



January 2018

European Social Charter

European Committee of Social Rights

Conclusions 2017

ITALY

This text may be subject to editorial revision.

The following chapter concerns Italy, which ratified the Charter on 5 July 1999. The deadline for submitting the 16th report was 31 October 2016 and Italy submitted it on 7 March 2017.

In accordance with the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, the report concerns the following provisions of 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 provisions from the above-mentioned group.

The reference period was 1 January 2012 to 31 December 2015.

The conclusions relating to Italy concern 19 situations and are as follows:

– 7 conclusions of conformity: Articles 11§1, 11§2, 11§3, 12§2, 13§3, 13§4 and 14§2.

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

In respect of the 6 other situations related to Articles 3§1, 3§2, 3§3, 12§1, 13§2 and 14§1 the Committee needs further information in order to examine the situation. The Committee considers that the absence of the information requested amounts to a breach of the reporting obligation entered into by Italy under the Charter. The Committee requests the authorities to remedy this situation by providing the information in the next report.

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The next report to be submitted by Italy will be a simplified report dealing with the follow up given to decisions on the merits of collective complaints in which the Committee found a violation.

The report should also contain information requested by the Committee in Conclusions 2016 in respect of its conclusions of non-conformity due to a repeated lack of information:

- the right to engage in a gainful occupation in the territory of other States Parties
 - applying existing regulations in a spirit of liberality (Article 18§1).

The deadline for submitting that report was 31 October 2017.

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Conclusions and reports are available at www.coe.int/socialcharter as well as in the HUDOC database.

Article 3 - Right to safe and healthy working conditions

Paragraph 1 - Health and safety and the working environment

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

General objective of the policy

The Committee previously found the situation not to be in conformity with the Charter on the grounds that there was no appropriate occupational health and safety policy. It observed that Legislative Decree No. 81/2008 established 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 asked 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 (Conclusions 2013).

The report states that the Advisory Commission on Occupational Health and Safety has drawn up and adopted in 2013 a series of activities to prevent accidents at work and occupational diseases, which according to the report can amount to a national strategy, it also refers to regional plans for the prevention of occupational accidents and diseases. The Committee requests the next report to provide further details of the national strategy in force during the reference period. It reserves in the meantime its position on this point.

A governmental source refers to a National Prevention Plan 2014-2018 (*Piano Nazionale della Prevenzione 2014 – 2018*) aimed at promoting human health and prevention, including as regards knowledge and prevention of work-related risks and diseases. This plan replaced the National Prevention Plan 2010-2012. The Committee asks for further information on the National Prevention Plans.

The report states that the policy and strategy in force are fully in line with the EU strategy. It refers to the decrease in the rate of occupational accidents as evidence that the policies and strategies are having positive effects.

The Committee recalls that new technology, organisational constraints and psychological demands favour the development of psychosocial factors of risk, leading to work-related stress, aggression, violence and harassment. Under the provisions of Article 3§1 of the Revised Charter the Committee accordingly includes work-related stress, aggression and violence when examining whether policies are regularly assessed or reviewed in the light of emerging risks. States parties have a duty to carry out activities in terms of research, knowledge and communication relating to psychosocial risks (Statement of Interpretation on Article 3§1 of the Charter, Conclusions 2013).

The report states that Italy is implementing the European framework agreement on work related stress of 8 October 2014, in addition INAIL in 2007 has created a working group on the prevention of psychosocial illnesses at work which undertakes research on the issue and issues guidelines. Awareness raising projects on work related stress have also been carried out at regional level.

Organisation of occupational risk prevention

The Committee previously concluded that there was no adequate system to organise occupational risk prevention (Conclusions 2013).

Article 28 of Legislative Decree No.81/2008 provides that all public and private companies must draft and update a formal Risks assessment document, which must outline the necessary prevention and protection measures as well as personal protective equipment. The risk assessment document must include a report detailing all the work-related risks to health and safety according to several risk factors (workplace; machinery; equipment; chemical, physical and biological risks; organisational and management issues, etc.) It should also indicate the criteria used to assess the risks and include a statement by the

employer on the prevention and protection measures implemented in order to eliminate the risks identified or to reduce them to an "acceptable level", if it is not possible to completely eliminate them.

The employer is responsible for drawing up a risk assessment and appointing the head of risk prevention. As part of a series of responsibilities in the area of health and safety, the employer and managers working on his or her behalf are required to consult with safety representatives, representing the employees.

The Committee seeks confirmation that all employers must carry out a risk assessment irrespective of the size of the undertaking. It further requests updated information on the Advisory Commission on Occupational Health and Safety, set up by Article 6 of Legislative Decree No. 81/2008, and its role in respect of risk assessment. It reserves in the meantime its position on this point.

Improvement of occupational safety and health

The Committee previously noted that there is a system aimed at improving occupational health and safety through research, development and training (Conclusions 2013). It asks that the next report contain updated information. It reserves in the meantime its position on this point.

Consultation with employers' and workers' organisations

The Committee previously noted 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 requested information on the consultation with bodies with responsibility for occupational health and safety issues at the undertaking level (Conclusions 2013).

In this connection, the Committee notes that, at local level, employee representation in the area of health and safety at work is primarily provided by company safety representatives (*rappresentante dei lavoratori per la sicurezza aziendale* – RLS). However, there are also area safety representatives (*rappresentante dei lavoratori per la sicurezza territoriale o di comparto* – RSLT), covering companies without a safety representative across a specific geographical area, and site safety representatives (*rappresentante dei lavoratori per la sicurezza di sito produttivo*), who have a coordinating role where several companies share a single site – such as construction sites, ports and transport hubs.

Conclusion

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

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.

Content of the regulations on health and safety at work

The Committee previously found (Conclusions 2013) that the legislation and regulations met 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 (1998).

The report states that 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, and Directive 2010/35/EU of the European Parliament and of the Council of 16 June 2010 on transportable pressure equipment have all been transposed into domestic law. In addition Directive 2014/27/EU of the European Parliament and of the Council of 26 February 2014 amending Council Directives 92/58/EEC, 92/85/EEC, 94/33/EC, 98/24/EC and Directive 2004/37/EC of the European Parliament and of the Council, in order to align them to Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures has been transposed into domestic law and the transposition of Directive 2013/35/EU of the European Parliament and of the Council of 26 June 2013 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (20th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) and repealing Directive 2004/40/EC is currently being prepared.

The Committee previously pointed out that under the terms of Article 3§2 of the Charter, regulations concerning health and safety at work must cover work-related stress, aggression and violence specific to work, and especially for workers under atypical working relationships (Statement of Interpretation on Article 3§2 of the Charter, Conclusions 2013). It requested information on this issue.

The report does not provide any information on this point. The Committee accordingly reiterates its request and reserves in the meantime its position on this point.

Levels of prevention and protection

The Committee considers the levels of prevention and protection that the legislation specifies for certain risks.

Establishment, alteration and upkeep of workplaces

The Committee previously considered that levels of prevention and protection in relation to the establishment, alteration and upkeep of workstations complied with Article 3§2 of the Charter (Conclusions 2013). It asked however for details on the requirement for employers to assess the occupational risks of workstations and the deadlines for compliance.

According to the report, Legislative Decree No.81/2008 provides in Article 28 that all public and private companies must draft and update a formal Risks assessment document which must outline the necessary prevention and protection measures as well as personal protective equipment (see conclusion under Article 3§1).

Protection against hazardous substances and agents

Protection of workers against asbestos

The Committee previously requested information on the measures taken to incorporate the exposure limit of 0.1 fibres per cm³ 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 asked for information about the Government's intentions concerning the ratification of ILO Convention No. 162 on Asbestos (1986), (Conclusions 2013).

The report states that in February 2015 draft legislation transposing Directive 2009/148/EC was presented to Parliament. The report further states that the Government intends to ratify ILO Convention No. 162 on Asbestos (1986). By 2015 regional plans on asbestos were under preparation in several regions, other regions were completing an inventory on buildings with asbestos. According to the report, work on elimination of asbestos is continuing. The Committee asks to be kept informed of all developments on this issue. It reserves in the meantime its position.

Protection of workers against ionising radiation

As regards protection of workers against ionising radiation the Committee previously found the situation to be in conformity with the Charter (Conclusions 2013).

The Committee seeks confirmation that workers are protected up to a level at least equivalent to that set in the Recommendations by the International Commission on Radiological Protection (ICRP Publication No. 103, 2007). It reserves in the meantime its position on this point.

Personal scope of the regulations

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

Temporary workers and other types of workers

The Committee previously examined (Conclusions 2013) 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 cover all employees irrespective of their contractual status and concluded that the situation was in conformity with the Charter in this respect. It also noted 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 report confirms that this is still the case.

The Committee previously examined (Conclusions 2013) the protection of self-employed workers, home workers and domestic staff. It concluded that the situation was in conformity with the Charter.

Although Legislative Decree No. 81/2008 does not apply to domestic workers, Act No. 339/1958 of 2 April 1958 protects the physical and psychological integrity of domestic staff. The Committee also notes National Collective Labour Agreement on the regulation of Domestic Work which provides that domestic workers have the right to a healthy and safe workplace. The Committee requests information on measures to ensure the occupational health and safety of domestic workers. It reserves in the meantime its position on this point.

Consultation with employers' and workers' organisations

The Committee previously concluded (Conclusions 2013) that the situation was in conformity with the Charter as regards the consultation of employers' and employees' organisations. It asked however for information 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. As the report provides no information on this point, the Committee reiterates its request and reserves in the meantime its position.

Conclusion

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

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.

Accidents at work and occupational diseases

According to the report the rate of occupational accidents including fatal accidents decreased during the reference period; 663 000 accidents were declared in 2014 (of which 437 000 were confirmed as occupational accidents), a decrease of 4.6% from 2013 and a decrease of 24% from 2010. The number of fatal accidents in 2014 was 1 107. The report states that 18% of accidents took place outside the place of work, i.e. while travelling to and from work or involving transport; the corresponding figure for fatal accidents was 54%.

However the number of occupational diseases increased over the reference period; 57 000 illnesses were declared in 2014, an increase of 33% from 2010.

EUROSTAT figures for 2014 indicate that there were 313 312 non fatal accidents at work corresponding to the incidence rate observed in the EU 28 (1 642.09). The number of fatal accidents for the same period was 522, this corresponds to an incidence rate that is higher than the incidence rate observed in the EU 28.

The Committee previously requested explanations regarding the major discrepancies between the data in the report and those published by EUROSTAT, the report repeats that the discrepancies between the data in the report and those published by EUROSTAT stem from the fact that EUROSTAT excludes transport accidents.

It also reiterated 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. The report states that foreign workers are predominantly employed in domestic work, industry and construction. In 2013, 101 188 accident involving foreign-born persons were registered, which represents a decrease from 2012. Most accidents take place in the manufacturing industry and construction (according to the report changes to the labour inspection system will further decrease the number of accidents suffered by foreign workers).

The Committee asks that the next report provide information on the concept of occupational diseases, mechanisms for recognising, reviewing and revising of occupational diseases (or the list of occupational diseases), most frequent occupational diseases registered during the reference period, as well as the preventative measures taken or envisaged. It reserves in the meantime its position on this point.

Activities of the Labour Inspectorate

The report refers to the changes to labour inspection introduced as a result of the "Jobs Act". In particular, according to the report, Legislative Decree No.149/2015 simplifies the current system of labour inspection by creating a unique labour inspection authority (NLI) through the integration into a single structure of the inspection services of the Ministry of Labour and Social Policies, INPS, and INAIL, providing tools and forms of cooperation with the inspection services of Local Health Authorities (ASL) and Regional Agencies for Environmental Protection (ARPA).

The core function of the NLI is the overall coordination of inspection activities covering , inter alia health and safety at work. by planning inspection activities; defining inspection procedures and tools and developing guidelines and operational directives for all the personnel involved, proposing qualitative and quantitative targets, and monitoring their achievement, planning training activities for inspectors and coordinating with other relevant bodies.

The NLI is also in charge of analysing undeclared work and of developing the risk-mapping to be used when planning inspections that focus on this kind of employment. It is also in charge of raising awareness of undeclared work among relevant stakeholders and companies.

The Committee previously requested information on the number of workers covered by the inspection visits carried out. In order to gauge the efficacy of inspections and the deterrence of sanctions, it also requested 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.

The Committee notes that the report provides some information on these issues; such as the number of inspectors, their power of investigation, and sanctions they may impose. However in light of the newly restructured inspection services the Committee asks the next report to provide updated information on the above mentioned issues and reserves in the meantime its position.

The Committee notes (see Conclusion under Article 3§2) that domestic workers are not covered by occupational health safety legislation – Legislative Decree No 81/2008 – but by other legislation which protects their physical and psychological integrity and the National Collective Labour Agreement on the regulation of Domestic Work. It requests information in the next report on the measures taken to ensure the health and safety of domestic workers.

Conclusion

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

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.

In its previous conclusion (Conclusions 2013), the Committee renewed its request for information on the proportion of undertakings equipped with medical services or sharing them in practice and asked 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.

According to the report, occupational doctors are obliged to submit data on the workers they see to the relevant Local Health Authority (ASL), which enables it to have an overview of the situation: 3597 occupational doctors in 2012 and 5018 occupational doctors in 2013 submitted data to the ASL. Legislative Decree No.81/2008 provides for sanctions to be imposed on employers who fail to nominate an occupational doctor.

The Committee recalls that it previously stated that without information on the proportion of undertakings providing services it would be unable to establish whether the situation is in conformity with the Charter. The report states that not all undertakings are obliged to provide occupational health services, only those where there have been deemed to be risks. However, it states that it is not possible to provide information on the percentage of undertakings providing health services. The Committee accordingly reiterates its request for information which would demonstrate that occupational health services are being progressively provided to all workers. In the meantime, it concludes that the situation is not in conformity with the Charter on grounds that it has not been established that there is a strategy to progressively provide access to occupational health services for all workers in all sectors of the economy.

The Committee furthermore 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 temporary workers, interim workers, self-employed workers, home and domestic workers.

Conclusion

The Committee concludes that the situation in Italy is not in conformity with Article 3§4 of the Charter on the ground that it has not been established that there is a strategy to progressively provide access to occupational health services for all workers in all sectors of the economy.

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.

The Committee recalls that the assessment of the follow-up to collective complaints No. 87/2012 *International Planned Parenthood Federation – European Network (IPPF EN) v. Italy*, decision on the merits of 10 September 2013, and No. 91/2013 *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy*, decision on the merits of 12 October 2015, on the right to protection of health in Italy, will be done in the framework of Conclusions 2018.

Measures to ensure the highest possible standard of health

The Committee notes from WHO data that life expectancy at birth (average for both sexes) was 82.7 years in 2015 (80.07 years in 2009; the average observed by Eurostat in 2015 in the 28 EU member States was 80.6 years).

The report indicates that the death rate (deaths per 1000 inhabitants) was 10.7 per 1000 inhabitants (9.78 in 2009). The report adds that 2015 was marked by a significant increase in deaths, primarily among the old (75-95 years).

The report also states that according to the survey entitled "*The main causes of death in Italy*", carried out by the National Institute of Statistics (ISTAT) in 2012 and published in 2014, the most frequent causes of death were ischemic heart disease (12% of the total), cerebrovascular disease (10% of the total) and other forms of heart disease (8%), followed by malignant tumours (those affecting the trachea, the bronchi and the lungs – 6% of the total) and hypertensive disease (5% of the total). The same source indicates that there has also been an increase in dementia and Alzheimer's disease, which constitute the sixth cause of death (4.3% of the annual total). The report mentions the measures taken to prevent cardio-vascular disease, cancer, diabetes, respiratory disease and dementia.

The Committee asks to be informed of the main causes of death and the measures taken to prevent them.

The Committee notes that the infant mortality has decreased since the last reference period. According to Eurostat, in 2015, the rate stood at 2.9 deaths per 1000 live births compared to 3.62 deaths per 1000 live births in 2009 (the EU 28 rate was 3.6 in 2015).

The Committee notes from World Bank data that the maternal mortality rate has remained stable since the last reference period: the rate was still 4 deaths per 100 000 live births in 2015, as was the case in 2009. The report states that according to a pilot project on monitoring maternal mortality, which was co-ordinated by the National Health Institute in six regions, there were differences between regions. For example, among the participating regions, the lowest ratio (4.6 per 100 000 live births) was noted in Tuscany while the highest (13.4 per 100 000 live births) was in Campania. The Committee asks that the next report contain updated figures on maternal mortality rate in all regions of Italy.

Access to health care

The Committee previously noted that the health care system is organised at three levels (national, regional and local) and provides universal coverage (Conclusions 2009).

This report lists the measures and programmes put in place by the 2010-2012 National Prevention Plan (NPP). The report also states that, in 2014, a 2014-2018 National Prevention Plan was approved. This new NPP, which will last five years, is aimed at defining a health promotion and prevention system that can support persons at all stages of their lives, in their living and working environments. The report lists 10 strategic goals of the new NPP, which will be pursued in all the regions. The Committee asks that the next report provide information on implementation of the new 2014-2018 National Prevention Plan's programmes and proposals.

The report mentions the fact that the fight against propagation of chronic diseases promoted by the World Health Organisation (WHO), including through the recent *Health 2020* programme, is especially important in countries such as Italy, which has one of the highest rates of ageing in Europe and the world. In 2015 the most common diseases and chronic conditions were high blood pressure (17.1%), osteoarthritis/arthritis (15.6%), allergic diseases (10.1%), osteoporosis (7.3%), chronic bronchitis and bronchial asthma (5.6%) and diabetes (5.4%).

With regard to waiting times, in its previous conclusion, the Committee took note of the National Waiting-List Plan for 2010-2012, forming part of the agreement between the state and the regions (Conclusions 2013). The report provides data reflecting the monitoring of waiting lists for admission, as provided for by the aforementioned plan, for 2010 (outside the reference period). The Committee asks for updated information on waiting lists and on the trend (downwards or upwards).

As concerns health spending, the Committee notes from OECD data that health spending in Italy (excluding spending on investment in the health sector), represented 8.8% of GDP in 2013 compared to an average of 8.9% for OECD countries. The report indicates that families' health spending represented 1.8% of national GDP. The share of the total covered by public funds was 79.4% and the remaining 20.6% was borne by the families concerned.

Regarding citizens' contribution to the cost of services, the Committee takes note of the measures taken concerning pharmaceutical services and specialised outpatient care, both nationwide and in the different regions. The report indicates that, in 2015, exemptions were provided for at national level in respect of certain conditions (certain chronic illnesses and rare diseases, pregnancy and disability), for some preventive activities (screening of certain types of cancer, HIV testing) or for certain categories of citizens identified on the basis of a combination of personal, social and income-related circumstances.

Concerning equitable access to health care, the Committee previously noted that, although universal coverage for a fairly comprehensive set of health services has been on offer for decades, there is still evidence of inequities associated with income (Conclusions 2013). The Committee asked for comments on this point (Conclusions 2013). The report states that Act No. 833 of 1978 created a National Health Service which made it possible to extend health protection to everyone, and no longer only to some categories (workers, pensioners, their families and particularly destitute persons with no compulsory insurance cover). The National Health Service has at its disposal accredited public and private health establishments to which citizens can turn, according to their needs and preferences. The Committee asks how this is insured in practice for everyone (including for patients from the most disadvantaged groups, or with low income) and in all regions of Italy.

The Committee asks that the next report provide updated information on the availability of mental health services and treatment, including information on the prevention of mental disorders and measures taken to ensure recovery.

The Committee also asks that the next report contain information on dental services and treatment (for example, who is entitled to free dental treatment, costs for the main types of treatment and the proportion of charges paid by patients).

Regarding the right to protection of health of transgender persons, the Committee previously received from the ILGA (International Lesbian and Gay Association) (European Region) a document in which it alleged that in Italy there is a requirement that transgender people undergo sterilisation as a condition of legal recognition of their gender identity. The Committee asked in its previous conclusion whether transgender persons have to undergo sterilisation to obtain legal recognition of their gender identity (Conclusions 2013).

The Committee takes note of the submissions made by Transgender Europe and ILGA (European Region) regarding the implementation of Article 11 of the Charter during the current monitoring cycle, which indicate that Italy is among those states which have

amended their legislation or practice since 18 March 2015 and which no longer require sterilisation. The Committee asks that the next report confirm this assertion. It moreover notes that this report indicates that the trend in the case law is towards rectifying gender identity in documents even without medical or surgical treatment.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Italy is in conformity with Article 11§1 of the Charter.

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 Committee previously requested updated information on all the activities carried out by the public health services or other bodies to promote good health and prevent disease (Conclusions 2013). The report provides detailed information on the campaigns carried out during the reference period, in particular with regard to obesity, smoking, alcohol abuse, AIDS, prevention of infections and influenza, etc.

Regarding health education in schools, the report indicates that the "Guidelines on nutrition education in Italian schools", which were promulgated in 2011, constitute a basic framework to which the "Ministry of Education, Universities and Research (MIUR) 2015 Guidelines for nutrition education" have been seamlessly added. These "MIUR 2015 Guidelines" set out the epistemological context in which nutrition education should be placed in the Italian education and training system, also in the light of the educational and cultural heritage of EXPO 2015.

The Committee wishes to point out that health education should be provided throughout schooling and that it should be part of school curricula. Health education should at least cover the following subjects: prevention of smoking and alcohol abuse, sexual and reproductive education, in particular with regard to prevention of sexually transmitted diseases and AIDS, road safety and promotion of healthy eating habits. It also recalls that sexual and reproductive health education is considered as a process aimed at developing the capacity of children and young people to understand their sexuality in its biological, psychological, socio-cultural and reproductive dimensions, which will enable them to make responsible decisions with regard to sexual and reproductive health behaviour (INTERIGHTS v. Croatia, Complaint No. 45/2007, Decision on the merits of 30 March 2009, §46). The Committee asks that the next report indicate whether the aforementioned subjects have been included in school curricula.

Counselling and screening

The Committee previously 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 the schools and 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). The Committee had asked how often the maternity and paediatric departments of the local health units provided the different services for which provision is made in the context of the school health system (Conclusions 2009). The report states that no surveys have been carried out on the activities of these departments in the Italian regions and, therefore, it is impossible to submit the information requested.

The Committee previously requested up-to-date information on screening programmes available throughout the country (Conclusions 2013). The report indicates that, since 2001, cancer screening has been part of the essential assistance standards (LEAs) and that there is active screening of breast, cervical and colorectal cancer. The latest available data show a general increase in participation rates for the three screening programmes. Moreover, in 2012, over 300 000 women (8% of the population) were invited to take the test for HPV and 42% accepted the invitation.

The Committee also asked for confirmation that free and regular consultation and screening for pregnant women exists throughout the country (Conclusions 2013). The report indicates that couples wishing to have children and pregnant women are entitled to free provision of

certain specialised services and diagnoses, aimed at protecting their health and that of the baby. The report provides a list of services, which include diagnostic examinations for physiological screening during pregnancy, all the necessary and appropriate services for prenatal diagnosis during pregnancy, as prescribed by a specialist, and all the necessary and appropriate services generally prescribed by a specialist for the treatment of diseases (pre-existing or which occur during pregnancy) which pose a risk for the mother or the unborn child.

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 measures introduced by Italy during the reference period to reduce environmental risks, in particular in the fields of air quality, water management, soil pollution and food security. Concerning noise management, the report indicates that the legislative context has remained unchanged.

With regard to air quality, the report states that critical episodes were essentially attributable to PM₁₀, PM_{2.5}, NO₂ and O₃ and that the regions of Northern Italy were the most affected. The XI report on the quality of air in urban areas (2013) indicated that the concentration of B(a)P, a tracer of the HPA family selected for its carcinogenicity, exceeded the limit value in more than 20% of the urban areas taken into consideration during 2012. Following these findings, more than 70% of the urban areas covered by this study drew up an air quality plan aimed at keeping within the limits prescribed by the regulations. The measures set out in these plans were mainly intended to limit road traffic, to enhance the efficiency of systems for energy production, and, to a lesser extent, to reduce industrial emissions and the nitrogen loads in waste water from stock-farming.

The Committee moreover notes that, according to the 2015 report of the European Environment Agency (EEA), in 2012, air pollution caused 84 400 premature deaths in Italy, the highest level among EU states. The Committee asks that the next report provide information on the implementation of the measures taken and up-to-date information on the levels of air pollution and trends in this regard, as well as on cases of contamination of drinking water and food poisoning during the reference period. The Committee also asks to be informed of the measures taken regarding waste management. The Committee reserves its position on this point.

Tobacco, alcohol and drugs

The Committee takes note of the statistical data concerning smoking provided by ISTAT, which indicate that, in 2013, 20.9% of persons over the age of 14 were smokers (26.4% men and 15.7% women). According to Customs and Monopolies Agency data, in 2013 sales of tobacco products fell by 5.4% as compared with 2012, and cigarette sales in particular fell by 5.7% (approximately two packets less per month bought by each smoker).

The report mentions the following legislative measures taken during the reference period: Act No. 189 of 8 November 2012 implementing the legislative decree of 13 September 2012 introduced a ban on selling cigarettes to those under 18, raising the age limit of 16 years provided for by Article 25 of the 1934 royal decree; Act No. 128 of 8 November 2013 implementing legislative decree No. 104 of 12 September 2013 also extended the prohibition of smoking to areas outside schools. The same legislation also introduced a ban on using electronic cigarettes in closed spaces and in areas outside schools, as well as on advertising liquids and refills containing nicotine in places frequented by minors, on television between 4 and 7 p.m., in the press for young people and in cinemas. The report adds that the Carabinieri Command for the Protection of Health (NAS) carries out random checks in the whole country and provides data on these inspections.

As concerns alcoholism and drug addiction, the report provides detailed information on the trends relating to the consumption of alcohol and drugs, as well as on measures aimed at combating alcoholism and drug addiction. In this regard, the Committee notes the 2013-2020 Action plan for the prevention and control of non-communicable diseases, which aims for a 10% reduction in harmful consumption of alcohol over the coming years. The report adds that Italy recently achieved an important objective set by the new European action plan to

reduce the harmful consumption of alcohol 2012-2020, by introducing a ban on administering and selling alcoholic beverages to those under the age of 18 (Act No. 189/2012). The report further states that the binge drinking phenomenon is particularly alarming, with grave dangers to health and security not only for consumers, but also for society as a whole. The percentages of male and female binge drinkers have steadily increased among ten to twenty year olds and the highest rates are to be found among those aged between 18 and 24 (Men=21.0%, Women=7.6%).

Regarding drug addiction, the report mentions that under Act No. 79 of 2014, the Public Services for Drug Addiction were renamed the Public Services for Dependency. It is no longer a matter of helping drug addicts, who are mainly addicted to heroin, but of providing highly specialised services to persons suffering from different types of diseases linked to dependency on illegal and legal substances and dependency with no substances. The Public Services for Dependency ensure direct access to treatment, while guaranteeing anonymity and ensuring multidisciplinary integration. Each patient receives personalised treatment in accordance with the diagnostic evaluation made, through the creation of individual treatment plans established with their agreement. The treatment plan defined by the Public Services for Dependency can be administered in an outpatient context/at home or in a semi-residential or residential institution. The report adds that there are 581 Public Services for Dependency throughout the country.

The Committee asks that the next report contain information on the impact and the results of the measures taken against smoking, alcoholism (in particular binge drinking) and drug addiction, as well as data on trends regarding consumption.

Immunisation and epidemiological monitoring

The report indicates that, on 23 March 2011, the state and the regions approved the "*National plan to eliminate measles and congenital rubella (PNEMoRc) 2010-2015*", which postponed to 2015 the goals of eliminating measles and preventing rubella (< 1 case/100 000 live births) and set a target of eliminating rubella. The report adds that, in 2012, average immunisation coverage for the first dose of measles vaccination before the age of two was 90.0% while that for the first dose of vaccination against rubella was 89.2%. Only two regions (Umbria and the Marches) have attained a vaccination coverage of $\geq 95\%$.

The Committee takes note of the coverage rate for immunisation in Italy, by region and type of vaccination, for 2014. It wishes to be informed of any new facts on the coverage rate for vaccination.

Accidents

The report states that according to ISTAT data, in 2014, nearly 700 000 persons – 11.3 for every 1000 – reported that they had been involved in a home accident in the three months preceding the survey. Overall, there were 783 000 accidents in the three months, with an average of 1.1 accidents per affected person. Women, the elderly and children are the categories most at risk of being involved in a home accident. The report mentions the fact that the Ministry of Health has included the problem of home accidents among the main goals of the 2014-2018 National Prevention Plan. The measures to be taken include improving the safety of housing; improving health professionals', general practitioners' and health profession operators' knowledge of the phenomenon and of preventive actions; providing training and information to the population groups most at risk of incurring home accidents, to parents and family carers as well as improving their knowledge thereof; actions aimed at improving the health of the elderly population in order to enhance their balance and motor co-ordination. The Committee asks that the next report contain information on the implementation of these measures and their impact in reducing home accidents.

The report provides statistical data on road accidents: in 2014 there were 177 031 road accidents causing bodily injuries, which led to the death of 3 381 persons (within 30 days

after the accident) and wounded 251 147 persons. Compared with 2013, the number of accidents decreased by 2.5% and the number of wounded persons by 2.7%, while with regard to the number of deaths the decrease was less significant: -0.6%. The report also indicates that media campaigns were carried out during the reference period by the ANIA Foundation for road safety, which concentrated on the risks incurred by road users.

The Committee recalls that states parties must take measures to prevent accidents. The main categories of accidents covered are road accidents, home accidents, accidents at school and accidents during leisure time. The Committee asks that the next report contain information on the measures taken to prevent all types of accidents and on the overall trend in accidents.

Conclusion

Pending receipt of the information requested, 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.

With regard to family and maternity benefits, the Committee refers, respectively, to its conclusions relating to articles 16 and 8§1 (Conclusions 2015).

The Committee recalls that the assessment of the follow-up to collective complaint *Associazione Nazionale Giudici di Pace v. Italy* complaint, No. 102/2013, decision on the merits of 5 July 2016, will be done in the framework of Conclusions 2018 (in this complaint, the Committee found that justices of the peace were discriminated against with regard to social security coverage compared to tenured judges and other categories of lay judges).

Risks covered, financing of benefits and personal coverage

The Committee refers to its previous conclusions for a description of the Italian social security system. The latter continues to cover all the traditional risks, namely those relating to health care, sickness, maternity, families, occupational accidents and diseases, old age, invalidity and survivors. It is still based on collective financing from employers' and employees' contributions and funding from the state.

According to official data from the national statistical office, ISTAT, the total population in 2015 was 60 795 612. According to the report, the active population at that time was 22 465 000.

The entire resident population is entitled to health care cover under the universal healthcare insurance scheme. In answer to the Committee, the report states that 47.3% of the active population in 2015, or 10 630 000 persons, were insured with the national social security organisation, the INPS, for the sickness branch, 65.7%, or 14 754 000 persons, for the unemployment branch and 96.6%, or 21 708 000 persons, for the old-age branch. It also states that in the case of sickness and maternity insurance, which is obligatory for employees, these figures refer solely to persons insured with the INPS, and not those insured by their employers with private schemes. Nor do they take account of employed persons registered with professional and other occupational bodies that have their own insurance schemes. The actual coverage rate is therefore higher than the above figures indicate. The Committee asks for the next report to provide, as far as possible, further information on this subject to enable it to assess overall personal coverage. It also asks whether old-age insurance continues to cover the invalidity and survivors' branches and, if not, for any relevant information.

The Committee notes that, according to CLEISS (the French Liaison Centre for European and International Social Security), the occupational accidents and diseases branch is managed not by the INPS but by another social security body, the INAIL. According to the MISSOC database, this is a compulsory form of insurance that covers employees, the self-employed, teachers and students and seafarers. Under certain circumstances, it also covers domestic accidents occurring outside a paid employment context. According to 2015 data published on the INAIL site, there were 15 979 357 persons insured by their employer, to which should be added 48 361 radiologists. The Committee notes that according to these figures the coverage rate was 71.3%.

It asks for full and up-to-date information in the next report on the number of insured persons in relation to the active population for each social security branch.

Adequacy of the benefits

According to Eurostat data, the median equivalised annual disposable income in 2015 was € 15 846, or € 1321 per month. The poverty level, if defined as 50% of median equivalised

annual disposable income, would have been € 7923, or € 660 per month. Forty percent of equivalised income would have been € 528 per month.

The Committee previously noted that **sickness** benefits were paid from the fourth day of sickness and up to 180 days per year, and that they corresponded to 50% of the relevant wage or salary for the first twenty days and 66.67% thereafter. Since it had no information on minimum wages by sector, the Committee considered that it had not been established that benefit levels were adequate (Conclusions 2013 and 2015). According to the report, there is no minimum level of benefit payable, but in view of the fact that, for the majority of employees, social security contributions cannot be based on daily taxable income below that specified in law, which was € 47.70 in 2015, the daily benefits payable that year on the basis of this minimum figure would have been € 23.80. It adds that in various sectors, collective agreements may provide for employers to make an additional payment. The Committee asks for the next report to specify whether the benefit is calculated on the basis of the number of days that the employee has worked, for example five days out of seven, or on every day of the week, other than the initial three-day non-eligibility period. As an example, it asks what benefit an employee paid the minimum daily rate would receive in the event of medical incapacity for work for one month. It also asks what proportion of employees are only eligible for the minimum daily rates of pay and which categories of employees could potentially be paid below these rates. Finally, it asks for the next report to state whether sickness benefit may be combined with other, additional, benefits. In the mean time, it reserves its position on this point.

Turning to **unemployment** benefits, the report refers to the introduction of new regulations in 2015 (legislative decree no. 22 of 4 March 2015), which established, as of 1 May 2015, a new social insurance employment benefit (NASpl) to replace two other previous benefits, namely the ASpl and Mini ASpl, though the former continues to apply to persons eligible for it before 1 May 2015. The NASpl is an allowance payable to employees who have become involuntarily unemployed, other than fixed-term employees of public authorities, agricultural workers, non-European seasonal workers and recipients of pensions. To qualify, those concerned must be registered as unemployed with the employment service, have been made unemployed involuntarily (though, exceptionally, giving notice for good reasons or terminating a contract by mutual agreement may be acceptable), have at least thirteen weeks' contributions in the previous four years, including at least thirty days' worked in the previous twelve months (a period that may be extended in certain cases, for example in the event of sickness, occupational accidents or parental leave) and have annual income from work below a certain level, which was € 8145 in 2015. The allowance is paid monthly, from the eighth day of unemployment, for a period corresponding to half the number of weeks in which contributions were made over the previous four years. It may therefore be awarded for periods ranging from six and a half weeks to up to two years. The Committee considers that, in principle, a minimum period of entitlement of six and a half weeks is too short. However, it notes from the INPS portal that since 2015 unemployed persons who have exhausted their entitlement to the NASpl allowance could be eligible for an unemployment benefit entitled ASDI, which may be received concurrently with certain other benefits, such as invalidity pensions. This benefit is payable for up to six months.

In answer to the Committee's question in Conclusions 2013, the report describes the circumstances in which the NASpl allowance may be suspended, for example in the case of temporary employment, or reduced by 80% of the income arising from employment if such income is insufficient to justify termination of the individual's unemployed status. Entitlement to the allowance may also be suspended or terminated if the persons concerned fail to take part in employment activation measures and retraining options offered by the relevant authorities. Depending on the case, benefits may be withdrawn after the second or third appointment missed, unless the occupational, training or retraining activities concerned are located more than 50 kilometres from the individual's place of residence or can only be reached by public transport with a journey time of more than 80 minutes. Benefits may also

be terminated in the event of refusal to accept a relevant offer of employment. The Committee asks for clarification in the next report of what is meant by “a relevant offer of employment”.

In the case of employee members of co-operatives and employed artistic personnel, the NASpl allowance is in proportion to the previous four years’ taxable income for social security purposes, divided by the total number of contribution weeks and multiplied by a coefficient of 4.33, with a maximum limit set at € 1300. The allowance for other categories of employees covered is set at 75% of their average gross monthly income over the last four years for salaries up to and including € 1195 per month. For earnings above this monthly reference level the allowance is increased by 25% of the additional income, but may not exceed a monthly total that is set annually: € 1300 gross in 2015. Moreover, the allowance is reduced by 3% per month from the fourth month. According to the report, the average income replacement rate of the NASpl allowance in 2015 was 65%. Although there is no legal minimum, the report states that for the majority of employees, social security contributions cannot be based on daily taxable earnings below those specified in law. On this basis, the minimum daily unemployment allowance in 2015 was € 35.80. The Committee considers that this is an adequate level of benefit.

The Committee notes from the INPS portal that certain specific categories of employees are eligible for other unemployment benefits (such as the DIS-Coll allowance for persons working on atypical contracts; the fixed unemployment allowance for agricultural employees; the social assistance allowance (ASU) for unemployed persons engaged in public interest activities; the mobility allowance; and the special earnings supplements (*Cassa Integrazione Guadagni*) relating to situations of partial unemployment). The Committee asks the next report to provide clear and comprehensive information on the different benefits applicable to unemployed persons during the reference period (conditions governing the payment, suspension and/or withdrawal of the benefit; period for which the benefit is payable and its amount, based on the situation of a recipient meeting the minimum eligibility criteria and specifying whether the benefit may be combined with other benefits; numbers of persons covered and of actual recipients). In the mean time, it reserves its position on this point.

As regards **old-age** pensions – the level of which was previously found to be inadequate (Conclusions 2009 and 2013) – the Committee refers to its assessment under Article 23, where it found that the level of contributory and non-contributory old-age pensions remains manifestly inadequate (Conclusions 2017).

The Committee refers to its Conclusions 2013, in which it noted that there was a contributory **disability** benefit, the disability pension, and asked for information on the lowest level of the overall disability benefit in the reference period. The report does not supply the requested information but refers only to the invalidity allowances, which form part of the non-contributory social assistance system. The Committee repeats its request for information on the contributory disability pension. It notes that, according to MISSOC, when the taxable annual income is below a certain level (€ 11 661.52 for a single person, € 17 492.28 for a married couple), the pension is supplemented up to the level of the minimum annual pension of € 6 531.07. However, this only applies to persons first insured before 1996, since according to available information, under the new scheme there is no minimum pension. The Committee notes that the amount payable to persons insured before 1996 is between 40 and 50% of the median equivalised income. It therefore asks what other benefits, if any, may be paid concurrently with it. Regarding the system applicable to more recently insured persons, given the absence of a legal minimum the Committee asks for information in the next report on the estimated amount payable to single persons with, respectively, 66 and 100% incapacity (unrelated to occupational accidents) and the minimum contributions record. In the mean time, it reserves its position on this point.

The report provides no information on the benefits available in the event of **occupational accidents and diseases**. The Committee asks for this information to be included in the next report, in particular the estimated minimum level of the benefit.

Conclusion

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

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.

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

The Committee notes from Resolution CM/ResCSS(2016)10 of the Committee of Ministers on the application of the European Code of Social Security by Italy (period from 1 July 2014 to 30 June 2015) that the law and practice in Italy continue to give full effect to Parts VI, VII and VIII of the Code and that they also ensure the application of Part V, subject to re-establishing the right to a reduced pension after 15 years of contributions.

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.

The Committee refers to its previous conclusions for a description of the Italian social security system. In the case of family and maternity benefits, the Committee refers to its conclusions relating to, respectively, articles 16 and 8§1.

With regard to the other social security branches, the Committee notes that the Italian report still provides no information in response to the finding that there was no evidence that measures had been taken to raise the system of social security to a higher level (Conclusions 2009, 2013, 2015).

The report does, admittedly, refer to various reforms during the reference period, particularly the introduction of new regulations on unemployment benefits (legislative decree no. 22 of 4 March 2015), and the implementation of the 2011 pensions reform (legislative decree no. 201 of 2011, subsequently Act 214/2011). However, it does not provide relevant information to enable the Committee to determine whether the new measures that were adopted or entered into force during the reference period have extended social security coverage or raised benefit levels, or alternatively whether they actually make the system more restrictive than was previously the case.

Article 12§3 requires states parties to improve their social security systems. This means that a situation in which progress has been made may be compatible with Article 12§3 even if the requirements of articles 12§1 and 12§2 have not been satisfied or if these provisions have not been accepted. Examples of progress include extended provision and facilities, protection against new risks or increased benefit levels. Changes that impose restrictions on the social security system do not automatically conflict with Article 12§3. The Committee's assessment of the situation depends on the nature of the changes introduced, such as to the system's coverage, the eligibility conditions for benefits or benefit levels; the reasons given for the changes and the social and economic policy of which they form part; the extent of these changes, in terms of the groups and numbers of persons concerned and benefit levels before and after; the need for reform; whether there are social assistance measures to help persons who might be adversely affected by the reforms (this information may be provided in connection with Article 13) and the results obtained from these changes. However, if the cumulative effect of the restrictions is to bring about a significant deterioration in the standard of living and living conditions of certain groups of the population, this could entail a violation of Article 12§3. Even if the restrictive measures, taken separately, are compatible with the Charter, their combined effect, taken in conjunction with the relevant implementing measures, may amount to a violation of the right to social protection. Measures to strengthen public finances may be deemed necessary to ensure the continued smooth running of the social security system. However, the reforms must not be to the detriment of citizens' protection against social and financial risks, and must not reduce the social security system to a mere social assistance scheme. In all cases, any changes to the social security arrangements must ensure the continued existence of a basic, and sufficiently comprehensive, social security system.

In the light of the foregoing, the Committee once more asks for information in the next report on any changes to the social security system during the reference period, specifying the impact of these changes on the personal scope of the system and the minimum level of income replacement benefits. This information must appear in every Article 12§3 report to enable the Committee to rule on the situation's compatibility with the Charter. The Committee recalls in this respect that the failure to provide the information requested (since 2009, see Conclusions 2009, 2013 and 2015) amounts to a breach of the reporting obligation entered into by the States Parties concerned under the Charter. Since the current report does not include sufficient information to assess the situation, the Committee still

concludes that it has not been established that measures have been taken to raise the social security system to a higher level.

Conclusion

The Committee concludes that the situation in Italy is not in conformity with Article 12§3 of the Charter on the grounds that it has not been established that measures have been taken to raise the social security system 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§4)

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 Committee recalls that, having regards to the EU legislation on the social coordination of social security systems of the EU Member States, governed by Regulations (EC) No. 883/2004 and (EC) No. 987/2009, as amended by Regulation (EU) No. 1231/2010, the EU Member States guarantee, as a matter of principle, equality of treatment between, on the one hand, their own nationals and, on the other, nationals of other Member States of the EU or the EEA, stateless persons, refugees residing in a Member State who are or have been subject to the social security legislation of one or more Member States, their family members and their survivors, and nationals of third countries, their family members and their survivors, provided that they are legally resident in a Member State and are in a situation which is not confined in all respects within a single Member State.

The Committee recalls that, in any event, under the Charter, EU/EEA Member States must guarantee nationals of other States Parties to the 1961 Charter and the Charter which are not members of the EU or do not belong to the EEA equal treatment in respect of social security rights when they are legally resident on their territory (Conclusions XVIII-1 (2006)). In order to do so, they have to either enter into bilateral agreements with them or take unilateral measures.

As regards bilateral agreements with State Parties which are not members of the EU or EEA, Italy has still not entered into any social security agreements with Albania, Andorra, Armenia, Azerbaijan, Georgia, the Republic of Moldova, the Russian Federation and Ukraine.

As regards unilateral measures taken by Italy, the report states that foreign workers who are legally resident in Italy have the same rights as Italian citizens, even where there are no social security agreements with the worker's country of origin. However, the Committee notes from the report that the social allowance which is guaranteed by Law No. 335/1995 requires, among other things, at least ten years' residence in the country. The Committee points out that with regard to non-contributory benefits, the relevant section of the Appendix (relating to Article 12§4) allows a residence period requirement to be imposed on foreign nationals, but it reserves the right to assess the proportionality of the required period of residence in the light of the aim that is pursued. It notes that although the social allowance is a non-contributory pension, it is a basic benefit for many elderly people. It therefore considers that the requirement of ten years' residency is excessive. The situation in Italy is therefore not in conformity with the Charter on the ground that the period required for payment of the social allowance is excessive.

In respect of payment of family benefits, the Committee considered that the requirement for the child to reside in the territory of the paying State is in conformity with Article 12§4 (Statement of Interpretation on Article 12§4, XVIII-1 (2006)). However, since not all countries apply such a system, States Parties applying the 'child residence requirement' are under the obligation, in order to secure equal treatment within the meaning of Article 12§4, to enter, within a reasonable period of time, into bilateral or multilateral agreements with those States which apply a different entitlement principle (Conclusions XVIII-1 (2006), Cyprus).

In its previous conclusion (Conclusions 2013), the Committee asked whether, in practice, nationals of States which apply a different principle can receive family benefits from Italy. The report states that Italy makes the payment of family benefits conditional upon the child residence requirement, except where the State from which the foreign national originates establishes reciprocal treatment for Italian nationals or where an international agreement on the matter has been entered into. The report further indicates that Law No. 153/1988 makes the payment of family benefits conditional upon the principle of reciprocity: family benefits are paid to nationals of these countries if these countries do likewise with Italian nationals. However, Albania, Armenia, Georgia and the Russian Federation do not, despite the absence of a bilateral social security agreement with Italy, seem to grant to Italian workers residing in these states the right to receive family benefits, even for children residing in Italy.

The Committee points out that Article 12§4 is not based on reciprocity and that this provision places on State Parties a direct obligation to implement its principles unilaterally (see Statement of Interpretation on Article 12§4 and Conclusions XIII-4 (1996)). To do so, they can either enter into bilateral agreements or take unilateral, legislative or administrative measures. The Committee asks whether it is planned to enter into such agreements with Albania, Andorra, Armenia and Georgia or take unilateral measures, and if so, within what time-frames. In the meantime it considers that the situation is not in conformity with Article 12§4 of the Charter on the grounds that equality of treatment in respect of access to family benefits is not guaranteed to nationals of all other States Parties.

Right to retain accrued benefits

The report states that old age, invalidity and survivors' benefits are paid to all Italian retirees and foreign nationals who have previously acquired this right, even abroad. In this regard, the National Institute of Social Security guarantees payment to approximately 380 000 retirees abroad, regardless of the beneficiary's nationality. However, the report states that non-contributory social assistance benefits such as the social allowance are not exportable except in the situations and conditions stipulated by national legislation. The supplement to the minimum pension is not exportable to countries where the aforementioned EU Regulations apply, but it can be to other countries, in certain circumstances. The exportability of the supplement to the minimum pension for insured persons who had completed the contribution period as at 31 December 1995 is subject to a minimum contribution period of ten years.

The Committee asks for the next report to provide more information about the criteria for the exportability of non-contributory social assistance benefits. In the meantime, it reserves its position on this point.

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

In its previous conclusion (Conclusions 2013), the Committee considered the situation to be in conformity with the Charter with regard to the maintenance of accruing rights as Italy had implemented sufficient means in place to guarantee the principle. Given that the situation has not changed, the Committee reiterates its conclusion on this point.

Conclusion

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

- equality of treatment in respect of access to family benefits is not guaranteed to nationals of all other States Parties;
- the length of residence required to be entitled to social allowance (ten years), for foreign nationals who are not covered by the EU regulations or by an agreement entered into with Italy, is excessive.

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

In its previous conclusion (Conclusions 2013) the Committee found that the situation was not in conformity with the Charter as not all persons in need were entitled to social assistance.

The Committee notes from MISSOC that every municipality, acting in accordance with regional legislation and depending on the available budgetary resources, implements its own policies of social intervention. The law does not provide for general conditions or requirements for entitlement to municipal support. This support can be either in cash or in kind. The means-test regulations vary according to the regions and municipalities, but generally they are granted after submitting the ISEE (indicator of the equivalent economic situation) form. The State provides the welfare-based social allowance (*assegno sociale*) and some other non-contributory benefits, such as the social card (an income support measure).

The Committee notes from the report that the social welfare system in force was defined by Law No. 328/2000 ("Framework Law for the Development of an Integrated System of Social Interventions and Services"), aiming at promoting social, health and social interventions and assistance in order to guarantee concrete assistance to individuals and families in difficulty. The law identifies beneficiaries (Italian, European or third-country nationals lawfully residing in the territory of the State, as well as refugees or stateless persons to whom first aid measures are guaranteed), services provided and providers (State, regions and local authorities). The law has recognised the essential role played by the municipalities who manage and coordinate initiatives to create the local system of the social services network.

According to the report, after the approval of the Constitutional Law No. 3/2001, certain areas, including the social field, were entrusted exclusively to the regions. Consequently, the new constitutional rule has required a different distribution of functions as follows: the regions have exclusive competence in social policy and the State has been entrusted with the task of defining the essential levels of benefits. Driven by these two important regulatory developments, all regions have been involved in the field of social security policies, even though they have different time frames, modalities and content, taking into account the new powers conferred on them.

In its previous conclusion the Committee asked for information on how in theory and in practice each responsible local entity ensured that benefits were effectively provided to any person in need. It also asked for more detailed information on the eligibility criteria, functioning of the system and the amounts of benefits set by regions.

The Committee takes note of the information detailed in the report on expenditures on social services by regions and municipalities, including total spending, by municipality in relation to different groups (e.g. the disabled, children), as well as spending per user of these services. However, the report does not provide information regarding the amounts and the eligibility criteria for social assistance benefits as defined by each regional and local authority.

The Committee also notes from MISSOC that the State sets and provides the welfare-based social allowance (*assegno sociale*). In the absence of information regarding the levels of other benefits available at the regional and local levels, the Committee will only take *assegno sociale* into account in its assessment of the situation. The Committee notes in this connection from MISSOC that this benefit is granted if the annual taxable income is less than € 5818 for a single-person household.

The report provides information regarding family allowances, the main income assistance benefit, provided directly by the National Institute of Social Security to all rights holders. The

municipality of residence must certify that the families requesting the service meet the requirements. The Committee notes that this allowance is paid to families with at least three children. It recalls that Article 13 only concerns social assistance paid to a single person without resources. Therefore, this benefit is not taken into account.

The Committee asks the next report to explain how regions can guarantee that the right to social assistance is provided as a subjective right of any person without resources. In particular, the Committee asks whether in each region there is a precise legal threshold below which a person is considered in need and whether there is a common core of criteria underlying the granting of benefits. The Committee considers that if this information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter.

Level of benefits

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

- Basic benefit: the Committee notes from MISSOC that the annual amount of the *assegno sociale* of up to € 5830 paid in 13 monthly instalments is granted if the annual taxable income is less than € 5818 for a single person household in 2015. The Committee asks the next report to indicate whether this amount is fixed and uniform for all regions or whether there are regional fluctuations. Moreover, the Committee asks the next report to provide information about the amounts of social assistance benefits paid by regions, in addition to the *assegno sociale*.
- Additional benefits: the Committee asks the next report to provide information regarding the amounts of additional benefits, such as housing and heating allowances that are paid to a single person without resources.
- Medical assistance: in its previous conclusion (Conclusions 2013 and 2015) the Committee found that it had not been established that medical assistance was provided for everyone in need. The Committee recalls in this connection 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. In this connection, the Committee notes (Conclusion on Article 12§1) that the entire resident population is entitled to health care cover under the universal healthcare insurance scheme. The Committee asks the next report to confirm that medical assistance for persons without resources covers primary or specialised outpatient medical care, which such person might require. The Committee considers that if this information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter.
- Poverty threshold: according to the report, the incidence of absolute poverty is calculated on the basis of a threshold corresponding to the minimum monthly expenditure required for the basket of goods and services which is considered essential for the acceptable minimum standard of living.

The report provides information regarding the new expenditure survey, which also covers the expenditures incurred by families for particular goods and services, which were previously not taken into account in the total expenditure used to estimate absolute poverty. According to the report, an adult alone is considered to be absolutely poor if his/her spending are less than or equal to € 816.84 per month, if he/she resides in a Northern metropolitan area and to € 548,70 if he/she resides in a small town in the South.

- The poverty threshold that the Committee takes into account is defined as 50% of median equivalised income as calculated on the basis of the Eurostat at-risk-of-poverty threshold value: it was estimated at € 7920 per year (€ 660 per month) in 2015.

The Committee considers that the level of *assegno sociale* is not compatible with the poverty threshold and is therefore, not adequate.

Right of appeal and legal aid

The Committee asks the next report to provide updated information concerning the right to appeal against the decisions of regional and local authorities regarding the grant of benefits. In particular, the Committee wishes to know whether these decisions can be appealed before the administrative courts.

Personal scope

The Committee recalls that, under Article 13§1, States are under the obligation to provide adequate medical and social assistance to all persons in need, both their own nationals as well as nationals of States Parties lawfully resident within their territory, on an equal footing. In addition, with reference to its Statement of Interpretation of Articles 13§1 and 13§4 (Conclusions 2013) regarding the scope of Articles 13§1 and 13§4 in terms of persons covered, the Committee considers that persons in an irregular situation in the territory of the State concerned are also covered under Article 13§1, rather than under Article 13§4, which was previously its practice.

The Committee henceforth examines whether the States who have accepted Article 13§1 ensure the right to:

- adequate social and medical assistance for their own nationals and for nationals of other States Parties lawfully resident within their territory on an equal footing;
- emergency social and medical assistance to persons unlawfully present in their territory.

Nationals of States Parties lawfully resident in the territory

The Committee recalls that under Article 13§1 nationals of other States Parties who are lawfully resident in the territory and lack adequate resources must enjoy an individual right to appropriate assistance on an equal footing with nationals, i.e. beyond emergency assistance. The Charter does not regulate procedures for admitting foreigners to the territory of the State Party and the rules governing 'resident' status are left to national legislation. However, equality of treatment also implies that additional conditions such as the length of residence, or conditions which are harder for foreigners to meet, may not be imposed.

The Committee further recalls that under the Charter nationals of States Parties lawfully resident in the territory cannot be repatriated on the sole ground that they are in need of assistance. Once the validity of the residence and/or work permit has expired, the Parties have no further obligation towards foreigners covered by the Charter, even if they are in a state of need. However, this does not mean that the authorities can withdraw the residence permit solely on the grounds that the person concerned is without resources and unable to provide for the needs of his/her family.

In its previous conclusion the Committee noted that under Article 41 of the Immigration Law, foreign nationals can apply for social assistance on an equal footing with nationals if their residence permit is granted for at least one year. The Committee further notes from the report that Article 41 of the Immigration Law covers foreign nationals in possession of a residence permit of at least one year validity. The Committee understands that nationals of States Parties lawfully resident in Italy are equally treated with nationals as regards access to social assistance.

According to the report, in its Judgment No. 306/2008 the Constitutional Court stressed that the principle of equal rights between legally resident aliens and citizens must be reflected in the case where specific benefits relate to the exercise of fundamental rights, such as the right to health. The Committee asks the next report to confirm that nationals of States Parties

lawfully resident in the territory are entitled to medical assistance on an equal footing with nationals.

Foreigners unlawfully present in the territory

In its previous conclusion the Committee noted that medical assistance was available to all nationals of other States Parties lawfully or unlawfully present, upon presentation of a STP Code (temporary foreign resident code) that can be obtained from 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).

As regards emergency social assistance, the Committee previously noted that all persons in distress can get emergency assistance not only in the Centres for temporary stay or assistance (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).

The Committee recalls that persons in an irregular situation must have a legally recognised right to the satisfaction of basic human material need (food, clothing, shelter) in situations of emergency to cope with an urgent and serious state of need. It likewise is for the States to ensure that this right is made effective also in practice (European Federation of National Organisations working with the Homeless (FEANTSA) v. the Netherlands, Complaint No. 86/2012, decision on the merits of 2 July 2014, §187).

The Committee cannot accept the necessity of halting the provision of such basic emergency assistance as shelter, guaranteed under Article 13 as a subjective right, to individuals in a highly precarious situation. The Committee has considered that even within the framework of the current migration policy, less onerous means, namely to provide for the necessary emergency assistance while maintaining the other restrictions with regard to the position of migrants in an irregular situation, remain available to the Government with regard to the emergency treatment provided to those individuals, who have overstayed their legal entitlement to remain in the country (Complaint No. 90/2013, Conference of European Churches (CEC) v. the Netherlands, decision on the merits of 1 July 2014, §123).

The Committee asks the next report to provide updated information on how these requirements are met in law and in practice.

Conclusion

The Committee concludes that the situation in Italy is not in conformity with Article 13§1 of the Charter on the ground that the level of social assistance is not adequate.

Article 13 - Right to social and medical assistance

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

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

The Committee notes that the report provides extensive information regarding the right of nationals of States Parties to vote and the right to stand in elections in Italy. This is not relevant to the obligations imposed by Article 13§2.

The Committee recalls that under Article 13§2 of the Charter any discrimination against persons receiving social and medical assistance that might result – directly or indirectly – from an express provision must be eradicated. Beneficiaries of social or medical assistance must enjoy an effective protection against discriminatory measures, particularly with regard to their access to employment and public services. The Committee asks whether the provisions enshrining the principle of equality and prohibiting discrimination in the exercise of political or social rights are interpreted in practice in such a way as to prevent discrimination on the basis of receipt of social or medical assistance.

The Committee considers that if this information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter.

Conclusion

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

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 notes that there have been no changes to the situation which it has previously found to be in conformity with the Charter.

The Committee recalls that Article 13§3 concerns only social or medical assistance in the form of advice or personal help to persons without, or liable to be without, adequate resources. Accordingly, Article 13§3 is a special provision which is more specific than Article 14§1, which is concerned with the provision of social welfare services generally. The Committee considers it important to stress this distinction so that the national reports under Article 13§3 provide information concerning social and medical services related to advice or personal help for persons without, or liable to be without, adequate resources. These services must play a preventive, supportive and treatment role. Amongst other things, Article 13§3 requires states to provide advice and assistance so as to make those concerned fully aware of their entitlement to social and medical assistance and how they can exercise that entitlement.

In assessing national situations under this provision the Committee specifically examines whether there are mechanisms to ensure that those in need may receive help and personal advice services free of charge and whether such services and institutions are adequately distributed on a geographical basis.

The Committee asks the report to provide updated information regarding how these requirements are met in law and in practice.

Conclusion

Pending receipt of the information requested, 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.

The Committee refers to its conclusion under Article 13§1 (personal scope) and recalls that Article 13§4 from now on will cover emergency social and medical assistance for nationals of States Parties lawfully present (but not resident) in the territory.

The Committee recalls that States Parties are required to provide non-resident foreigners, without resources, with emergency social and medical assistance. Such assistance must cover accommodation, food, clothing and emergency medical assistance, to cope with an urgent and serious state of need (without interpreting too narrowly the 'urgency' and 'seriousness' criteria). No condition of length of presence can be set on the right to emergency assistance (Complaint No 86/2012, European Federation of national organisations working with the Homeless (FEANSA) v. the Netherlands, decision on the merits of 2 July 2014, §171). The Committee asks the next report to confirm that these requirements are met.

The Committee refers to its conclusion under Article 13§1 as regards unlawfully present foreigners and considers that the situation is in conformity with the Charter. It asks the next report to provide updated information as regards emergency medical and social assistance for nationals of States Parties lawfully present in Italy.

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

In its previous conclusion (Conclusions 2013), the Committee asked for an up-to-date description of the general organisation of social services, including the legal texts governing this sector.

The report states that Legislative Decree No. 112/1998, implementing Law No. 59/1997, defines social services as: “activities relating to the setting-up and supply of services, whether free or subject to fees, or of financial benefits aimed at eliminating and overcoming situations of hardship and need that individuals may encounter in the course of their lives, with the exception of services and benefits which are provided in the framework of social security and sickness insurance”.

The report confirms the highly decentralised nature of the organisation of social services, involving the regions, the provinces and municipalities, which requires 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.

The report also refers to the Framework Act No. 328/2000 providing for an integrated system of social welfare measures and services, which establishes social assistance as a right and guarantees a certain basic level of assistance throughout the country. According to the report, this law strengthens the importance of the territorial level, by regulating and developing operating procedures for connecting services into networks between public and private entities, as part of an effort to integrate social security with health care. By focusing on decentralisation and enhancement of the specific local features, Law No. 328/2000 assigns a crucial role to municipalities. The latter are responsible for planning, designing and implementing the local system of social services (zoning plans) and identifying priorities and areas of innovation. Framework Act No. 328/2000 defines the services to be provided: information and counselling, home help, socio-educational services, residential and semi-residential services, and emergency intervention. These are supplemented by economic forms of assistance, with families being offered services such as counselling, home help, in particular when there are persons with disabilities in the family, financial benefits and fiscal incentives.

Effective and equal access

In its previous conclusion (Conclusions 2013), the Committee asked for more detailed information about the Charter of Social Services (provided by Article 13 of Law No. 328/2000), in particular whether there was a standard charter containing a common core of basic components which have to be set up and, if so, precisely what they were. If not, it asked on what basis charters were drawn up.

The Committee notes that the report does not provide this information.

The Committee notes from the publication on “personal care services in Europe”, by the European Observatory of Social Economy, that the Charter of Social Services provides information about the services available, the essential levels for social security payments, access arrangements and tariffs; it allows citizens to take part in measures for consulting and evaluating social services; it sets out the eligibility criteria for services, and the arrangements for granting and financing services and benefits; it specifies the levels of assistance available, the quality standards for services, how users’ rights are protected, the rules to be applied in the event of non-compliance with the charter and the procedures for lodging an appeal.

In its previous conclusion (Conclusions 2013), the Committee deduced that there was a risk of unequal treatment of social service users in Italy depending on the region in which they lived and asked what warranted this disparity and what measures were being taken or planned to reduce it.

The Committee notes that the report does not provide this information. It therefore reiterates its questions and reserves its position on this issue. It holds that if the information requested is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter on this point.

Quality of services

In its previous conclusion (Conclusions 2013), the Committee reiterated its request for information on the total number of persons employed by the social services and their qualifications.

The Committee takes note of the detailed information provided in the report concerning the non-profit/third sector, including statistical data from Istat as to the situation at 31 December 2011 (out of the reference period). It notes however that this information falls outside the reference period and does not cover the whole area of social services, but only refers to the third sector. It accordingly reiterates its request of information on the total number of persons employed by the social services and their qualifications, in the public and private sectors and reserves in the meantime its position on this issue. It holds that if the information requested is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter on this point.

Conclusion

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

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.

In its previous conclusion (Conclusions 2013), the Committee requested information on the practical and financial support (such as tax benefits) offered to voluntary organisations by the state.

The report states that third sector and voluntary sector organisations are financed on the basis of the relevant rules in force. The various third sector entities may submit applications in response to specific notices or calls for contributions – in accordance with public tender procedures regulated by central government or the local authorities – for example to present innovative and experimental voluntary projects or to purchase equipment and ambulances, along with goods to give to public health facilities. These proceedings are aimed exclusively at voluntary and non-profit organisations whose activities are of recognised benefit to society.

The Committee furthermore asked for details on the information system on non-profit organisations (SIONP), which was expected to collect data on such organisations, particularly as regards their areas of activity and their human resources. It also asked for an assessment of its benefits for social service users.

The report states that, since 2008, the ISFOL (Institute for the Professional Development of Workers) has been implementing an information system prototype for the Ministry of Work and Social Policy, which includes third sector associations registered on the official registers/orders/lists managed and held by national and local public authorities. Its structure aims at ensuring compliance with institutional attributions and the statistical quality of information. The system allows the creation of up-to-date “institutional archives” offering a detailed overview of the non-profit sector in Italy at different levels – national, regional, provincial and municipal – for different types of stakeholders. The SIONP collects, orders and systemises: personal data from the non-profit organisation registers; sectoral and thematic surveys carried out by ISFOL; regulatory and research documents on non-profit organisations and documents produced by the project. At the end of 2014, around 300 administrative archives covering 2007-2014 had been entered into the SIONP. In this respect, the Committee asks whether the introduction of the information system on non-profit organisations (SIONP) had an impact on the quality of the social services provided.

In its previous conclusion (Conclusions 2013), the Committee asked for information on participation by citizens or groups of citizens with specific requirements in the organisation of the social services system and the aid they provide for them.

The report states that Article 19 of Law No. 328/2000 provides for the development of zoning plans for social services. This is a regional programming document for a three-year period, with which municipalities and local health units (ULSS) in each regional area frame socio-medical policies for the population. The plan, which aims to construct an integrated system of interventions and services with the help of stakeholder co-operation, outlines the objectives, targeted actions and resources concerned, in co-ordination with the Regional Plan for Individual and Community Services. Private and public stakeholders are involved in the process.

Conclusion

Pending receipt of the information requested, 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

The Committee points out that the main purpose of Article 23 of the Charter is to enable elderly persons to remain full members of society and, therefore, invites States Parties to introduce appropriate legal measures to combat age-related discrimination outside the employment field and establish a procedure for assisting elderly persons with decision making.

With regard to age-related discrimination, the Committee notes that Article 3 of the Italian Constitution prohibits all forms of "discrimination based on personal and social circumstances". Insofar as the wording of this Article is such that it can cover other grounds than those explicitly listed, including age, the Committee asks the next report whether there is a case-law on age discrimination outside employment which would protect elderly persons from such a form of discrimination. It also notes from the previous report that regions and municipalities have a wide measure of discretion in the social domain and asks what legal provisions or administrative measures have been taken to combat age-related discrimination.

With regard to assisting elderly persons with decision-making, the report states that there are various legal regimes for protecting elderly persons with no or limited decision-making capacity. First, judicial protection allows any person with limited legal capacity to be assisted, but not replaced, by a special representative appointed by a guardianship judge. The representative's decisions are duly recorded by the judge and as far as possible must not limit the individual's right to take his or her own decisions. Second, disqualification and incapacity apply when judicial protection is no longer appropriate. They entail the appointment of a guardian to replace in all respects an individual deemed legally incapable. In connection with health-care, the previous report stated that physical restraint measures are only applied in exceptional circumstances. Abuses, including failure by health professionals to report patient ill-treatment or deprivation to the relevant authorities, are offences under Article 571 of the Criminal Code.

Adequate resources

When assessing the 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 an 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 are then compared with median equivalised income. However, the Committee points out 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, it also takes into consideration relevant indicators relating to at-risk-of-poverty rates for persons aged 65 and over.

The Committee notes that there is no statutory minimum pension for employed persons insured for the first time after 1 January 1996. This means that only pensions payable under the mandatory insurance scheme prior to 31 December 1995 can be raised to the level of the minimum pension (*pensione minima*), which in 2015 was €501.89 monthly for a single person when the annual taxable income of the individual or married couple was below certain thresholds (€6524.57 a year in 2015 for a single person or €26 098.28 or €19 573.71 for a married couple, depending on whether the pension was first paid before or after 1994).

Elderly persons who are not eligible for a contributory pension after reaching retirement age may be entitled to the social assistance allowance under Act No. 335/1995. This is paid to

persons aged 65 or over on low incomes who have lived in Italy for at least ten years. The maximum monthly amount payable to a single person in 2015 was €448.07. According to the report, elderly persons may be eligible for a purchasing card worth €40 a month, which is issued to persons aged 65 or over with a total annual income below €6 788.61 (€9 051.48 if the person concerned is aged over 70 and meets certain specific criteria).

Elderly persons aged 65 or over on low incomes could therefore receive up to €488.07 per month in 2015.

In its previous conclusion (Conclusions 2013), the Committee asked for further information on available supplements, and their number, eligibility conditions and rates. The report states that the Italian authorities pay a number of pensions, allowances and other benefits to elderly persons with disabilities. The amount depends on the disability level of the individual concerned. The Committee asks whether these constitute available supplements and whether the relevant pensions, allowances and other benefits are payable in addition to the social allowance.

The Committee considers the level of pensions and social assistance to be adequate when the monthly benefit – basic and/or additional – paid to single persons is not manifestly below the poverty level, set at 40 – 50% of median equivalised disposable income. If the poverty level were 50% of median equivalised disposable income as calculated on the basis of Eurostat's at-risk-of-poverty threshold for 2015, it would have amounted to €7 923 a year, or €660 a month. The Committee notes that the combined value of the social allowance and the purchasing card was less than 40% of the Eurostat median equivalised disposable income.

It also notes that, according to Eurostat data, in 2015, 3.4% of persons aged 65 or over had an income of less than 40% of the median equivalised disposable income, compared with 2.8% in 2012 and 2.9% in 2014; the European average was 2.9% in 2015. The Committee asks for information in the next report on the measures taken to improve the situation of those concerned.

For these reasons, the Committee considers that the minimum level of retirement pensions, whether contributory or non-contributory, paid to elderly persons is manifestly inadequate for a significant proportion of the elderly population, as it falls below the poverty level.

Prevention of elder abuse

In its previous conclusion (Conclusions 2013), the Committee asked for information on the measures taken to evaluate the extent of the problem and to raise awareness about the need to eradicate elder abuse and neglect. It also asked if any specific legislative or other measures were envisaged in this area. Since the report fails to answer any of the points raised, the Committee repeats these questions and points out that if such information is not provided in the next report, there will be nothing to establish that the situation in Italy is in conformity with the Charter on this point.

Services and facilities

The Committee points out that, although Article 23 only refers to information about services and facilities, it nevertheless presupposes that such services and facilities do in fact exist.

With regard to services and facilities as such, the Committee asked in its previous conclusion (Conclusions 2013) what kind of home support services were available. It also asked (Conclusions 2009 and 2013) whether the supply of services to elderly persons reflected demand, how their quality was assessed and if there was a complaints procedure concerning the quality of these services. The Committee notes that in 2015 the national social policies fund, allocated nearly €278 million to the regions to fund the provision of social services for families and individuals. Meanwhile, the National Dependency Fund, established to offer support to seriously disabled and dependent elderly persons, received

€400 million that were then redistributed to the regions in accordance with their dependent elderly populations and various social and economic indicators.

According to the report, many regions and local authorities have introduced protective measures to supplement the national measures. The report states that it is impossible to give a comprehensive picture of all the local and regional activities in this area and therefore confines itself to listing a series of specific measures to assist dependent elderly persons in the Lombardy region and some of its local authorities. The Committee asks the next report to provide information on services that are provided at national level. It also notes that the range of services on offer varies considerably from region to region and the South of the country is noticeably less well provided for than the North. It asks whether measures are planned to improve service provision in the Southern regions.

The previous report stated that domiciliary care was a local authority responsibility and that recipients were charged according to their incomes.

The Committee understands that local health authorities (ASL) are responsible for monitoring the standard of service provided by accredited organisations. It asks the next report to clarify whether this understanding is correct.

The report provides no information as to whether the provision of services reflects demand for them or whether there is a complaints procedure regarding the quality of these services. Therefore, the Committee reiterates its questions and points out that if such information is not provided in the next report, there will be nothing to establish that the situation in Italy is in conformity with the Charter on this point.

With regard to measures to inform people about the existence of services and facilities, the Committee notes from the previous report that individuals can contact one-stop shops (*Punti Unici di Accesso – PUA*) for information about health care supplied by local health authorities and social services provided by local authorities, or to report the need for health care and/or social assistance.

Housing

In its previous conclusion (Conclusions 2013), the Committee asked for further information on the implementation of the 2009 national housing plan, which was expected to enhance the supply of dwellings at affordable prices. The plan mainly concerned accommodation for low-income households, including disadvantaged elderly persons. It included two programmes, jointly financed by the local authorities, involving the provision of, respectively, 5 059 and 16 986 dwellings, some of which would be renovated and others new build. The report does not state whether the plan takes account of elderly persons' needs and does not indicate how far the supply of dwellings reflects demand. The Committee accordingly reiterates its request of information on these points. It also asks for information in the next report on the number of elderly persons who have benefitted from the plan, as well as which regions and local authorities are concerned.

The Committee has also asked, on two occasions (Conclusions 2009 and 2013), for information on the financial assistance granted to elderly persons to adapt their accommodation. The report still fails to answer this question. The Committee therefore repeats it and points out that if the next report does not contain the requested information there will be nothing to show that the situation is in conformity with the Charter.

Health care

The Committee notes from the previous report that there are three types of domiciliary support:

- programmed home care assistance (*Assistenza Domiciliare Programmata – ADP*);
- integrated home care assistance (*Assistenza Domiciliare Integrata – ADI*); and

- home hospitalisation.

The previous report stated that, on the one hand, these services are provided by the ASLs free of charge, apart from the social elements of integrated home care, and, on the other hand, they differ according to how the ASLs are organised locally. The Committee asks for more information on this subject in the next report, in particular whether the ASLs automatically provide all these care services or decide themselves which will be available. The previous report further stated that ASLs carry out random checks from time to time to monitor the standard of service provided by accredited organisations.

The previous report added that a concerted action plan (*Piano d'azione Coesione – PAC*) for 2013-2015 included a care of elderly persons section. The aim of this was to strengthen services for dependent persons aged 65 or over in Calabria, Campania, Puglia and Sicily, by reducing the current gap in provision between these regions and the rest of the country. The Committee asks for further information on this subject in the next report.

The Committee asks the next report to provide information on mental health programmes, palliative care and special training for carers. It also wishes to be informed of any measures taken to improve access to and the quality of geriatric and long-term care, and the co-ordination of health and social services for elderly persons.

Institutional care

In its previous conclusion (Conclusions 2013), the Committee requested up-to-date information on the effects of the social policies, which were designed to reduce the numbers of persons placed in institutions. It considers that the information in the report is still insufficient for it to assess the impact of recent policies to reduce the number of persons in institutional care, so that it reiterates its request for information.

It also asked whether the number and types of institutions available reflect the demands and particular needs of elderly persons, whether the rights of persons placed in such establishments are protected, including their rights to appropriate care and services, to respect for private life and dignity and to lodge complaints about their treatment and living conditions, and what requirements are set regarding the qualifications of care staff and the use of physical restraints. The previous report stated that elderly persons were admitted to and cared for in residential establishments after their needs had been assessed. The current report says that it is difficult to provide a classification of residential establishments at national level but distinguishes nevertheless two categories:

- residential establishments accommodate elderly persons who are autonomous but for various reasons no longer wish to live alone (Rest homes) or those who are partially or totally dependent and therefore require special medical care as well as structured medical assistance (Support and assistance establishments – RSA);
- semi-residential care, such as integrated day centres, is provided for partly autonomous elderly persons who live at home but require more assistance than can be met by purely domiciliary services. The aim is to avoid, or at least delay, institutional care. Semi-residential establishments are also used to relieve the families of elderly persons.

The cost of care is met by the national health service (SSN), or the ASLs in the case of semi-residential care; however, users pay for so-called “social” expenses. The report also states that certain municipalities grant additional accommodation allowances to cover, partially or in total, the cost of care in residential establishments offering social and/or medical support. The Committee asks for more information on this subject in the next report.

The previous report states that anti-fraud officials of the so-called Carabinieri NAS, or *Nucleo antisofisticazioni*, monitored and inspected establishments for elderly and disabled persons. As part of these inspections, the officials review establishments’ accreditation and

compliance with the health and safety standards, and also monitor patients' living conditions, the storage of medicines and foodstuffs and the qualifications of the staff employed. The previous report stated that in 2013 the NAS inspected nearly 1200 establishments throughout the country, and reported 102 persons to the judicial authorities and 192 to the relevant health authority. Sixteen establishments were closed and two were the subject of seizures. One hundred and seventy-four criminal and 251 administrative offences were recorded and there were also seizures of expired medicines and food in poor condition. The Committee notes from the Auser report on the nursing homes in Italy that significant shortcomings and/or offences have been reported in retirement homes, including, most frequently, absence of accreditation, inadequate facilities, admission of more elderly persons than the authorised capacity, health and safety deficiencies and improper nursing care. The Committee asks whether measures have been taken or are planned to remedy this situation. It also asks whether there is provision for compulsory admission to residential care and how the rights to dignity and private life are protected in residential establishments.

Conclusion

The Committee concludes that the situation in Italy is not in conformity with Article 23 of the Charter on the ground that the level of contributory and non-contributory old-age pensions is manifestly inadequate.

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.

With respect to its previous conclusion that there is discriminatory treatment of migrant Roma and Sinti with regard to citizen's participation (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 Findings 2015 on follow-up to decisions in collective complaints, in which it held that the situation had not been brought into conformity with the Charter, as well as to its next examination of the follow-up to this decision, which will take place in 2018.

Measuring poverty and social exclusion

The Committee takes note of the statistical information provided in the report and deriving from ISTAT, the national institute of statistics. The report states that there was an improvement in the situation during the period 2012-2014 when assessed on the basis of a composite indicator referring to relative and absolute poverty, poverty incidence and poverty intensity. However, the statistics also show an increase in relative (3.2%) and absolute (2.1%) poverty in the Northern regions contrary to the tendency in the Central and Southern regions of Italy. Moreover, between 2012-2014 the poverty incidence for certain target groups increased, for example in respect of persons under 18 years of age (1.5%) and migrant families (1.1%).

According to Eurostat the at risk of poverty rate (after social transfers) for the total population increased from 19.3% in 2013 to 19.9% in 2015. The poverty rate before social transfers was 24.5% in 2012 and 25.4% in 2015. The Europe 2020 headline poverty indicator stood at 28.7% in 2015 down from 29.9% in 2012. The poverty rate (after social transfers) for the age group 18-24 years is still pronounced in comparison to the overall rate standing at 26.1% in 2015 (up from 25% in 2013).

According to the European Semester Country Report 2017 for Italy (SWD(2017) 77 final) the risk of poverty for children is growing faster for children than for the population in general; a third of Italian children are now at risk of poverty or social exclusion, which is among the highest rates in the EU. In addition, there is still a significant North-South divide with poverty rates in certain regions of the North being among the lowest in Europe compared to an extremely high rate (approaching 60%) in Sicily, for example.

Approach to combating poverty and social exclusion

The Committee takes note of the information provided in the report on the measures taken to combat poverty and exclusion. The report states inter alia that the Government introduced a first National Operational Programme (NOP) on social inclusion approved by the European Commission and is co-financed by the European Structural Funds. In addition, the report mentions the existence of the National Fund for Social Policy (FNPS) which is intended for the regions for the development of an integrated network of interventions and social services (as provided by Law No. 328/2000).

The Committee notes that the Stability Law 2015 provided for a budget of 250 million € part of which was devoted to starting the testing of a universal measure to fight against absolute poverty, Active Inclusion Assistance (SIA), in the 12 largest Italian cities. For the testing of the SIA in the Southern regions, resources amounting to 167 million € were allocated and later on an additional 120 million € were allocated for the national territory as a whole. By decree, the SIA will be deployed throughout the national territory during 2016 (out of the reference period).

The Stability Law 2016 provided for the creation within the Ministry of Labour and Social Policies of a fund called the "Fund for Combating Poverty and Social Exclusion".

Moreover, the Interministerial Decree No. 206/2014 of the Minister of Labour and Social Policy jointly with the Minister of Economy and Finance entered into force in 2015 and provides for the implementation of a Register of Assistance which will allow for the creation of a kind of social file of citizens gathering information on social benefits.

Finally, the report states that the European Fund for Aid to the Most Deprived (FEAD) set up under the EU's cohesion policies for 2014-2020, to promote interventions for people exposed to serious material deprivation, brings together a total of almost 790 billion €, with Italy being allocated the largest share of the budget among the EU member states.

The Committee notes that these and various other measures are referred to only summarily in the report and without any particular indication of how they add up to an overall and coordinated approach to combating poverty and social exclusion. It therefore asks that information be provided in the next report on the existence of coordination mechanisms for these measures, including at delivery level (that is, how coordination is ensured in relation to the individual beneficiaries of assistance and services). The Committee also asks that the next report contain detailed data demonstrating that the budgetary resources allocated to combating poverty and social exclusion are sufficient in view of the scale of the problem at hand.

The Committee recalls that in its previous two conclusions it found the situation to be in breach of the Charter as it had not been established that there was an overall and coordinated approach to combating poverty and social exclusion (Conclusions 2013 and 2015, Italy, Article 30). The Committee observes that poverty rates in Italy remain very high and also rising if referring to the poverty rate after social transfers. In this respect it is noted that the impact of social transfers is less in Italy than in the EU on average (a poverty reducing effect of 21.7% in Italy compared to an EU average of 33.2%).

This situation calls for extraordinary measures, however as noted above the information provided in the report does not demonstrate the existence of an overall and coordinated approach which is adequate to the problem at hand. Moreover, although it notes that there has been a slight increase in overall government expenditure on social protection as a share of GDP during the reference period (from 20.5% of GDP in 2012 to 21.5% in 2015), it is not clear to the Committee on the basis of the information at its disposal that the budgetary resources allocated to combating poverty and exclusion are sufficient in view of the challenge as required by Article 30 (Conclusions 2003, France, Article 30).

The Committee further refers to its conclusions of non-conformity under other provisions of the Charter which are relevant to its assessment of compliance with Article 30 (see Conclusions 2013, Statement of interpretation on Article 30). It refers in particular to Article 1§1 and its conclusion that employment policy efforts have not been adequate in combating unemployment and promoting job creation (Conclusions 2016, Italy), to Article 13§1 and its conclusion that the level of social assistance is not adequate and to Article 23 and its conclusion that the level of contributory and non-contributory old-age pensions is manifestly inadequate (Conclusions 2017, Italy).

On the basis of all of the above, the Committee considers that the situation remains in breach of Article 30 as there is no adequate overall and coordinated approach to combating poverty and social exclusion.

Monitoring and evaluation

The report states that the Ministry of Labour and Social Policies in 2015 launched a roundtable with the economic and social partnership, as well as with the institutional partnership for the adoption of a National Plan to Combat Poverty and Exclusion.

The Committee asks for an explanation of the role, function and impact of the abovementioned roundtable and having noted that the SIA measure was evaluated by the

Ministry of Labour and Social Policy it also asks to be informed of the conclusions of this evaluation.

The Committee recalls that Article 30 of the Charter requires the existence of monitoring mechanisms for reviewing and adapting the efforts at all levels, national, regional, local, to combat poverty and social exclusion; mechanisms which should involve all relevant actors, including civil society and persons directly affected by poverty and exclusion (see Conclusions 2003, France, Article 30). It asks that the next report contain comprehensive information in this respect.

Conclusion

The Committee concludes that the situation in Italy is not in conformity with Article 30 of the Charter on the ground that there is no adequate overall and coordinated approach to combating poverty and social exclusion.