

**EUROPEAN COMMITTEE OF SOCIAL RIGHTS  
COMITE EUROPEEN DES DROITS SOCIAUX**



COUNCIL OF EUROPE      CONSEIL DE L'EUROPE

10 December 2009

**2<sup>ND</sup> REPORT ON ITALY  
WITHIN THE FRAMEWORK OF THE PROCEDURE  
ON NON-ACCEPTED PROVISIONS  
(ARTICLE 22 OF THE 1961 CHARTER)**

**Document prepared by the Secretariat**

## Situation of Italy on 10 December 2009

### Ratifications

Italy ratified the Revised European Social Charter on 03/05/1996 and has accepted 97 of the Revised Charter's 98 paragraphs. It had ratified the European Social Charter on 22/10/1965, the Protocol adding new rights on 26/05/1994 and the Protocol reforming the supervisory mechanism on 27/01/1995.

Italy ratified the Collective Complaints Protocol on 03/11/1997. It has not yet made a declaration enabling national NGOs to submit complaints.

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1
31.2	31.3										
									Grey = Accepted provisions		

### The Charter in domestic law

Statutory ad hoc incorporation into domestic law based on Act No. 30/1999 (*Legge recante ratifica ed esecuzione della Carta Sociale europea riveduta con annesso, fatta a Strasburgo il 3 maggio 1996*).

### Reports

Before the adoption by the Committee of Ministers of the new system of submission of reports by themes,<sup>1</sup> Italy submitted:

- between 1967 and 2000, 20 reports on the application of the Charter;
- between 2001 and 2007, 6 reports on the application of the Revised Charter.

Since the new system, a report on the accepted provisions related to the themes:

- "Employment, training and equal opportunities" (Articles 1, 9, 10, 15, 18, 20, 24 and 25) was submitted on 28/02/08.
- "Health, social security and social assistance" (Articles 3, 11, 12, 13, 14, 23, 30) was submitted on 04/02/09.

### Collective Complaints

Pending: Centre on Housing Rights and Evictions (COHRE) v. Italy: alleged violation of Articles 16, 19§1, 19§4.c, 19§7, 19§8, 31, 30 and E combined with each one of these provisions. The complaint was declared admissible on 8 December 2009.

Decided:

- European Roma Rights Centre (ERRC) v. Italy (No. 27/2004): violation of Article E combined with 31 (right to housing), decision on the merits of 7 December 2005.
- World Organisation against Torture (OMCT) v. Italy (No. 19/2003): no violation of Article 17 (right of children to social, economic and legal protection), decision on the merits of 26 January 2005.
- European Federation of Employees in Public Services (EUROFEDOP) v. Italy (No. 4/1999): no violation of Article 5 (right to organize) and 6 (right to collective bargaining), decision on the merits of 12 December 2000.

<sup>1</sup> Committee of Ministers decision of 3 May 2006.

## **PROCEDURE PROVIDED BY ARTICLE 22 OF THE CHARTER**

Under the procedure provided by Article 22 of the 1961 Social Charter – examination of non-accepted provisions - agreed by the Committee of Ministers in December 2002<sup>2</sup>, the Deputies had decided that "states having ratified the Revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification" and had "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the states concerned".

Following this decision, five years after ratification of the Revised Social Charter (and every five years thereafter), the European Committee of Social Rights would review non-accepted provisions with the countries concerned, with a view to securing a higher level of acceptance. Experience had shown that states tended to forget that selective acceptance of Charter provisions was meant to be a temporary phenomenon. The aim of the new procedure was therefore to require them to review the situation after five years and encourage them to accept more provisions.

In the case of Italy, the European Committee of Social Rights, by a letter dated 31 March 2009, asked the Italian authorities to produce a report on the only non-accepted provision of the Revised Charter, Article 25, by 30 June 2009. The Italian authorities submitted information in Italian on 4 December 2009. The Committee recalls that the working languages of the Council of Europe are English and French.

The Italian authorities highlight that legislation on insolvency was amended by Decree d.lgs 12/9/2007 Nb. 169 with a view to clarify the circumstances according to which workers' claims in case of insolvency may exceptionally not be guaranteed. While underlining that the amended legislation and related case law is in conformity with the interpretation of State obligations under Directive 80/987/CEE according to the European Court of Justice, the Italian authorities wonder whether the amended legislation and related case law is also in conformity with the Committee's case law on Article 25. Thus, they conclude that there are obstacles to the acceptance of Article 25.

While stressing that it needs to be provided with an English or French version of the information submitted on 4 December 2009 to exchange views with the Italian authorities on this specific matter, the Committee renews its encouragement to the Italian authorities to accept Article 25 of the Revised Charter as Italy is already bound by EU directives covering the same matters as Article 25.

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<sup>2</sup> Committee of Ministers decision of 11 December 2002.