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

13 May 2013

Case document No. 9

International Planned Parenthood Federation European Network (IPPF EN) v. Italy
Complaint No. 87/2012

**RESPONSE FROM THE GOVERNMENT
TO THE LIST OF
QUESTIONS**

Registered at the Secretariat on 23 April 2013



REPUBBLICA ITALIANA

Ministero degli Affari Esteri

Agente del Governo davanti al Comitato europeo dei diritti sociali

Objet: Fédération internationale pour le Planning familial – Réseau européen (IPPF EN) c. Italie Reclamation collective n.87/2012

Monsieur
Le Secrétaire Exécutif

Suite votre lettre du 28 mars 2013 j'envoie les réponses du Gouvernement italien à la liste de questions posées par le Comité européen des droits sociaux.

Je vous donne mes excuses pour envoyer seulement aujourd'hui les réponses annexées.

Je vous prie de croire, Monsieur Brillat, à l'assurance de ma considération distinguée.

Rome 23 avril 2013

Ersilia Grazia Spatafora
Agent du Gouvernement

P.S. annexe 1.

*International Planned Parenthood Federation – European Network v/Italy**List of questions and answers*

<p>Question 1 The complainant Organisation and the respondent Government (“the parties”) are asked to provide information¹ on any problems² encountered by hospitals, nursing homes, advice centres with respect to the procedures of termination of pregnancy due to the high number of objecting health personnel and allied health personnel.</p>	<p>Answer 1 The Ministry of Health collect data on objecting personnel among gynecologists, anesthesiologists and allied health personnel through Regions: The MoH has no data on specific problems due to objecting health personnel encountered at local level.</p>
<p>Question 2 a/b/c The parties are asked to describe³, if any, concrete cases in which pregnant women:</p> <p>a. tried in vain to access the procedures for termination of pregnancy;</p> <p>b. carried out abortions in unhealthy conditions and/or at their own expense;</p> <p>c. were forced by the circumstances to continue the pregnancy.</p>	<p>Answer 2</p> <p>Not Available</p> <p>Not Available</p> <p>Not Available</p>
<p>Question 3 The parties are asked to distinguish the situation relating to the requests of abortion put forward by women during the first three months of pregnancy and those presented after this period (therapeutic abortions).</p>	<p>Answer 3 The last Minister of Health’s Report to Parliament (8 October 2012) includes data on abortions carried out after the first three months of pregnancy. According to those data, 3,647 interruptions were carried out after the first 12 weeks of pregnancy (3.4% of the total). No data are available on specific conscientious objection beyond the 12 weeks of pregnancy, however the number of structures where those abortions have been performed is lower than that related to structures carrying out interruptions within 12 weeks.</p>
<p>Question 4 The parties are asked to confirm whether externally recruited doctors carry out therapeutic abortions and whether all the available non-objecting health personnel and allied health personnel are entitled to, and actually carry out terminations of pregnancy.</p>	<p>Answer 4 Externally recruited doctors and all non-objecting health personnel are entitled to carry out terminations of pregnancy, according to the provisions laid down under article 9 of Act 194/78, fully reported here below (untranslated):</p>

¹ Statistics, percentages, comparative tables, etc.

² The problems raised could refer, for example, to the following situations: a. suspension of service due to the lack of non-objecting personnel; b. evident disproportion between the number of available non-objecting personnel and the requests to terminate pregnancy within a specific hospital, in a determined period of time; c. limited number of hospitals/nursing homes where terminations of pregnancy are carried out within a specific administrative unit (municipality, province or region); d. significant increase of the requests to carry out abortions in specific hospitals/nursing homes; e. significant differences between hospitals/nursing homes of comparable size throughout the country as regards the number of abortions carried out, given comparable number of requests; f. cases of non-replacement of non-objecting doctors who are not available (due to holiday, illness, retirement, etc.); g. absence/refusal of objecting doctors to provide the necessary care prior to and following abortion, etc.

³ The parties are asked to point-out whether these cases occurred because of the limited number of available non-objecting health personnel.

"Articolo 9

Il personale sanitario ed esercente le attività ausiliarie non è tenuto a prendere parte alle procedure di cui agli articoli 5 e 7 ed agli interventi per l'interruzione della gravidanza quando sollevi obiezione di coscienza, con preventiva dichiarazione. La dichiarazione dell'obiettore deve essere comunicata al medico provinciale e, nel caso di personale dipendente dello ospedale o dalla casa di cura, anche al direttore sanitario, entro un mese dall'entrata in vigore della presente legge o dal conseguimento della abilitazione o dall'assunzione presso un ente tenuto a fornire prestazioni dirette alla interruzione della gravidanza o dalla stipulazione di una convenzione con enti previdenziali che comporti l'esecuzione di tali prestazioni.

L'obiezione può sempre essere revocata o venire proposta anche al di fuori dei termini di cui al precedente comma, ma in tale caso la dichiarazione produce effetto dopo un mese dalla sua presentazione al medico provinciale.

*L'obiezione di coscienza esonera il personale sanitario ed esercente le attività ausiliarie dal compimento delle procedure e delle attività specificamente e necessariamente dirette a determinare l'interruzione della gravidanza, e non dall'assistenza antecedente e conseguente all'intervento. **Gli enti ospedalieri e le case di cura autorizzate sono tenuti in ogni caso ad assicurare lo espletamento delle procedure previste dall'articolo 7 e l'effettuazione degli interventi di interruzione della gravidanza richiesti secondo le modalità previste dagli articoli 5, 7 e 8. La regione ne controlla e garantisce l'attuazione anche attraverso la mobilità del personale.***

L'obiezione di coscienza non può essere invocata dal personale sanitario, ed esercente le attività ausiliarie quando, data la particolarità delle circostanze, il loro personale intervento è indispensabile per salvare la vita della donna in imminente pericolo.

L'obiezione di coscienza si intende revocata, con effetto, immediato, se chi l'ha sollevata prende parte a procedure o a interventi per l'interruzione della gravidanza previsti dalla presente legge, al di fuori dei casi di cui al comma precedente."

Furthermore, according to Title V (as amended) of Italian Constitution, the ministry of Health is not entitled to interfere, by any means, on the organization of Healthcare services, which competence resides on Regions.

<p>Question 5 With respect to the possible problems encountered by pregnant women in accessing the procedures for termination of pregnancy, the parties are asked to provide specific information and data on any possible appeals lodged by such women before the competent administrative and/or judicial authorities over the last five years.</p>	<p>Answer 5 N/A</p>
<p>Question 6 The parties are asked to provide detailed information on the measures adopted by hospitals, nursing homes and regional authorities as an implementation of Article 9§4 of Act 194/78⁴</p>	<p>Answer 6 In Italy, the practical implementation of Act 194/78 has registered a stabilization over time (at least after 2010) of conscientious objection among medical and allied personnel, compared to the constant increased occurred before. As a consequence, there has been a re-balancing between objecting and non-objecting personnel, in the light of the recent orientations indicated by the National Bioethics Committee; the latter reaffirmed the idea that conscientious objection is a fundamental right and a value, safeguarded by Article 2 of the Constitution, but also that it should be tempered with the safeguard of the legal good represented by human life, key principle of Constitution and necessary basis for equality right. The National Bioethics Committee is in favor of a sustainability of the possibility to exert conscientious objection, in a way that would not discriminate neither objecting, nor non-objecting personnel, by promoting a revision of the organization of duties and recruiting through adequate forms of personnel mobility and differentiated selection of human resources. By this viewpoint, the National Bioethics Committee supports the opportunity of involving objecting personnel in abortion prevention activities, in a manner that is coherent with the ethics convictions manifested. Italian Regions, Local Health Units and Hospitals, in order to compensate conscientious objection, have often recourse to external personnel by means of specific, temporary contracts, or stipulate agreements with private healthcare structures. In other cases, hospital establishment have had recourse to agreements with nursing homes.</p>
<p>Question 7 The parties are asked to specify whether – and if yes why – they consider that the reduction in the number of abortions resulting from the official reports regularly presented by the Ministry of Health to the Parliament indicate that pregnant women do not encounter problems in the access to procedures for termination of pregnancy.</p>	<p>Answer 7 Data show a constant reduction, in Italy, of voluntary termination of pregnancy according to the procedures foreseen by Act 194/78. This is particularly true among better educated women. Furthermore, the percentage of repeated abortions amounted to 27% in 2010 with respect to an expected value of 45% (calculated with mathematical models) without changes in the women's recourse to termination of pregnancy.</p>

⁴ “Gli enti ospedalieri e le case di cura autorizzate sono tenuti in ogni caso ad assicurare l’espletamento delle procedure previste dall’art. 7 e l’effettuazione degli interventi di interruzione della gravidanza richiesti secondo le modalità previste dagli artt. 5, 7 e 8. La regione ne controlla e garantisce l’attuazione anche attraverso la mobilità del personale”.

	<p>Moreover in the last few years, the time between the certification and the procedure has become shorter and more than 80% of women has undergone this procedure at a gestational age of \leq 10 week. Also the emergency procedures (without waiting for 7 days after the certification date) in 2009 amounted to 9.2%, the same value reported in the 1997 Ministry of Health Report. Experts' hypothesis is that the promotion of a higher and more efficacious recourse to conscious procreation, especially thanks to the activity of territorial services like family consultation centers, has favored prevention of unwanted pregnancies and, as a consequence, of voluntary terminations of pregnancy.</p>
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