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European Social Charter

European Committee of Social Rights

Conclusions 2016

ITALY

This text may be subject to editorial revision.

The role of the European Committee of Social Rights (the Committee) is to rule on the conformity of the situation in States Parties with the Revised European Social Charter (the Charter). The Committee adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure.

The following chapter concerns Italy, which ratified the Charter on 5 July 1999. The deadline for submitting the 15th report was 31 October 2015 and Itlay submitted it on 9 December 2015. The Committee received on 22 December 2015 observations from the International Organisation of Employers (IOE) expressing its perspective on the application of Article 24.

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 "Employment, training and equal opportunities":

- the right to work (Article1),
- the right to vocational guidance (Article 9),
- the right to vocational training (Article 10),
- the right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15),
- the right to engage in a gainful occupation in the territory of other States Parties (Article 18),
- the right of men and women to equal opportunities (Article 20),
- the right to protection in cases of termination of employment (Article 24),
- the right to workers to the protection of claims in the event of insolvency of the employer (Article 25).

Italy has accepted all provisions from the above-mentioned group except Article 25.

The reference period was 1 January 2011 to 31 December 2014.

In addition, the report contains also information requested by the Committee in Conclusions 2014 in respect of its findings of non-conformity due to a repeated lack of information:

- the right to just conditions of work – elimination of risks in dangerous or unhealthy occupations (Article 2§4),
- the right to bargain collectively – collective action (Article 6§4),
- the right of workers to be informed and consulted (Article 21),
- the right of workers to take part in the determination and improvement of working conditions and working environment (Article 22).

The conclusions relating to Italy concern 23 situations and are as follows:

– 12 conclusions of conformity: Articles 9, 10§1, 10§2, 10§5, 15§1, 15§2, 15§3, 18§2, 18§4, 20, 21 and 22

– 5 conclusions of non-conformity: Articles 1§1, 2§4, 18§1, 18§3 and 24

In respect of the other 6 situations related to Articles 1§2, 1§3, 1§4, 6§4, 10§3 and 10§4 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 Government to remedy this situation by providing the information in the next report.

During the current examination, the Committee noted the following positive developments:

Article 1§2

- The legislative decree 150/2011, mentioned above, widened the range of possible forms of discrimination covered by Article 44 of the Consolidated Immigration Act, by adding to the list discrimination on grounds of national origin, language or skin colour. Discrimination cases involving any of the prohibited grounds are now dealt with under urgent/fast-track procedure rather than under the ordinary procedure.

- In view of the legislative amendments made to bring domestic law into line with the requirements of ILO Convention No. 186, the Committee considers that the situation has been brought into conformity with Article 1§2 of the Charter on this matter.

Article 10§1

- The Law on the Labour Market Reform of 2012, which has introduced different types of education, such as formal, non-formal and informal with a view to consolidating the system of life-long learning where the essential features are the certification and validation of knowledge and the creation of the territorial Network of actors concerned.

Article 15

- In 2012, a clause was added to Law No. 68/99 stating that employers must make reasonable accommodation for employees with disabilities wishing to work from home or telework (Decree-Law No. 179 of 18 October 2012).
- Under Legislative Decree No. 76/2013, public and private employers are required to make reasonable accommodation to ensure compliance with the principle of equal treatment of persons with disabilities at work.

The next report will deal with 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).

The deadline for submitting that report was 31 October 2016.

Conclusions and reports are available at www.coe.int/socialcharter.

Article 1 - Right to work

Paragraph 1 - Policy of full employment

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

Employment situation

The Committee notes from Eurostat, that the GDP growth rate decreased sharply from 2011 (0.6%) to 2012 (-2.8%). The GDP growth rate recovered between 2013 (-1.7%) and 2014 (-0.3). The GDP growth rate remained well below the EU 28 average which stood at 1.4% in 2014.

The overall employment rate decreased slightly during the reference period (2011 – 56.8%; 2014 – 55.7%). The overall employment rate stood well below the EU 28 average of 64.9% in 2014.

The male employment rate decreased from 68.5% in 2011 to 64.7% in 2014. This was well below the EU 28 average rate of 70.1% in 2014. The female employment rate remained stable (2009 – 46.4%; 2014 – 46.8%). This rate was considerably below the EU 28 average which stood at 59.6% in 2014. The employment rate of older workers increased sharply from 35.6% in 2009 to 46.2% in 2014. It remained however below the EU 28 average of 51.8% in 2014.

The unemployment rate increased considerably from 8.4% in 2011 to 12.7% in 2014, which was above the EU 28 average of 10.2%. The youth unemployment (% of active population aged 15-24) increased considerably from 29.2% in 2011 to 42.7% in 2014. The same trend could be observed with respect to the long-term unemployment rate (% of active population aged 15-74) which increased from 4.3% in 2011 to 7.8% in 2014.

The Committee notes that the labour market situation in Italy continued to deteriorate during the reference period as shown in particular by the increase in the different unemployment rates.

Employment policy

As regards employment policy, the Committee notes from the report that the Government of Italy pursues the EU 2020 strategy which aims at raising the employment rate for women and men aged 20 – 64 to 75%. In this context the labour law has undergone three reforms adopted between 2011 and 2014. These reforms aim to develop long-term employment for the vulnerable groups such as the youth by the introduction of a Youth Guarantee.

According to the report, the most recent labour law initiative is the so-called ‘Jobs Act’ adopted in 2014. The ‘Jobs Act’ creates additional incentives to increase the number of long-term employment. It also increases the resources devoted to active labour market policies while improving their effectiveness.

In order to improve the activation policy, the ‘Jobs Act’ also foresees the setting up of the Unique Agency for Active Policies (ANPAL). This Agency has a central role in the coordination of regional action on the matter.

According to Eurostat, public expenditure on active labour market policies in Italy amounted to 1.9% of GDP in 2013 which was about the EU 28 average (where in 2011 the average public spending on active labour market measures as a percentage of GDP that year was 1.8%).

The Committee takes note of the information provided with respect to the effectiveness of the labour market programmes. However, they have not been sufficient to have an impact on the unemployment rates. In the next report, the Committee requests information the results achieved.

Conclusion

The Committee concludes that the situation in Italy is not in conformity with Article 1§1 of the Charter on the ground that the employment policy efforts have not been adequate in combatting unemployment and promoting job creation.

Article 1 - Right to work

Paragraph 2 - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)

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

1. Prohibition of discrimination in employment

The Committee refers to its description of the situation and legal framework in the previous conclusions (Conclusions 2008, Conclusions 2012) in which it noted that legislative decree 215/2003, implementing Council Directive 2000/43/EC of 29 June 2000, prohibited discrimination in employment on grounds of race or ethnic origin, while legislative decree 216/2003 implementing Council Directive 2000/78/EC of 27 November 2000 prohibits discrimination in employment on grounds of religion, personal convictions, disability, age and sexual orientation.

The report indicates that legislative decree 150/2011, mentioned above, widened the range of possible forms of discrimination covered by Article 44 of the Consolidated Immigration Act, by adding to the list discrimination on grounds of national origin, language or skin colour. Discrimination cases involving any of the prohibited grounds are now dealt with under urgent/fast-track procedure rather than under the ordinary procedure.

The report provides information about the activities of UNAR – the national office against racial discrimination which operates within the Department for Equal Opportunities – in combating discrimination based on race or ethnic origin at work. It appears from the report that in 2012, UNAR dealt with 120 cases of discrimination based on ethnicity or race in the professional sphere. The number of cases of discrimination in the workplace processed by UNAR rose to 226 in 2013 and 250 in 2014. The Committee notes that, of all the cases handled by UNAR in 2014, only 6 involved discrimination based on sexual orientation and 6 discrimination on the grounds of beliefs or religion. The report further states that UNAR also uses a call centre which operates via a free telephone helpline and a website, collecting reports and complaints about facts and occurrences that might constitute breaches of the principle of equal treatment between persons.

The Committee previously requested information on the practical measures taken to promote equality in employment without discrimination on the grounds of ethnic origin, disability, age or sexual orientation (Conclusions 2012).

The report states that UNAR has prepared a draft anti-racism plan to tackle discrimination based on race, skin colour, descent, national/ethnic origin, religious beliefs/practices or language. The plan seeks, *inter alia*, to improve the way the current regulations in this area are monitored; to promote awareness of conciliation procedures and to make it easier for victims of discrimination to obtain justice; to continue sensitising employers, workers and the social partners on the issue of discrimination, whether direct or indirect; and to ensure that workers from third countries are able to participate in open competitions in accordance with European principles.

The Committee likewise takes note of the various positive action measures taken by UNAR to help immigrants become socially integrated. For example, the “Diversita lavoro” project promoted by UNAR, People, the Sodalitas Foundation and the Adecco Foundation for Equal Opportunities was set up to help people with disabilities, people of foreign origin and transgender people into work, by involving companies and institutions sensitive to values such as diversity and inclusion.

As regards discrimination against LGBT (Lesbian, Gay, Bisexual and Transgender) persons, UNAR and the Department for Equal Opportunities have joined the Council of Europe’s project to combat discrimination on grounds of sexual orientation or gender identity. In this context, Italy has adopted a national LGBT strategy, which includes an integrated and multidisciplinary action plan and is based on a system of integrated governance involving

relevant NGOs, institutions at national, regional and local level, the social partners and all the relevant actors in various capacities. The Strategy is also concerned with the workplace and aims to combat discrimination against LGBT persons, in particular transsexual and transgender persons.

The report further states that in November 2014, a fund for victims of discrimination was set up in the Department for Equal Opportunities to provide specific support by advancing funds for legal costs.

The Committee asks that the next report describe the actual/tangible impact of all these measures on discrimination in employment.

As regards access by foreign nationals to public service posts, the Committee points out that it previously noted (Conclusions 2008) that the regulation setting out the rules governing access to public service employment (DPR 487 of 9 May 1994) prevents nationals of non-European Union States Parties from filling certain public service posts, some of which are unrelated to national security or the exercise of public authority for the protection of law and order. The Committee considered that this regulation placed excessive restrictions on access to public service employment for nationals of non-European Union States Parties, and thus constituted discrimination against them on grounds of nationality, in breach of Article 1§2 of the Revised Charter.

In its previous conclusion, the Committee noted, however, that Article 2 of legislative decree 286/1998 – the Consolidated Immigration Act – enshrined the principle of equal treatment of Italian and foreign nationals and that in several judgments, courts had found in favour of non-EU nationals who wished to gain access to civil service posts, thus placing them on an equal footing with EU nationals. The Committee further noted that the report failed to indicate whether these changes in case law emanated from superior court decisions with a general application, which were the only ones capable of setting aside the inadequate legislation. Accordingly, it considered that there had been no change in the situation, and that access to civil service jobs was still excessively restricted for non-EU nationals of States Parties, which constituted discrimination against them on the ground of their nationality in breach of Article 1§2 (Conclusions 2012).

The representative of Italy in the Governmental Committee confirmed that there was a conflict between domestic legislation as the ban on the employment of foreign nationals (non-EU citizens) was difficult to reconcile with Article 2 of the Immigration Act which appeared to permit all those lawfully present to work without discrimination. It was mentioned that the conflict between the legislation would have to be resolved by the Constitutional Court or through legislation (Governmental Committee report concerning Conclusions 2012).

The present report points out that the case law enshrining equality in access to employment for third-country nationals is even more extensive. The report provides examples of decisions handed down by the Milan, Florence and Rome courts in support of equal treatment for foreign nationals in terms of access to jobs in the civil service. Ruling on 20 December 2012, the Rome Court held that the legislation on the civil service could be constitutionally oriented towards excluding any discrimination against non-EU nationals lawfully resident in Italy, as has been recognised on several occasions by substantive law and implicitly recognised by the Constitutional Court in its decision No. 139 of 15 April 2011. According to the Rome Court, the conflict between civil service legislation and the competition procedure, on the one hand, and the rules set out in the Consolidated Immigration Act on the principle of equal treatment, on the other, must be resolved in favour of the latter and the requirement for applicants to have Italian nationality may be imposed only where the tasks in question involve the exercise of public authority or duties which are in the national interest.

The report also mentions the opinion issued by UNAR on 31 July 2010 and the statement by the Ombudsman of Emilia-Romagna to the effect that foreign nationals should have access

to civil service jobs in the same way as EU nationals, and that this is now the dominant view in law and legal theory, mainly because of the principle of equal treatment between migrant and national workers referred to in ILO Convention 143/1975, which is mentioned in Article 2, paragraph 3, of legislative decree 286/98. The Ombudsman also pointed out that in a ruling handed down on 15 April 2011, the Constitutional Court seemed to support the view taken by UNAR and the lower courts in favour of access for non-nationals. The Committee requests a copy of the Constitutional Court judgment of 15 April 2011.

The Committee takes note of the case law in support of the principle of equal access to employment for third-country nationals. According to the report, there is a conflict in the current regulatory system that is creating uncertainty. The report calls for regulatory and legislative reforms to be introduced as soon as possible.

The Committee wishes to be kept informed of any legislative initiatives and any developments in the case law in this area. In particular, it wishes to know where the higher courts and the Constitutional Court stand on this issue. In the meantime, the Committee reserves its position on this point.

The report further indicates that following the entry into force, from 4 September 2013, of Law No. 97 of 6 August 2013 (the "European Law"), under European Union rules, the majority of third-country nationals present in Italy have the right to participate in open competitions for all posts other than those involving the exercise of public office: that includes holders of EU residence permits in the case of long-term residents, holders of permits for international protection (refugee status or subsidiary protection), as well as members of their families and family members of EU nationals. According to the report, these categories account for more than 60% of all third-country nationals lawfully resident in Italy and do not include EU nationals, who have had the right to access civil service posts of this type since 1994.

2. Prohibition of forced labour

The Committee considered previously that the situation in Italy was not in conformity with Article 1§2 of the Charter because the Navigation Code provided for criminal penalties against seafarers and civil aviation personnel who deserted their post or refused to obey orders, even in cases where there was no threat to the safety of the vessel or aircraft. In this context the report refers to the information given by the representative of Italy during the meeting of the Governmental Committee in 2013 concerning the ratification by Italy of the ILO Maritime Labour Convention (No. 186) (see the report of the Governmental Committee concerning Conclusions 2012 of the European Social Charter (revised), document GC(2013)25). This ratification, on 19 November 2013, was combined with an amendment of the Navigation Code (Articles 1091 and 1094), substituting administrative penalties for a prison sentence where no real threat to the safety of the vessel or aircraft had been identified.

In view of the legislative amendments made to bring domestic law into line with the requirements of ILO Convention No. 186, the Committee considers that the situation has been brought into conformity with Article 1§2 of the Charter on this matter.

Work of prisoners

In reply to the question put by the Committee in its previous conclusion (Conclusions 2012), the report states that under the Criminal Code, agricultural and labour colonies are administrative social protection arrangements, designed primarily to receive persons who have served their prison sentence but are held by the sentence enforcement judge to be a "danger to the community" and not able therefore to reintegrate into it. The length of placement in these institutions cannot be less than one year or two years for "habitual offenders", three years for "career criminals" and four years for "inveterate criminals", bearing in mind that it is for the sentence enforcement judge to decide, in consultation with

the prison staff and the police, whether, once the initial period of placement has expired, the security measure – detention order can be lifted or must be extended for a period set according to the level of "social dangerousness" of the person concerned. The length of detention orders is not actually fixed, as it is linked to the evolution of the danger that the criminals concerned pose.

Agricultural and labour colonies are therefore two means of executing a social protection order, decisions on which are made at the judge's discretion taking account of the prisoner's personality and state of health, the threat that he or she may pose and his or her efforts at social reintegration. Both institutions are governed by the Prison Law, with a prison regime involving relatively low supervision levels and compulsory work. According to the report, there are four agricultural colonies in Italy, only one of which can accommodate prisoners, three labour colonies for men and two labour colony wings in women's prisons.

The Committee notes from another source that the difference between agricultural colonies and labour colonies should lie in the type of activity which is carried out there (farm work in the agricultural colonies and craft or industrial work in the labour colonies) but this distinction no longer really applies because of the lack of work available at these facilities, which is actually limited to work connected with the internal functioning of the institution (catering, cleaning, etc.) (see the Study by the French Ministry of Justice on "The Assignment of Prisoners to High-Security Institutions – the Situation in Italy").

The Committee observes that in essence, Italian social protection orders are no different from prison sentences and take the form in practice of an indeterminate extension of imprisonment. It considers that the position of persons living in colonies is equal to that of prisoners.

The Committee notes that the report does not answer the question it put in its previous conclusion on work obligations in agricultural and labour colonies. Consequently, it repeats its request for relevant information in the next report on this point and decides to defer its conclusion.

In addition, the Committee repeats its request for relevant information in the next report on the matters raised in the Statement of Interpretation on Article 1§2, in which it stated that "prisoners' working conditions must be properly regulated, particularly if they are working, directly or indirectly, for employers other than the prison service. In accordance with the principle of non-discrimination enshrined in the Committee's case law, this supervision, which may be carried out by means of laws, regulations or agreements (particularly where companies act as subcontractors in prison workshops), must concern pay, hours and other working conditions and social protection (in the sphere of employment injury, unemployment, health care and old age pensions)" (Conclusions 2012).

Domestic work

The Committee notes that the report does not answer the questions it put on domestic work in its Statement of Interpretation on Article 1§2 in the General Introduction to Conclusions 2012. Consequently, the Committee repeats its request for relevant information in the next report on the matters raised in this Statement of Interpretation, in which it drew attention to the existence of forced labour in the domestic environment and in family businesses, particularly information on the laws enacted to combat this type of forced labour or on the steps taken to apply such provisions and monitor their application. The Committee points out that if the information is not provided in the next report, there will be nothing to establish that the situation is in conformity with Article 1§2 of the Charter regarding prohibition of forced labour in respect of domestic workers and within family businesses.

3. Other aspects of the right to earn one's living in an occupation freely entered upon

Minimum periods of service in the Armed Forces

In its previous conclusion (Conclusions 2012), the Committee pointed out that any minimum period of service in the armed forces had to be of a reasonable duration and in cases of longer minimum periods due to any education or training that an individual had attended, the length had to be proportionate to the duration of the education and training. Likewise any fees/costs to be repaid on early termination of service had to be proportionate. As the report does not provide any information on the situation in Italy in this respect, the Committee asks for up-to-date information on the subject in the next report.

Requirement to accept the offer of a job or training

In reply to the question put by the Committee in its previous conclusion (Conclusions 2012), the report states that a new system of unemployment benefits, called the ASPI (*Assegno Sociale per l'Impiego*), was set up in Italy in 2013. Under the law on unemployment insurance, unemployed persons lose their status (and hence any entitlement to benefits) in the following cases: they refuse to attend any training courses organised by the Region or do not attend them regularly; they reject an offer of a job that is identical too or functionally equivalent to their previous work and for which the salary is no more than 10% lower than the previous one; they refuse to engage in public utility work or services; they ignore instructions to go to the employment office without good reason; they have been recruited on a full-time permanent contract; they have chosen to receive mobility allowance as a lump sum. Since 2014, unemployed status has also been withdrawn if the persons concerned fail to confirm their statement of immediate availability to work with the relevant employment office within six months of the first guidance interview, either in person or by telephone. Unemployed status is also automatically cancelled if the recipient engages in work (as an employee or a self-employed worker) and exceeds the upper income limit set by the law. It is suspended if the recipient engages in salaried work for a period of up to six months. It may be re-established after two months (if it is withdrawn after failure to attend interviews with operators) or after four months (if the person has rejected a suitable job offer or failed to participate in activities designed to reduce unemployment such as training).

The Committee takes note of the information provided. It considers that in all cases in which the relevant authorities decide on the permanent withdrawal or temporary suspension of unemployment benefit because the recipient has rejected a job offer, this decision must be open to review by the courts in accordance with the rules and procedures established under the legislation of the State which took the decision (Statement of interpretation on Article 1§2, Conclusions 2012). It asks for updated information in this regard in the next report.

Privacy at work

The Committee reiterates that the right to undertake work freely includes the right to be protected against interferences with the right to privacy. As the report does not provide any information in this respect, the Committee asks for information in the next report on measures taken by the state to ensure that employers give due consideration to workers' private lives in the organisation of work and that all interferences are prohibited and where necessary sanctioned (Statement of Interpretation on Article 1§2, Conclusions 2012). The Committee points out that if the information is not provided in the next report, there will be nothing to establish that the situation is in conformity with Article 1§2 of the Charter regarding prohibition of forced labour in respect of domestic workers and within family businesses.

Conclusion

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

Article 1 - Right to work

Paragraph 3 - Free placement services

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

The report states that, according to a sample survey, in 2013, the proportion of individuals who found jobs through the public employment services (CPI – Centri Pubblici per l'impiego) was 4%, while the figure for temporary employment agencies was 5,25% and that for schools, universities and vocational training institutes was 4,1%. The report further states that the CPIs' market share was "far below that of all informal methods (which have) a share of 66,7%" and that the CPIs play a "marginal role" in the jobseeking process. It also states that more than four in 10 persons who found jobs said they had also used the public employment services.

The report states that 2,215,037 persons made statements of immediate availability for work (DIDs) in 2012 and that one or more such statements may be registered per person. The report also indicates that the June 2015 data for *Cliclavoro*, the Labour Ministry's portal for matching labour supply and demand, showed 720,880 registrations and 78,777 vacancies.

While taking note of this information, the Committee considers that these figures neither indicate the exact number of jobseekers and vacancies notified to public services, nor the information provided concerns the full reference period.

In its previous conclusion (Conclusions 2012), the Committee noted that 3% of the persons polled in a sample survey had found jobs through the CPIs and consequently pointed out that it had always defined the placement rate of public employment services as the percentage of placements made by the employment services in relation to the total number of vacancies (not as a percentage of the number of jobseekers). It therefore requested that the next report provide information on placements made by public employment services using the Committee's definition. On the basis of the information supplied, the Committee considers that the report does not answer the question.

The report also states that the staff employed by the CPIs total 8,713, of whom 7,686 have indefinite-term contracts. In 2012, the average number of staff members per CPI was 15,7. In reply to one of the Committee's questions, the report states that the average time required to fill a vacancy is approximately 3,8 months.

The Committee also takes note of the European Commission's 2015 report concerning Italy, (http://ec.europa.eu/europe2020/pdf/csr2015/cr2015_italy_en.pdf) which criticises the poor performance of employment services in that they show limited capacity to provide transparent information to jobseekers and to address the needs of employers, this being a crucial element holding back effective labour market policies. It further refers to enduring regional disparities in the quality of services provided by public employment services and in the quality of co-operation between public and private employment services.

The Committee takes note of the labour reform introduced in 2014 through the Jobs Act (with the promulgation of Decree Law 34/2014, as transformed into Law N°. 78 of 16 May 2014, and of Delegation Law N°. 183 of 10 December 2014), which seeks to bring about a recovery in employment and reform the labour market. The establishment of a national co-ordination agency as provided for in the Jobs Act seems to be a promising step towards improving the governance of the system.

Nevertheless, in view of all the information supplied and in order to assess the actual effectiveness of the free employment services following the recent reform, the Committee asks for the next report to provide the following information for each year in the reference period: a) the total number of jobseekers and unemployed persons registered with the public employment service (PES); b) the number of vacancies notified to PES; c) the number of persons placed via PES; d) the placement rate (i.e. the percentage of placements compared to the number of notified vacancies); e) the average time taken by PES to fill a vacancy; f)

the number of placements by PES as a percentage of total recruitments on the labour market; g) the respective market shares of public and private services. Market share is defined as the number of placements effected as a proportion of total recruitments on the labour market.

Furthermore, the Committee requests data on: a) the number of persons working in PES (at central and local level); b) the number of counsellors involved in placement services and the ratio of placement staff to registered jobseekers.

Lastly, it is requested that the next report provide information about the participation of trade unions and employers' organisations in organising and running employment services.

Consequently, given the lack of the above information, the Committee is not able to assess the situation as to compliance by Italy with Article 1§3 of the Charter.

Conclusion

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

Article 1 - Right to work

Paragraph 4 - Vocational guidance, training and rehabilitation

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

As Italy has accepted Article 9, 10§3 and 15§1 of the Charter, measures relating to vocational guidance, to vocational training and retraining of workers, and to vocational guidance and training for persons with disabilities are examined under these provisions.

The Committee considered the situation to be in conformity with the Charter as regards measures concerning vocational guidance (Article 9) and vocational training for persons with disabilities (Article 15§1).

It deferred however its conclusion as regards measures relating to vocational training and retraining of workers (Article 10§3). For the same reasons, the Committee defers its conclusion on Article 1§4.

Conclusion

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

Article 2 - Right to just conditions of work

Paragraph 4 - Elimination of risks in dangerous or unhealthy occupations

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2015 on conclusions of non-conformity for repeated lack of information in Conclusions 2014.

The Committee takes note of the information submitted by Italy in response to the conclusion that it had not been established that the right to just conditions of work with regard to the risks present in inherently dangerous or unhealthy occupations (appropriate compensatory measures) was guaranteed (Conclusions 2014, Italy).

Article 2§4 requires States Parties to ensure some form of compensation for workers exposed to residual risks that cannot be or have not yet been eliminated or sufficiently reduced either in spite of the effective application of the preventive measures referred to above or because they have not yet been applied (Conclusions 2005, Statement of Interpretation on Article 2§4). Article 2§4 mentions two forms of compensation: reduced working hours and additional paid holidays. In view of the emphasis in this provision on health and safety objectives, however, other measures of reducing exposure time may also ensure conformity with the Charter. The relevance and adequacy of such measures are assessed on a case by case basis (Conclusions XX-3 (2014), Germany).

The report provides no new information, but instead refers to information provided by the Italian representative at the 123rd meeting of the Governmental Committee in 2011.

In this information mention is made of the constant case law of the Italian courts which imposes on the employer an obligation to adopt all possible measures on the basis of the best technologies available to prevent any health and safety risks, an obligation which is particularly stringent in case of dangerous and unhealthy activities (for example Cassation Court, decision No. 4012/1998 and decision No. 4721/1998). The case law referred to does not specify the methods of elimination of risks or the forms of compensation, but leaves the choice to be made on the basis of a case-by-case assessment. The Committee asks for up-dated information on any subsequent developments in the case law of the Italian courts in this field, especially as regards provision for compensatory measures.

With respect to residual risks which cannot be completely eliminated the information makes reference to a measure for workers exposed to ionising radiation entitling them to 15 days' additional leave per year (this measure was previously noted by the Committee), but does not indicate that similar measures (additional leave or reduced working hours) are provided in other activities or occupations. The Committee notes on the other hand the information concerning a number of activities and occupations where provision is made for early retirement and/or increased remuneration and other financial rewards, however, as noted above, such measures cannot be regarded as appropriate for the purposes of Article 2§4. The situation is therefore in breach of the Charter.

Conclusion

The Committee concludes that the situation in Italy is not in conformity with Article 2§4 of the Charter on the ground that the right of workers exposed to residual occupational health risks to appropriate compensatory measures is not adequately guaranteed.

Article 6 - Right to bargain collectively

Paragraph 4 - Collective action

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2015 on conclusions of non-conformity for repeated lack of information in Conclusions 2014.

The Committee takes note of the information submitted by Italy in response to the conclusion that it had not been established that the Government's power to issue injunctions or orders restricting strikes in essential public services falls within the limits of Article G of the Charter (Conclusions 2014, Italy).

Under Article 6§4 the right to strike may be restricted provided that any restriction satisfies the conditions laid down in Article G which provides that restrictions on the rights guaranteed by the Charter that are prescribed by law, serve a legitimate purpose and are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health or morals (Conclusions X-1 (1987), Norway (regarding Article 31 of the Charter). The expression "prescribed by law" means, not only statutory law, but also case-law of domestic courts, if it is stable and foreseeable (European Trade Union Confederation (ETUC)/ Centrale Générale des Syndicats Libéraux de Belgique (CGSLB)/Confédération des Syndicats Chrétiens de Belgique (CSC)/ Fédération Générale du Travail de Belgique (FGTB) v. Belgium, Complaint No. 59/2009, decision on the merits of 13 September 2011, §43-44).

Prohibiting strikes in sectors which are essential to the community is deemed to serve a legitimate purpose since strikes in these sectors could pose a threat to public interest, national security and/or public health (Conclusions I (1969), Statement of Interpretation on Article 6§4). However, simply banning strikes even in essential sectors – particularly when they are extensively defined, i.e. "energy" or "health" – is not deemed proportionate to the specific requirements of each sector. At most, the introduction of a minimum service requirement in these sectors might be considered in conformity with Article 6§4 (Conclusions XVII-1 (2004), Czech Republic).

The report states that Italian law seeks to strike a balance between the rights of employees to strike and the rights of others who may be affected by the strike in essential services. A Commission, Central government or competent territorial Prefects may issue a decree adopting the necessary measures to ensure that rights protected by the Constitution. The report provides a list of the services in which the right to strike may be restricted, it notes that public transport services, post and telecommunications, garbage disposal are inter alia, included on that list, referring to its case law cited above the Committee asks whether strikes may be prohibited completely in these sectors or whether decrees simply require that certain minimum services be maintained.

In order that the Committee may assess whether the restrictions imposed are in conformity with Article G of the Charter it asks that the next report to provide details of the decrees issued during the reference period prohibiting or restricting strikes. Meanwhile, it defers its conclusion.

Conclusion

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

Article 9 - Right to vocational guidance

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

It notes that there has been no change in the situation regarding foreign nationals' access to vocational guidance services, which it has previously found to be in conformity with the Charter (Conclusions 2003, 2007, 2008, 2012).

In connection with measures relating to the vocational guidance of persons with disabilities, whether as part of the education system or in the labour market, the Committee refers to its assessment under Article 15 of the Charter.

Vocational guidance within the education system

According to the report, in lower and upper secondary education establishments (including technical and vocational colleges), vocational guidance is the responsibility of the Ministry of Education, Universities and Research. It forms an integral part of the institutional activities and study programmes of schools at all levels and, more generally, of the overall education and training process. The report draws attention to certain measures introduced through Law No. 128 of 8 November 2013 to strengthen guidance activities in schools, in co-operation with local institutions, employers' organisations, chambers of commerce and employment agencies. For example, there have been improvements to the arrangements for alternating work and education/training for pupils and students and to the training of school staff. The Committee also notes the measures introduced at university level to improve guidance on entry to the system, through guidance days and sites providing relevant information, for example; during the course of studies, through tutoring activities; and on leaving the system, through occupational placement services. The Ministry also has an internet portal offering guidance information to anyone so interested (www.istruzione.it/orientamento/index.shtml).

The Committee also notes that Law No. 92 of 28 June 2012 contains a series of measures, described in the report, making guidance the central feature of a strategy to promote lifelong education. As part of these measures, an agreement was signed on 20 December 2012 between the government, the regions and local authorities on a national guidance strategy. Under the agreement, guidelines for schools were adopted in 2014 and minimum standards of service and of professional competence of operators were laid down.

The report states that out of a total of 18 385 providers of guidance services at the end of 2011 (data supplied by the Italian Institute for the Development of Employees' Vocational Training), there were 11 000 secondary schools and colleges, 3 861 vocational training centres and 238 universities and higher education establishments.

The Committee points out that, to be in conformity with Article 9 of the Charter, vocational guidance must be provided:

- free of charge;
- by a sufficient number of qualified staff;
- to a significant number of persons and be aimed at the widest possible audience, and
- have sufficient funding.

Since the report contains no information on these matters, the Committee asks for future reports to provide regular information on the current staffing of vocational guidance services, the number of beneficiaries of guidance services in the education system and the level of financing of guidance activities.

Vocational guidance in the labour market

According to the report, activities relating to vocational guidance in the labour market are the responsibility of the regional and provincial authorities. The main public bodies concerned are:

- the employment services (Centri per l'Impiego – CpI), operating at provincial level under the authority of the regions;
- municipal employment advisory centres (CILO/COL);
- the "Informagiovani" service, run by municipalities or provinces to assist young persons.

Guidance services may also be operated by private bodies such as employment agencies approved by the Ministry of Labour and Social Policies, training bodies, social co-operatives, foundations, non-profit organisations, trade unions and professional associations. Chambers of commerce offer guidance services to persons wishing to become entrepreneurs.

The Committee also takes note of new measures, particularly concerned with unemployed persons, introduced in 2012 under Law No. 92 of 28 June on life-long learning. The report also refers to two national employment programmes developed by the Ministry of Labour and Social Policies, which recognise the key contribution of guidance activities to combating unemployment, particularly youth unemployment. By half way through 2015 (outside the reference period) some 689 000 young persons had been enrolled in the programme.

Guidance services are also provided on line, such as those managed by Euroguidance (www.euroguidance.it), the Italian Institute for the Development of Workers' Vocational Training (www.isfol.it/orientaonline.it), or the chambers of commerce (www.jobtel.it). The report also draws attention to the on-line "Cliclavoro" service, which enables individual citizens, businesses and public and private operators to interact, communicate with each other and gather information on the state of the labour market. A search engine managed by the national archives also enables users to access information on guidance services available in Italy, using such sort criteria as geographical area, type of service and so on. According to the report, in late 2011 there were a total of 18 385 guidance service providers, including 388 business undertakings and 2 898 employment guidance centres.

The Committee refers to the aforementioned criteria for assessing conformity with Article 9 of the Charter, and asks for future reports to supply, systematically, quantified information on the level of funding and staffing and the number of beneficiaries of vocational guidance services in the labour market.

Conclusion

Pending receipt of the requested information, the Committee concludes that the situation in Italy is in conformity with Article 9 of the Charter.

Article 10 - Right to vocational training

Paragraph 1 - Technical and vocational training; access to higher technical and university education

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

Secondary and higher education

According to the report, the competence in vocational training lies with the regions. It is implemented by the Provincial Education Centres for Adults (CPIA). The system has been reorganised under the Presidential Order No 263 of 29 October 2012, which strengthened the life-long learning component of vocational education. This issue has also been included in the Law on the Labour Market Reform of 2012, which has introduced different types of education, such as formal, non-formal and informal with a view to consolidating the system of life-long learning where the essential features are the certification and validation of knowledge and the creation of the territorial Network of actors concerned.

According to the report, the Law No 92/2012 on the Labour Market has for the first time included the notion of lifelong learning. The Council of Ministers have approved in 2013 the Decree No 13/2013 concerning the validation of non-formal and informal knowledge.

The Committee notes that during the reference period important structural changes were introduced to the vocational training system, including apprenticeships, school-work alternance, traineeships as well as evaluation of training with a view to reinforcing transperancy and the link to the labour market.

The Committee notes from Cedefop (European inventory on National Qualifications Framework (NQF), Italy 2012) that Italy faces a challenge of integrating different levels of lifelong learning systems into a coherent national qualifications system. The absence of an explicit and adequately regulated National Qualifications Framework is regarded as a barrier for taking forward coherent lifelong learning policies and validation of non-formal and informal learning and making learning pathways for lifelong learning more visible. Also, labour market mobility between regions is hampered due to the fact that qualifications awarded in some regions are not always recognised in other regions (European Parliament; Directorate General for Internal Policies, 2012).

The Committee notes in this respect that in 2013 the Ministry of Education, University and Research (MIUR) initiated the preparatory work to set up a technical body, composed of the MIUR representatives, as well as the Regions, trade unions and employers' organisations to prepare the National Qualifications Framework (NQF). In 2014 the National Guidelines for vocational training were adopted and the working group was created to implement them.

The Committee wishes to be informed about the implementation of the national guidelines and the NQF. It wishes to be informed, in particular, what measures are taken to make vocational secondary education and general higher education qualifications relevant from the perspective of professional integration in the job market, especially given the high youth unemployment rate.

Measures to facilitate access to education and their effectiveness

According to the report, public expenditure on education and training represented 4.2% of GDP in 2012, while 9.4% of spending on active policy measures fell on professional training.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Italy is in conformity with Article 10§1 of the Charter.

Article 10 - Right to vocational training

Paragraph 2 - Apprenticeship

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

The Committee notes that the apprenticeship system underwent reforms during the reference period. The Law on Apprenticeship (TUA) entered into force in 2011 and was modified in 2012 and 2014. The reorganisation of the regulations governing apprenticeships focused on the need to increase the engagement of Governmental institutions in promoting apprenticeships as a way of increasing youth employment. It was decided to focus on interventions that could address school-work transition characterised by large complexities.

According to the report, apprenticeships were divided into three groups:

- apprenticeship to obtain a qualification and a professional degree (first level) for 15 -25 years olds. The contract period cannot exceed three years.
- professionalisation apprenticeship, which applies to all sectors and concerns young people between 18 and 29 years. It is intended to obtain a professional qualification by acquiring both basic and transversal skills as well as technical and professional competences. The duration of the contract is up to five years and is determined by collective bargaining. This type of apprenticeships represent around 97.3% of all apprenticeships.
- apprenticeship of research, which applies to all sectors of activity and concerns young people between 18 and 29 years. It seeks to obtain secondary and tertiary titles (high school graduate degree, master's degree, doctoral research, higher technical specialisation). The duration depends on agreements defined at the regional level.

In 2013 a series of agreements were concluded aiming at ensuring the regional homogeneity and simplifying the obligations of enterprises and relaunching the debate on the linkage between the educational system and the employment world and favouring the apprenticeship by practical learning.

In 2014 the Agreement State-Regions was adopted which set out the national guidelines for apprenticeships. The regulations on monitoring, evaluation and simplification of apprenticeship have equally been an object of numerous legal interventions, such as reduction of payroll charges for enterprises who hire apprentices.

The average number of labour contracts in apprenticeship in 2013 was 451 954, which is 3,9% less compared to 2012, indicating a loss of about 18,000 apprenticeships.

The average number of apprenticeship contracts has decreased in craft enterprises (-12.7%), while in other enterprises has remained unchanged. The professionalisation apprenticeship continues to be the contractual form by far the most common, with nearly 91% of contracts on average in 2013. In 2013, the number of workers who began apprenticeship was approximately 232,000.

Conclusion

The Committee concludes that the situation in Italy is in conformity with Article 10§2 of the Charter.

Article 10 - Right to vocational training

Paragraph 3 - Vocational training and retraining of adult workers

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

Employed persons

According to the report the objectives of continuing training are defined by the Ministry of Labour and Social Policy and the activities are managed by the regions and autonomous provinces and social partners. Interprofessional national funds for continuing training are the bodies promoted by the social partner organisations in the framework of specific interprofessional agreements between trade unions and employers organisations. These funds can be created for each economic sector. In 2013 there were 18 funds of continuing training. 63% of all enterprises have participated, offering a training to 77% of their employees (around 8,9 million). Despite the economic slowdown, participation of funds in training has gone up in 2012-2013 owing to new memberships (8% more enterprises). In the period of January 2012 to June 2013 more than 37,800 trainings were approved designated for more than 2,5 million participants in more than 68,000 enterprises, at the total cost of € 1,024 million. The contibution of enterprises was at 38% of the total cost.

Regions select the appropriate target group at local level and must report to the Government. Italian legislation recognises workers' right to lifelong learning and envisages allocation of funds to support training. It also finances training leave in accordance with the regulation on working hours, by funding training vouchers.

From January 2012 to June 2013, over 37 800 training plans were approved, aimed at around 2.5 million participants belonging to over 68 000 enterprises. The total cost of the plans was around € 1,024 billion, mostly allocated for enterprise-targeted initiatives. Enterprises made a significant contribution, covering 38% of the total cost.

According to the report 56 Adult Training Centres were activated in 2014 in eight regions and additional 64 will be added later. These centres are organised in a manner to ensure the direct cooperation with local authorities and the labour market. The Committee notes that around 19,976 courses were offered for adults in 2011-2012. 325,035 persons have benefited from vocational education courses of which 37,377 received diplomas.

Unemployed persons

The Committee notes from Cedefop (Statistical Overviews, Italy, 2014) that in September 2014, according to the National Institute of Statistics (ISTAT), the unemployment rate (for young people aged between 15 and 24) reached 44.2%. In the current economic crisis, unemployment rates have also increased among those with tertiary education to 7.4%, and to 11.5% for people holding an upper secondary qualification (EU-28 averages were 6.5% and 10% in 2013).

According to Cedefop the Italian labour market is characterised by a strong mismatch between labour demand and supply, that is, between the professional competences offered by the training system and those required by the labour market. The Committee asks the next report to comment on these observations.

While higher education attainment still provides a shield against unemployment, recent labour market dynamics confirm that holding a university degree does not reduce the risk of unemployment to the same extent as in some European countries.

The report refers to a study, according to which between 2010 and 2013 out of 5,960 students enrolled in 249 courses offered in 10 regions 57,3% found a job during their last trimester. 26% of them received a job offer from the enterprise where they had a traineeship. 84% of students have found themselves in a stable professional situation and 51,1%

declared that the their job corresponded to their education and training received from the Institute of Higher Vocational Studies (IFTS).

The Committee recalls that Article 10§3 focuses on labour market training for the unemployed and takes into account only those activation measures for unemployed people that strictly concern training.

The Committee asks the next report to provide information on the total number of unemployed persons participating in continuing training and the activation rate – i.e. the ratio between the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons and participants in active measures.

Conclusion

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

Article 10 - Right to vocational training

Paragraph 4 - Long term unemployed persons

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

The report which was submitted for the Committee's examination states that Law No. 92/2012 on Reform of the Labour Market also concerns active policies targeting long-term unemployment situations.

The report indicates that to help the long-term unemployed get back into work, employmented services implement a series of actions addressed to this category as follows:

- a period of training lasting a total of at least two weeks within 6-12 months of their becoming unemployed, which is adapted to the occupational abilities of the person concerned;
- offering them the opportunity to sign up for vocational integration initiatives before the end of the period for which income support is received;
- at least two weeks' vocational training for recipients of unemployment benefit or other allowances deriving from an employment relationship, in the event of an interruption of employment lasting more than six months.

However, the Committee considers that, the report fails to provide relevant information on measures aimed at long-term unemployed and young long-term unemployed persons or data concerning the impact of the measures taken to reduce long-term unemployment. Consequently, the Committee requests that the next report provide information on: a) the types of training and retraining that are offered within the labour market, b) the number of persons who are undertaking this type of training – with particular focus on long-term unemployed young people – and c) the impact of the measures in the reduction of long-term unemployment.

The Committee also requests that the next report confirms that equality of treatment in terms of access for the long-term unemployed to training and retraining is guaranteed for non-nationals who are legally resident in the country.

Conclusion

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

Article 10 - Right to vocational training

Paragraph 5 - Full use of facilities available

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

Fees and financial assistance

The Committee recalls that under Article 10§5 of the Charter access to vocation training also covers the granting of financial assistance, whose importance is so great that the very existence of the right to vocational training may depend on it. All issues relating to financial assistance are covered, including allowances for training programmes in the context of the labour market policy. The States must provide assistance either universally or subject to a means-test, or awarded on the basis of the merit. In any event assistance should be available for those in need and shall be adequate. It may consist of scholarships or loans at preferential interest rates. Total number of beneficiaries and the amount of assistance is taken into consideration for assessing compliance with this provision.

The Committee takes note of the system of financial assistance. The system of vocational training is under the responsibility of the Regions and Provinces who take decisions regarding funding at all levels. Regions award grants to municipalities to perform their functions and provide services to ensure for all students the full enjoyment of the right to education. In particular, they provide resources to cover such costs as canteens, commuting, school books et scholarships.

The Committee notes that the minimum amounts of scholarships are index-linked and have been increased by 0,2% for the 2015-2016 academic year. It notes that non-resident students received € 5,118, commuting students € 2,821 while resident students € 1,922.

The Committee recalls having noted (Conclusions 2007, Italy) that students who are EU nationals and nationals of third parties are entitled to financial assistance (including study grants, unsecured loans, housing benefits and exemption from registration fees) on an equal footing with Italian students and on the basis of the same economic and aptitude criteria. The regions and the autonomous provinces may grant free access to university restaurants to foreign students in financial need. There is no particular length of residence or employment requirement.

The Committee asks whether there have been any changes to this situation.

Training during working hours and efficiency of training

The Committee asks what measures are taken to evaluate vocational training programmes for young workers, including the apprenticeships. In particular, it wishes to be informed of the participation of employers' and workers' organisations in the supervision process.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Italy is in conformity with Article 10§5 of the Charter.

Article 15 - Right of persons with disabilities to independence, social integration and participation in the life of the community

Paragraph 1 - Vocational training for persons with disabilities

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

According to the report, there were 3 167 000 people with functional limitations in Italy in 2013, 80 000 of whom were children between 6 and 15.

Italy ratified the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol on 15 May 2009. The first report on the implementation of the Convention was published in 2012.

Definition of disability

The report states that there has been no change in the definition given previously so the Committee refers to its previous conclusions (Conclusions 2012, 2008 and 2007).

Anti-discrimination legislation

The Committee refers to its previous conclusions (Conclusions 2012 and 2008) for a description of the legislation which it considered to be in conformity with Article 15§1.

The report also gives details of Legislative Decree No. 150/2011 ("Provisions amplifying the Code of Civil Procedure to reduce and simplify civil proceedings under Article 54 of Law No. 69 of 18 June 2009"), which states that disputes on matters including disability must be settled through summary proceedings (*procedimento sommario di cognizione*). Consequently, in civil actions alleging discrimination, the court with jurisdiction is the single-judge court in the plaintiff's home town.

The report refers to the 2013-2015 Action Plan to promote the rights and integration of persons with disabilities, whose programme contains seven lines of action including the process of training and integration at school. The Committee therefore requests information on the practical impact of this action plan in terms of increased integration of students with disabilities in higher education institutions.

Education

Apart from the specific measures relating to education and the measures taken (see Conclusions 2012), the Committee notes that according to the report, the regulations have been fleshed out by the Interministerial Decree of the Ministry of Education, Universities and Research (MIUR) and the Ministry of Health of 17 April 2013, under which the "Guidelines for the preparation of regional agreements on action for the early detection of cases of potential learning difficulties" were adopted. This measure completed the process of implementing Law No. 170 of 8 October 2010 on new rules on specific learning difficulties at school.

The report states that in 2012-2013, there were a total of 222 917 pupils with disabilities in Italian schools or 2.5% of the total school population (of some 9 million pupils). In 2012-2013, the proportion of pupils with disabilities in primary schools was 3% (compared to 2.2% in 2009-2010), while in lower secondary schools it was 3.7% and in upper secondary schools 2%. In 2013-2014, there were a total of 222 000 certified disabled pupils in Italian schools, 10% of whom were in nursery school, 38% in primary school, 29% in lower secondary school and 24% in upper secondary school. The report also gives data on numbers of pupils broken down according to disability.

In reply to the Committee's question on support staff, the report states that during the reference period, there was about one support teacher for every two pupils with disabilities in the whole of the country (the report gives data for each region). The Committee notes that over the last 12 years, the number of support teachers has risen in relation to the total

number of teachers (13.2% in 2012-2013 compared to 10% in 2003-2004).As to the qualifications of the teaching staff who provide special support teaching, the report states that from 2010 onwards, specialist university courses were set up for teachers wishing to perform support tasks.The teaching proficiency certificate is essential for access to the preliminary selection procedure for entitlement to take part in lessons (MIUR Decree No. 249/10 and Ministerial Decree of 30 September 2011).Having obtained specialist certification, teachers may register on supplementary support lists only in the category for which they are already certified. The report notes that for 2012-2013, the Ministry of Education, Universities and Research (MIUR) launched a series of measures to support education and integration for pupils with disabilities (€3.5 billion for over 100 000 support teachers; € 500 million for direct and indirect costs and €700 million for other support staff (costs covered by the local authorities)). The report describes the Ministry's guidelines for action, which are organised on five levels:

- Regulatory level (the legislation on learning difficulties, a standard national certification model);
- Conceptual level (the New Technology and Disability (NTD) project, whose aim is to incorporate special education into new technology resources);
- Local support level (107 local support centres have been set up and each has at least two trained specialist teachers);
- Training level (according to the report, as part of teachers' initial training, the curricula for the new courses in teaching skills include modules in inclusive education; in 2012 and 2013, 35 specialised Masters courses on specific learning difficulties were set up (attended by a total of 14 500 trainee teachers); 40 specialised Masters were also launched for attention deficit hyperactivity disorder, autism, intellectual disabilities, sensory impairments and psychomotor education);
- Monitoring level (software to collect data on pupils with disabilities, pupils with learning difficulties and specialised teachers).

According to the report submitted by Italy to the UN Committee on the Rights of Persons with Disabilities as part of its regular monitoring process, Ministerial Decree No. 139/2011 has implemented the new regulations on initial training for teachers, provides for the establishment of specialised courses in special education and regulates the training procedures for special educational activities aimed at pupils with disabilities.

In its previous conclusion (Conclusions 2012), the Committee asked what percentage of students with disabilities dropped out of school and how that figure compared with the total population. In reply, the report states that these data were not available for the reference period as they were not recorded in the surveys on the subject. The Committee therefore repeats its request.

Vocational training

The report points out that in Italy, responsibility for vocational training lies with the regions, whereas responsibility for education lies with the MIUR.

The Committee notes that in response to its request concerning the experimental ICF programme for the vocational integration of persons with disabilities and training for public and private operators involved in the targeted work placement sector, the report describes the results achieved, stating that about 300 public and private operators working in this field were trained on how to use the ICF when defining the functional capacities of persons with disabilities and assessing company's needs (see the report for more details). This experimental programme, which was launched in eleven regions in 2009, came to an end in May 2013.

According to the Ministry of Labour and Social Policy, the number of training and guidance sessions conducted in private companies rose from 2 412 in 2012 to 3 659 in 2013, the

number of courses given with a view to recruitment by private companies increased from 2 405 in 2012 to 2 159 in 2013 and the number of similar courses in public sector bodies decreased from 416 to 317. However, the report states that data on the vocational training of persons with disabilities in the mainstream sector are not available. The Committee repeats its request.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Italy is in conformity with Article 15§1 of the Charter.

Article 15 - Right of persons with disabilities to independence, social integration and participation in the life of the community

Paragraph 2 - Employment of persons with disabilities

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

Employment of persons with disabilities

According to the report there were 3 167 000 people with functional limitations in Italy in 2013, of whom 549 000 were of working age.

Anti-discrimination legislation

The Committee refers to its previous conclusions (Conclusions 2012 et 2008) for a description of the legal framework which it considered to be in conformity with Article 15§2. However, in order to determine whether the right to non-discrimination in employment is effectively guaranteed for persons with disabilities in practice, it asked in its previous conclusions for information on:

- how the reasonable accommodation requirement was ensured in practice;
- whether this had prompted an increase in the employment of persons with disabilities in the ordinary labour market.

In reply to the Committee's question, the report states that in 2012, a clause was added to Law No. 68/99 stating that employers must make reasonable accommodation for employees with disabilities wishing to work from home or telework (Decree-Law No. 179 of 18 October 2012). Under Legislative Decree No. 76/2013, public and private employers are required to make reasonable accommodation to ensure compliance with the principle of equal treatment of persons with disabilities at work. Under Article 3, paragraph 3 bis, of the aforementioned decree, the notion of reasonable accommodation includes all necessary and appropriate changes and adjustments which do not entail a disproportionate or excessive burden to ensure that persons with disabilities can enjoy or exercise all human rights and fundamental freedoms on an equal footing with others.

The report also describes the cases of discrimination on the ground of disability which were heard in the employment field during the reference period, of which there were 11 in 2013 and 18 in 2014. The Committee asks for a description in the next report of the effects of the new legislation on the employment of persons with disabilities.

The report also refers to the 2013-2015 Action Plan to promote the rights and integration of persons with disabilities, whose programme contains seven lines of action including labour and employment measures. The Committee asks for information on the implementation of the action plan and its practical impact on the integration of persons with disabilities in the open labour market.

Measures to encourage the employment of persons with disabilities

According to data from the survey on health conditions and the use of the health services conducted by the Italian national statistics institute (ISTAT), in 2013 there were 3 087 000 persons of 15 years of age and over with functional limitations in Italy, of whom 113 000 were employees, 42 000 were seeking new work, 20 000 were seeking their first job and 280 000 were unfit for work (see the report for more details).

The Committee notes that the labour reform implemented by Law No. 92 of 28 June 2012 resulted in changes to the regulations on targeted work placement through alterations to the calculation of the reserved quota and to exclusions, exemptions and notifications from the services. To calculate the quota, the law views all wage-earners as employees save in exceptional circumstances (see the report for more details).

The report also describes Decree-Law No. 5 of 9 February 2012 on simplifications. The Committee asks how this Decree applies to persons with disabilities in the area of compulsory work placement.

Under Decree-Law No. 101 of 31 August 2013, hiring of protected categories is guaranteed and, under Circular No. 5 of November 2013, hiring of such categories within the limits of the mandatory quota must be guaranteed, whether or not there are vacant posts. Furthermore, the circular states that workers in the protected categories on a fixed-term contract may, under certain circumstances, be given priority for recruitment on a permanent contract.

The report also mentions incentive measures for employers who take on workers with disabilities on permanent contracts. The financial support, which is based on the percentage reduction in the person's capacity to work or on his or her category or type of disability, takes the form of three annual payments to the employer.

The report states that to be entitled to use vocational integration services, persons with disabilities who are unemployed and wish to find work in accordance with their work skills must register on the specific list kept by the relevant compulsory placement services. The number of persons registered on such lists increased from 644 209 in 2011 to 676 775 in 2013. The Committee notes that according to the report, the number of persons recruited from targeted placement lists continued to decrease from 22 203 in 2011 to 19 114 in 2012 and 18 295 in 2013 (compared to 28 306 in 2008). The Committee asks that the next report provides explanations of the decline in these figures.

The Committee notes from the report the efforts made regarding the work placement of visually impaired persons in general, and blind telephone operators, masseurs, physiotherapists and rehabilitation therapists in particular.

The Committee refers to its previous conclusion (Conclusions 2012) for a description of the reserved quota system. The report states that, in the private sector, the quota was filled to 20% (28 784 people hired for a quota of 143 532) in 2011 and to 23% (26 739 people hired for a quota of 117 136) in 2013. In the public sector the quota was filled to 23% (8 591 people hired for a quota of 34 165) in 2011 and to 21% (14 499 people hired for a quota of 69 083) in 2013. The Committee requests the next report to clarify this situation and to provide information on the steps taken to ensure the effective compliance with the reserved quota obligation and the results achieved in this respect.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Italy is in conformity with Article 15§2 of the Charter.

Article 15 - Right of persons with disabilities to independence, social integration and participation in the life of the community

Paragraph 3 - Integration and participation of persons with disabilities in the life of the community

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

Anti-discrimination legislation and integrated approach

The Committee refers to its previous conclusions (Conclusions 2012, 2008 and 2007), in which it found that Laws Nos. 67/2006 and 104/1992 offered persons with disabilities sufficient protection from the standpoint of Article 15§3 of the Charter. The report also gives examples of relevant Italian case-law, where the courts found that persons with disabilities had been discriminated against in various areas covered by Article 15§3 and ordered compensation.

The report refers to the 2013-2015 Action Plan (adopted by the Presidential Decree of 4 October 2013) to promote the rights and integration of persons with disabilities, whose programme contains seven lines of action including, in particular, the adoption of individualised projects, which can concern various aspects of day-to-day life and relate to various subject matters. The persons concerned are directly involved in the framing of these projects.

The report also describes the establishment of the Solidarity Fund for the Judicial Protection of Victims of Discrimination, whose aim is to facilitate access to the courts for victims of discrimination based on grounds including disability. The Fund is also accessible to specialist associations authorised to bring legal proceedings, trade unions and associations and organisations set up to protect the rights and interests that have been infringed.

Consultation

The Committee notes that there has been no change in the situation which it previously found (Conclusions 2012) to be in conformity.

Forms of financial aid to increase the autonomy of persons with disabilities

The report gives details of the benefits paid to persons with disabilities (total incapacity for work pension, monthly benefits and support allowances) and the entitlement conditions. Persons with disabilities may be entitled to total or partial disability pension, support allowance and various allowances related to specific disabilities. The report points out that financial disability benefits for civilians amount to 77% of assistance benefits (€2 838 698 in 2013, of which 70% were made up of allowances; the average monthly benefit payment was €414).

These benefits are replaced by social allowance from the age of 65 onwards (in 2014, €447.61 per month for a single person).

Measures to overcome obstacles

Technical aids

The Committee notes that there has been no change in the situation which it previously found to be in conformity (Conclusions 2012 and 2008).

Communication

The report states that during the reference period, there was no change in the situation with regard to facilitating communication and access to public services (see Conclusions 2012).

The report also states that draft Law C. 4207 on the official recognition of sign language is still being examined in the Senate. However, the Committee notes that measures to promote the official recognition of Italian sign language and full access for deaf persons to community life, and regulations on new-born hearing screening have been enacted in the Region of Lazio. According to the report, support for deaf students in this region is also provided by various measures. The Committee asks to be kept informed of the follow-up given to this draft legislation.

Mobility and transport

In addition to the advantages in the public road and air transport sector already described in the previous conclusions (Conclusions 2012), the report gives the following information:

- Public transport: On 15 September 2012, the new "European" parking card for persons with disabilities was introduced by Decree No. 151 of the President of the Republic of 30 July 2012. Under Law No. 114/2014, a new procedure was also introduced to obtain and renew the special driving licence for persons with disabilities.
- Rail transport: The report gives details of the structural, architectural and logistical changes and the redevelopment and improvements being made in about 2 000 existing small and medium-sized stations managed by the Italian rail network. Almost all stations which are classed as platinum, gold or silver are equipped with parking places that are reserved for persons with disabilities. In addition, persons with disabilities or reduced mobility may make use of special professional services on board trains during journeys. As to fare reductions, the report adds that the *Carta Blu* entitles a travelling companion to free or reduced transport depending on the type of train used (see also Conclusions 2012).

Housing

The Committee asked in its previous conclusions (Conclusions 2012 and 2008) how many people had benefited from housing contributions and what progress had been made to improve access to housing. In reply, the report states as follows:

- With regard to private buildings, in order to promote the elimination of architectural obstacles, most regions have allocated resources under specific regional laws. It is therefore for the municipalities to distribute grants from national or regional funds for works aimed directly at overcoming and/or eliminating architectural obstacles in private buildings. According to the report, it is possible to claim the personal income tax deduction that applies to building renovation works for expenses incurred when eliminating architectural obstacles (by installing lifts, goods lifts and elevators outside buildings) and when providing equipment facilitating the internal and external mobility of persons with serious disabilities.
- with regard to public buildings, spaces and services, including schools. It states that over the period from 2008 to 2013, over €30 million were allocated for the elimination of architectural obstacles in public places and facilities.

The Committee notes that in 2011, there were services for persons with disabilities in 34.78% of the total of 4 588 cultural establishments and sites.

The report also gives details of the National Housing Plan, which replaced the Special Public Residential Building Programme. It earmarked major resources (€844 149 331.19) to acquire housing and make it available under favourable conditions to the poorest population categories ("social housing") and to reduce housing shortages in municipalities with at least 10 000 inhabitants and those with major housing problems. However, delays in the implementation of the National Housing Plan were caused by the procedures required to put in place the six lines of action around which the plan was structured in accordance with Article 1, paragraphs (a) to (e), of the Prime Ministerial Decree of 16 July 2009) (see the

report for more details). The Committee asks how this plan should facilitate the accommodation of persons with disabilities.

Culture and leisure

The Committee notes that according to the report, there has been no change in the situation described in its previous conclusion (Conclusions 2012).

Conclusion

The Committee concludes that the situation in Italy is in conformity with Article 15§3 of the Charter.

Article 18 - Right to engage in a gainful occupation in the territory of other States Parties

Paragraph 1 - Applying existing regulations in a spirit of liberality

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

It notes that all nationals of states belonging to the European Economic Area (EEA), as well as members of their family, have free access to the labour market. During the reference period, a work permit was required for nationals of several States Parties to the Social Charter: Albania, Andorra, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria (up to 1 January 2012), Croatia, the Russian Federation, Georgia, the Republic of Moldova, Montenegro, Romania (up to 1 January 2012), Serbia, "the former Yugoslav Republic of Macedonia", Turkey and Ukraine.

Work permits

The Committee refers to its previous conclusions (Conclusions 2007 et seq.) for an overview of the relevant legislation, after the adoption in 1998 of the Consolidated Provisions on Immigration (Legislative Decree No. 286/1998), as subsequently amended several times. It reiterates that access to the labour market for non-EEA foreigners is generally regulated by quotas fixed by *ad hoc* decrees on labour flows, which lay down the maximum number of foreigners who may be admitted into the country. In this connection, the report states that during the reference period the maximum quotas for seasonal workers were reduced by 75%, falling from 60 000 in 2011 to 15 000 in 2014 (including 3000 jobs reserved for seasonal workers who are rehired from year to year and benefit from simplified access procedures). As far as non-seasonal work is concerned, the quota laid down in November 2013 was 17 850 work permits for employees or self-employed persons, including 12,250 reserved for foreigners who already held a residence permit (students, trainees or seasonal workers) and wished to convert it into an employed person's residence permit. The same quota of 17 850 work permits was laid down in December 2014 and included 14 350 reserved for foreigners already in possession of a residence permit. Finally, for the period 2014-2016 the maximum quota of foreigners admitted was fixed at 15 000 (Decree of the Ministry of Employment and Social Policies of 25 June 2014).

The Committee also takes note of the changes in the law in the reference period, especially the measures taken to simplify the procedures for issuing visas or the access criteria in certain individual cases (see Conclusions 2016, Articles 18§2 and 18§3). It asks that the next report provide a complete and up-to-date overview of the types of visa and residence permit that enable either employees or self-employed nationals of States Parties to the Charter, apart from EU/EEA citizens, to access the labour market.

Relevant statistics

According to the statistics provided in the report, at 1 January 2014, 3 874 726 non-EU nationals were legally present in Italy, with a rise of about 110 000 between 2013 and 2014. The number of long-term residents is reported as having risen: there were 2 045 662 in 2012-2013, or 56.3% of legally resident foreigners. Among the first ten nationalities, the proportion of long-term residents from States Parties to the Charter was particularly large in the case of Albania (496 000 in 2014 according to the OECD) and somewhat less in the case of the Republic of Moldova and Ukraine (219 000 in 2014 according to the OECD). Most admissions were for family reunification (41.2%), while admissions for seasonal work were 4 692 in 2013 and 5 422 in 2014. The Committee takes note of the information on employment and unemployment rates among foreign residents. It notes the 9.5% increase between 2011 and 2014 in the number of companies run by foreign nationals: at the end of 2013, 497 080 companies were run by immigrants, or about 8.2% of the total. Agricultural employment also rose between 2012 and 2013 according to the report, both in the case of permanent workers (+69 951) and temporary workers (+2 380).

The 2015 OECD report on recent developments in migration movements and policies confirms the rise in the number of foreign residents (8.3% of the population), in spite of a fall in admissions in 2013. It also confirms that in January 2014 there were 3.9 million valid residence permits, the majority of which were "EU long-term residence permits". According to this report, the Italian authorities issued a total of 244 000 new residence permits in 2013, which was less than half the number issued annually between 2008 and 2010. The largest number of permits for work reasons granted to nationals of States Parties to the Charter were issued to Ukrainians (about 9000). Moreover, according to the same source 81 000 work permits were issued in 2013 (33% of total residence permits), including 1900 for highly qualified workers.

The Committee previously considered that it had not been established that the regulation in force was applied in a spirit of liberality (Conclusions 2007, 2008 and 2012) and asked for information on the number of work permits granted or refused compared with the number of successful or unsuccessful applications specifically from nationals of non-EEA States Parties to the Charter. The report does not provide this information. The Committee notes, however, that according to the database of the Italian Institute of Statistics (ISTAT) the number of work permits issued fell during the reference period by almost 65% in the case of Albania (from 6302 in 2011 to 2207 in 2014), almost 84% in the case of the Republic of Moldova (from 7293 in 2011 to 1171 in 2014), almost 71% in the case of the Russian Federation (from 1749 in 2011 to 515 in 2014), almost 53% in the case of Ukraine (from 8277 in 2011 to 3916 in 2014) and about 55% in the case of Serbia/Kosovo/Montenegro (from 1801 in 2011 to 802 in 2014). The report confirms that, all in all, the number of work permits granted between 2011 and 2014 (without distinction based on the applicants' country of origin) fell by almost 52% during the reference period (from 525 462 in 2011 to 252 618 in 2014) whereas the number of permits refused more than doubled (from 3556 in 2011 to 7899 in 2014), the number of valid permits revoked also increased (from 660 in 2011 to 856 in 2014).

The Committee recalls that its assessment of the degree of liberalism in applying existing regulations is based on statistics showing the work permit grant and refusal rate. It notes that, although the report states that the number of permits issued is significantly larger than that of permits refused, the figures provided do not make it possible to identify the refusal rate for new work permits compared with the number of applications or to identify the data on the renewal of these permits (number of applications/number of permits granted/number of permits refused). Moreover, the report does not meet the request for data specifically on non-EEA States Parties to the Charter. Furthermore, the figures available for the reference period show a clear trend towards restricting the issuance of work permits. The Committee asks that all the figures requested be included in the next report. It would also like to know whether the data presented as relating to "work permits" cover both paid and self-employment. In the meantime, in the absence of the information requested the Committee reiterates its finding of non-conformity on the ground that it has not been established that the existing regulations are applied in a spirit of liberality.

Conclusion

The Committee concludes that the situation in Italy is not in conformity with Article 18§1 of the Charter on the ground that it has not been established that the existing regulations are applied in a spirit of liberality.

Article 18 - Right to engage in a gainful occupation in the territory of other States Parties

Paragraph 2 - Simplifying existing formalities and reducing dues and taxes

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

Administrative formalities and time frames for obtaining the documents needed for engaging in a professional occupation

The Committee refers to its conclusion in respect of Article 18§1 and to its previous conclusions (Conclusions 2007 et seq.) for an overview of the relevant legislation, after the adoption in 1998 of the Consolidated Provisions on Immigration (Legislative Decree No. 286/1998), as subsequently amended several times. It also takes note of the changes in the law during the reference period. In particular, it notes that since 2011 a foreigner who has applied for a residence permit in order to work may, under certain circumstances, provisionally begin work before the formal authorisation concerning the occupational activity in question is issued (Consolidated Provisions on Immigration, section 5(9bis), introduced by Decree-Law No. 201/2011 – Act No. 284/2011). The Committee asks whether this relates both to paid and to self-employment.

The issue of a residence permit to carry on paid employment is subject to the employer having previously obtained a work permit from the Central Office for Immigration (*Sportello unico per l'immigrazione*). The work permit may refer to an individual or to a specific number of individuals when the employer wishes to recruit workers on recruitment lists abroad on the basis of bilateral agreements with certain countries. The future employer must guarantee to house the worker and offer a "residence contract" (*contratto di soggiorno*) specifying the terms and conditions of the contract of employment, including an undertaking to pay for the migrant worker's return travel to his/her country of origin. On the basis of the work permit, the embassy or consulate in the worker's place of origin will issue the visa enabling him/her to enter Italy within six months. In the eight days following his/her entry into the country, the worker must make an application for a residence permit to the Central Office for Immigration of the province in which the place where the person will work is located and he/she must sign the "residence contract". The same procedures apply to foreigners already in Italy, except as far as the entry visa is concerned.

The report states that in 2012 the procedure for rehiring a seasonal worker who has already worked legally for the same employer the previous year was simplified (under certain conditions) by introducing a tacit consent mechanism, which permits this type of recruitment if the immigration service does not explicitly object within twenty days (Consolidated Provisions on Immigration, section 24(2bis), introduced by Decree-Law No. 5/2012 – Act No. 35/2012).

In reply to the Committee's question (Conclusions 2012), the report confirms that the procedure for issuing a residence permit to exercise a self-employed occupation has not changed and still requires workers to complete several formalities with various Italian authorities. They must first of all obtain a work permit, on the basis of which they will receive from the Italian diplomatic or consular authorities in their own country a visa that permits them to enter Italy and, once there, to be issued a residence permit. Depending on the occupation chosen, specific additional conditions may also be imposed:

- qualifications or licences to practise recognised by the existing certification mechanisms (Ministry of Justice or Health, for example, as the case may be);
- guaranteed resources, the minimum level of which is laid down for each occupation by the Chamber of Commerce or professional bodies;
- obtaining statutory permits or registration in the register of the relevant authorities and bodies (municipality, professional bodies and/or Chamber of Commerce).

The Committee asks that the next report clarify whether these conditions, including those concerning the level of resources required, are the same for national, Community and non-Community citizens and whether the various documents required (study certificates, resources, etc.) must be provided at the time a work permit is applied for, in order to obtain an entry visa, or afterwards.

The report states that in 2013-2014 new provisions to promote self-employment provided for the possibility of simplifying the issue of visas to innovative entrepreneurs, researchers and highly qualified individuals eligible for the EU Blue Card (Decree-Law No. 145/2013 – Act No. 9/2014, as amended). The Committee would like to know the nature of this simplification and how the innovative character of an application is decided.

The Committee also recalls that Article 18§2 entails that it should be possible to complete the formalities both in the country of destination and the country of origin and to obtain the residence and work permits under one and the same procedure and that the periods for obtaining the required documents (residence/work permit) are reasonable. It asks that the next report provide details on the average times needed to obtain residence permits for work purposes (employed/self-employed) and on the average times needed to obtain permits and certifications issued by the various Italian institutions and authorities involved in the procedure.

The Committee reserves its position on this issue in the meantime.

Chancery dues and other charges

Act No. 94/2009 provides that the fees for issuing and renewing residence permits are set by order of the Ministry of the Economy and Finances. According to the report, these fees amount to:

- €107.50 for a residence permit valid for one year;
- €127.50 for a residence permit valid for between one and two years;
- €227.50€ for a long-term European residence permit as well as for senior executives and highly qualified employees;
- €27.50€ for permits for young people under 18, asylum-seekers, persons with subsidiary protection status or admitted into the country for humanitarian or health-care reasons, or when a residence permit is updated or converted during its period of validity.

The above amounts include fees for issuing a permit in electronic format (€27.50). Applicants must also pay €30.00 in post-office processing charges and €14.62 in stamp duty. Additional fees apply for supplementary documentation required by self-employed people (Chamber of Commerce registration, registration in the registers of regulated professions, fees for the recognition of academic and professional titles). The Committee asks for updated information in the next report on the regulatory criteria applied when the amount of the charges is set, clarifying, for instance, whether the charges correspond to the actual cost of processing the residence permit application and whether it is planned to introduce measures to reduce costs for workers or employers.

Conclusion

Pending receipt of the requested information, the Committee concludes that the situation in Italy is in conformity with Article 18§2 of the Charter.

Article 18 - Right to engage in a gainful occupation in the territory of other States Parties

Paragraph 3 - Liberalising regulations

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

Access to the national labour market

The Committee refers to its conclusions in respect of Articles 18§1 and 18§2 and its previous conclusions (Conclusions 2008 and 2012) for an overview of the relevant legislation, after the adoption in 1998 of the Consolidated Provisions on Immigration (Legislative Decree No. 286/1998), subsequently amended several times.

It recalls that access to the labour market for non-EEA foreigners is generally regulated by quotas fixed by *ad hoc* decrees on labour flows, which lay down the maximum number of foreigners who may be admitted into the country. It notes that that during the reference period these quotas were reduced for seasonal workers by 75%, falling from 60 000 in 2011 to 15 000 in 2014 (including 3000 jobs reserved for some seasonal workers who have already worked for the same employer). As far as non-seasonal work is concerned, a quota of 17 850 work permits was laid down in December 2014 (Decree of the President of the Council of Ministers, 11 December 2014). Out of this quota, only 3500 permits were earmarked for new arrivals, subject to specific conditions (1000 for individuals whose educational background corresponds to certain criteria; 2400 for specific categories of self-employed people such as big investors, well-known artists, managers and creators of innovative start-ups; and 100 for individuals of Italian origin from South-America). The remaining 14 350 permits were reserved for foreigners who already had a residence permit and wished to convert it into a (non-seasonal) employment or self-employment permit. For example, 7050 such permits were reserved for holders of a residence permit for study purposes wishing to undertake paid employment (6000) or self-employment (1050) in Italy.

The Committee asks that the next report indicate what categories of visa/residence permit are not subject to these quotas and whether there are bilateral agreements concerning access by nationals of States Parties to the Charter, excluding non-EU/EEA states. It also requests details on the number of applications for visas/residence permits from nationals of State Parties to the Charter, excluding non-EU/EEA states, that have been turned down in application of these quotas.

The Committee recalls that the implementation of policies limiting access to the domestic labour market by third-country nationals must not result in the complete exclusion from this market of nationals of non-EU (or non-EEA) States Parties to the Charter or significantly restrict their possibility of accessing it. A similar possibility that would arise from the application of “priority rules”, that is to say rules that give priority access to the labour market for foreign workers who are nationals of other European states forming part of the same economic area, would be contrary to Article 18§3 since the state in question would not be complying with its obligation to gradually liberalise regulations governing access to the labour market by nationals of a number of States Parties to the Charter (Conclusions 2012, Statement of interpretation on Article 18§§1 and 3). In this connection, the Committee refers to the restrictions mentioned above, which were introduced during the reference period, and to the figures showing a significant drop in work permits granted to nationals of non-EU States Parties to the Charter that it has examined in the light of Article 18§1 (Conclusions 2016). It notes that during the reference period the regulations governing access to the labour market by foreign workers were not liberalised, that these regulations are too restrictive and that, consequently, the situation is not in conformity with Article 18§3 of the Charter.

The Committee also takes note of the main reasons, listed in the report, for not issuing or not renewing a residence permit for employment or self-employment purposes. For example, a residence permit for work purposes can be refused or revoked:

- in the case of irregularities (other than merely formal irregularities) in the documentation required for the residence permit applied for (for example, the absence of a “residence contract”);
- on grounds of public order or state security, when the foreigner is considered dangerous or has been convicted of a criminal offence (especially a drugs-related offence, a violation of sexual freedom, the smuggling of migrants or human trafficking);
- in the case of insufficient means of subsistence (except for refugees, asylum-seekers and holders of residence permits for humanitarian reasons);
- when notification has been received that the foreigner is not admissible by one of the countries that apply the Schengen Agreement (unless otherwise provided for by law).

These same reasons, as well as a break in residence in Italy in circumstances other than those provided for by law, may result in the non-renewal of the residence permit. The decision to revoke or refuse a residence permit can, if it is work-related, be challenged before the relevant regional Administrative Tribunal within 60 days of its notification.

With regard to measures taken to ensure the recognition of foreign titles, qualifications and diplomas with a view to facilitating access to the national labour market, the Committee has previously noted that there are mechanisms for certification by either the Ministry of Justice or the Ministry of Health, depending on the circumstances (for details, see the 11th national report presented by Italy in 2012 and Conclusions 2016, Article 18§2).

Consequences of the loss of employment

The situation that the Committee previously considered to be in conformity with the Charter (Conclusions 2007 et seq.) has not changed: the loss of a job, including because of resignation, does not entail the revocation of the residence permit relating to it. The foreign worker can look for another job by putting his/her name on the list of job-seekers for the period of validity of his/her residence permit.

Conclusion

The Committee concludes that the situation in Italy is not in conformity with Article 18§3 of the Charter on the ground that the regulations governing access to the labour market by foreign workers who are nationals of non-EEA States Parties to the Charter are too restrictive.

Article 18 - Right to engage in a gainful occupation in the territory of other States Parties

Paragraph 4 - Right of nationals to leave the country

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

It notes that there have been no changes to the situation which it has previously held to be in conformity with the Charter (Conclusions 2012).

Conclusion

The Committee concludes that the situation in Italy is in conformity with Article 18§4 of the Charter.

Article 20 - Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex

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

Equal rights

The Committee recalls that it examines measures relating to maternity protection and family responsibilities under Articles 8 and 27 of the Charter (Conclusions 2015).

The Committee examined the legislation on the right to equal treatment of men and women in its previous conclusions (Conclusions 2006, 2008 and 2012).

The report provides information on the changes in the legislation which were adopted during the reference period between 2011 and 2014.

Law No. 120 of 12 July 2011 (known as the Golfo-Mosca Law) introduced a mechanism designed to ensure equal access to the boards of directors and boards of auditors of companies listed on regulated markets and of non-listed state companies. The provisions of this law applied from the first renewal of the members of such boards in listed companies after a year following the entry into force of the law (12 August 2012), reserving, pursuant to the law, at least one fifth of the seats of the elected directors and auditors during the first term of office for the underrepresented sex. The law has set up supervisory or monitoring bodies such as the National Commission for Companies and the Stock Exchange (CONSOB) to deal with listed companies, and assigned supervisory tasks to the Prime Minister or the Minister responsible for equal opportunities for non-listed state companies, backed up by penalties including injunctions, fines of €100 000 to €1 000 000 or removal from office for the board members concerned or orders to reconstitute boards in the manner and under the conditions provided for by the law and statutes.

The report states that the new regulations have contributed significantly to the increase in the number of women on the boards of directors and auditors of the companies in question. For example, at the end of 2013, 17.8% of the board members of listed Italian companies were women (compared to about 6% in 2008) and about 83.5% of companies had representatives of both sexes on their boards (4% in 2008) (CONSOB 2013).

The report also mentions important measures to promote equal representation of the sexes in politics such as Law No. 65 of 22 April 2014, which amended the existing regulations to ensure a better balance between the sexes in the election of Italian MEPs.

As to means of appealing against discriminatory acts and conduct, the report states that there are two types of possible action: an individual complaint, in which the worker uses conciliation procedures and/or takes his or her case directly to an ordinary law court, or a collective complaint.

Another means of complaining of discrimination at work on the ground of gender is through special urgent proceedings (Article 38 of Legislative Decree No. 198/2006), which may be initiated by the persons concerned or his or her representative or by a trade union, an association or organisation protecting the right or interest alleged to have been infringed or the equality counsellor with jurisdiction over the workplace concerned. Even in such cases, if the labour court finds that there was discrimination, it orders the perpetrator to bring an end to the illegal conduct and eliminate its effects (and, if necessary, pay damages, which may be non-material in nature).

Where collective action is concerned, regional or national equality counsellors who find that there has been collective discrimination may, before bringing legal proceedings, ask employers to prepare a plan for the elimination of the discrimination in question, having consulted the trade unions. If this plan is found to be appropriate, counsellors may support attempts at conciliation and the report they draw up at the end of this process may become binding on the employer.

The Committee asks for updated information in the next report on the penalties applied to employers and the damages paid in practice in cases of discrimination at work on the ground of gender.

The Committee asked whether, in equal pay cases, the legislation allowed comparisons of pay and jobs to be made outside the company directly concerned and under what circumstances (Conclusions 2012, Article 20).

The Committee points out that it examines the right to equal pay under Articles 20 and 4§3 of the Charter, and does so therefore every two years (under thematic group 1 “Employment, training and equal opportunities”, and thematic group 3 “Labour rights”). The Committee noted previously that, under Article 46 of the Equal Opportunities Code, as amended by Legislative Decree No. 5/2010, public and private enterprises employing more than 100 employees are required to produce a report every two years on the gender situation in each profession regarding recruitment, training and promotion (Conclusions 2014, Article 4§3).

The report points out that under national law, pay is determined not by the law but by collective bargaining, which establishes minimum wages by economic sector and by qualification. Consequently, as a rule, in all the companies in the same economic sector, the national collective agreement (CCNL) is applied, offering equal pay for equal work to all of those companies’ employees. Instead of the CCNL employers may apply the Second-Level Company Contract, under which workers are awarded higher wages if they increase their productivity. As a result, it can happen that, for equal work, a worker is paid more or less in one company than a worker doing the same job in another company belonging to the same economic sector.

The Committee recalls that it examines the right to equal pay under Article 20 and Article 4§3 of the Charter, and does so therefore every two years (under thematic group 1 “Employment, training and equal opportunities”, and thematic group 3 “Labour rights”). Articles 20 and 4§3 of the Charter require the possibility to make pay comparisons across companies (Conclusions 2010, France). At the very least, legislation should require pay comparisons across companies in one or more of the following situations:

- cases in which statutory rules apply to the working and pay conditions in more than one company;
- cases in which several companies are covered by a collective works agreement or regulations governing the terms and conditions of employment
- cases in which the terms and conditions of employment are laid down centrally for more than one company within a holding (company) or conglomerate.
  (Statement of Interpretation on Article 20 (Conclusions 2012).

The Committee recalls that in equal pay litigation cases the legislation should allow pay comparisons across companies only where the differences in pay can be attributed to a single source. For example, the Committee has considered that the situation complied with this principle when in equal pay cases comparison can be made with a typical worker (someone in a comparable job) in another company, provided the differences in pay can be attributed to a single source (Conclusions 2012, Netherlands, Article 20) or when pay comparison is possible for employees working in a unit composed of persons who are in legally different situations if the remuneration is fixed by a collective agreement applicable to all entities of the unit (Conclusions 2014, France, Article 4§3).

The Committee considers that the pay gap may indeed be due to different levels of regional development, differences in economic performance of companies or other similar reasons. However, these reasons should not prevent workers from testing their equal pay case by comparing their pay with that of another worker performing work of equal value in another company, based on the criteria outlined above.

The Committee therefore understands that in Italy it is possible to make pay comparisons between companies belonging to the same sector/which are part of the same collective

labour agreement and it asks that the next report confirm this understanding. In the meantime it reserves its position on this point.

Equal opportunities

The report states that the gender wage gap in Italy in 2013 was 7.3%, in other words significantly lower than the EU average (16.4% in 2013). The Committee notes from Eurostat data that the wage gap fell to 6.5% in 2014.

According to the Gender Gap Report 2015, prepared by the consultancy firm JobPricing on the basis of information from various occupational sectors, the gap had widened in particular in the financial services sector (27.5% in favour of men) and the services sector (14%). On the other hand, the trend had been reversed in agriculture (where women had earned 13.2% more) and in construction (12.6%).The same study shows that over the last ten years, the number of women in important corporate positions has been steadily increasing. The proportion of women on senior management posts rose from 24% in 2004 to 29% in 2013 while the proportion on other management posts increased from 39 to 42%.

The report states that the employment rate for women, of 54.4% in 2014, was over 20 percentage points lower than that for men (73.6%). This rate also varied considerably throughout the country. In southern Italy it was 15 points lower than the national average (at 39.6% in 2014). The female unemployment rate in 2014 was 13.8%.

The Committee notes the measures taken to promote equal opportunities mentioned in the report, particularly those designed to help reconcile work and private life, foster the integration of women into economic and social life and encourage entrepreneurship among women by facilitating access to credit, along with numerous projects devised and implemented by the government through the work of the Equal Opportunities Department and the National Equality Counsellor (including *Lavoro in Genere*, the Women's Project and an Equal Opportunities Network).

As to equal opportunities in public service employment, the report states that public services must establish three-year plans outlining positive action to ensure, in each of their fields, that obstacles which effectively prevent the full achievement of equal opportunities at work for women and men are removed.

The Committee notes all the projects, plans and measures set up by Italy and described in the report. It asks for detailed information in the next report on the position of women in employment and training and on the gender pay gap. It also asks for information on all positive measures to promote gender equality, in particular equal pay for work of equal value.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Italy is in conformity with Article 20 of the Charter.

Article 21 - Right of workers to be informed and consulted

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2015 on conclusions of non-conformity for repeated lack of information in Conclusions 2014.

The Committee takes note of the information submitted by Italy in response to the conclusion that it had not been established that the rules on information and consultation of workers cover all categories of employees and there are appropriate remedies for employees themselves or their representatives (Conclusions 2014, Italy).

Article 21 applies to all undertakings, whether private or public. States Parties may exclude from the scope of this provision those undertakings employing less than a certain number of workers, to be determined by national legislation or practice. However it is not applicable to public servants (Conclusions XIII-3 (1995), Finland).

According to the report the legislation (Legislative Decree No. 25 of 6 February 2007) on information and consultation defines an employee as someone employed by and under the control of an employer, however the legislation excludes those on apprenticeship contracts and certain types of training contracts. Information and consultation is obligatory in all undertakings with more than 50 employees.

The Committee recalls that pursuant to the national framework agreement of 20 December 1993 between the employers' organisation and the main national trade unions, under the auspices of the government, the right of workers to information and consultation is also vested in a representative structure called *Rappresentanza Sindacale Unitaria* (RSU), which could be established in any undertaking with more than fifteen employees, including those managed by public authorities. It noted that information to and consultation of RSUs was governed by statutes, government regulations and collective agreements on a case-by-case basis in virtually all fields of labour relations within the undertaking.

The Committee seeks confirmation that legislative Decree No. 25 of 6 February 2007 applies when there is no RSU in an undertaking. It also asks what percentage of the workforce is guaranteed information and consultation rights.

As regards remedies the report states that the right to information and consultation as defined in Italian legislation is regarded as a collective right to be exercised via trade unions. Any violation of the law on information and consultation would be regarded as anti union behaviour on the part of the employer. Trade unions can bring proceedings before the courts, requesting the court to order an employer to cease such behavior, should an employer not comply with a court order he /she may be subject to a fine. The report provides examples of court decisions where the courts have found anti union behavior on the grounds that an employer has not complied with information and consultation obligations.

In addition, individual employees may complain of the non respect of the information and consultation obligations to the local Director of Labour**.**

Conclusion

Pending receipt of the ifnormation requested the Committee concludes that the situation in Italy is in conformity with Article 21 of the Charter.

Article 22 - Right of workers to take part in the determination and improvement of working conditions and working environment

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2015 on conclusions of non-conformity for repeated lack of information in Conclusions 2014.

The Committee takes note of the information submitted by Italy in response to the conclusion that it had not been established that workers and/or their representatives have an effective right to take part in the decision-making process in undertakings with regard to working conditions, work organisation and the working environment and legal remedies are available to workers in the event of infringements of their right to take part in the determination and improvement of working conditions and the working environment (Conclusions 2014, Italy).

Under Article 22 workers and/or their representatives (trade unions, worker's delegates, health and safety representatives, works councils) must be granted an effective right to participate in the decision-making process and the supervision of the observance of regulations in all matters referred to in this provision, such as the determination and improvement of the working conditions, work organisation and working environment (Conclusions 2007, Armenia).

The report provides detailed information on information and consultation rights in Italy and states that implicit in these is the right to participate. It points out that information and consultation rights are extensive in Italy and are not only guaranteed by legislation but also found in collective agreements.

The Committee asks for more concrete information on the participation rights of employees determination and improvement of the working conditions, work organisation and working environment for example relevant legislation, collective agreements.

As regards remedies the report refers to the information provided in Article 21 of the Charter.

Conclusion

Pending receipt of the information requested the Committee concludes that the situation in Italy is in conformity with Article 22 of the Charter

Article 24 - Right to protection in case of dismissal

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

Scope

The Committee notes that, though the new Law n° 92/2012 (Fornero Law) reformed the labour market and introduced changes on the regulation of termination of employment, Article 10 of Law 92/2012 excludes the application of the new provisions on dismissal to the probation period. The probation agreement considers the protection of the common interests of both parties in the work relationship in order to verify the mutual suitability of the contract, therefore during the probation period, or at the end of it, each part can withdraw without notice nor compensation.

The Committee notes from the Governmental Committee's report concerning Conclusions 2012 of the European Social Charter (GC (2013) 25), that, although the regulations remain unchanged for dismissal during the probation period, the courts have established limits to the power of dismissal of the employer. According to the report, probation period is existing only for the specific will of both involved parties. The probation clause must be in writing, unless otherwise specified in collective agreements, which also fixes its duration, based on skills/grade and not exceeding six months, after which the system of free withdrawal lapses and the standard regulation comes into effect. The case law has developed some rules which limit the free withdrawal on the employer' side, such in case of dismissal before having concretely assessed the professional capacities of the employee, which is unlawful as the period is not sufficient to assess his/her capacities. Judgement of the Supreme Court did:

- confirm the non existence of the probationary clause if it does not indicate the specific tasks to perform;
- further extend the scope of control by the judge on the dismissal during the probation period;
- reject the legitimacy if a dismissal is unrelated to the employment relationship.

The Committee observes that, despite the fact that dismissal during probationary period is subject to certain limits, the employees still do not have the right to a notice period or to payment of compensation in the event of dismissal. The Committee considers that this situation is not in conformity with Article 24 of the Charter as the protection provided for the employees on probation period of 6 months is not adequate.

Obligation to provide valid reasons for termination of employment

The Committee notes that the new Law has created a gradual protection against unfair dismissal, with increasing sanctions depending on the type and severity of the violation and a 'quick' procedure for the cases foreseen in Article 18 of Law 300/1970 (Workers' Statute). New Article 18 establishes three different regimes according to the nature of the unlawful dismissal: a) discriminatory dismissal; b) disciplinary dismissal (just cause or subjective reasons); c) economic dismissal (objective reasons or economic reasons). It also notes that the new Law provides that the employer has to notify the dismissal in writing, specifying its reasons.

The Committee recalls that under Article 24 dismissal of the employee at the initiative of the employer on the ground that the former has reached the normal pensionable age (age when an individual becomes entitled to a pension) will be contrary to the Charter, unless the termination is properly justified with reference to one of the valid grounds expressly established by this provision of the Charter.

In reply to its question on how the legislation complies with this approach, the Committee notes that Article 24 of the Decree-Law No 201/2011 converted into Law No 214/2011 provides that protection against unlawful dismissal apply until 70 years old, even if the employee has reached the normal pensionable age.

The Committee further notes the example given of a judgement of 08/01/2014 by the Appeal Court of Genoa which states that 'dismissal, notified before 70 years old, only for reasons of age and access to retirement, is devoid of any valid reason or just cause allowing the dismissal and is, therefore, null and void'.

Prohibited dismissals

The Committee notes there have been no changes in the situation which was previously found to be in conformity with the Charter. In reply to the Committee's question, the report states that the case law alined retaliatory dismissal, as consequence of a legitimate behaviour of the employee, with discriminatory dismissal based on an unfair and arbitrary reaction. Retaliatory dismissal – direct or indirect – is sanctioned by the nullity if there are no other legitimate reasons than retaliatory ones and the employer is condemned to reinstate the employee.

Remedies and sanctions

The Committee notes that the Fornero Law does not change the term given to the dismissed employee to challenge his/her dismissal (60 days from the communication of the dismissal) but shortens the period – from 270 days to 180 days – within which a dismissed employee can file legal action before the Labour Court for the dismissals occurred after the entry into force of the Law (18 July 2012). The term runs from the date in which the dismissed employee has challenged the dismissal.

In reply to its question on whether the legislation sets a ceiling to compensation in case of unlawful dismissal, the Committee notes from the report the following information:

- Discriminatory dismissal – the employer must reinstate the employee, who must be paid the accrued amount from the date of dismissal to the date of effective reinstatement (the amount must be no less than five months' salary).
- Disciplinary dismissals (subjective justified reason or just cause): if the judge ascertains a lack of such reasons,or the disciplinary code provides for a lesser penalty – the dismissal is invalid and the employer must reinstate the employee, who must be paid an amount of up to 12 months' salary. In all other cases, the judge will declare that the employee will be paid an amount of between 12 months' and 24 months' salary (mainly depending on the worker's seniority and the size of the employer).
- Errors in procedure or grounds for dismissal – the employee must be paid an amount of between 6 months' and 12 months' salary.
- Economic dismissal (objective justified or economic reason) – if the reason given for dismissal is unsubstantiated, the judge may decide in favour of reinstatement and for compensation by an indemnity from the date of dismissal until the date of effective reinstatement, however, the indemnity may not exceed 12 months of wages. the employer must reinstate the employee, who must be paid an amount of up to 12 months' salary. In all other cases, the sanction is not reinstatement but only compensation by an indemnity amounting to between 12 to 24 months of wages.
- The employee can ask the employer, with whom the working relationship is compromised, severance payment of 15 months of his/her total income, not subject to social contributions, instead of the reintegration.

The Committee further notes that the employer may revoke a dismissal within 15 days of being notified that the employee has chosen to appeal his or her dismissal. In this case, the employment relationship will continue without interruption and the employee will be paid the accrued amount from the dismissal date to the effective reinstatement date.

The Committee recalls that any ceiling in compensation that may preclude damages from being commensurate with the loss suffered and sufficiently dissuasive are proscribed. If

there is such a ceiling on compensation for pecuniary damage, the victim must be able to seek compensation for non-pecuniary damage through other legal avenues (e.g. anti-discrimination legislation) and the courts competent for awarding compensation for pecuniary and non-pecuniary damage must decide within a reasonable time (Conclusions 2012, Slovenia and Finland).

The Committee asks whether in case there is a ceiling, it is possible to seek compensation through other legal avenues. In the meantime the Committee reserves its position.

Conclusion

The Committee concludes that the situation in Italy is not in conformity with Article 24 of the Charter on the ground that employees undergoing a probational period of 6 months are not protected against dismissal.