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**EUROPEAN COMMITTEE OF SOCIAL RIGHTS  
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

3 September 2013

**Case Document No.4**

**Confederazione Generale Italiana del Lavoro (CGIL) v. Italy**  
Complaint No. 91/2013

**OBSERVATIONS FROM THE ASSOCIATION  
*LUCA COSCIONI PER LA LIBERTA  
DI RICERCA SCIENTIFICA***

**Registered at the Secretariat on 30 August 2013**



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**OBSERVATIONS  
ASSOCIATION LUCA COSCIONI FOR THE FREEDOM IN SCIENTIFIC RESEARCH**

**CONFEDERAZIONE GENERALE ITALIANA DEL LAVORO  
COMPLAINT N. 91/2013**

Rome, 30 August 2013

*Prof. Attorney Filomena Gallo, general secretary of the Association Luca Coscioni for the freedom*

*in scientific research*



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## 1. Introduction

### 1.2. The Association Luca Coscioni: Role and scope.

The Association Luca Coscioni for freedom in scientific research (hereinafter, *breviter*, even "the Association") was founded on 20<sup>th</sup> of September 2002 by Luca Coscioni to "promote freedom in healthcare and in scientific research, selfmanaged personal assistance and assert human, civil and political rights of ill and disable people" (Article 2 of the Statute of the Association, Doc. 1).

Since its origins, the Association has been promoting information and civil disobediences (including referenda, legal advice, demonstrations etc..), in order to improve the relationship between citizenship (in the broadest meaning) and scientific innovations, this is to allow, therefore, an increasing use of new technologies to promote the freedom of realization of the personality, as well as the Constitutional rights.

Among the purposes of this Statute, it is stated that "*the Association also pursues, by all legitimate means, including recourse to legal actions the following scopes as well as any subsequent and related [...] d) protection and health of people and respect for the rights of any ill person and his family also when dealing with private and public health hospitals*" (paragraph 1a, Art. 2 of the Statute).

It seems clear, therefore, that the Association is not only directly interested in the discussion initiated by the Italian General Confederation of Labour (henceforth, *breviter*, CGIL), but it is even more entitled to supply information relating to the matter referred to in this complaint, since, with more than ten years of experience, the Association collects information (or rather "complaints ") concerning to the practice of abortion.

In fact, among other priorities, the Association provides, with an active role, a form of assistance to women who are unable to access services for the termination of pregnancy,



which should be guaranteed within the entire national territory, as required by the relevant regulations (Law no. 194 of 1978). Moreover, on the website of the Association a special compliant section is provided for those who have directly experienced a refusal to access to procedures for termination of pregnancy, or a complaint in relation to the absence of non-objector medical staff .

For reasons above, the Association has asked to participate in the present complaint with a request signed by the current Secretary, Mrs. Filomena Gallo - voted on 7<sup>th</sup> of October 2012. The European Committee of Social Rights authorized the submission of observations with a communication dated 18<sup>th</sup> of June 2013 (Doc. 3).

### **1.2 Why the Association Luca Coscioni for the freedom in scientific research has got the right to undertake the compliant.**

Another element is that the working space of the Association is not only relevant on the abstract level, but much more effectively in practice.

The experience that we want bring attention on concerns numerous complaints from people who directly or indirectly have been involved in incidents of misconduct at an earlier time during a termination of pregnancy procedure , or even worse, while an abortion was practiced. Unfortunately, the sensitivity of the data and related information, often anonymously, does not allow for the direct reporting of the facts, that are often crimes such as interruption of public service pursuant to art. 340 criminal code. The reluctance of women to expose themselves in the first person is humanly understandable, as a very delicate phase of their lives is involved.

The association - through “Soccorso civile”<sup>1</sup> - is able to collect direct experiences from women who suffered a damage caused by the impossibility to access to pregnancy

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<sup>1</sup> A service available here <http://www.associazionelucacoscioni.it/soccorso-civile>, where it is possible to find more information in order to prevent laws and a bad practice from destroying freedom and people rights, offering the possibility to leave testimonies and personal stories, granting, naturally, anonymity when the person behind the story is willing to stay anonymous.



interruption or had to bear serious difficulties in gaining access to a service provided by the law. Some stories underline that many times women experiencing an advanced phase of abortion are left completely alone because doctors and personnel are objectors. Unfortunately to date it is quite difficult that a woman would expose herself personally in this context, differently for example, from what happens in the case of medically helped procreation, where couples, because of the completely opposite means of those interventions tend to expose more easily and with less shame instead.

For what mentioned above it is apparent that the Association has a voice not only for its mission but above all on the basis of complaints which over the years it has collected.

But that's not all. The Association has recorded another important fact - clearly expressed by the data collected by the CGIL - that identifies an increase in objector personnel within hospitals. This increase leads to a disturbing flaw, which apparently was not taken into account at the time Law 194/1978 was drafted.

## **2. The law 194/78 and the moral objection**

The Law no. 194 of 22 May 1978 states that a pregnancy may be terminated in the first quarter in the event that its continuation could endanger the physical or mental health of the woman and after the first quarter only to situations of threat to the woman's life or serious anomalies and malformations (Articles 4 and 6 of Law No 194/78). The law regulates the conditions and procedures with which the woman can decide to interrupt pregnancy. In fact, using strictly juridical terms, abortion remains a felony, but only when the conditions given by the law do not exist, as illustrated by art. 19 of 194/78 law. This law establishes the necessary conditions in order to interrupt the pregnancy respectively in the first 90 days of childbearing, and after. It is clear that the conditions change if the decision is made before or after 90 days. Within the first 90 days the motivations can be physical or psychical, as well as in relation to economic, social and affective circumstances in which the pregnancy happened. After 90 days it is possible to interrupt the pregnancy only if:



- The pregnancy or the delivery can cause a serious danger to the woman's life.
- When there are certified pathological processes, like those related to relevant anomalies or malformations of the new-born, determining a great peril for the woman's physical or psychic health.

Before law 194/1978 came into force, the discipline related to abortion was contained in the criminal code, art. 545. This discipline repressed every form of abortion (both in terms of consenting or a non-consenting woman) as an offence related to the damage of integrity and health of the birth.

This aspect clearly indicates that the Copernican revolution was taking place in the seventies of the last century.

Eventually there was a transition from a phase of clandestine abortion, prosecuted by the States criminal law, to a regulatory framework that guaranteed "right to conscientious and responsible procreation" (Article 1, Law 194/78), recognizing the right to abortion in specific conditions.

The cultural and political climate in which this legislation has matured (coming from the Constitutional Court's declaration of unconstitutionality of the rule criminalising the voluntary termination of pregnancy – Judgment n.27 of 1975) respectful of the many interests at stake, was also considered the position of health personnel and allied health personnel to raise moral objection in relation to procedures resulting in the termination of pregnancy. The reason for this has to be found in the sudden change introduced by the new law.

The transition from abortion as a crime to abortion as a women's right might have created, at that time, some disorientation in the healthcare personnel (although it is certain that the practice of abortion was already widespread before 1978). Therefore, at a legislative level, moral objection played a role of "mitigation" or an accompaniment between the two dimensions of crime vs. right. Today, after 35 years, moral objection has no longer any



logical and legal foundation, and it represents the greatest obstacle to the full implementation of Law 194/1978.

The massive use of moral objection – even if it does not represent a crime in itself, according to Italian criminal law – effectively causes the interruption of a public service which might indeed constitute a crime under Italian law (art. 340 of the criminal code).

It appears clear that a well thought out objection clause was limited to establish a non-compulsory nature of the procedure for those not willing to sacrifice their own personal beliefs. Notwithstanding this provision it is established that a woman's right to access to the required treatment cannot in any way be sacrificed.

Although the live ethical debate has emerged around the concept of "conscientious or moral objection" in recent years - including those who theorize that there is also an inability to appeal to the said clause because access to medical facilities is voluntary and then the assumption of compulsion would fail. This is necessary in order to operate a conscientious objection and it should be noted, here, that, as often happens around these matters, the application of a rule may create distortions that theoretically it were difficult to predict.

In fact, today we are witnessing a disturbing exploitation of clause objection until reaching the circumstances of denial of service or, even more dehumanizing, service performed by non specialized personnel.

For these reasons, as it is argued below, it appears inadequate to the requirement under Article 9 of Law 194/78, since the right to health protection that the European Charter of Social Rights aims to guarantee in accordance with pursuant to art. 11 is strongly violated.

**The key issue today is the unsustainable incompatibility between women willing to undergo VPI and non-objector personnel, that cannot answer every request, thus determining a major risk to the right provided by the law.**

## **2.1.Radical Party and the commitment on legalization of abortion**

As mentioned above, until the Sixties it was common to consider abortion to be immoral.





Later, with the spread of feminism and a change of moral sensitivity, the laws against abortion were radically modified, also due to an high number of illegal abortions. And it is thanks to the Radical Party whose Coscioni Association is an entity, which in our country raises the “anti-prohibitionist waive”.

In 1975 the Secretary of the Radical Party Gianfranco Spadaccia, the secretary of the Information Center on Sterilization and Abortion (CISA) Adele Faccio and the radical Emma Bonino, Minister today Foreign Affairs, were arrested, for self-denunciation to the police authorities, for having practiced abortions. On 5 February, a delegation including Marco Pannella and Livio Zanetti, director of an important magazine “L'Espresso”, applied to the Supreme Court for a request of referendum to cancel articles 546, 547, 548, 549, 550, 551, 552, 553, 554, 555 of the Criminal Code, relating to crimes of abortion. After collecting more than 700,000 signatures, on April 15, 1976 with a Decree of the President of the Republic, the day for the referendum was set, but President Leone was forced for the second time, to disband the Parliament. However, the Constitutional Court judgment no. 27 of 18 February 1975, allowed for the appeal to abortion for serious reasons. In 1978 Law 194/78 came to force, which introduced the woman's right to terminate pregnancy under specific conditions, a right which in fact, to date, is strongly compressed by the massive recall of doctors to conscientious objection.

### **3. The interpretation of conscientious objection in the Italian Courts**

Some Italian Courts, ruling on the legitimacy related to specific public selections for non-objectors, in order to limit the alarming phenomenon that is posing a risk for health and the women’s right to procreative self-determination effortfully conquered more than 30 years ago, can suggest a model or a path able to limit the actual phenomenon while fully respecting the principles of equality and not discrimination.

It is significant that T.A.R. Emilia-Romagna (section Parma, 13 December 1982, n. 289, Foro adm. 1983 735 ff) even declaring the appeal inadmissible for reasons not strictly



connected to the l. n. 194 of 1978, states that the clause requiring non-objector personnel guarantees the public service provided by law 194/78.

Therefore it is already assumed that the prevision of the conditions and criteria for the hiring have the sole aim to guarantee that the right expressed by the 194/78 law cannot be considered discriminatory, but has to be read in the light of a reasonable balancing of conflicting interests.

It is possible to underline the ruling that more than any other ,through the material application of the principle of balance between constitutional rights, was able to get over this barbarian absolute ban regarding the voluntary pregnancy (sent. 27/75).

The Constitutional court, as well as the international courts and this committee, have often taught us to value the adherence to the constitution and then the plausibility of a norm using the so-called balancing criterion. Perhaps, it is now time to consider all lessons learned taking into account the interests at stake.

The prevision of public selections including clauses of exclusion for objector doctors cannot be read from the perspective of a working discrimination, but has to be interpreted in the light of the self-determination right expressed by the 194/78 law. Where the massive presence of objector doctors, that lawfully oppose abortion, damage a constitutional right related to self-psychophysical health then is necessary to find alternative solutions, mostly at a regional level (with the same law suggesting the implementation even through the mobility of the personnel). Transparency and publicity on ethical and moral choices of the doctors, strictly connected to the profession could grant the right for patients to turn to the adequate and equipped structures when in need to do so.

### **3.1. The decision of the TAR Puglia (14/09/2010, n. 3477, sect. II)**

The Puglia Region case is emblematic; in fact the Region, once acknowledged that within its territory almost half of the abortions was practiced in private structures (due of the diffusion of the moral objection among the medical personnel) started the process of bringing the VPI



back to public facilities. Given the overspreading of moral objection in public facilities, Puglia Region aimed at taking back the abortions to public facilities by issuing the “Regional healthcare plan 2008-2010”

In view of the strengthening of **advisory centres**, preferred point of access to health and social services related to the wanted and unwanted pregnancy, the Regional Council of Puglia, with Resolution no. 735 of 15 March 2010, approved the "Project for the reorganization of advisory Network", which provides the integration of some of advisory centres personnel with non-objector gynaecologists and obstetricians. On this basis, the ASL of Bari (*Azienda sanitaria locale*, Local healthcare agency) did adopt the Local Implementation Plan. Later on, the Puglia Region Local General Practitioner Committee of Bari issued the protocol note 242 of 8 April 2010. This protocol can be considered as a public selection which was specific for non-objector specialists for advisory services. This exclusion clause, therefore, prevented objector healthcare specialists from participating.

“This exclusive clause was brought to the Tar Puglia, that, even accepting the appeal did not completely exclude the possibility to limit the access to advisory structures to objector specialists, when this provision finds its base in the principles of proportionality and plausibility and is focused on finding the necessary balance between different voices involved in the abortive process”<sup>2</sup>.

Tar Puglia was compelled to accept the appeal, eliminating the public selection because of this selective procedure in the advisory context, that it is not the adequate facility where the VPI is practiced.

As mentioned at the beginning, the law 194/78 art. 9 accepts that the health personnel and allied health personnel may opt out of taking part in procedures for the termination of pregnancy if they decide to raise moral objection, but at the same time, it limits this right to the material application of the abortion. Therefore, there is no possibility to raise moral

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<sup>2</sup>

IADICICCO: “Moral objection and abortion in advisory services: TAR Puglia states that the presence of medical objectors is irrelevant, but not completely” in *Giur. Cost.* 2011, 2



objection in advisory centres, because in this phase the procedure does not include the practical termination of pregnancy.

During the advisory phase the personnel is always required to assist the women, through the activities included in article 5. Only later, when there is a positive health advice to the interruption to proceed on the basis of conditions laid down by law, the personnel may decide to raise an objection to proceeding during pregnancy.

In order to limit or control, TAR Puglia considers essential the moral objection, the wording of the third paragraph of Art. 9, which specifies that the exemption is only relevant for procedures and activities directly connected to the abortion. This is supported by the assignment of specific tasks to advisory centres pursuant to art. 5 of l. n. 194: since in those structures abortion is not practiced at all, therefore the presence or absence of medical objectors personnel in advisory centres is absolutely irrelevant. It follows - Tar argues - that a selection procedure that excludes medical objector personnel from access to advisory centres appears discriminatory as well as irrational and not justified.

Therefore, the decision by TAR Puglia, improperly used as a reference case to deny the possibility of public tenders containing exclusion clauses for personal objector for objectors. In reality the decision of Tar Puglia was issued strictly complying to current regulations; on this basis, advisory centres should not be involved with the issue of conscientious objection at all.

"In other words, in the opinion of the TAR, there is no link between activities performed in advisory centres and abortive event. What is important, in order to identify the scope of Article. 9, is not the objector's professional qualifications, but the tasks he performs, which must be specifically and necessarily directed to the interruption of pregnancy, according to an objective assessment and not according to the subjective perception that the agent has. It is clear, therefore, that the above information activities and support, carried out within the advisory centres, is far from adequate and could create a conflict between individual



conscience and the doctor's professional duties ".

The judge argues that, solely and exclusively in the advisory context, the exclusion of objector personnel from the advisory structures constitutes an infringement of the constitutional principles that represent the basis of moral objection.

The conscientious objection is a right which, taken in isolation, would require extensive legal protection as is the explication of a moral and ethical orientation which has constitutional dignity. But, like all rights - even constitutionally guaranteed - conscientious objection has to be balanced with other interests at stake that require protection equally, if not more protection when it comes to health and self-determination.

These remarks, in the Tar view, find their basis in the legislative decree n.216 of 2003, that defends equity of treatment for all workers, both in the public and private sector, without any distinction of religion, personal beliefs, handicap, age or sexual orientation, even with a specific mention regarding the access to work, both as a self-employed or employee, including the selection criteria (art.3). The same specific norm reads as follows at its third comma “ **respecting the proportionality and plausibility principles and as long as the purpose is lawful, do not constitute discriminatory acts**” treatment differences connected to the said motivations, but justified by the fact that these personal characteristics influence the working activity, because “**they constitute an essential and instrumental prerequisite to the purposes of the performance**” of the same.

These general considerations, have been expressed by the Tar Puglia, which on the basis of very literal interpretation of Law 194, however, has concluded that the activity carried out in advisory centres cannot be considered specifically and necessarily directed to determine the abortion . Therefore in this context personal opinions of medical objectors do not impact on the performance of the advisory activities, such as to justify any limitations in access to these facilities. Nevertheless, the administrative judge did take into consideration the principles set out in the said Article. 3, paragraph 3, of Legislative Decree no. N. 216 of 2003, as these laws ensured a certain number of jobs positions reserved to non-objectors, in advisory



centres, provided that those were proportional to objector numbers.

T.A.R. Puglia argues that the competent administration could "as an alternative (...) prepare for future calls for proposals aimed at the publication of the vacant shifts for every advisory centre, providing a reserve of 50% of places for specialists who have not served as conscientious objectors and at the same time a reservation of the remaining 50% for medical objectors. The latter would be a reasonable option that wouldn't conflict with the principle of equality of art. 3 Cost ".

"So, as it is undeniable that the exclusion of medical objectors from access to advisory centres may prove contrary to most constitutional provisions, it is also true that, under the same values we cannot impose to any objector to perform services (such as the issuance of the certificate of urgency) that may conflict with his ethical, cultural or religious beliefs. In other words, reserving specific jobs for non-objectors should still safeguard their freedom of conscience as objector staff, who, otherwise, could not in any way refuse to carry out the activities by their discretionary appreciation, such as emergency intervention certification". The presence of non-objectors in advisory centres would guarantee a specialist service also during the pre-abortion phases. In reality law 194/78 provides that also the general practitioner can issue the necessary documentation for the abortion, often he does not have specialist formation as opposed to advisory centre specialist.

#### **4. The women's health right: theory and practice**

The Italian law on termination of pregnancy allows women to interrupt their pregnancy within the first ninety days in circumstances where "the continuation of pregnancy, childbirth or maternity leave would result in a serious threat to her physical or psychic, or in relation to her state of health, or her economic, or social or family conditions or the circumstances in which anomalies or malformations of conception are foreseeable" (article 4, Law no. 194 1978).

Furthermore, Article. 6 adds that "the termination of pregnancy after the first ninety days,



may be practiced when a) The pregnancy or the delivery can cause a serious danger for the woman's life; b) When there are certified pathologies, like those related to relevant anomalies or malformations of the new-born, determining a great peril for the woman's physical or psychic health".

It is therefore clear by the wording of the legislation, that women are granted a margin of possibility for pregnancy termination in some conditions (which are described in more binding terms for the period subsequent to the first quarter).

This possibility is a variation of self-determination and personal health rights that originate by the Italian Constitution (Articles 2, 13, 32 of the Constitution).

It appears, therefore, that the ability to access termination of pregnancy is a genuine right recognized and guaranteed within the legal system.

As a result, what we want to challenge here, is the practical application of the legislation on the interruption of pregnancy. As mentioned above current regulations include the possibility for the objector personnel to avoid the process without setting a minimum level of non-objector staff that are qualified to provide the service (Article 9 of Law 194 of 1978).

In fact, and here the Association may take part with knowledge of the facts, the reality shows that it is increasingly difficult to carry out a termination of pregnancy due to lack of non-objector personnel. There have been many cases of women who were refused this procedure or that have been left alone during their interruption of pregnancy.

All of this appears unacceptable when compared with the intentions of sector regulations which "guarantee the right to conscientious and responsible procreation" (Article 1, Law no. 194 of 1978).

For what mentioned above, it would seem that the Italian Government infringes Article 11 of the European Charter of Social Rights since it does not guarantee the right to healthcare as the Charter defines.

**b.** Another aspect that is important to highlight is that health protection guaranteed by art. 11





of the European Charter of Social Rights is violated also in reference to art. E about "Non-discrimination", since that article states: *"The enjoyment of the rights recognized in this Charter shall be secured without any distinction based, in particular, on race, skin color, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, property, birth or other status"* (Article E, European Charter of Social Rights).

This aspect, therefore, is relevant since data collected and provided by the CGIL demonstrate that moral objection among doctors and auxiliary staff is more common in some areas of Italy up to borderline cases where non-objectors are absent or unavailable.

As a result, it is clear that not only there is a worrying geographic discrimination, but this is even more discriminating if the only solution is moving to other areas or, even worse, relying on private clinics. The economic possibilities, then, mark a distance between those who can afford access to private healthcare and those who remain without any possibility.

Moreover, the prohibition of discrimination is one of the fundamental principles of our Constitution that at art. 3, paragraph I, states: *"All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions."* And at Paragraph II: *"It is the duty of the Republic to remove those economic and social obstacles which limit freedom and equality of citizens and prevent full development of the human person and the effective participation of all workers in the political, economic and social development of the country."*

There is therefore a differentiation between what was traditionally called "formal equality" (paragraph I) from "substantive equality" (second paragraph).

Moreover, even one of the newest chapters of Fundamental Rights known as the Charter of Nice (now included in the Lisbon Treaty), art. 21 par. I states: *"Every form of discrimination is forbidden, in particular, on sex, race, skin color or ethnic or social origin, genetic features, language, religion or belief, political opinions or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation"*.





A ban on patrimonial discrimination, which is of high relevance, was also formalized.

In conclusion, therefore, the right for healthcare as provided by art. 11 of the European Charter of Social Rights is violated by the Italian State as there is no guaranteed access to the procedure for termination of pregnancy on the whole national territory. This violates art. E of the Charter as well, which as mentioned earlier, prohibits discrimination.

## **5. Human rights and healthcare service**

a) What shown so far proves that there is a worrying suspension of rights, guaranteed and protected by the constitutional charters and internal regulations, as the application of some of the provisions in Italy does not align with the charter's provisions.

It appears more than obvious that the voluntary interruption of pregnancy is one of those freedoms that women can legitimately claim in situations where the continuation of pregnancy might create serious dangers in relation to their mental and physical health.

Therefore, the Italian State, or Regions (entitled to introduce better standards than the minimum standards established by the State), should ensure that at the time of selection of medical and auxiliary personnel a minimum number of non-objector staff is employed, in order to guarantee that the procedure for abortion can be carried out in the entire national territory.

However, it is clear that although the State cannot impose a practice that is contrary to an individual's beliefs, it still must ensure that Law no. 194 of 1978 is applied.

The conflict between two different views on the concept of life – a woman that requests access to the voluntary interruption of pregnancy and a doctor who refuses to engage in this practice as it would not be in line with its ethics – has been already settled by the law, balancing the rights involved, giving priority to women in situations where their mental and physical health are in danger and cannot continue their pregnancy without taking major risks to their health.



This balance in any case was already set in 1975 by the Italian Constitutional Court which noted that: "[...] *there is no equivalence between the right not only to life but also to the health of those who already own person, like a mother, and the protection of the embryo has yet to become that person.*" (Constitutional Court. n. 27 of 1975), expressing a concept of balancing of rights that still appears the focus of this matter.

It appears, therefore, that it is the duty of the State to ensure the minimum level of protection of civil and social rights, providing a national healthcare service able to guarantee the procedure for abortion.

In this respect, and with specific reference to the need for such provisions to be standardized, one may recall the consideration by the Italian Constitutional Court which stated that the freedom of conscience protection "*cannot be considered unlimited and unconditional. It rests primarily on the one hand, and the overall, mandatory duties of political, economic and social solidarity that the Constitution requires, on the other, so that the public order is safeguarded and consequent burdens are shared by all, without privileges*" (Judgment no. 43 of 1997)

**b)** A further element, provided by CGIL within the outlined framework is the working environment of healthcare workers and allied health workers.

Again in this case the Association repeatedly collected evidence of non-objector doctors that, in order to overcome staff shortages, were forced to work outside working hours or, more generally, to practice abortion procedures only.

From this point of view it is necessary to balance the rights of those who refuse to carry out the termination of pregnancy because it conflicts with their ethics and those who do not object but suffer from situations of working in isolation. They are left alone to practice a procedure performed in conditions of under-resourcing, and forced to work longer hours because there is no staff willing to replace or assist them in these procedures.



From this point of view it appears clear that the European Charter of Social Rights is violated by the Italian State because it ensures the application of Articles. 1, 2 and 26 of the aforementioned Charter.

## **6. Conclusions**

With these observations, therefore, the Association intends to denounce the serious incidents of non-performance of abortion as witnessed by the many stories of women who reported about their unpleasant experiences.

We request, therefore, the European Committee of Social Rights to declare the violation of the European Charter of Social Rights by the Italian State, specifically for violating of Article. 11 of the Charter, taken alone or in conjunction with art. E, since the current Italian legislation regulating the termination of pregnancy is not suitable to provide a comprehensive healthcare service due to permanent shortage of non-objector medical personnel and allied health personnel.

Furthermore, the Association intends to note that also the position of the non-objectors is violated, since the application of art. 1, 2 and 26 of the European Charter of Social Rights is not guaranteed, in reference to the circumstances for which their work is limited to termination of pregnancy. In this respect an intervention by the European Committee of Social Rights is considered as a necessary action.

For all these reasons the Association Luca Coscioni for freedom in scientific research asks the European Committee of Social Right to accept the complaint n. 91/2012

Rome, 30 August 2013

*for Associazione Luca Coscioni for freedom in scientific research*

Filomena Gallo



**Included in the appendix:**

- 1) Statute of the Association Luca Coscioni per la libertà della ricerca scientifica;
- 2) European Committee of Social Rights authorization for the observations to the the complaint n. 91/2013.

*Almuna Fallo*