country, with more than 2000 employees. Each patient admitted for treatment, after the first four months, is entitled to receive the necessary medication free of charge, on the basis of a family doctor's prescription.

### ***Institutional care***

The report provides no information on this point. The Committee refers to its previous conclusion and asks the next report to provide up-to-date information on the impact of previously described social policies aimed at reducing the number of persons living in residential institutions. It also asks whether the supply and types of institutional facilities match the demand

and particular needs of the elderly persons, whether the rights of elderly persons living in institutions are safeguarded (including the right to appropriate care and services, the right to privacy, to personal dignity, to complain about the treatment and living conditions), and what are the requirements regarding the staff qualifications and the use of physical restraints.

*Conclusion*

The Committee concludes that the situation in Italy is not in conformity with Article 23 of the Charter on the ground that it has not been established that there is an adequate legal framework to combat age discrimination outside employment.

## **Article 30 - Right to be protected against poverty and social exclusion**

The Committee takes note of the information contained in the report submitted by Italy.

The Committee refers to its statement of interpretation on Article 30 in the General Introduction to these Conclusions and invites the Government to take it into account when drawing up the next report.

### ***Measuring poverty and social exclusion***

According to the report, the two main indicators used by the ISTAT (national bureau of statistics) to measure poverty are the relative poverty rate and the absolute poverty rate.

The relative poverty line for a family of two components, in Italy, is equal to the average monthly spending per person. Absolute poverty is calculated by ISTAT on the basis of a poverty line that corresponds to the minimum monthly expense necessary to acquire the basket of goods and services that are considered essential to achieve a standard of living minimally acceptable.

In 2009, 2010 and 2011 the relative and absolute national poverty rates were 13.1% and 5.3%, 11% and 4.6% and 11.1% and 5.2%, respectively.

According to Eurostat, the “composite” at-risk-of-poverty rate (the Europe 2020 target indicator) in Italy was 25.3% in 2008, 24.5% in 2010 and 28.2% in 2011, which is above the EU-27 average of 24.2% in 2011.

The overall monetary poverty rate was 18.7% in 2008 and increased to 19.6% in 2011 (EU-27 average: 16.9%). Poverty was more pronounced for the 18-24 age group: 24.9% in 2011 compared to an EU-27 average of 21.7%.

The report states that the most vulnerable social groups in Italy are women, older and not-self-sufficient people, children and young people, immigrants, the homeless, Roma and ethnic minorities. The Committee asks that the next report contain detailed and up-dated information on poverty rates for these specific target groups. It also wishes to receive information on in-work poverty and it repeats its request for information on indicators used to measure social exclusion.

### ***Approach to combating poverty and social exclusion***

The Committee recalls that under Article 30 States Parties must adopt a global, coordinated approach, which must comprise an analytical framework, and take measures promoting access to social rights, in particular employment, housing, training, education, culture and social and medical assistance for persons in or at risk of finding themselves in a situation of poverty or social exclusion.

The Committee notes from the report the adoption of laws concerning the financial aid to such vulnerable groups as children, elderly and families, including pensioners. The report also provides information on the measures taken on implementation of the UN Convention on the rights of people with disabilities ratified by Italy in 2009.

The report does not provide detailed information concerning policies and strategies adopted during the reference period to combat poverty and social exclusion. However, the Committee notes from another source, that policy uncertainty affected the 2008-2010 National Reform Programme (NRP) and the associated National Strategy Report for Social Protection and Social Inclusion (NSR). The 2008 NSR stated a number of policy priorities (extreme poverty and homeless; families in hardship conditions; child poverty; immigrants, Roma and Sinti), but in a generic manner and with a limited scope compared with the priorities of the 2006 – 2008 NSR.



According to this source, the increasing impact of the global financial and economic crisis obliged the government to concentrate its policy priorities on austerity measures and on financing shock absorbing mechanisms (e.g. unemployment benefits) through the utilisation of regional resources provided by the European Social Fund (ESF).<sup>1</sup>

The Committee recalls that in the General Introduction to Conclusions XIX-2 (2009) it considered that the economic crisis should not have as a consequence the reduction of the protection of the rights recognised by the Charter. Hence, the governments are bound to take all necessary steps to ensure that the rights of the Charter are effectively guaranteed at a period of time when beneficiaries need the protection most.

The 2011 NRP included an action plan to favour employability of young people, a programme for labour market inclusion of women and a triennial plan for jobs. The plan for young people (approved in September 2009) was aimed at integrating learning and work, facilitating transition from school to work mainly by strengthening apprenticeships also as a means to comply with compulsory education. The second plan (approved in December 2009) was devoted to women and concerned criteria to finance projects on work-life balance, decentralisation of collective bargaining supported by incentives aimed at linking wage and productivity. The third plan (approved in July 2010) encompassed the other two plans with three priorities: the fight against undeclared work associated with an improvement in safety at work and an increase in flexible jobs; decentralisation of collective bargaining linked to productivity and wages; the improvement in skills for company-based employability.

With respect to the allocation of resources to the combat against poverty and social exclusion, the Committee notes from the report that the main financial instruments used to combat poverty and social exclusion are Public Finances and EU funds. With Decree Law No. 78/2009, converted and amended into Law No.102/2009, a “Fund for Social policies of Regional relevance” with an annual budget of €300 million minimum, has been created under the auspices of the Ministry of Economy and Finance.

The Committee notes from another source that total spending on social protection in Italy corresponded to about 29.9% of GDP in 2009 which was above the average for EU-27 (28.4%). In terms of breakdown by category of benefit expenditure on old-age and survivors benefit accounted for almost 61% of total expenditure which was significantly above the EU-27 average (45%) whereas expenditure on unemployment and social exclusion at 2.9% and 0.3% respectively was significantly below the EU average (6% and 3.6% respectively). In terms of the effect of social transfers the Committee notes from Eurostat that the poverty rate before transfers was 24.4% in 2011 and 19.6% after transfers indicating that the effect of transfers is less in Italy than in many other European countries.

The Committee asks that the next report contain more detailed information on resource allocation for measures to combat poverty and social exclusion, including on whether the allocations match the increase in poverty rates.

The Committee recalls that rights relating to civic and citizens’ participation, such as the right to vote, constitute a necessary dimension in achieving social integration and inclusion and they are thus covered by Article 30. It refers to its remarks below on follow-up to collective complaints.

In its previous conclusion the Committee held that Italy had not demonstrated the existence of an overall and coordinated approach providing for adequate measures to combat poverty and social exclusion. The information contained in the present report is not sufficient to alter the Committee’s view and taking into account increases in the extent of poverty, the relatively low

spending effort on unemployment and social exclusion as well as the moderate effects of social transfers, the Committee reiterates its conclusion of non-conformity in this respect.

### ***Monitoring and assessment***

The Committee recalls that under Article 30 the States Parties must show how they monitor and evaluate poverty reduction measures as well as provide information on the results of such monitoring and evaluation (including on any changes/adaptations undertaken in consequence). It is also important that civil society and social partners are involved in the monitoring and evaluation effort. Furthermore, the Committee considers that the participation of those who experience poverty and social exclusion in the implementation, monitoring and evaluation of poverty reduction measures is crucially important for ensuring the pertinence and efficiency of these measures.

The report provides no information on how the measures to combat poverty and social exclusion are monitored and evaluated in Italy. The Committee asks that the next report contain detailed information in this respect.

The Committee observes from another source, that the National Reform Programmes (NRP) were not well structured to include the participation of all relevant actors (including those experiencing poverty and social exclusion, the social partners, non-governmental organisations and service providers).<sup>2</sup>

### ***Follow-up to collective complaints***

*Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010*

The Committee refers to its decision on the merits in which it found that there were restrictions on the possibilities for migrant Roma and Sinti to participate in civic decision-making processes. This leads to discriminatory treatment with regard to the right to vote or other forms of citizen participation for Roma and Sinti and, thus, is a cause of marginalization and social exclusion. The Committee held that this situation constituted a violation of Article E taken in conjunction with Article 30.

The information in the present report does not lead the Committee to take a different view of the situation, which consequently remains in breach of Article 30.

### ***Conclusion***

The Committee concludes that the situation in Italy is not in conformity with Article 30 of the Charter on the grounds that

- it has not been established that there is an overall and coordinated approach to combating poverty and social exclusion;
- there is discriminatory treatment of migrant Roma and Sinti with regard to citizen's participation.

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<sup>1</sup><http://ec.europa.eu/social/keyDocuments.jsp?policyArea=&type=0&country=23&year=0&advSearchKey=&mode=advancedSubmit&langId=en>

<sup>2</sup>*Ibid.*