**ITALY**



**MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL COOPERATION**

***inter-ministerial committee for human rights***

***Resolution A/HRC/43/7 entitled “The right to work”***

**Italy’s contribution to the analytical report by the UN High Commissioner for Human Rights**

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**ITALY’S CONTRIBUTION**

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and

for the attention of Stefania Tripodi

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Further to letter dated November 20, 2020, Italian Authorities are in a position to provide the following contribution.

In Italy, the principle of equality and equal treatment is ensured by legislation and, more in particular, by the following relevant legislative decrees and laws.

The **Legislative Decree 9 July 2003, n. 216** on "Implementation of Directive 2000/78/EC for equal treatment in the field of employment and working conditions" provides for provisions relating to the implementation of equal treatment between people with regard to employment and working conditions.

The principle of equal treatment applies to:

a) access to employment and work, both self-employed and dependent, including selection criteria and hiring conditions;

b) employment and working conditions, including career advancement, remuneration and conditions of dismissal;

c) access to all types and levels of vocational guidance and training, further training and professional retraining, including professional internships;

d) affiliation and activity within the organization of workers, employers or others professional organizations and services provided by the same organizations.

In particular, in order to ensure compliance with the principle of equal treatment of persons with disabilities, public and private employers are required to adopt reasonable accommodations. In order to guarantee the full enjoyment of civil, political, economic and social rights to the people with disabilities, **Law n. 67 of 1 March 2006** "Measures for the judicial protection of persons with disabilities who are victims of discrimination", provides for the judicial protection of persons with disabilities who are victims of discrimination. They can appeal to the judge to obtain the cessation of discriminatory acts. Trade unions and representative organizations may be entitled to act for delegation for collective discrimination and obtain administrative procedures for the annulment of acts that harm people's interests. The aforementioned law 2006/67 also allows the Judge to order the publication of judicial measures in a national newspaper or in the most popular newspapers in the territory concerned.

The guarantee of access to work by people with disabilities is achieved through the provision of reserve shares promoted by **Law no. 68 of 12 March 1999** "Rules for the right to work of persons with disabilities" for the unemployed people listed below:

- people with physical, mental and intellectual disabilities with one reduction of working capacity of more than 45%;

- disabled people with a degree of disability greater than 33%;

- blind people (suffering from absolute blindness or with a residual vision of no more than one tenth in both eyes, with possible correction) or deaf people (suffering from deafness from birth or before learning the spoken language);

- persons with disabilities because of war, civilians or with disabilities because of service and registered from the first to the eighth category referred to in the tables of Presidential Decree 915/78 (Article 1, paragraph 1, of Law 12 March 1999, no. 68).

The law 12 March 1999, n. 68 provides that the treatment is applied to workers with disabilities economic and regulatory provisions provided for by laws and collective agreements (article 10, paragraph 1, of Law no. 68 of 12 March 1999). Furthermore, the Italian legislator has established that the employer cannot ask the disabled worker for a benefit that is not compatible with his or her disabilities (article 10, paragraph 2, of Law no. 68 of 12 March 1999). Employers, public and private, are required to guarantee the preservation of the job to those subjects who, not disabled at the time of hiring, have acquired a disabilities due to an accident at work or occupational disease (article 1, paragraph 7 , of the Law 12 March 1999, n.68). For workers who become unable to carry out their duties as a result of injury or illness, the accident or illness does not constitute a justified reason for dismissal in the event that they can be assigned to equivalent duties or, failing that, to lower duties. In the case of assignment to lower duties, they have the right to the retention of the most favourable treatment corresponding to the duties of origin. If it is not possible for the aforementioned workers to be assigned to equivalent or inferior duties, they are initiated, by the competent offices, in another company, in activities compatible with the residual working skills (Article 4, paragraph 4, of the Law of 12 March 1999, no. 68). In Italy the status of disability can be recognized after a health check and defined by Law 104 of 05 February 1992 as the condition that occurs if the physical, psychic or sensory impairment, stabilized or progressive, which is the cause of learning, relationship or work integration difficulties, is such as to determine a process of social disadvantage or marginalization (Law 104/92 art.3 co.1). The situation assumes a connotation of gravity when the condition of non self-sufficient person occurs when the individual or multiple disabilities had reduced the personal autonomy, related to age, so as to make a permanent, continuous and global assistance intervention, necessary in the individual sphere or in that of relationship (Law 104/92 art.3 co.3).

**Incentives for the recruitment of people with disabilities**

The Legislative Decree 14 September 2015, n. 151 has profoundly innovated (article 10 amending the aforementioned article 13 of Law no. 68 of 1999) the discipline of incentives for hiring workers with disabilities and the functioning of the relevant Fund. In fact, the system that provided for the annual allocation of the State to the Regions and the subsequent disbursement by the Regions to the employers, based on the hires made the previous year has been superseded. The legislator intended in this way to guarantee the employer to benefit an automatic manner and immediate incentive provided by law. According to the new provisions, the incentive is paid by adjusting the monthly contribution reports, through a special electronic procedure implemented by National Social Security Institute (I.N.P.S). The resources of the Fund for the employment of people with disabilities are transferred to this Institute, by means of a specific decree of the Minister of Labour and Social Policies, in agreement with the Minister for the Family and Disabilities and with the Minister of Economy and Finance, updated annually in order to allocate the resources that flow to the Fund for the payment of exemption contributions pursuant to Article 5, paragraph 3-bis of Law 68 of 1999. The economic incentive is related to the taxable gross salary for social security purposes and varies according to the degree and type of reduction in the working capacity of the hired person. The duration of the contributory benefit also varies according to the characteristics of the hired worker and the type of employment relationship. In particular, for employers who hire people with disabilities for an indefinite period incentives are provided for 36 months for the recruitment of disabled workers with a reduction in working capacity from 67% (the incentive is equal to 35% of the gross monthly salary; it rises to 70% for the recruitment of disabled people with a reduction in the higher working capacity to 79%). The incentives are also provided (in the amount of 70% of the gross monthly salary) for a longer period of time (60 months), for the recruitment of workers with intellectual and mental disabilities. For these workers there are also incentives for a fixed-term hiring of not less than twelve months. With reference to the incentives provided for work disabled, it should be borne in mind that Article 1, paragraph 166, of Law no. 190/2014 attributed to the National Institute for Insurance against Accidents at Work (I.N.A.I.L.) competences in the field of reintegration and work integration of people with work disabilities, completing the protection model guaranteed by the Institute. The above mentioned skills are achieved through customized projects aimed at preserving the workplace or looking for new employment to be implemented through professional retraining training, as well as interventions for overcoming architectural barriers in the workplace and for adaptation of workstations.

As article 1, paragraph 533, of the Law of 30 December 2018, no. 145 was inserted in paragraph 166 of article 1 of the aforementioned Law no. 190/2014, the provision according to which: *"The remuneration paid by the employer to the person with a work disability who is the recipient of a reintegration project aimed at preserving the job and upon termination of the state of absolute temporary disability cannot wait for work without carrying out the interventions identified within the aforementioned project is reimbursed by I.N.A.I.L. to the employer in the amount of 60 percent of the amount actually paid. Reintegration projects can be proposed by employers and are approved by I.N.A.I.L.. The reimbursable salaries are those paid from the date of manifestation of the will by the employer and the worker to activate the project and until the implementation of the interventions identified therein and, in any case, for a period not exceeding one year. If the interventions identified as part of the personalized work reintegration project are not implemented due to unilateral unjustified withdrawal by the employer, the latter is required to return the full amount of the reimbursement to I.N.A.I.L.. Starting from 1 January 2019, I.N.A.I.L. will contribute to the financing of the relocation allowance referred to in Article 23 of Legislative Decree 14 September 2015, n. 150, issued to people with work disabilities seeking employment. The financing methods are defined by decree of the Minister of Labour and Social Policies, to be adopted within sixty days from the date of entry into force of this provision. The subjects indicated in article 6, paragraph 1, letters d) and e), of the legislative decree 10 September 20 September 2003, n. 276, can present to I.N.A.I.L. training and information projects aimed at workers and employers on the subject of reintegration and labour integration of people with work disabilities, financed by the Institute within the limits and in the manner established by the same"*. Article 112 of Legislative Decree n.50 of 18 April 2016 established that without prejudice to the provisions in force on social cooperatives and social enterprises, the contracting authorities may reserve the right to participation in procurement and concession procedures or may reserve their execution to economic operators and social cooperatives and their consortia whose main purpose is the social and professional integration of persons with disabilities or disadvantaged or may reserve their execution in the context of protected work programs when at least 30 per cent of the workers of the above mentioned economic operators are made up of workers with disabilities or disadvantaged workers. Pursuant to Article 18, paragraph 6, of the Law of 05 February 1992, no. 104, the regions can provide with their own laws to regulate the facilities for individual people with disabilities for starting and carrying out self-employed work activities. Article 12 of Law 12 March 1999, no. 68 provides for agreements for temporary job placement for the purpose of training for disabled people in social cooperatives (referred to in Article 1, paragraph 1, letter b), of the Law of 8 November 1991, no. 381, and subsequent amendments), social enterprises (as per Legislative Decree no. 155 of 24 March 2006), disabled professionals, to whom employers undertake to assign work orders.

**People with disabilities and reasonable accommodation**

Among Italian policies aimed at promoting the employment of people with disabilities, there are additional incentives to favour employers who hire workers with disabilities. Article 14 of Law 68/99 (as amended by Legislative Decree 151/2015) provides for Regional Funds for the disbursement of contributions also for the partial flat-rate reimbursement of expenses necessary for the adoption of reasonable accommodations in favour of workers with a reduction in working capacity of more than 50%, including training of teleworking technologies or the removal of architectural barriers that limit in any way the labour integration of the person with disabilities, as well as to establish the person in charge of job placement in the workplace. The regional funds for the right to work of people with disabilities are set up by the regions to finance regional programs for work placement and related services. The Fund's operating procedures and administrative bodies are determined by regional law, so that equal representation of workers, employers and disabled people is ensured. The funds are allocated the amounts deriving from the imposition of administrative sanctions and the contributions paid by the employers not paid, as well as the contribution of foundations, private entities and interested parties.

**Apprenticeships and internships**

In Italy the internship is a period of orientation and training carried out in a working context and aimed at entering the world of work. It is not considered an employment contract. As a general rule there are two types of traineeships:

- Curricular internships: aimed at young people who follow an education or training course and aimed at integrating learning with a work experience. This type of traineeship is governed by school or university regulations and it is promoted by accredited schools, universities or training institutions;

- Extracurricular internships: aimed at facilitating professional choices thanks to a period of training in a productive environment and therefore to direct knowledge of the world of work. This kind of traineeship is governed by the Regions and the autonomous Provinces, while at national level the common minimum standards are defined. The Trainee Manual has been published as a practical guide to extracurricular traineeship. Extracurricular traineeships are governed by specific reference legislation and specific guidelines on traineeships: a monthly participation allowance is recognized, the amount of which is defined by the individual Regions or Autonomous Province. The contribution will be higher if the internship takes place outside the territory of residence, thanks to a voucher parameterized on the basis of the current EC tables of the mobility programs. The common minimum standards to be followed are contained in the Guidelines on traineeships which define the minimum quality levels of the traineeship and ensure equal treatment and homogeneous protection levels on the national territory. The 2017 Guidelines provide that extracurricular placements have a maximum duration of 12 months, but programme of placements for people with disabilities can last up to 24 months. The training, orientation, job insertion / reintegration traineeships are aimed at people with disabilities and protected categories as per law 12 March 1999, n.68 "Rules for the right to work for people with disabilities". Additional tools for the integration of PwD are:

- Job placement agreement: aimed at the gradual coverage of jobs reserved quotas for people with disabilities. The agreement represents one of the main tools used to meet the needs expressed by employers facing a pro quota inclusion obligation.

- Social cooperatives: aimed to pursue the general interest of the community in social integration of citizens through the management of socio-health and educational services and the performance of different activities. They are concrete tools for job insertion of people with disabilities who have particular characteristics and difficulties of insertion in the ordinary work cycle.

- Protected workshops for people with disabilities: the contracting authorities may reserve quotas for, in the procedures for the award of public contracts, in compliance with current legislation, or reserve quotas in the work programs when the majority of the workers are people with disabilities. Apprenticeship is an open-ended employment contract aimed at training and employment of young people, with dedicated legislation:

- apprenticeship for the professional qualification and diploma: for the upper secondary education diploma and the certificate of higher technical specialization

- professionalising apprenticeship: aimed at learning a profession or attaining a professional qualification;

- higher education and research apprenticeship: aimed at the achievement of university and higher education qualifications, including research doctorates, diplomas of higher technical institutes, research activities and for the internship for access to professions by professional orders.