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COMMITTEE ON ECONOMIC, SOCIAL  
AND CULTURAL RIGHTS

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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC,  
SOCIAL AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES IN  
ACCORDANCE WITH ARTICLE 16 OF THE INTERNATIONAL COVENANT ON  
ECONOMIC, SOCIAL AND CULTURAL RIGHTS

**REPLIES BY THE GOVERNMENT OF ITALY TO THE LIST OF ISSUES  
(E/C.12/Q/ITA/2) TO BE TAKEN UP IN CONNECTION WITH THE  
CONSIDERATION OF THE FOURTH PERIODIC REPORT OF ITALY  
CONCERNING THE RIGHTS REFERRED TO IN ARTICLES 1-15 OF THE  
INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL  
RIGHTS (E/C.12/4/Add. 13)**

**HR/CESCR/NONE/2004/3**

List of issues (to be presented by 05.1.2004)

## I. GENERAL FRAMEWORK WITHIN WHICH THE COVENANT IS IMPLEMENTED

1. Please provide information on whether the party' s various national plans on human rights are consistent with the recommendations of the Vienna Declaration and Programme of Action of 1993. Do the various national plans existing in the State party aim to protect and promote economic, social and cultural rights in an integrated and coherent manner?

*With reference to the Vienna Conference of June 14-15 of 1993, and to the engagements taken with the relative Declaration and Program of Action, Italy gives the following information, with particular regard to the following points:*

### *POINT 11*

*In Italy, the following structures and organisms are operating:*

#### *NATIONAL COMMITTEE FOR BIOETHICS*

*The institution of the National Committee for bioethics followed Resolution n.6-00038, approved on July 5th, 1998 by the Law Chamber at the end of a debate on "the problems of life", with which the Government had promoted a discussion, also at international level, on biomedical research and genetic engineering, in the perspective of the respect of human freedom and dignity. The discussion ended up with the proposal of the establishment of an "ad hoc" Committee, with the following tasks:*

- to elaborate a summarizing description of programs, aims and results of research and experimentation in the field of sciences of life and human health;
- to show solutions regarding the control mechanisms aimed to ensure both human security and environment safety in the production of biological material, and the protection from any possible risks of patients under genetic therapy or treated with products of the genetic engineering;
- to promote the editing of behaviour codes for all those operators of different sectors who have to provide public opinion with correct information..

The Committee is an organ of the Presidency of the Council of Ministers and has advise

functions towards the Government, the Parliament and other institutions. It is also connected with analogous organisms of other countries, in particular EU and CoE member States of. The Committee will also provide information to associations, research centres, local ethical committees, scholars and other citizens.

## **NATIONAL COMMITTEE FOR SECURITY AND BIOTECHNOLOGIES**

*The National Committee for Bio-security and Bio-technologies (CNBB), originally named "Scientific Committee for the Risks deriving from the Use of Biological Agents", was established within the Presidency of the Council of Ministers in 1992 by art. 40 of Law no. 14 of February 19th, 1992. That law implemented European Directive 90/220/CEE on the voluntary emission in the environment of microorganisms genetically modified, and European Directive 90/219/CEE on the limited use of such microorganisms.*

The Committee has also the institutional task of co-ordinating and integrating programs, initiatives and activities of Ministries and other public or private institutions working in the sector of biotechnology, in order to guarantee the unity and the coherence of different actions.

The co-ordination function, in particular, qualifies the Committee for interacting with all public and private institutions that are interested in biotechnology. The involvement of the Committee is prior to the decisions of the Presidency of the Council of Ministers. In addition, Ministries and public institutions can directly resort to the Committee, both for the procedures that result in a collegiate act and for those of their own competence.

### **POINT 15**

In the framework of EU policy against racism and xenophobia, the Government has always kept anti-Semitism under careful observation, carrying out initiatives to fight the phenomenon through:

- the constitution of an Office for the promotion of equality of treatment and removal of discrimination founded on race or ethnic origin, according to art. 29 of Law n. 39, March 1st, 2002. This Office is established within the Presidency of the Council of Ministers Department for Equal Opportunities -DPCM 11 DIC 2003.

*The Office should guarantee, impartially and with full autonomy of judgement, equality of treatment and ensure the effectiveness of instruments adopted to fight discrimination. Moreover, the Office should contribute to remove discriminations founded on race and ethnic origin, also analysing the different impact they have on men and women and their relationship with other forms of racism founded on cultural and religious grounds.*

- The establishment, within the Ministry of Home Affairs, of the Committee against Discrimination and anti-Semitism, DM 30 GEN 2004.

*The Committee has also the task to constantly monitor the possible regression towards forms of intolerance, racism, xenophobia and anti-Semitism, and to identify sanctions and educational instruments to effectively oppose every behaviour inspired by religious or racial hatred;*

- The establishment of the Committee for the Recovery of the Bibliographic Property of the Roman Jewish community, plundered in 1943, following the work of the Committee on Events related to the Acquisition of the Goods of Hebrew Italian citizens by public and private organisms-DPCM 26 NOV 2002.

*The Committee has the task to promote a careful research to clarify the events relating to the bibliographic property of the Roman Jewish community. This property, which is considered by Italian Government as an element of high cultural interest, had been dispersed following the forays committed in the last months of 1943. In the event of the finding of, at least, part of this property, the Committee has also the task to suggest measures aimed at its recovery. In this field, there is also a very active Inter-Ministerial Committee for the recovery of the art works subtracted in the war period 1940-1945.*

Italy has, since March, the honour to chair the International Task Force on the Shoah, an international organization, made up by 16 countries, that aims at keeping alive the collective memory of the extermination of millions of Jewish, through teaching, teachers' training and promotion of researches and studies. This Task Force works to transmit to new generations the memory of atrocities committed by Nazis, in order to prevent such annihilation of the human being, resulting from totalitarianism, to happen again. During the celebration of the "Day of Memory", on January 27th, 2004, the Chief of Italian Government took the responsibility to do his best to favour dialogue, respect and acceptance among different cultures and religions.

Therefore, the Italian Government strongly supported, during the 2003 European Council that concluded the semester of Italian chairmanship, the EU engagement against any extremism, intolerance and xenophobia. Condemning all actions that prejudice pacific and democratic cohabitation, Italian Government showed its deep worry for the increase in episodes of anti-Semite intolerance, both against religious places and individuals.

## ***Advisory Committee for Religious Freedom***

***Established by President of Council Decree on March 14th, 1997, and renewed by analogous Decree on March 14th, 2002, the Committee has the following tasks:***

- to study, research and make proposals on the implementation of Constitution principles related to freedom of belief.

- to consider issues related to the preparation of agreements with different religions, also giving a preliminary opinion on agreement drafts;
- to elaborate guidelines concerning the drawing-up of the such agreements;
- to formulate advises, at the request of the President of the Council of Ministers, on the issue of the relationship between State and religions, both in Italy and European Union;
- Signalling difficulties in the implementation of laws, including those deriving from international agreements signed by Italy.

The Parliament is actually working on the following human rights bills:

**C.4230** The introduction of "human rights education" teaching in high schools.

**S.48** The establishment of an independent Committee for protection and promotion of human rights.

**C.411** Establishment of a national Ombudsman for people deprived of personal freedom.

### *POINT 21*

Concerning the rights of the child, the Low Chamber has approved last year important guidelines on child labour, advising the Government to establish the Ombudsman for Adolescence and Childhood, in order to supervise, co-ordinate and support actions in this field. The Parliament has also approved laws concerning family abuse (Law n.304) and financial support to families in need with at least three minors (Law n.133). Moreover, with the approval of Law 77/2003, the Parliament has ratified the European Convention on Rights of the Child.

On February 26, the experimental management of a free national help line "SOS childhood" has been entrusted to the NGO "S.O.S Telefono Azzurro". Moreover, at the end of the year, an agreement has been reached with Internet providers on a self-regulation code "Internet and minors". While the Parliament has kept on discussing on the possible establishment of a national Ombudsman for childhood, many local and regional councils decided to establish such institution at local level.

Italian Presidency has also actively promoted the approval of the EU Guidelines on Children Participation to Armed Conflicts; these guidelines have then been discussed in occasion of the EU Forum on Human Rights, organised in Rome at the end of 2003, on the topic "The Protection of Children according to International Law. In this occasion, Italian Government has reiterated its commitment to work with all competent international organizations and NGOs to fight trafficking in minors and children sexual abuse.

### *POINT 23*

*The Low Chamber First Committee on Constitutional Affairs is currently discussing the Government bill (A.CG 5381) modifying the proceeding concerning the recognition of refugee status, in order to properly implement art.10 of Italian Constitution.*

*Other bills are currently under discussion in the Parliament:*

*S. 509 Norms regarding humanitarian protection and asylum right.*

*C. 1238 Rules in matter of humanitarian protection and asylum right.*

*C. 1464 Recognition of foreign citizens' right to vote.*

2. Please indicate if the State party envisages establishing to national human rights institution in conformity with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles, General Assembly Resolution 48/134, annex).

## **National organisms operating in the sector of the protection of fundamental rights**

In Italy there is still no independent human rights organism at the national level, as requested by the UN resolution 48/134 of December 20th, 1993(A/RES/48/134). However, in order to comply with such resolution, the Senate is going to discuss very soon a bill (S.2666) aiming at the establishment of national committee to guarantee the promotion and the protection of human rights.

The only national organism in this field is the **Inter-ministerial Committee on Human Rights (CIDU)**, established within the Ministry of the Foreign Affairs (MFA) with MFA Decree Affairs N. 519, on February 15th, 197. MFA Decree subsequently changed its composition on February 16th, 1998 and on July 2nd, 2003.

Representatives of the following institutions are Members of the Committee: Presidency of Council of Ministers, Ministry of Foreign Affairs, Ministry of Home Affairs, Ministry of Justice, Ministry of Education, University and Research, Ministry of Health, Ministry of Defence, Ministry of Employment and Social Policies, Ministry for Equal Opportunities, General Command of "Carabinieri", National Council on Economics and Labour (CNEL), National Statistics Institute, Committee for Equal Opportunities, UNESCO Italian Committee, Italian Society for the International Organization (SIOI), UNICEF Italian Committee.

The Committee also includes three distinguished personalities in the field of human rights, named by the Minister of Foreign Affairs for a three years period.

The Committee has the following tasks:

a) to realize a systematic review of all laws, regulations, administrative ad other acts taken by domestic legislative bodies, with particular attention to Government action, in order to carry out

the engagements contained in all those human rights international conventions adopted by international organizations to which Italy is a member State;

b) to promote the adoption of all those provisions that are necessary to assure the full fulfilment of international obligations assumed by Italy, including those obligations that will follow, in the future, the ratification of Conventions already signed by Italy;

c) to supervise the observance of international conventions on national territory and the preparation of reports, periodical or not, that Italy is requested to present to the competent international organizations

d) to collaborate in the organization, in Italy, of activities related to international human rights initiatives, such as conferences, seminars and celebrations of “international days”, also maintaining contacts with civil society groups that are active in this field.

The Committee, on behalf of Italian Government, prepares and presents to the UN the reports on the implementation of international human rights conventions signed by Italy (Conventions on: Racial Discrimination, Discrimination against Women, Tortures and other Inhuman and Degrading Treatments, Rights of the Child; Covenant on Civil and Political Rights and Covenant on Economic, Social and Cultural Rights). It furthermore supervises the national implementation of the follow-up to Durban Conference and UNGASS.

Law n.80, approved on March 19th, 1999, regulates the funding of the Committee and prescribes the presentation to the Parliament of an annual report on the Committee human rights activities.

*Though not including NGOs representatives (its principal task being the presentation of State Reports, a task of strict governmental nature), the Committee has gradually increased its contacts with civil society, involving NGO representatives in the collection of the information necessary to write the above-mentioned reports and organizing consultations and meetings when the contribution of civil society is deemed necessary (for example on: the situation of Roma people, the role of Civic Defenders, racism and discrimination, rights of the child, women's rights, trafficking in human beings). In occasion of the main international human rights events (as the UN Commission on Human Rights, the UNGA Third Committee and Durban and UNGASS Conferences), the Committee organizes meetings with main NGOs to explain them the essential elements of the Italian position. Informal contacts with NGOs and other civil society*

*representatives (universities, movements, associations...) are also kept in order to discuss specific issues or general themes, such as the abolition of capital punishment and the struggle against torture, on which Italy is especially engaged in international fora.*

## **Other organisms**

Moreover, there are other human rights organisms:

### **National Committee on Bio-ethics**

Established in 1990 within the Presidency of the Council of Ministers, the Committee has the task to supervise the use of legislative and administrative instruments to define the criteria to be used in medical and biological practice, in order to protect human rights and avoid abuses. Furthermore, the Committee has the task to guarantee that public opinion receive correct information on different topics such as therapeutic treatments and their consequences, diagnostic techniques and the progress of biomedical sciences.

### **Committee for Equal Opportunities between Men and Women**

The Committee has been established in 1984, by a Governmental Decree, under the name of “National Committee for Equality and Equal Opportunities between Men and Women”. Law 164/90 has then defined its competencies, expertise, composition, duration and liquid asset. Government Decree n.226, approved on July 31st, 2003, implemented article 13 of Law n.137, July 6th, 2002, gave Committee the current denomination and turned it in an advisory organ, charged with advising and supporting the Minister for Equal Opportunities in the elaboration and implementation of equal opportunity policies.

Its tasks are the following:

- a) Making proposals on the elaboration of normative changes necessary to remove any form of direct and indirect discrimination towards women and to conform the legal system to equal opportunity principles. This task also includes providing necessary information and technical and statistical documentation.
- b) Collecting, analysing and elaborating data to check the implementation of equal opportunity policies in political, economic and social life, and proposing initiatives whenever necessary.



- c) Drafting an annual report on the implementation of equal opportunities policies.
- d) Providing technical and scientific advice on specific issues, at the request of the Minister or the Department for Equal Opportunities;
- e) Researching on equal opportunity issues.

### **UNESCO Italian Committee**

The Committee was instituted by an inter-ministerial decree in 1950 and is made up by representatives of the Presidency of the Council of Ministers, other Ministries and public and private institutions, including experts of cultural sector. The Committee also promotes, at national level, UNESCO activities, including the dissemination and promotion of human rights.

### **National Observatory for childhood and adolescence**

*The National Observatory for childhood and adolescence, as well as the Parliamentary Committee for Childhood, has been established by Law n.451/97, and then regulated by DPR n.369 of October 5th, 1998. The Observatory is chaired by the Minister of Employment and Social Policies, and has to promote co-ordination among central, regional and local authorities, associations, professional classes and NGOs working on this subject.*

*The Observatory promotes and guides policies towards children and adolescent; moreover, with the help of the National Centre for Documentation and Analysis for Childhood and Adolescence, it:*

- a) Prepares every two years the National Plan of action for the protection of children rights and development, also looking for the best way to fund such actions.
- b) Prepares every two years the Report on the situation of children and adolescents in Italy and on the implementation of their rights.
- c) Contributes to prepare the Government Report to the UN on the implementation of the International Convention on the Rights of the Child of 1989.

The National Observatory for the Childhood and the Adolescence is made up by representatives of several Ministries, institutions and NGOs and makes part of European Network of National Observatories on Childhood.

### National Centre for Documentation and Analysis for Childhood and Adolescence

National Centre for Documentation and Analysis for Childhood and Adolescence has been established by Law n.451 on December 23<sup>rd</sup>, 1997, and supports the work of the National Observatory for the Childhood.

### Inter-ministerial Committee for the Co-ordination of Fight against Paedophilia

The Inter-ministerial Committee for the Co-ordination of Fight against Paedophilia (CICLOPE) has been established to co-ordinate all actions aimed at protecting minors from exploitation and sexual abuse. This co-ordination task has been at first given to Presidency of the Council of Ministers by art. 17 of Law n 269/98, and then to the Minister for the Equal Opportunities by DPCM approved on February 14th, 2002. The CICLOPE includes representatives of 11 Ministries (Foreign Affairs, Home Affairs, Justice, Labour and Social Policies, Health and, Education, University and Research, Communications, Innovation and Technologies, Relationships with the Parliament, Community Policies and Productive Activities), working under the co-ordination of the Ministry for Equal Opportunities, and collaborates with international organizations and NGOs working in the same field. The final aim is to set up a common strategy for all initiatives aimed at better knowing and preventing paedophilia, protecting minors, helping victims of child abuses and punishing criminals.

### Inter-ministerial Committee against Discrimination and anti-Semitism

Established by Decree of January 30th, 2004, the Committee has the task to constantly monitor the dangers of regression towards forms of intolerance, racism, xenophobia and anti-Semitism, and to identify educational instruments and sanctions to oppose all behaviour inspired by religious or racial hatred.

3. Please indicate to what extent the Covenant is reflected in the domestic legal order and whether the so-called "indicative value" of the Covenant allows it to be invoked before a court and is sufficient to render it justiciable. Please cite examples of relevant law cases.

Concerning both the lack of judicial decisions that expressly refer to the Covenant and the value of the Covenant itself in Italian proceedings, there is nothing to add to what written in the last State Report of June 2002. It is however very important to underline how many laws, including recent ones, have been inspired by Covenant principles and constitute its implementation into the domestic system, as already pointed out in reply to other questions shown above.

4. Please indicate the position of State party on the draft optional protocol to the International Covenant on Economic, Social and Cultural Rights.

*The issue of the justiciability of economic, social and cultural rights, that is the possibility of establishing a mechanism at international level to guarantee such rights, raises problems of remarkable complexity, given the fact that State sovereignty is a fundamental principle of international relations.*

*In particular, justiciability of ESC rights is confronted with two main obstacles: the limited availability of resources, especially in the developing countries, to guarantee some of such rights, and the limits put by State sovereignty, that forbids interference in States internal affairs. In other terms, the recognition of the justiciability of those rights at international level would mean the interference in sectors covered by State sovereignty, and it is not very realistic, at least in a short-term perspective and for some of those rights.*

*However, it is important to recall that the general duty of non-discrimination in the implementation of all rights is already binding on all States. In this respect, it is to presume that developed countries will be object of particular attention, especially concerning the treatment of immigrant workers.*

5. Please indicate whether non-governmental organizations were consulted in the preparation of the Report.

*During the editing of the Report, some contacts with a few qualified ONG were started.*

6. Please provide information on the implementation of the recommendations contained in the Committee's concluding observations on the third periodic report been of the party.

*Italy has considered with greatest attention all recommendations contained in the conclusive observations of the Committee to the third Report on Economic, Social and Cultural Rights. Concerning the appeal of the Committee in favour of an increased international cooperation, please consider the answer given to question n.7 of the present questionnaire. As regard to regard to disabled people, please refer to the answer given to question n. 8. Controls and inspections against illegal labour market are treated in the answer to question n.12. The most recent measures to protect minors from sexual exploitation and trafficking are considered in answer n. 1. Recent measures against discrimination and violence against the women, are contained in answers n.10 and 12. The health and the vulnerable groups issues are treated in answer 29. Education and school abandonment are considered in answers n. 30, 32 and 34. Please carefully consider the whole questionnaire in considering any theme.*

## II. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT (art). (1-5)

International cooperation (art). 2, para.. 1)

7. Please describe the measures adopted by the party in the area of international assistance and cooperation. Please also indicate whether the State party intends to increase its budget allocation for official development assistance in order to reach the United Nations target.

The trend of the activities of the Development Cooperation General Directorate (Dgcs) established at the Italian Ministry of Foreign Affairs

*The Ministry of Foreign Affairs, through its Dgcs, is responsible for the promotion and coordination of the Italian development cooperation initiatives. The Ministry manages the 33% of the resources allocated by Italy to the Public Aid for Development, the so called APS (Aiuto Pubblico allo Sviluppo), which is provided as donations, aid credits and food aids. The remaining two thirds are constituted by transfers to the European Union, by the reconstitutions of the capital of banks, by development funds managed by the Ministry for Economic Affairs and by the reorganization and the cancellation of the debts of Developing Countries.*

*Minor amounts of resources are managed by other Ministries, such as the Ministry for Environment, the Ministry for Home Affairs, the Ministry of Health and by local authorities, namely Regions, Provinces and Municipalities.*

*The Dgcs is also involved in the granting of resources to the Italian enterprises that participate with venture capital to the establishment of enterprises in Developing Countries, pursuant to art. 7 of Law no. 49/1987. These resources do not constitute APS.*

### **The amount and the effectiveness of assistance delivery**

*A few days before the Monterrey Conference, Italy committed to achieving the target of devoting the 0,7% of its GDP to APS. In fact, during the European Council which took place in Barcelona in March 2002, Italy pledged, within the EU framework, to devote the 0,33% of GDP to APS, by 2006.*

*Thus, Dpef 2003-2006 has foreseen the attainment of the cited goal, in compliance with the Economic Pact of Stability and Growth, through two ways:*

1. By gradual increases in the resources allocated for all the aforementioned components of APS;
2. By cutting off the bilateral debts (which were mainly aid credits and commercial credits provided by Italy on the basis of SACE) of Developing Countries, pursuant to Law no. 209/2000.

*To reach the target of the 0,33%, the Dpef has outlined, on the basis of a step-by-step approach, a calendar for a gradual adjustment of the expenses capacity of the Italian cooperation. The*

*following calendar will be reviewed every year, up to 2006, in accordance with the economic trends:*

•	2003	0,19%	-
0,20%			
•	2004	0,23%	-
0,24%			
•	2005	0,27%	-
0,28%			
•	2006		
0,33%			

*The Dgcs avails itself of three indicators in order to calculate the amount of APS for every single financial year:*

1. The initiatives decided by the Board of Dgcs or by the Chief of the Directorate. The indicator is meant to enlist all the projects that have been elaborated but still need to be implemented first and foremost by financial-budgetary engagements;
2. The financial-budgetary engagements taken up in the year under review: this is the indicator signalling the starting point of the cooperation activities;
3. The payments made during the year: this is the indicator used at the international level to measure the percentage of GDP devoted to APS in OCSE countries, so as to live up to the United Nations' target to transfer, on an annual basis, the 0,7% of the GDP to Developing Countries.

*The trend of the APS relating to the Italian GDP over the last three years is as follows:*

•	2000	0,13%
•	2001	0,15%
•	2002	0,20%

The trend mentioned below is mainly due to three factors:

1. The managerial flexibility (and thus the greater effectiveness of the measures adopted by Dgcs) pursuant to art. 8 of Law no. 266/1999;
2. The steadfast increase of the budgetary-financial expense engagements which Dgcs has taken over, on the basis of the available resources, at the budgetary level;

3. The enforcement of Law no. 209/2000 On the Cancellation of the Debt of the Least Developed and Indebted Countries.

*As regards the trend of the expense flows which are directly managed by Dgcs, the figures concerning the three-year period 2000-2002 are mentioned below:*

<i>Budgetary-financial expenses from the amount of resources to be allocated (fees and surplus)</i>		74,1	86,1%	92,2%
<i>Payments</i>		81%	73%	92%

*The concluding observations of the Monterrey Conference (the so-called "Monterrey Consensus") have foreseen that donor countries will be committed to improving the quality and the effectiveness of the aid. During the year 2002, the Italian cooperation lived up to the concluding observations along three guidelines:*

- At national level, the Italian cooperation issued a text on how to better monitor and evaluate the development cooperation initiatives;
- At European level, Italy has taken into account the "Country Strategy Papers" and the "Regional Strategy Papers" of the European Union, along with the "Poverty Reduction Strategies" of Developing Countries to better develop its cooperation projects. With specific regard to "country bilateral projects", it is worth mentioning the Italian cooperation system is going through a transitional stage. In fact, Italy is currently evaluating how to be better coordinated and coherent and overall how to ensure an effective consistency of its projecting system with other donors' projects. Within this context, we have taken part in the European pilot project of Policies Coordination and Procedural Harmonization, which is currently implemented in Morocco, Mozambique, Vietnam and Nicaragua;
- At international level, Italy was a member of the OCSE Development Aid Committee which issued a text, entitled "Harmonising Donor Practices for Effective Aid Delivery" and also

organized, jointly with the Ministry of the Treasury, OCSE and the World Bank, a "high-level Forum on the Harmonization". This Forum convened in Rome at the Italian Ministry of Foreign Affairs in February 2003. The Forum concluded by adopting The Rome Declaration on the Harmonization, which set up pledges and follow-up activities.

## **Allocations**

*From 1997 to 2002, the trend of the resources allocated to APS, fixed by the yearly Budget Law and supplemented with the financial resources arranged to realize the London Convention on Food Aids, was the following (the values are express in millions of euro):*

<b>Budgeting to APS</b>		<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>
<i>Donations</i>		<i>268</i>	<i>308</i>	<i>362</i>	<i>554</i>	<i>827</i>	<i>794</i>
<i>Aid Credits</i>		<i>27</i>	<i>21</i>	<i>10</i>	<i>0</i>	<i>26</i>	<i>0</i>
<i>Food Aid</i>		<i>0</i>	<i>36</i>	<i>36</i>	<i>36</i>	<i>36</i>	<i>36</i>
<b>Total</b>		<i>295</i>	<i>365</i>	<i>408</i>	<i>590</i>	<i>889</i>	<i>830</i>

*As to financial year 2002, 794,4 millions of euro have been allocated to Dgcs (established at the Italian Ministry of Foreign Affairs), pursuant to: Law no. 49/1987; Art. 8 of Law no. 266/1999; Law no. 58/2001 (on humanitarian demining); Law 84/2001 (on measures in the Balkans); and additional single laws which grant annual compulsory contributions to a certain number of international and national bodies, such as the National Agronomic Institute for Overseas Activities, i.e. Ipalmo, that is involved in development cooperation activities.*

*In the year 2002, no funding stemming from Laws no. 300/1998 and no.186/1999 was attributed to Dgcs. Therefore, 794,4 millions of euro come from:*

<b>Allocations in 2002</b>						<i>Millions of</i>
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					euro
2002 Budget Law					453,5
Changes over the year					- 4,5
Transfer from ad hoc Funds (Law no. 26671999)					
Budget Law – compulsory contributions					206,6
Law On Initiatives in the Balkans Law no. 84/2001					14,7
Law On Humanitarina Demining Law no.58/2001					9,8
Budget Law – running costs					6,8
Residuals from resources allocated in 2001					91,9

The allocation of 794,4 millions of euro is allotted as follows:

Allocation in the year 2002					Millions of euros
Running costs (4,5%)					35,9
Development Cooperation Initiatives (95,5%)					758,5

Initiatives in the Development Cooperation field

Deliberations by the Dgcs Board and the Chief of the Dgcs

In 2002, the Board approved development cooperation initiatives amounting to nearly 906,4 millions of euro, so divided:

<b>Measures</b>					Millions of euro
Donations					641,4
Aid Credits					258,4
Mixed Enterprises					6,7

*As regards the Donations, for a few typologies the approved funding was the following:*

<b>Types</b>					Millions of euro
Projects launched by NGOs					73,3
Training projects run in Italy					14,3

### Gender policies

*The relevant strategy of the Dgcs is based upon the guidelines on women's empowerment and the promotion of a gender perspective in APS which are provided by Italy. The guidelines, which were adopted in 1998, set up priorities, methods and areas in which APS will be allocated so as to effectively implement gender policies. At this stage, priorities are:*

- 1. The introduction of gender-related issues in the political dialogue and, above all, the promotion of the effective participation of women in the decision-making processes at every level, with particular regard to the role of women in the peace-building processes;*
- 2. The insertion of a gender perspective in projects aimed at fighting against poverty, with specific regard to equal access to resources in the agriculture and in the micro-enterprise, through the promotion of professional training and the female entrepreneurship, as well as the equal access to credit.*
- 3. The reproductive health, the fight against trafficking in human beings, in particular in women and girls, and the fight against the plague of the violence against women and children.*

### Initiatives at the Regional level

### Mediterranean Africa and Middle East

*The strategic key-note has been the promotion of initiatives for women's empowerment through:*

- *The support to women's organizations, governmental ones and not, with the aim of introducing a gender perspective in the strategies and projects of each single country;*
- *The establishment of networks of women's associations and institutions based in the two sides of the Mediterranean in order to exchange views and to share information, particularly on the enjoyment of human rights and reproductive rights, in accordance with the Directives adopted at the Barcelona Euro-Mediterranean Conference;*
- *The implementation of projects, which have been carried out by NGOs and international organizations, for women involved in the agricultural sector, in the health area and in the small and middle-scale enterprises.*

*Ad hoc initiatives were realized in Egypt, in Morocco, in Palestine and in Tunisia by financing projects carried out by international organizations and NGOs, as was the case with the Palestinian Center for Women, Victims of Violence (established in Bethlehem), or through the establishment, within the World Bank framework, of an ad hoc Fund.*

### The Horn of Africa

*The peculiar situation which this area faces, does not manage to set up a single strategy for the promotion of the gender dimension. Therefore, single approaches were identified for each country. In Eritrea, Dgcs carried out and extended projects relating to the socio-health care system, particularly targeting motherhood-related issues. In Somalia, Italy is supporting UNIFEM's projects for the promotion of the role of Somali women's NGOs which are involved in the peace process, namely the National Reconciliation process. In Ethiopia, Italy has been supporting the Office for Women Affairs by financing, within the framework of the World Bank, an ad hoc trust fund. Furthermore, it is worth mentioning an ad hoc planning system for initiatives relating to women's empowerment, to be realized within the framework of projects devoted to rural areas in Arsi and in Bale.*

### Eastern Africa

*In this area specific projects are currently under way:*

- *In Uganda, Italy is committed to promoting, through WFP, an initiative for women in rural areas;*
- *In Tanzania, Italy launched, in September 2002, the second phase of a project, aimed at promoting the female entrepreneurship by supporting the Ministry for Development, Women and Childhood;*

### *Southern Africa*

*The strategy for southern Africa is focused on the fight against poverty, particularly in Angola, in Mozambique and in South Africa. In Zimbabwe, an initiative for the reinforcement of the female entrepreneurship is at its final stage. In South Africa, Dgcs committed to inserting the gender mainstreaming in the project, entitled "Small Enterprise and Human Development" (Sehd). Its efforts led to an high percentage of women's participation in the promotional activities of the cited initiative (the percentage of women participating in this initiative amounted, in some part of the country to more than the 30%).*

### *Central America*

*The projects for women's empowerment, which were launched by UNFPA (and in some cases jointly with Cepal) in Honduras and in El Salvador, have been extended, up-to date. In Cuba, the pilot project for women's empowerment, which was agreed by the Cuban Government in 1999 and then carried out by Cuban Authority, jointly with Dgcs, UNIFEM and UNDP-UNOPS, is still under way.*

### *The Balkans*

*The strategy in the Balkans focused on the adoption of measures relating to the "Gender Task Force" established within the framework of the "Economic Stability Pact" and was implemented, through ad hoc initiatives, in Croatia, in Montenegro, in Serbia and in Bosnia.*

### ***The mainstreaming of the gender dimension***

#### *Fight against poverty and conflict prevention*

*In the context of the initiatives aimed at the reduction of poverty, specific attention has been paid to the role that women can play and in particular to women affected by and involved in armed conflict. In this regard a pivotal role has been played by the decentralised cooperation: it is worth mentioning the initiative which was promoted by the municipality of Forlì, which elaborated an ad hoc strategy for women in Algeria and in Albania.*

#### *Fight against trafficking in human beings*

*Initiatives to fight against trafficking in human beings, particularly in women and children, continue to be carried out, through a few multi-bilateral projects promoted by IOM and UNICRI, mostly in the Balkans and in Nigeria.*

#### *Reproductive Health and Rights*

*The strong synergy and the effective cooperation with UNFPA has favoured the promotion of projects to eradicate FGM in Sub-Saharan Africa.*

#### *Initiatives in the Emergency Area*

*The Dgcs pays the utmost attention to the area under reference. In 2002, the Dgcs prepared, in cooperation with UNDP, a text, entitled "Gender in Emergencies". Specific attention is currently paid to Afghan women.*

#### ***The Child-related issues***

*Several measures targeting children in Developing Countries and in States in transition have been taken and still continue to be adopted, in accordance with the strategy outlined by the Guidelines on child-related issues which were adopted in November 1998. Bearing in mind that children "enjoy fundamental rights and play a key-role in promoting democratic and reconciliation processes, as well as the sustainable development", Dgcs identified, on the basis of the above Guidelines, priorities and strategies:*

- *Preventing and fighting the worst forms of the child labour, trafficking in children, the social exclusion, the spread of a culture of violence;*
- *Realizing an effective juvenile justice system, the right to citizenship, the principle of non-discrimination.*

*The Italian participation in the "UNGA Special Session on the Childhood - UNGASS " (New York, May 8-10, 2002) gave the opportunity to highlight the effectiveness of the strategies already adopted and the contents of the aforementioned Guidelines. On that occasion, it was strengthened Italy's conviction that the fight against poverty, women's empowerment, democracy and reconciliation process can be achieved through ad hoc measures targeting children and families, that in most Developing Countries are often mono-parental (mostly young mothers). Moreover, Governments adopted a Plan of Action focused on four priority goals/areas. The Plan of Action is thus the basis of the initiatives that Dgcs is currently launching and will enhance in the near future:*

- 1. Improving life and health's conditions;*
- 2. Ensuring adequate standards of education;*
- 3. Protecting children from exploitation, violence and abuse;*
- 4. Fighting against the spread of Hiv/Aids.*

*The projects, which have been implemented so far in Developing Countries with the aim of the protection of children's rights, were elaborated with a multi-faceted approach, so as to respond to the broad range of factors which were and, in some cases, are the root-causes of the violations of human rights and fundamental freedoms.*

*Several initiatives have been undertaken through NGOs with the aim of: improving the socio-health care and educational sectors (so as to provide aid for children exposed to the risk of social exclusion); preventing-rehabilitating minor workers and children living in the street; improving the female condition, particularly of girls in pre-school age; fighting against the exploitation of children for sexual purposes; improving life's conditions of children with disabilities; preventing and promoting, inter alia, through ad hoc health-care awareness campaigns, in the schools.*

*As regards the decentralised cooperation, projects on unaccompanied or abandoned children and on those who are exposed to the risk of the organized crime, are currently under review and will be soon realized, in partnership with a few Italian regions (Puglia, Emilia Romagna and Marches) in countries, such as Bosnia, Croatia and Albania that are candidates to accede to the EU.*

*Mindful that girls, particularly the poor ones, between eight and fifteen years of age, either can be victims of sexual abuse in the household and outside, or may face a precocious motherhood, or be victims of FGM; or trafficked for sexual exploitation, Italy pays the utmost attention to the girl child-related issues.*

*Within the framework of the Economic Stability Pact for the Balkans, Italy has been financing several projects which amounted to 9 millions of euro and aimed at: promoting the peace process; facilitating the democratization process; favouring the access of young people (above all women)*

*to labour market; and providing psychic and physical recovery to children, victims of armed conflict. In this context, it is worth mentioning the initiative of decentralised cooperation, entitled "project for the protection and the reinsertion of children with physical and psychic handicap, who have been victims of armed conflict, and promotion of social entrepreneurship in Bosnia Herzegovina" which was carried out by Dgcs, in partnership with the regions of Emilia-Romagna and Marche and with the participation of the municipalities of Bologna and Salsomaggiore, in BIH. Along this line, another relevant project, entitled "The Italian Participation in the Rebuilding Process of the Sub-Danube (ex Eastern Slavonia) - Promotion of the Youthful Entrepreneurship and Development of the Social Services in Croatia", was carried out by Dgcs, in partnership with the region of Friuli. Another initiative amounting to 2,4 millions of dollars has been realizing, through the World Bank, in Serbia and Montenegro, Albania, Macedonia, Bosnia, Croatia, Bulgaria, Kosovo and Romania.*

*In Latin America, several initiatives, such as the UNICEF projects in the Andean region (Proandes) and in Nicaragua to fight against poverty and the worst forms of child labour, the ILO/IPEC program against the worst forms of child labour in Central America and that one of UNDP for the promotion of a society without violence in El Salvador, were financed with voluntary contributions. In Ecuador, Italy pledged two millions of euro for the UNICEF initiative, aimed at protecting and promoting the rights of children and adolescents exposed to the risk of social exclusion. Furthermore, Dgcs is currently reviewing a project for the protection and promotion of poor girls in Egypt, which will aim at creating a birth registration system. Along this line, it is worth mentioning: the "project in favour of children and adolescents at risk and in conflict with justice, to be soon realized in Mozambique, through UNICRI; the "Global Programme against Trafficking in Human Beings" realized by UNICRI, jointly with Ecpat in Mozambique; the initiative carried out in Albania on "vulnerable children and the reinforcement of the system of international adoptions".*

*Lastly, an Italian "Task Force", made up of experts from the academic world and from NGOs, has been recently established at the Innocenti Institute/UNICEF (Florence), in order to better support the European network engaged in the issue of Children and Armed Conflict (CAAC). A seminar devoted to the study and the identification of projects aimed at establishing effective birth recording system took place in July.*

**8. Please indicate what measures have been taken to combat social and economic discrimination against persons with disabilities in the State party.**

### **1. SOCIAL INTEGRATION OF PERSONS WITH DISABILITIES**

With regard to the social integration of persons with disabilities, Italy has achieved significant results by promoting initiatives in different areas, from the educational system to the access to labour market, and by undertaking measures to favour the effective autonomy, independence and social life of the vulnerable group under reference.

*In addition to economic and social measures foreseen by law provisions, a meaningful work is made by local Authorities and civil society that play a fundamental role in the rehabilitation process of persons with disabilities.*

Measures, such as Law no. 13/89 and D.P.R. no. 503/96 are remarkable because of their aims. They were adopted to eliminate architectural barriers, respectively in the household and in public buildings, spaces and services with the specific aim of improving the living conditions of persons with disabilities. In this regard, significant are the results achieved in the area of public transportations, such as trains, planes and ships. Specific measures were adopted in order to favour the accessibility to, the effective use of and the assistance on passenger transportations.

To make easier the access to private means of transportation, fiscal facilities and ad hoc contributions were foreseen and/or granted, respectively for the purchase of modified cars, as well as for the factors who had modified the production of cars to that end.

To promote the tourism of persons with disabilities, public Authorities have started up, over the last years, several initiatives both at the national and local levels, with the aim of raising awareness on the possibilities of "tourism for everybody". In this regard, an extended check up on infrastructures, information centres, texts and ad hoc training courses for social services providers have been carried out. In particular, extensive media campaigns on the possibility and chance of vacations for persons with disabilities were organized. Moreover, it is worth mentioning the broad normative system which has been provided by local authorities as well as the wide range of social services provided at the local level.

At this stage, it is Italy's conviction that the first step towards the effective integration process starts up in the schools which are the suitable place where to put into effect state and regional policies for persons with disabilities.

In Italy, persons with disabilities, with any disabilities, can enrol in the schools and in the universities. The integration process of pupils and students with disabilities in the normal schools began in 70's. The new scheme overcome the system of differential classes and special institutes for persons with disabilities and so far is a well-established reality, as laid down in an articulated and wide state and regional legislation system. On the basis of the positive results and systematic realization of projects and experimentations at every level, the integration process is being improved more and more through constantly disbursement of resources and support by an effective administrative, organizational and didactical structure. The right to education at the university level is ensured by ad hoc tutorship and economic facilities, as provided for by Law no.17/99.

Since the entry into force of the first, ad hoc Law (Law no.517/77) on the compulsory enrolment of persons with disabilities in the "normal" schools, the integration process in the schools has been enhanced and extended at every level of the educational system, from kindergartens to high schools. Nowadays, the school system accepts the almost totality of persons with disabilities and has arranged adequate structures, capacities and technical resources so as to manage, when necessary, the organization of specific courses.

The integration process in the schools aims at developing learning and communication skills of the handicapped person as well as his/her social life. As to pupils who are unable to attend school for health reasons, at least for thirty days, education is ensured by ad hoc educational courses in the hospital.



With specific regard to children with disabilities, education is ensured by a synergic and coordinated action of the schools and the local authorities (regions, provinces, municipalities, local health-care providers and civil society), that, according to their capacities, provide them with the necessary support.

Within this framework, the strategies implemented so far or currently under way envisage specific procedures, which involve all the relevant stakeholders, particularly the family, that must be informed and involved in any possible way. The family, on its own, takes part, along with teachers and the other stakeholders, in the projecting stage of ad hoc educational courses.

At present, the integration process of children with disabilities in the schools is a basic component of the educational system, as reiterated and extensively reinforced by Law no. 53/2003. So far, the integration process has been facilitated by all relevant stakeholders and enhanced through training courses for specialised personnel, refreshing courses for teachers, ad hoc studies and surveys, carried out at the national and local levels.

## 2. ECONOMIC AND FISCAL FACILITIES

In Italy, on the basis of an articulate state provisions, the disabled citizens are entitled to receive some continuative economic facilities.

*Such facilities are supplied on the basis of the age, of the invalidity degree, verified from competent territorial medical committees, and on the basis of the existence of other conditions, which depend on the income or the possibility of working.*

*With reference to the current regional provisions, families with disabled people can obtain economic facilities, in relation to their situation of poverty. At the regional level, besides, specific dispositions provide contributions for domiciliary services managed by the same relatives.*

Economic assistance for disabled with multi-disablements.

According to the Law 429/91, the pensions of different categories, which belong to the subjects with multi-disablements, can be added, without exceeding the foreseen income limits.

### **CONTINUATIVE FORMS OF ECONOMIC ASSISTANCE**

civil invalids: **inability pension**

*The inability pension was instituted by the article 12 of the Law March 30th, 1971, no. 118.*

*This pension is assigned to the civil invalids. A total inability to the work and a situation of poverty are required in order to receive this pension. For this second condition, some limits of personal income, which must not be exceeded by the holder of the inability pension, are annually fixed.*

civil invalids: **monthly cheque of assistance**

The monthly cheque of assistance was instituted by the article 13 of the Law March 30th, 1971, no. 118. That article specified that the monthly cheque of assistance is granted to the civil invalids with a verified reduction of the working capacity of two third (67%).

Subsequently the governmental Decree November 23rd, 1988, no. 509 (art. 9) has raised the percent of minimum invalidity to 74%. However the raising is started from entry in force of the per cent tables of invalidity (Ministerial Decree February 5th, 1992), and therefore only from 1992.

civil invalids: **monthly frequency indemnity**

*The indemnity of frequency was instituted by the law October 11th, 1990, no. 289 and it is assigned to the disabled minors with persistent difficulties "in developing of the functions of their age" (L.289/90) and to the minors with auditory loss higher than 60 decibels in the best ear.*

civil invalids: **accompanying indemnity**

The accompanying indemnity was instituted by the Law February 11th, 1980, no. 18. This provision is in favour of the civil invalids totally unable, because of physical or psychic handicaps.

Absolute blindness: **pension**

The pension was instituted by the article 8 of the Law February 10th, 1962, no. 6. It is assigned to the absolute blind adults who are in state of economic need. For this condition, some limits of personal income, which must not be exceeded by the holder of the pension, are annually fixed.

*The provision had been extended to the minors by the article 14 septies of the Law February 29th, 1980, no.33. Subsequently, the article 5 of the Law November 21st, 1988, no. 508 has specified that the blind absolute minor civilians are entitled to receive not the pension but the accompanying indemnity.*

Partial blindness: **pension**

*The pension was instituted by the article 8 of the law February 10th, 1962, no. 66 in favour of the partial blinds with a visual capacity not higher than a twentieth in both the eyes, also with possible correction.*

*The provision was extended to the minors by the article 14 septies of the Law February 29th, 1980, no. 33.*

*In order to enjoy of the provision, the law establishes that the blind civilians have to be in state of economic need. For this condition, some limits of personal income, which must not be exceeded by the holder of the pension, are annually fixed.*

blind partial: **special indemnity**

*The special indemnity was instituted by the article 3 of the Law November 21st, 1988, no. 508.*

*The indemnity is granted to the partial blinds. This special indemnity is supplied to the only title of the handicap, independently by the age and the personal income.*

blind absolute civilians: **accompanying indemnity**

*The accompanying indemnity in favour of the blind absolute civilians was instituted by the Law March 28th, 1968, no. 406 (art. 1). This indemnity is supplied to the blind absolute civilians to the only title of the handicap and independently of age and personal income.*

Deaf-mutes: **pension**

*The law May 26th, 1970, no. 38, had instituted, in deaf-mutes' favour, the monthly cheque of assistance, economic provision which assumed the "pension" denomination with the article 14 septies of the Law February 29th, 1980, no. 33. This economic provision is assigned to the deaf-and-dumb person and the sensory disabled person of the hearing, which have been affected with congenital deafness or acquired deafness during the evolutionary age, which deprived him the normal learning of the spoken language. This deafness must not be of nature exclusively psychic or dependent on cause of war, on work or service.*

*In order to obtain the grant of the provision, all those concerned have to be in state of need. For this condition some limits of personal income, which must not be exceeded by the holder of*

*the pension, are annually fixed.*

### **Deaf-mutes: communication indemnity**

*The communication indemnity was instituted by the article 4 of the law November 21st, 1988, no. 508. Concession criteria are various, depending on the applicant is adult or minor older than 12 years, or minor under 12 years and are correlated to the degree of verified hypoacusia (ministerial Decree February 5th, 1992).*

Children under 12 years of age: the hypoacusia must be equal or higher than 60 HTL decibels of average among the 500, 1000, 2000 hertz frequencies in the best ear. Children older than 12 years of age: the hypoacusia must be equal or higher than 75 decibels. It is furthermore required to show that the beginning of the hypoacusia is previous at the 12 years.

## **FISCAL FACILITIES**

The fiscal facilities for the taxpayers with disability are composite and directed above all to the possibility of deducting the expenses from the income base for the application of the Irpef (personal income tax) and in direction of a per cent minor of the Iva (value added tax), which is calculated in the measure of 20% of the commercial value of the goods, on the purchase. The application of the facilities includes, among the others, the car sector, in according to demands of those who have a reduced motor capacity, other help means, technical and data processing subsidies, sanitary and rehabilitation expenses, expenses for the elimination of physical obstacles in the homes, reduced taxes for successions and donations in favour of the people with disabilities, facilities for the purchase of the residence home. The laws of formation of the annual and multi-annuals budget of the state are usually the means which regulate the implementation of the fiscal facilities.

### **3. PROVISIONS AND RECENT INTERVENTIONS IN DISABILITY MATTER**

#### **LAW DECEMBER 24TH, 2003, NO. 350**

#### ***Disposition for the formation of the annual and multi-annuals budget of the state. Financial Law 2004***

*An innovation of great importance, introduced by the Financial Law 2004, is the refunding of the Law January 9th, 1989 concerning "architectural dispositions to support the overcoming and the elimination of the obstacles in the private buildings".*

The assignation of resources of the Fund for social policies is established for the following aims:

- a) policies for family and in particular for elders and disabled, for an amount equal to 70

million of euros;

b) removal of physical obstacles for an amount equal to 20 millions of euros;

c) *services for school integration of disabled pupils, for an amount equal to 40 millions of euros;*

#### **LAW JANUARY 9TH, 2004, NO. 4**

### ***Dispositions to support the access of the disabled subjects to the data processing tools***

*The Law favours the access of people with disability to data processing and telecommunication tools. This Law defines the terms of "accessibility" and "supporting" technologies, which have to be respected by public administrations in the use of computer goods and services. Art. 5, concerning the accessibility to didactic and formative tools, affirms that all the norms of the present law are applicable to the didactic material of every school.*

#### ***LAW JANUARY 9TH, 2004, NO. 6***

**Introduction to the book first, headline XII, of the civil code of the paragraph I, concerning the institution of the support administration.**

*Modifying some articles of the civil code, the Law establishes that the person who is in the impossibility, also partial or temporary, to arrange for her interests, because of an infirmity or a physical or psychic disablement, can be assisted by a support manager, nominated by the tutelary judge.*

Furthermore Italy has received the directive of the European Council 2000/78/ November 27th, 2000 on the equal treatment in occupation and work conditions.

*At last, Italy has received the Roosevelt Disability Award 2003. This prize has pointed out the engagement of the country, from over thirty years, for the defence of the rights of the people with disability and the improvement of their conditions of life.*

**9. Please indicate to what extent migrant workers and refugees are enjoying their economic, social and cultural rights. Please also explain how application for refugee status are afforded economic, social and cultural rights.**

*The refugee, according the Convention of Geneva, enjoys the same treatment granted to the Italian citizens in matter of:*

- *Freedom of belief and religious education;*
- *primary education;*
- *access to the courts and juridical assistance;*
- *protection of literary, artistic, scientific and industrial property (marks, inventions, ecc),*
- *sanitary and economic assistance;*

- *social work and social insurance;*
- *fiscal matter.*

The regular resident refugee enjoys a not less favourable treatment than the reserved one to the regular resident foreigner in other matters, as the followings:

- purchase of goods and real estate;
- self-employment;
- professionals;
- education of degree different from the primary one;
- freedom of movement

*The refugee enjoys also a particular treatment in matter of military service, familiar reunification and to obtain the Italian citizenship through naturalization.*

*The refugee benefits, in particular circumstances, of contributions in money which are granted in the context of the program of support interventions conceded annually by the Central Commission for the Recognition of Refugee's Status in cooperation with the United Nations High Commissioner for Refugees.*

**The typologies of intervention can be exemplified as the followings:**

- welfare interventions aimed to the maintenance of individuals or of familiar units,
- interventions for recognized social vulnerability (sick, disabled, elderly, families with student children in charge, students registered on universities or on professional courses) or exceptional cases of documented gravity and urgency;
- support interventions to the integration in employment.
- first assistance (90 gg) interventions. This measure is addressed to those refugees who, subsequently to the recognition, enjoyed the contribution of first assistance, or who didn't obtain it even if being entitled to receive.

Incoming immigrants, drawing on networks of relatives or friends, or systems of unregistered employment, arrive from the south in search of greater security and regular employment. Once they reach the wealthier zone of the country, the most pressing problem is housing, which means overcoming the mistrust of local renters, plus high rents and the often decrepit conditions of the housing put to this purpose. Finding initial employment does not prove particularly difficult, and there is no questioning the improved quality of life that has resulted from the second migration. The near subsistence lifestyle often experienced by workers in Southern Italy contrasts with an existence more closely in line with the immigrant's expectations upon departure in the northeast regions, where regular employment, as a rule for a fixed period, can be found, though the first job, even up north, is generally irregular and necessary for subsequent regularisation.

One of the industries that absorbs the largest number of immigrants is construction, which is in a phase of expansion, thanks to investments in infrastructures and real estate, as well as increased renovation work, as a result of tax subsidies. In other sectors, such as the tool and die industry, immigrants compensate for the drastic drop in the offer of manpower as a result of demographic trends. The employment of immigrants in the tool and die industry, virtually insignificant in the 1990's, has today reached noteworthy dimensions: roughly 2 out of every 100 workers hail from non-EU countries, and the figure nears 5% within companies

employing less than 100 workers. The higher the rate of employment, the greater the demand for immigrant labour; in a number of the provinces of the Venetia and Emilia Romagna regions, where unemployment stands at 2%, the labour supply cannot possibly meet demand, making immigrant labour an objective necessity. Industrial concerns in Venetia, confirming the region's role as the leading basin of employment for immigrant labour in Italy, has begun to fill not only unskilled positions but also skilled jobs with immigrants; this process is frequently found in the services (the health care sector, paramedical professions and social assistance), but also in sectors that cross the economy horizontally, such as informatics, and this despite the current unfavourable economic situation. When it comes to finding employment in medium-high production cycles, small concerns are more interested in pre-skills than in skills: culture, schooling and language; hiring is a more complex process in small enterprises, where human and personal relations play a key role; it becomes important to know the language and to be acquainted with habits similar to ours. There are still problems with the "culture of work", especially on the part of citizens from African countries.

*Foreign workers are selected through two approaches generally associated with the size of the company. Enterprises with more than 50 employees make use of temporary employment agencies (which, in return for higher costs, offer a longer trial period with the worker than would be possible under direct hiring practices), while the most frequent practice among small companies is to use trusted intermediaries. In such cases there is no full-fledged hiring process, with the important factor, in addition to skills and a willingness to work, being experience in previous jobs; past working history plays a significant role in determining outlooks and prejudices with regard to different national groups. In the face of wariness caused in part by the different needs brought to the job, the workplace proves to be the sole site for genuine social contact. The resolution of conflicts with other workers has been aided by the subsiding of the fear, on the part of Italian workers, that all job openings will be taken by foreigners, a concern laid to rest, to a great extent, by the gradual unionisation of immigrants. The most significant obstacles to full integration are found outside the job, though the difficulties encountered when not at work (first and foremost housing) also have a direct effect on the quality of the work done and the newly hired worker's possibility of staying with a company. A factor that remains important within the workplace is whether or not the owner or manager promotes what amounts to an attitude of tolerance rather than out and out integration, creating hybrid situations characterised by a general willingness to evaluate, in realistic fashion, changes in the climate and organisation of the company, so as to avoid upsetting the balances established within the different groups of employees.*

*The possibility of moving from one sector of employment to another is limited, as the different types of work are virtually divided up according to the workers country or region of origin (construction, farm work and personal services for immigrants from Eastern Europe; food and agricultural activities and personal services for North Africans; mechanics, the chemical industry and woodworking for Africans; the production of leather goods and work in restaurants and hotels, as well as the manufacturing of furniture, for Asians). A number of sectors show a marked prevalence of males (the production of leather goods, construction), while others employ almost exclusively women (the textile sector and personal services), and still others are mixed (the mechanical and chemical sectors, plus the food and farming industry).*

*The CNEL has proposed updating the regulations of implementation (Presidential Decree*

394/1999) of the consolidated text on immigration (Legislative Decree no. 286/1998), as modified and supplemented by Law no. 189/2002. The implementation of the new legislation should touch on the following points:

a) the procedures for the establishment of a unified public service window at the prefects' offices, together with the computerised integration of the archives; reinforcement of staffing and efforts aimed at greater efficiency in immigration services at consulates and diplomatic missions. In fact, the body of the new law, centred around the procedures of the residence contract, assume as an underlying condition the operation of the unified window, which would be connected with the pertinent administrative bodies. Each of these, within the scope of its responsibilities, would contribute to the effectiveness of a system integrated by information.

b) The operation, in combination with active, focussed policies, of employment services. The heightened precariousness of legal residence by foreigners should result in close attention being paid to an effective relationship between unemployed immigrants and employment services, so as to enact policies designed to extend residence permits.

c) The formulation of a number of specific regulatory measures, which, in compliance with the law, would facilitate the procedure for obtaining and maintaining legal residence. The regulatory measures proposed in this sense would lend certainty to the procedures, prerequisites and documentation needed, reducing the bureaucratic expenses borne by the immigrant, as well as the margins for arbitrary conduct on the part of the Public Administration.

Details of the proposals made by the Social Partners are provided.

#### Residence permit.

The consolidated text, the law of 2002 and the regulations of 1999 stipulate that, for the purpose of renewing the residence permit, possession of the means of sustenance may be demonstrated through the availability of income from work or from another legitimate source. One way of demonstrating a legitimate source could be to point to a working activity performed in irregular fashion, meaning off the books. The worker would be issued a residence permit for expected employment, renewable and convertible into a residence permit for salaried employment of self employment in line with the prerequisites of the law. Consideration should also be given to the position of participants in legally authorised professional training courses, or to those who are involved in active labour policies promoted by employment centres, or unable to carry out work activities for reasons of health. In the case of student permits, the means of sustenance to be



*demonstrated could be a scholarship, a bank account made out top the immigrant or a pledge to provide sustenance (room, board, health care, the payment of taxes and books) on the part of an association or organisation officially registered (with the regional, provincial or national government).*

**On the subject of the documentation to be presented for the renewal of the permit, the expiration date of the permit could coincide with that of the passport. It should be possible to present temporary replacement documents (such as a certificate from the representative of the home country stating that a passport renewal application has been presented.**

*Under the budget law for 2001, only foreigners with residence permits are entitled to the economic assistance referred to under art. 41 of the Consolidated Text. Foreigners who have obtained the assistance on the basis of a residence permit cannot present a residence card, given that the residence card requires legal residence of at least 6 years, possession of a residence permit eligible for an indeterminate number of renewals and a subsistence income. In the case of foreigner who risk falling into a situation of irregularity should the permit not be renewed, there could be the possibility of demonstrating an alternative source of sustenance.*

*To ensure uniformity of administrative practices, there should be explicit rules and regulations on the types of residence permits; for each type of permit, the norms of implementation should provide a definitive indication of the conditions and documents required for its release, renewal or conversion, as well as its duration and the legal status of the holder.*

*There is no measures that establishes criteria of precedence for requests regarding the conversion of residence permits for study into residence permits for salaried or self-employment over requests for new entry by workers (Consolidated Text, art. 6, paragraph 1, modified by Law 189, art. 7). Given that permits for study may not be renewed once the academic title has been obtained, or once the individual has let more than three years go by without attending school, the student risks not taking advantage of the conversion of the permit and the stabilisation of his or her residence. There should be a minimum number of new entry spots reserved for requests for conversion of residence permits for study or for training into permits for salaried or self employment, with the possibility of increasing the reserve on the basis of the needs of the provincial labour departments.*

*Art. 26, paragraph 5, of the consolidated text, as modified by Law 189, art. 18, paragraph 2, requires that certification of satisfaction of the prerequisites for self employment be issued by the Italian diplomatic representatives in the immigrant's country of origin. The problem arises for those who already reside in Italy on a regular basis (students of foreigners who hold another type of residence permit and could qualify for self employment under the prerequisites of the law), given that these prerequisites can be certified by administrative bodies operating in the national territory. In the case of foreigners regularly residing in Italy, the issuing of certification on the prerequisites should be made the administrative bodies responsible for the subject matter and for the territory, meaning, unless other entities are specifically identified, the unified services windows at the Prefect's Office – Territorial Office of the Government.*

## 2. Residence Card.

*For the purposes of requesting a residence card (Consolidated Text, art. 9, paragraph 1, as modified by Law 189, art. 9, paragraph 1), it must be determined whether the applicant possesses a residence permit eligible for renewal an unspecified number of times and whether he or she meets the subsistence requirement at the moment the residence card is requested and not, as was the case earlier, for all six years of its validity, in addition to which the precondition of legal residence during the minimum period stipulated under the law remains to be determined. This clarification must be explicitly indicated among the norms of implementation, in the same way that the types of residence permits eligible for an indeterminate number of renewals must be specified. The seal of control required for the residence card within ten years from its issue should not depend on a control of the preconditions stipulated for its initial issue; the lone motive for revocation of the residence card is that contemplated under art. 9, paragraph 3, of the Consolidated Text (arts. 380 and 381 of the Code of Criminal Law Procedure).*

## 3. Residence contract for salaried employment.

*Art. 22, paragraph 4, of the Unified Text, as modified by Law 189, art. 18, paragraph 1, stipulates that, in the presence of a request presented under a specific name for a work permit for a foreign citizen residing abroad, the employment centre must determine that no national or European Community workers are willing or available to take the specific position regarding which hiring of the foreigner is requested. As stated under Law 222/2002 (art. 2, paragraph 9), employers who have sustained the expense of providing lodging may, as compensation, and for the entire period of employment, withhold from the employee's wages a monthly sum that cannot exceed one third of the total monthly pay. It should be specified that withholding is permitted only if the employer made written communication to the worker of the amount to be withheld before the worker entered Italy, or, in the event that the worker was already in Italy, prior to the signing of the contract at the unified services window. No deductions from wages are permitted for employment relationships (such as live-in domestic workers, doormen in residence) for which the national labour contracts call for special economic treatment in the event that the worker benefits*

*from lodgings provided by the employer. The following points should also be clarified: 1) the signing of a residence contract should not be required for the working relationships specifically referred to under art. 27 of the Consolidated Text and art. 40 of Presidential Decree 394/1999; 2) for the purposes of renewing a residence permit for salaried employment, the signing of a new residence contract for employment is not required, in the event that the relationship with the employer that signed the initial residence contract for employment is being continued.*

5. Registration on public job placement lists.

*Seeing that the reform of the labour market has eliminated the obligation of registration on public job placement lists, the references made in the Regulations to registration on those lists as a prerequisite to access to rights or services should be eliminated as well.*

6. Entry in the population registry and in the National Health Care System.

Art. 15, paragraphs 2 and 3 of the Regulations, which have modified the regulations on the population registry found under Presidential Decree 223/1989, stipulates that renewal must be made, within 60 days of renewal of the residence permit or the residence card, of the declaration of habitual domicile in the municipality of residence, with the foreigner being removed from the lists of the resident population in the event of failure to renew that declaration. It would be best to remove the obligation in question and to call for cancellation from the lists solely in the event that the municipal government is notified by the chief of police of the definitive termination of the foreigner's residence permit, with the exception of cases in which the foreigner demonstrates that an appeal is pending against the aforementioned measure. A similar modification should be made in art. 42, paragraph 4 of the Regulations, with regard to the obligatory presentation of a document demonstrating that renewal of the permit has been applied for in order to maintain registration in the National Health Care Service; registration in the health care service should cease only following notification from the chief of police to the Local Health Care Enterprise of the definitive expiration of the residence permit, or of an order of expulsion, with the exception of cases in which the foreigner presents documentation demonstrating that an appeal has been brought against the measure.

6. The right to family unit.

Reunification with spouses and children is a factor that increases the sense of responsibility of a foreign citizen towards the community in which he or she lives, reinforcing social stability and favouring integration. Steps should be taken to simplify the procedure for issue by central police commands of the authorisation for family reunification; under the current legislation, the most significant obstacle to reunification is the requirement that the request for the authorisation presented at the greatest in base unified window for immigration services of the Prefect's office be accompanied by documents demonstrating the family relationships of blood relatives, spouses or minors and authenticated by Italian consular authorities abroad. A first step could be to make it

possible for the interested parties to request legalisation of the documentation by the Italian authorities abroad by sending the foreign documents to be legalised through the mail, enclosing an indication to the effect that the legalisation is necessary for presentation of an application for authorisation of family reunification, together with an indication of the unified services window at which the application will be presented. The legalised documentation should automatically be transmitted by the office of the consular authority to the unified services window in question, as well as to the applicant.

*In terms of the demonstration of housing, it would be best to introduce a definitive time period within which the certification of suitable housing must be issued, with the immigrant having the option, once the period has expired, of replacing the certification of suitability with the real estate registry certification of the dwelling and the document demonstrating his or her title to the dwelling (contract of ownership, rental, use, habitation etc.).*

*With regard to proof of the minimum required level of income from a legitimate source, the alternatives should include scholarships and work training stipends.*

## 7. Foreign minors.

*The Consolidated Text states that foreign minors accompanied by one or both parents who are regular residents are entered on the residence permit or residence card of one or both of the parents until they reach 14 years of age, and that, at the age of 14, the minor is issued a residence permit for family motives or a residence card, up until 18 years of age. Once the individual comes of age (art. 32 of the Consolidated Text), the legislation lends itself to a number of different interpretations, leading the central police commands to decide between a residence permit for study and a residence permit for work. It would be best to specify that, upon coming of age, a foreigner who holds a residence permit for family motives may be issued one of the types of residence permits contemplated under the legislation, or may maintain the residence permit for family reasons, assuming that one or more of the parents guarantees the income to support the child. Art. 25 of Law 189 has introduced, under art. 32 of the Consolidated Text, the possibility of residence permits being issued to unaccompanied foreign minors when they come of age. In such cases it is necessary that the measures of implementation specifically contemplate the possibility of minors who hold residence permits for underage foreigners carrying out working activities under the forms and procedures authorised by Italian Law. It would be best to eliminate from the regulations the margin for ambiguous interpretations regarding the conversion of the residence permit upon reaching the age of eighteen, adopting, in accordance with the provisions of the Convention of Children's Rights, an interpretation that complies with the principle of the minor's interest being paramount. It is recommended that it be stipulated that minors who are subject to a measure assigning them to foster care, as per the provisions of art. 2 of Law no. 184/1983, and who have lodgings or attend courses of study, or who carry out paid working activities under the forms and procedures contemplated by Italian Law, or who possess an employment contract, even if they have not yet begun working, or demonstrate that they meet the requirements for self*

*employment, or who demonstrate present a documented need for health care, may benefit from the issue of a residence permit for reasons of study, access to work, salaried employment or self employment, or needs involving health care or treatment, upon coming of age, as per the provisions of art. 32, paragraph 1, of the Consolidated Text, even when no ruling has been issued by the Committee on Foreign Minors, and regardless of whether the prerequisites contemplated under paragraphs 1-b and c of art. 32 of the Consolidated Text are satisfied. Minors who meet these last prerequisites may benefit from issue of a residence permit for reasons of study or access to work, or for salaried or self employment, upon coming of age, regardless of the previous issue of a ruling assigning them to foster care. Participation in a project of social and civil integration for the issue of a residence permit upon coming of age, as per the provisions of art. 32, paragraphs 1-b and c of the Consolidated Text, may be demonstrated through certification that the minor has attended courses of study or professional training courses, or has carried out activities geared towards entered the workforce, or has performed actual working activities. Control of the conditions referred to under art. 32, paragraphs 1-b and c, for the purpose of reaching a decision on the issue of a residence permit when a foreign minor comes of age, is carried out by the social services, or, as a secondary alternative, by the Prefect's office of the area in which the minor is domiciled; the results of the control are communicated to the central police command with jurisdiction. In cases where called for in the paramount interest of the minor, the police chief may stipulate more favourable conditions than those established under art. 32, paragraphs 1-b and c of the Consolidated Text. Residence permits issued upon the coming of age of a minor are deducted (paragraph 1-d of the Consolidated Text) from the entry quotas set under the decrees for planning immigration flows issued following the conversion of the residence permit.*

#### 8. Foreign family members of Italian citizens.

The rules governing the reunification of a foreign family member and an Italian citizen are not well defined, nor are those regarding the issue of a residence card to the family member. It would be best to reorganise the subject, stipulating that requirements of income and housing are not considered for the purpose of the reunification of a foreigner with an Italian family member, and that a residence card is issued to any foreign family member of an Italian citizen who has entered Italian territory for reunification, or is otherwise authorised to reside therein, without having to meet the prerequisites of income and housing.

#### 9. Foreign citizens of Italian origin.

Foreign citizens of Italian origin who are entitled to receive citizenship under *iuris sanguinis*, and who apply for recognition of citizenship in Italy, possess a foreign passport and are subject to the rules and regulations that govern the entry and residence of foreigners. The municipal governments are responsible for receiving applications for recognition of citizenship only in the event of residence in Italy. It would be best to arrange for the issue, based on a certification of Italian ancestry legalised by the Italian consular authorities, of a residence permit "for procurement of citizenship", valid for the period of the procedure for the recognition of citizenship and entitling the holder to entry in the register of the resident population.

10. Under articles 3, 35 and 37 of the State party's Constitution and in accordance with Law 903/77, men and women are given equal treatment. However, women suffer de facto discrimination. Please indicate what measures have been taken to bridge the gap between legislation and practices on gender equality.

#### **Representation of Women in Elective Bodies and Public Offices**

The bill modifying Article 51 of Italy's Constitution, which introduces the principle of equality in access to political offices, has been passed.

Thanks to the new text of Article 51, for the first time the concept of equal opportunities has entered into the Constitution, thus compelling the Republic to foster "equal opportunities for men and women by means of appropriate provisions". It states the rights of all citizens, on an equality basis, to access public offices and elective appointments. Once the law is in force, it will only be a question of identifying the suitable regulatory and administrative instruments to make it fully effective.

#### **Reorganisation of Equal Opportunity Bodies**

Alongside the government, the National Commission for equal opportunities, which was set up under the Presidency of the Council of Ministers, by law no. 164 of June 2, 1990, is working on these issues.

This organ has organised numerous conferences, which have contributed to the dissemination of awareness of women's rights, and has also organised a series of study groups on many of the subjects that the Ministry for Equal Opportunities is working on.

A working group has been set up under delegated power issued by the Parliament (Article 13, Law no. 137/2002), composed of representatives of the Ministry for Equal Opportunities, and the authorities involved in the restructuring of the Government structure, which is in charge of examining institutional and normative problems related to the reorganisation of equal opportunities bodies at a national level.

Over time, especially during the period before the Ministry for Equal Opportunities was established (1996), an overlapping of structures in equal opportunities bodies has frequently occurred; so the aim of the reform is to rationalise them, so as to prevent overlapping and duplication of competencies and limit public spending. This reform is well underway.

#### **Elimination of Discrimination**

As regards the general activity in the fight against discrimination and in order to ensure the full implementation of the policies on equal opportunities for men and women, various Study groups have been set up. These groups, composed of highly qualified experts, are in charge of working out suitable operative strategies to guarantee equal opportunities, to be translated into acts, and normative and administrative provisions.

They have also been assigned the following tasks:

a) Study group **“Women and sport”** (established by Ministerial Decree of February 28, 2002).

The group has the task of monitoring any problems that women may have in participating in sports, at an amateur as well as a professional level. This has been done through a questionnaire, which has been sent to all sports leagues. There will also be a series of meetings and hearings with the various associations and sports leagues.

b) Study group **“Equal opportunities, health and safeguarding citizens”** (established by Ministerial Decree of February 28, 2002).

In the first phase the group is working on the following issues: 1) health care for women with particular reference to problems related to pregnancy and delivery; 2) female anxiety and depression; 3) care of the elderly within the family; 4) beauty care.

c) Study group **“Women’s role in communications”** (established by Ministerial Decree of April 30, 2002).

This study group, set up by decree by the Ministry for Equal Opportunities, together with the Minister for Communications, is in charge of analysing: 1) the level of women present in the communications sector, in the press, as well as on television and radio, with particular attention to advertising, institutional, political and business communications; identifying roles and responsibilities; 2) how women are represented by the mass media. In order to carry out a survey on how women are represented by the mass media, the National Commission for Equality has drawn up guidelines which set out some basic principles that should be followed in order to correctly represent and foster a positive image of women.

The guidelines set the standards the Commission will comply with throughout the survey.

The Commission has also drawn up a series of initiatives to obtain data related to the presence of women in the press and on television and radio, from the main agencies, as well as launching a system of monitoring television broadcasts, particularly in the information, entertainment, fiction and advertising sectors.

d) Study group **“Women, art and culture”** established by Ministerial Decree of February 18, 2002

This group is examining women who operate in the various sectors of Italian culture - from literature and theatre to cinema, from music to dance - in order to deepen our knowledge of women’s artistic and cultural production. To do this, the group is monitoring the presence of women in the various artistic sectors, and examining the normative and institutional problems which could impede women’s full realisation, with the support of a documentation centre for all legislative acts and regulations regarding this sector.

e) Study group **“Sexuality, discrimination and social integration”** established by Ministerial Decree of January 18, 2002).

This group is examining the institutional and normative problems which could lead to gender discrimination; at present it is studying the national regulatory framework and carrying out a comparative study with other European Union countries.

At the same time, the group is investigating family problems linked to sexuality, levels of social integration, in its broadest sense, of homosexuals, as well as awareness and dissemination of information on AIDS, and other sexually transmitted diseases.

These issues are also partly being dealt with, as they touch upon questions related to work, by the legislative office which is implementing EU directive no. 2000/78, which lays down a general framework for equality of treatment in employment and working conditions. The implementation

will prohibit discrimination at work for reasons related to religion, personal beliefs, handicap, age and sexual preferences, and is to be enforced by prompt and effective legal action, restoring workers' rights and providing for compensation.

*An office is being set up to monitor and guarantee equality of treatment, under directive 2000/43/CE of the Council of June 29, 2002, provided in attachment B of National Community Law no. 39/2002, which lays down the principle of equal treatment between people, regardless of race and ethnic origin. A new Office for the Control and Guarantee of Equal Treatment will be created within the Ministry for Equal Opportunities in 2003.*

### Recent Regulatory Initiatives

The government's commitment to the fight against discrimination is also born out by two commitments recently endorsed by the Council of Ministers.

The first is a governmental bill presented to Parliament to fight prostitution, which often represents the highest level of exploitation of women.

In Italy, in fact, due to the increase in immigration and the involvement of organised crime in exploiting prostitution, there has not only been an increase in people who voluntarily take up prostitution, but especially in organised crime which exploits the prostitution of others.

The bill prohibits prostitution in public places or places open to the public, because this is where the worst cases of criminal sexual exploitation thrive.

Approximately 25,000 foreign prostitutes have been brought to Italy over the past few years, and forced to prostitute themselves under threat of violence from their exploiters.

Introducing the ban on prostitution in public places, or places open to the public, into our Criminal Code, with sanctions that will be applied to the prostitute as well as to the client, aims to disrupt the systematic meeting of supply and demand in the flourishing market of sex for payment.

However, in consideration of the strong link between prostitution on the streets and the phenomenon of trafficking in human beings (see sub chapter VI), in order to avoid criminalising people who have already been victims of serious violence, a specific case of immunity from punishment is provided, which excludes sanctions against those who can prove that they have been forced into prostitution against their will.

Furthermore, with respect to these cases the government has decided to increase the funding of programs of social protection for those who intend to leave the prostitution racket. The bill set forth the annual budget for social protection programs, pursuant to the application of article 18 of the code on immigration, approved with legislative decree 286/1998, which has already enabled many victims of the slave trade to escape from the conditioning and violence of criminal organisations dedicated to the exploitation of prostitution, also with the voluntary collaboration of the law enforcement agencies.

Ten million Euros per year for the years 2003, 2004 and 2005 will be allocated for the social rehabilitation of victims, which accounts for an increase of 5,580,000 Euros.

In a broad perspective, in order to stem prostitution, which touches upon many sensitive areas, the government has not opted for regulation, because the newly introduced prohibition does not mean the reopening of brothels or eros centers, nor for abolition, because prostitution is not forbidden inside a house which is being used legitimately. Prostitution is therefore confined - especially for those who voluntarily exercise prostitution - to the private sphere. With regards to



this, two other cases which are not punishable have been introduced: for people who practice prostitution and provide reciprocal assistance without making a profit, and for those who provide housing where prostitution is exercised, provided they do not make undue profits.

This seemed a reasonable attempt, now under examination in Parliament, to eradicate prostitution in accordance with the commitments taken on under the 1950 UN Convention of, ratified by Law 1173 of 23 November 1966, in which prostitution and the related phenomenon of trafficking in human beings, are condemned as incompatible with the dignity and values of the human person.

The second governmental commitment regards the response from the Ministry for Equal Opportunities to prompting from EU legislation.

First, the Minister requested and obtained the transposition of EU Directive 2002/73 into Community Law in 2003, in order to accelerate the drafting of the relevant Legislative Decree for implementation, whereas the EU had set the deadline for October 2005.

This directive introduces significant novelties to the issue of equal treatment between men and women in terms of job access, vocational training, career advancement, and employment conditions.

It is an issue which is very dear to EU legislation. Equality between men and women is, in fact, a fundamental principle set out in articles 2 and 3 of the European Union Treaty, as well as being dealt with in its substantial body of laws. Equality is considered a primary objective of the community, and it is committed to applying gender mainstreaming to all activities.

With the approval of the Community Bill of 2003, the Government has taken concrete steps to implement the directive. Where necessary legislation has been modified: law no.125/1991 was modified by decree law no. 196/2000, which introduced so called positive action into the field of employment and instituted an ad-hoc official, the "equality advisor", to defend female workers, who operate at a provincial, regional and national level (see sub chapter IV). This is a very advanced norm which deals with women who have been prejudiced by discriminatory behaviour in the work place, but it needs further updating.

The criteria set out to implement the aforementioned directive (article 16 of Community Bill, 2003), as reported in the normative implementation provision approved by the Council of Ministers, are the following:

a) to guarantee the effective application of the principle of equality of treatment between men and women at work, ensuring that gender difference is not cause of direct or indirect discrimination, in a perspective which takes into account marital status or family, relative to: conditions of access to the job market, whether as employees or self-employed; relations between employee and employer, remuneration and conditions of dismissal; access to all types and levels of vocational training, specialisation and requalification courses, including apprenticeships; activities carried out for workers' or employers' organisations and access to jobs provided by these organisations.

*b) to define the notion of discrimination as "direct" when a person is treated less favourably on the basis of gender, than another person is, has been, or would have been treated in an analogous situation; to define the notion of discrimination as "indirect" when an apparently neutral rule, criteria or procedure puts one gender at a particular disadvantage, with respect to the other sex, except in cases where the different treatment is justified by objective reasons, i.e. in the case of jobs where specific sexual characteristics are essential requisites to the execution of the work; to*

*define the notion of "harassment" when, for reasons related to gender, undesirable behaviour objectively prejudices a person's dignity and liberty, creating an atmosphere of hostile intimidation and humiliation; to define the notion of "sexual harassment" when said behaviour has manifest sexual overtones; and lastly to consider harassment and sexual harassment as discrimination;*

c) to provide for the implementation of the principle of equality of treatment without gender distinction in all sectors of work, public and private, ensuring that, whilst complying with the norms in the sector, those who have suffered damage are entitled to legal and/or administrative safeguards, and are guaranteed redress or equal compensation;

d) to recognise the right of representative associations to take legal and/or administrative action when members feel discriminated against, by delegation of the injured party, i.e. to provide for cases of collective discrimination where the injured persons are not directly or easily identifiable, so that the association can file charges on their behalf.

With respect to the previous norms, the main novelty is the introduction of a specific norm to combat sexual harassment in the work place.

The Ministry for Equal Opportunities has also set up a study group, "Women and work" (under ministerial decree on 1 July 2002), which is examining primary and secondary legislature, so as to assess, during the implementation phase, the effectiveness of the current measures to combat gender discrimination in the work place. The study, which is already underway, monitors the legal instruments provided to safeguard women with regards to: 1) access to the labour market; 2) obtaining different types of flexible contracts; 3) vocational training and retraining, specialisation, and remuneration; 4) the adequacy of the existing instruments to defend women in case of sexual harassment in the work place, with a view to elaborating new proposals in line with European measures; 5) problems related to running the household; 6) measures which will allow working women to reconcile their work schedule with their family life.

## II. ISSUES RELATING ON SPECIFIC PROVISIONS OF THE COVENANT (arrt. 6-15)

**11. Unemployment in the State party is still high. Despite all efforts, the unemployment rate in 2001 reached 10.1 per cent. Please explain why the national plans to combat unemployment have failed to reduce the high unemployment rate, especially among women.**

*According to the ISTAT statistical institute, 2002 marked the seventh consecutive year in which the labour market grew. Despite the economic slowdown, the crises of individual corporations and social tensions, the number of employed workers rose by 315 thousand units, while the number of the unemployed decreased by 104 thousand; the workforce rose by 211 thousand units. Compared to 2001, employment increased at a higher rate than both the population and the workforce, which grew by respective figures of 0.2% and 0.9%. This means that participation in the workforce grew, that a portion of the latent supply of labour has become explicit, and that Italian society, on the whole, is more "at work" today than was the case yesterday; this has encouraged the search for employment outside of the individual's zone of residence, as demonstrated by the continuation of the migratory flow northward.*

The centre of gravity of the Italian labour market, in terms of both difficulties and

opportunities, has shifted in the direction of the adult age groups. Compared to 10 years ago, there are more temporarily employed adults, more adult women employed, both stably and temporarily, and more unemployed adults, both men and women. In the recent past, the problem facing families was the need to organise themselves to manage the long and difficult process of introducing the younger members into the labour market. Full employment of the male head of the family, plus the eventual supplementary employment of the woman, made it possible to absorb the social and economic consequences of unemployment. But in recent years the problem of unemployment among young people has become less acute in terms of its extension (though not as regards its seriousness, seeing that the rates remain high). Adult female employment, taking on a role that is not merely supplementary, is a new factor that provides families with additional margins for coping with the problems tied to unemployment among young people. A situation which, in the past, had been of minor importance is beginning to manifest itself: unemployment and unstable employment among both male and female adults, with the simultaneous presence in a given family of both youth and adult unemployment.

*The male and the female labour markets find themselves in the midst of different phases: the former is relatively stabilised, with the turnover of the workforce ensuring a sufficient number of new entries to keep the unemployment situation from worsening excessively. The rate of female activity, on the other hand, continues to grow, though the underlying stock of employment opportunities is still too limited; what is more, the average age of employed women is lower, meaning that the rate of retirement is less pronounced. Given these factors, even a slight slowdown in economic growth is sufficient to increase unemployment drastically.*

During the period 1993-97, male and female unemployment moved together, in an upwards direction, though the employment situations differed: male employment had fallen significantly, while there had been a slight increase in female. In the whole, it proves more difficult to reabsorb female unemployment, which, in order to keep the same pace as male employment, must turn in results 3 to 4 times greater, seeing that the massive entry of women on the labour market is a relatively recent trend, and that women continue to be under-represented in the sector of self employment. Women still encounter greater difficulty in finding a job, despite the growth in their participation in the workforce. In terms of their position on the professional scale, in just a few years, progress has been made, and it is on account of this very progress that the enduring underestimation is all the more burdensome, on account of the fact that it is less “natural”, especially in light of the higher level of education among women. Cultural considerations have weighed, and continue to weigh, in employment relationships, but it is difficult to trace all gender discrimination to cultural influences, with the facts of a given situation playing a role as well. The data unanimously point to family commitments as a source of career difficulties, and not only in terms of reconciling the demands of the company and individual choices, but also as regards the duration and distribution of working hours. This leads back to the mechanisms through which the labour market operates, standing out precisely because trends in female employment represent the truly new development in recent years, together with the formation of a labour market that is more mobile and richer in terms of both opportunities and risks. The “family model” which, for decades, served as the underpinnings for both the labour market and the Italian social system, is being significantly restructured, though it is not yet clear what direction the changes will take. In the central northern regions, the objective of female employment occupies almost all the available space for participation, and it is hard to see how employment among women can increase further

without a new expansion of part-time employment.

In general terms, the gender differences that still characterise the Italian labour market have been influenced by the patterns of participation and mobilisation of women, as well as the regulation of labour. The most demanding and troubled instrument of regulation, largely because of the cultural repercussions and the symbolic significance, has been part-time work. A perfect example is the Campania region, which has the lowest rate of female employment in all of Southern Italy (24.03%), despite the fact that female employment has grown more rapidly than in the other regions, with the explanation being that the women of Campania register the lowest rate of “part-timers” (just 10.2%). The original introduction of part-time, as well as the supplementary and corrective measures that have followed, all point to a characteristic that is distinctive to Italy: the delay in the introduction of this form of employment, combined with restrictions initially placed on its use by companies, all contribute to explaining why its practice is still relatively scarce. The question is further complicated by two circumstances: first of all, the fact that part-time work is under-utilised in vast sectors of the Public Administration and in banks, in addition to which its duration in terms of hours is significantly higher than the average. The less extensive practice can be traced to the late-arriving and partial legitimisation of a mode of work far removed from the working world and culture as these existed in Italy between the 1950’s and 60’s; part-time work was viewed as “half a job” and held to be a stigma for female employment.

What pulls down employment rates is less the fact of being part of couple than that of having children: women who live with a man but do not have children show higher rates of employment than women who are alone and must raise children. A sharp drop in employment is registered among women who have children and live with a man, meaning that they can count on the economic support of their spouse. What we have stated is especially true in the central-north regions; in the South it is the transformation from being single to being part of a couple, rather than the burden of a family, that holds down participation: in fact, the rate of employment among women who live with a man, but without children, is distinctly lower than that of single women with children, while the opposite is true in the central-north regions. A consideration should be kept in mind: having children, whether with a partner or alone, increases the difficulty of looking for work, with rates of unemployment proving to be significantly higher than those for women without children.

The possibility of reconciling work and family duties is influenced not only by the duration of the work, but also by the daily and weekly distribution of the working hours, as well as the eventual use of shift mechanisms. There is much discussion of atypical jobs, but a good deal less of atypical hours, meaning work schedules that take a full-fledged shift approach, or that occur in non-traditional moments of the day; along these lines, it should be noted that, in families where the man has atypical hours, the percentage of women who work under that same type of schedule is very high (42.5%). Things are more simple for couple who work inside the same production setting or in the same family company; even in these cases, however, reconciling work and family process to be a complicated matter: the handling of the children proves easier, but relations with the spouse become more difficult, in addition to which there is a further complication caused by demographics: namely the fact that grandparents, who could once look after the grandchildren, today find themselves increasingly obliged to look, after their own parents.

*The participant of women who are mothers in the labour market varies a great deal, depending on area of residence, level of education and number of children. Looking at new mothers, 63.2%*

*of those living in the central-northern regions work while only 32.5% of such women work in Southern Italy; 76% of women with university degrees work, while the figure for women with no more than middle school or elementary school diplomas is only 32%; finally, the majority of new mothers with only one child are employed (57%), while the percentage falls to 44.7% for women with 2 or more children. The data show that, in practice, the right to choose between family and work is only theoretical<sup>1</sup>. 14% of women who work during pregnancy leave their jobs because they cannot reconcile the hours with their family commitments. Such decisions have significant consequences for the socio-economic condition of the family: when both parents work, 16% of the families find themselves having to deal with economic difficulties following the birth of the child; if the mothers are housewives, on the other hand, the percentage rises to 26%. Leaving work is meant to be a momentary choice: of the women who had worked at some point in their lives, but who did not work while pregnant or at the time of the interview, 71% wanted to work once again in the future, while the percentage fell to 50% for women who had never worked. An interruption in working activities, however, can make the risk of not re-entering the working world, or of staying outside for an extended period, quite high. This is even more so in areas where there is less opportunity for work, as in the south, where the majority of the women who do not work reside.*

Part-time employment is the solution for 43% of the mothers in the central-north regions and 31% of those in the south. Part-time employment is especially frequent among women with 2 or more children (43%), as well as those with medium-low levels of schooling and those who work in the private sector (48.4%) or in the area of services and commercial activities (55%). Part-time work is perceived as a way of reconciling demands, assuming it is a voluntary, reversible condition, and it is always, on any event, associated with a greater degree of instability. In fact, there is an elevated risk of either leaving or losing one's job following the birth of the child: this happens to roughly 70% of the mothers who work part-time, as opposed to 16% of those who work full-time. The main reason is the fact that part-time contracts are often temporary or occasional in nature. There is also a percentage of unwilling part-time workers, meaning women who make due with part-time jobs, having encountered difficulty in finding a full-time job, with this being especially true in the south and in medium-low professional positions. Tools for optional absence from work and parental leaves are more frequently used in the north (81% of the recent mothers) than in the south (66%), and generally by women with high school (79%) or college educations (75%), as well as lower titles of study (68%). Women in the south tend to return to work earlier, as a rule on account of economic needs (39% university graduates, 51% high school graduates and 63% with lower titles of study); the need to return to work because one's presence is required on the job primarily regards women who are university graduates and, to a lesser degree, high school graduates, as well as women who have completed their obligatory schooling.

*The principles of opportunity that inspired the legislation on parental leaves, which represent a valid tool for allowing mothers and fathers to handle both small children and work, have not, to date, been fulfilled; only 7% of the fathers have taken a period of parental leave within the first two years of the child's life, while 4% intend to take one in the future. A father taking time off from work to care for children is still stigmatised as "something a woman should do". In addition,*

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<sup>1</sup> CNEL-ISTAT, *Maternity and the Participation of Women in the Labour Market*, seminar, 2 December 2003.

*access to this instrument is not equal, as it is primarily used by women who can afford to do so. The distinguishing characteristic of the Italian approach is the intensive use of informal networks and inter-generational solidarity; 6 out of 10 children are cared for by the grandparents when the mother works; this is due primarily to the lack of services for small children: only 2 out of 10 attend a public or private nursery school. In terms of the different territories, the south shows a slightly lower percentage of children cared for by grandparents (52%, compared to 56% in the north), with a higher percentage cared for by babysitters (13%, as opposed to 10% in the north) and other family members of acquaintances (5%, compared to 2% in the north), or by the parent themselves (11%, as opposed to 8% in the north). The most significant differences are observed on the topic of nursery schools (the percentage of children attending public nursery schools is 6% in the south, 13% in the central regions and 15% in the north), with the data confirming the fact that fewer public services for small children are available in the southern regions. The burden of caring for grandchildren rests to a significant extent on the grandparents, while the opportunity to attend a public nursery school increases for children with other brothers or sisters. Such an intensive use of family support in the raising of children stands as a critical variable of the system, especially in light of current demographic and social tendencies, which point to the situation becoming even more acute. Mothers who would like to use the childcare services but cannot list, among the most frequent reasons, the lack of openings (approximately 22%), the lack of nursery schools in their town or city of residence (approximately 21%) and charges that are too expensive (19%).*

*A final consideration to be made with regard to the workload borne by new mothers is housework. The division of family tasks is disproportionately divided, to the detriment of women, even when they have jobs outside of the home. The number of hours spent by women on domestic activities proves to be nearly triple that of men, and the difference is reduced only slightly when employed individuals are involved. The workload for mothers is even heavier, if they have no help in performing housework and cannot count on the cooperation of their companion.*

The criticisms raised against the initiatives contemplated under the Pact for Italy centre, on the one hand, on the lack of precision of the instruments meant to reconcile flexibility with security, and, on the other hand, the distance between the positive objectives proposed and the actions that must be undertaken to achieve them. In short, the criticisms underline the need to pay greater attention to making better use of female labour, to increase the supply of childcare services and to utilise elderly labour by raising the effective age of retirement. Services providing that assist with caring for children and dependent family members must be improved, and incentives must be provided to encourage individuals over the age of 55 to remain active and refrain from leaving the workforce, especially in the north. Steps must be taken to remedy the fact that Italy is the country which makes the least use of nursery schools, for reasons tied to working schedules and the overall organisation of society; operating costs must be reduced, and both private and public offerings must be expanded, with schedules rendered more flexible. To this end, the budget law for 2003 established a rotating fund meant to finance employers who create nursery school and micro-nursery school services within their companies.

*Other areas in which corrective efforts are called for include: the North-South gap, which has remained a characteristic of the country, together with unregistered work; the system of social buffers, that still permits major instances of inequality between large and small firms; the delay in the implementation of the reforms of the public employment service and the strategy for*

*continuous training throughout the worker's lifetime. On the first point, a mix of different instruments could be used, such as tax reductions on low-income labour and increased incentives for legalising unregistered jobs. Most important are fundamental initiatives that contribute to enlarging the underlying stock of jobs while taking into account the drop in the birth rate and the ageing of the population. This approach identifies three different targets, which correspond to an equal number of critical factors that play a crucial role in ensuring active permanence on the market and suitability for employment of a population consisting of both genders, plus expansion of the production base to zones of high development and equity in the generational balance between employed and retired individuals, not only in terms of financial factors but as regards social concerns as well. The lengthening of life expectancy, the postponement of active life and the discontinuity of working careers make any form of early withdrawal from activity increasingly costly. Compared to the European average, the rate of activity among adult males is on the low side, but it collapses by no less than 15 points in precisely the age group most susceptible to early retirement: 55-59 year olds; among women, the activity rate shows a 15 point gap among 50-54 years olds and a difference of 20 points for 55-59 year olds. Immigration represents a useful but only partial response to these three targets, especially in terms of the demographic decline that has afflicted the country for years now, ever since fertility in the southern regions, which sustained a birth rate typically higher than the European average, began to decline, and this despite the fact that women in the south registered levels of participation in the workforce and employment much lower than in the north.*

### ***PARI OPPORTUNITA'/LA VORO E POLITICHE SOCIALI***

12. Please indicate the extent of the problem of high participation of women in the informal labour market, especially in the south of the country, and what effective measures have been introduced to deal with this problem.

### ***Recent regulatory initiatives***

Application of the provisions on the equal treatment between men and women in work matter with particular reference to the Laws December 9<sup>th</sup>, 1977, N. 903 and 10<sup>th</sup> April 1991, N. 125 (as modified and integrated by the Governmental Decree May 23<sup>rd</sup>, 2000, N.196).

Implementation of the art. 9 Law March 8<sup>th</sup>, 2000, N. 53 (Measures to support working hours flexibility).

- **The Law March 8th, 2000 no. 53 establishes dispositions for the support to the motherhood and paternity**, and inserts itself in the most general provisions on the equal opportunities. This Law aims, among other things, to allow the parents a real distribution of the care tasks of the children, with a protection system wider than system provided by previous dispositions. Therefore, this law really makes possible a better distribution of the time between work and family.

*In particular, the art. 9 of the law has introduced forms of flexibility of the time, with reference in priority way, but not exclusively, to the care of the children, providing for contributions in favour of companies which apply contractual agreements with positive actions for the flexibility.*

### **Central Commission of coordination of the supervision activity**

On April 2nd, 2004 the Council of the Ministers approved the governmental Decree, which rationalises the supervisory functions in matter of work and social security. This Decree provides the institution of a central Commission of coordination of the supervision activity, with the task to identify the strategic addresses and the priorities for the interventions. Such Committee, instituted with decree of the Minister of Labour and Social Policies, is composed by the Minister of Labour and of the Social Policies or by a delegated deputy minister, as president; by the general director of the National Social Insurance Agency (INPS); by the general director of Italian Workers' Compensation Authority (INAIL); by the general director of the Revenues' Agency; by the President Of The National Committee on the irregular work; by four employers' representatives and four workers' representatives designated by the most representative trade unions at the national level.

Results of the controls carried out by INPS (National Social Insurance Agency) in early months of 2004, in order to contrast the shadow economy and the employment of black labour force.

REGION	CONTROL NUMBER	IRREGULAR COMPANIES	IRREGULAR WORKERS	ILLEGAL WORKERS	Evaded contributions (mln euro)
PIEMONTE	2.921	1.923	1.873	1.835	23.199
VAL D'AOSTA	115	67	33	28	210
LOMBARDIA	5.749	4.395	2.717	2.405	70.455
LIGURIA	1.778	1.318	385	379	12.459
TRENTINO A.A.	643	403	1.261	668	5.481
VENETO	3.299	1.897	1.264	1.290	23.456
FRIULI V.G.	1.105	725	1.237	1.212	6.420
EMILIA ROM.	4.107	3.263	1.745	1.474	21.394
TOSCANA	3.198	2.540	1.623	1.550	27.124
UMBRIA	393	321	212	188	3.864
MARCHE	1.289	1.043	563	444	8.731
LAZIO	2.886	2.026	869	826	47.182
ABRUZZO	837	704	413	413	9.077



MOLISE	104	81	130	74	1.627
A CAMPANI	4.115	2.179	2.139	2.130	36.607
PUGLIA	2.256	1.363	933	925	31.305
TA BASILICA	602	337	73	73	3.362
A CALABRI	1.245	908	344	343	13.744
SICILIA	2.982	2.042	2.050	2.037	42.187
A SARDEGN	526	455	412	404	9.045
TOTALE	40.150	28.530	20.376	18.698	396.974

### The Italian Strategy to Equality on the Labour Market

For the last few years, Italy has intensified efforts to activate mainstreaming policies and positive actions aimed at equality and equal opportunities, also motivated by the EC's frequent joint financing for many action plans.

The actions taken so far have been directed at increasing the number of law provisions enhancing women's labour market participation – and, more generally, their participation in active policies. Most provisions focus on self-employment and entrepreneurial opportunities and on reconciling work and family life – actions are increasingly based on programming, i.e., on setting goals and priority reference areas in advance.

The National Action Plan (NAP) for Employment is one of the most significant tools for programming national policies, based on strategies aiming, *inter alia*, at achieving equal opportunities. NAPs are drafted annually on the basis of EC guidelines. Their goals include raising employment rates and increasing job creation, giving momentum to the creation of new enterprises and to the entrepreneurial spirit in general, and promoting equal opportunities. Labour policies result not only from governmental initiatives; in compliance with the concertation (social agreement) principle, they are produced in collaboration with the social partners, with particular reference to trade unions and entrepreneurs' associations.

NAPs report strategies as well as all the actions started or completed in the reference period and the relevant funds allocations; this allows monitoring all innovation and development processes underway in single member states.

Given the existing regional disparities, the national strategy is articulated through actions differentiated by region. Northern Italy needs active and preventive policies targeted for populations with highest unemployment rates (women, the youth and the elderly). In turn, Southern regions require policies focused on enhancing labour force demand (as well as actions aimed at the surfacing of unofficial labour), and measures against unemployment, with an adequately attentive eye to active policies.

**13. Please indicate, by providing disaggregated statistical data, the extent to which the principle of equal pay for work of equal value has been respected in the State party.**

From the general point of view an absolute principle of equal pay is out of the question.

The possibility of applying this principle was introduced by the jurisprudence and the case law that recognised the right to equal pay for work of equal value, notwithstanding the possibility of tolerating possible inequalities when these are justified by proven objective reasons.

However an important joint decision of all the divisions of the Corte di Cassazione (High Court) (no.6030 dated 25.5.1993) that analysed the whole complex case law on the matter, states that in our judicial system it is not possible to speak of equal pay for work of equal value, thus denying the existence of an automatic *qualifications - pay* equation: the only principles that exist are minimum wage and non-discrimination rights.

The non-existence of a general principle of equal pay and working conditions was further confirmed by the Corte di Cassazione (joint ruling 17.5.1996, no.4570) whereby the contractual autonomy of the parties makes it possible, within the minimum limits guaranteed by the constitution, to establish pay differences so as to offer pay benefits that are not extended to all workers, to those of a given grade or who carry out the same duties.

The only limiting principle is that of non discrimination even though here the Corte di Cassazione has specified that the employer is not guilty of discriminatory behaviour when pay differences are provided for in collective contracts.

Therefore, the pay-setting system in force in Italy ensures that workers of the same level who carry out the same activity receive equal pay, within the context of the same national labour contract.

Between different labour contracts however, it may so happen that different levels of pay be set for the same type of duties.

This is because each category of workers (metal, textile, chemical, agricultural workers, etc.) according to the commodity sector they belong to, has its own national collective contract stipulated by the Trade Union Organisation that represents that category.

The differences in pay may further vary when labour relations are regulated by national contracts applied to sectors with highly skilled workers or sectors with a long history.

As well as the national level, there is also a second level of negotiation that may permit a further pay increase based on corporate or territorial economic growth, thus adding to the many differences.

Lastly, we must quote the most general rule: art. 16 of the Workers' Statute (law 20 May 1970, no.300), which expressly prohibits setting discriminatory levels of pay (determined solely by political, trade union, religious etc.. reasons).

**14. Accidents in the workplace continue to grow in the State party. According to the State party's report, there were more than 1 million accidents in 2000, representing an increase of 6 per cent over the previous year. There has also been a rise in job-related illnesses of 4.3 per cent between 1999 and 2000. Please explain the reason for this increase.**

In the first place we must point out that the assessment of data on accidents must take into account the various indices used for data collation, which make the phenomenon of accident trends

more complex. In general, in the reference period, we noted a considerable increase in employment levels in various sectors as well as a new and more complete definition of the categories of insured workers.

As for the average trend of accidents during the 1999/2003 period, in the years 1999/2000 we witnessed, in **absolute values, a slow increase in accidents**, which had begun in the '90s already and continued until 2001. This increase was suddenly interrupted by the excellent results achieved in 2002 (-3.5) and a further 1.8% drop in 2003.

In **relative terms**, that is if we compare the number of industrial accidents with the labour force figures, the positive evolution of this phenomenon becomes even more apparent, since the overall drop in accidents is brought out even more by the parallel increase in active population figures.

The relative incidence index that began to decrease in the year 2000 and continued to drop until 2002 (-4.9%) recorded a further 2.8% drop in 2003 and lays the foundations for a similar trend to continue in future years.

**An analysis of the absolute data must be interpreted in the light of the increase in the data on recordable accidents, and following the economic recovery, of the revision of risk factors, both in the tertiary sector and in agriculture.**

Furthermore in the year 2000, the D.N.A. (reporting of names of insured workers), made it possible, with the use of ISTAT data, to create a computerised system so that data relating to the active population can be collated "in real time".

It is important to note that, as of the year 2000, following the immigrant worker registration pardon, the number of cases of reported accidents for those workers increased.

**It is also necessary to stress that by virtue of the entry into force of legislative decree no. 38/2000, INAIL's competence has been extended to cover also sub-contract workers, managers and professional sportspeople, as well as housewives by virtue of law 493/99.**

An analysis of all these data for the year 2000 shows that the accident phenomenon has been following a downward trend, especially considering also the following factors, which are decisive when assessing accident figures:

- economic recovery as of the year 2000;
- increase in the number of non-EU workers;
- inclusion in the insured population of sub-contract workers, whose accident rate is notoriously higher than that of directly recruited workers;

It must be stressed that the drop in the number of accidents is aided also by an organised effort to increase knowledge and awareness of accident risks and prevention measures achieved also thanks to funds granted to enterprises that invest in adapting to the work place safety measures and funds made available for training courses on prevention issues.

In contrast with the above-mentioned data however, we must indicate an increase in accidents among immigrants, where the average accident rate is above that of Italian workers.

The reasons for this (Italy is the third country in Europe for number of immigrants), are the different professional culture of these workers and the fact that they are often given jobs that are more dangerous, linked to seasonal mobility and in small enterprises.

As for occupational diseases, in order to give a correct interpretation to multi-annual trends, it is necessary to take into account the overall framework of the phenomenon in the other advanced economy States, which offers indications that are partly contradictory. The fact that in Europe the

number of reported occupational diseases is progressively decreasing and following an almost uniform trend could be shelved as a positive and reassuring element: however a more careful analysis indicates that the drop in numbers is in part an obvious symptom of the growing gap between the real phenomenon and its image depicted by the available statistical data, as well as being a sign of technical and cultural difficulty in linking symptoms with work activities. If we take only the five-year period between 1998 and 2002, the number of reports made to INAIL each year is basically stable, around 26 thousand, with a progressive drop in listed diseases and a corresponding increase in non-listed ones. The reason lies partly in an increased awareness of worker health, in particular greater knowledge of pathologies indicated as being “work-related”.

INAIL summary tables have been annexed.

**15. The definition of essential services with regard to which the right to strike is restricted appears to be too broad, covering not only health and security, but also education, social assistance, insurance and communication. Please indicate how these restriction have been applied lately and whether the State party intends to reduce these restrictions.**

The issue of strikes in essential public services is regulated systematically by law 146/90, modified by law 83/2000 (**law 12 June 1990 no.146 – Provisions governing the right to strike in essential public services and safeguarding constitutionally guaranteed human rights – Setting up of the Guarantee Commission for the implementation of the law**), whose objective is expressly to regulate the right to strike in essential public services while safeguarding the personal rights that are protected by the constitution, to life, health, freedom and safety, free movement, social assistance and welfare, education and freedom of communication.

As far as the implementation of the law is concerned, it is indispensable to stress the institutional role of the Guarantee Commission, which is increasing constantly and progressively and which has intervention powers by virtue of a provisional regulation of a binding nature in cases of lack of collective rules or when these are deemed not appropriate.

During the activity of the Commission, since the year 2000, action aimed at guaranteeing the implementation of strike containment measures continued with the objective of avoiding cases of social conflict:

- **Cooling and conciliation procedures:** compulsory for both parties before the first strike call and laid down in collective agreements (covering essential services), at the Ministry of Labour for conflicts of national scope (here the trend is constant, 300 a year from 2001 to 2003) or in the Prefectures or Local Administrations for conflicts of a local scope.

In this respect the present Prime Minister has delegated to the Ministry for Labour and Social Policies the duty to order resumption of work in the case of collective abstention from work at national level on the part of workers belonging to public bodies covered by this legislation. However, by way of information, during this government no such cases of intervention have been necessary.

- **Agreements or collective contracts between public Administrations** (or private enterprises that are in charge of collective services) and trade union associations. From 2001 to 2003, 20 agreements that concern all sectors were stipulated at national level.

Here we must point out that recently even, on 7 April 2004, the Guarantee Commission sent a note to all concerned Trade Union Organisations of workers and employers inviting the parties to get into touch directly with each other to look into the possibility of stipulating, in lieu of provisional regulations, the contracts and agreements laid down by the legislators, which would then be submitted to the same Commission for approval.

The same invitation was issued for possible revisions of contracts or agreements already approved by the Commission.

At the moment, despite the broad ongoing debate, there is no legislative activity aiming at modifying the present legal situation under way.

16. While the overall population is projected to decrease by 20 per cent between 1996 and 2050, the number of elderly persons dependent on social security is expected to increase dramatically in the coming decades. Please indicate what measures are being taken to deal with these demographic changes.

*Particular attention has been dedicated to the theme of not self-sufficiency.*

*The process of ageing of the population indicates that in 2001 the class over 80 years old concentrates the 2,17% of the whole male population and 5,4% of the female one.*

*The loss of functional autonomy among the 65 years old people concerns almost one elder in five: the disability rate is equal to 193,3 by a thousand and among eighty-years old people reaches 476,7 by a thousand.*

*The women have a longer average life, but they suffer any way for a longer time of limitations in the activities: a 65 years old woman can expect to live on average 20 years, but she will live at least 5 of these years in disability conditions, with poor or null self-sufficiency; a 65 years old men, instead, can expect to live 16 years, but probably he will live two years with the presence of some disability. However, the simple longevity of the women cannot explain the female disadvantage, as it substantially emerges in all compared ages. The gender differences are highlighted after 55 years of age, and particularly after 70 years (among people 70-74 years old the disability rate for the women is equal to 131,9 by a thousand and for the men is equal to 97,8 by a thousand), up to reach the greatest difference among people over 80 years old (among people over 80 years old the rate disability is equal to 520,2 by a thousand for the women and 386,6 for the men).*

### **Measures of social and welfare protection**

In order to guarantee a better social and welfare protection, a series of services, with different distribution, is provided for the frail elders, also on the basis of the typology of the request.

**IN THE ITALIAN WELFARE SYSTEM, IT'S POSSIBLE TO IDENTIFY THREE DIFFERENT TYPOLOGIES OF SERVICES:**

- **SERVICES TO THE PERSON: THESE SERVICES ARE TRADITIONAL ONES, WHOSE DISTRIBUTION IS DECIDED BY LOCAL AUTHORITIES AND THEIR OPERATORS. IF A PERSON IS ENTITLED TO RECEIVE SOCIAL SERVICES, THE LOCAL AUTHORITY DECIDES THE SERVICES WHICH HAVE TO BE PROVIDED, THE PROCEDURES AND THE DISTRIBUTOR. SUCH SERVICES ARE PROVIDED BY THE MUNICIPALITIES AND ASL, OR (AS IT USUALLY HAPPENS) THROUGH AGREEMENTS WITH PRIVATE SUPPLIERS.**
  - **VOUCHER (SERVICE-TICKET): THE VOUCHERS ARE PROVIDED BY LOCAL AUTHORITIES AND THEY ATTRIBUTE RIGHTS FOR SPECIFIC SERVICES. THE BENEFICIARY CAN USE THEM IN ORDER TO "BUY" SUCH SERVICES FROM A DISTRIBUTOR (PUBLIC OR PRIVATE), AUTHORIZED BY THE LOCAL AUTHORITY.**

**THE COUPON IS ASSIGNED TO THE USER IN ORDER TO BUY SERVICES FROM THE CHOSEN DISTRIBUTOR AMONG THESE ONES AUTHORIZED. A MECHANISM OF "ALMOST-MARKET", WHERE DIFFERENT DISTRIBUTORS COMPETE IN ORDER TO ATTRACT THE USER IN THE CONTEXT OF A (PARTIAL) SYSTEM OF PUBLIC FINANCING, IS ESTABLISHED. THE USERS CAN MAKE THE CHOICE OF PURCHASE AUTONOMOUSLY OR WITH THE COOPERATION OF PUBLIC OPERATORS WHO OFFER NECESSARY INFORMATION AND ADVICE.**

- **THE CARE CHEQUES: IT'S AN ECONOMIC CONTRIBUTION PROVIDED FOR THE ELDERS (OR FOR THEIR RELATIVES), IN ORDER TO FINANCE THE ASSISTANCE. SUCH CONTRIBUTION IS SUPPLIED BY THE MUNICIPALITIES OR BY THE ASL, IN ALTERNATIVE TO DOMICILIARY OR RESIDENTIAL SERVICES TO THE PERSON. THIS CONTRIBUTION IS GIVEN TO "CAREGIVER" OR USED IN ORDER TO BUY PRIVATE ASSISTANCE.**

**THE REAL TARGET OF THE CARE CHEQUES IS REPRESENTED BY THE ELDERS IN ECONOMIC CONDITIONS OF DIFFICULTY AND WITH A PROBABLE SITUATION OF DEPENDENCE WHICH, WITHOUT THE GRANT OF THE MONETARY CONTRIBUTION, WOULD FORCE THE ELDERS TO ENTER A RESIDENTIAL STRUCTURE. THE HIGH CHARITABLE NEED OF PEOPLE WHO RECEIVE THE CHEQUE EXPLAINS THE PRESENCE OF A THIRD CRITERION FOR ITS GRANT. THE CAPACITIES OF THE RELATIVES AND/OR OF THE OTHER CAREGIVER (TO WHOM AT LEAST PARTIALLY THE CHEQUE IS ENDORSED) ARE EVALUATED, IN ORDER TO VERIFY THEIR CONCRETE POSSIBILITIES TO ASSIST THE ELDER. SINCE THE INTERVENTION IS DONE IN CASES OF VERY NEEDY ELDERS AND FAMILIAR NETS EXPOSED TO STRONG PRESSURE, THE EVALUATION ON THE EFFECTS OF THE GRANT OF THE CHEQUE, WHICH ALLOWS TO ASSIST THE ELDER AT HOME IN CONGRUOUS WAY, BECOMES VERY IMPORTANT.**

**THE ADDRESSEES OF THE CHEQUE ARE VERY OFTEN THE ELDER'S RELATIVES: USUALLY PEOPLE ALREADY STRONGLY ENGAGED IN THE ASSISTANCE OF THE ELDER, ALSO BEFORE RECEIVING THE ECONOMIC CONTRIBUTION. ITS GRANT CONSTITUTES AN INCENTIVE TO THE CARE ENGAGEMENT AND SUPPORT THE ECONOMIC COSTS OF NOT SELF-SUFFICIENCY. THE REFLECTION ON THE CHEQUE AND ITS CONSEQUENCES FOR THE INFORMAL NETS MUST START FROM THIS POINT AND FROM THE GREAT SATISFACTION WHICH IT PICKS UP BETWEEN ELDERS AND CAREGIVER. THE CHEQUE ALLOWS, IN FACT, TO ASSIST THE ELDER DOMICILIARY, ACCORDING HIS/HER WISH AND THAT ONE OF THE FAMILY. FURTHERMORE, THE ECONOMIC CONTRIBUTION CAN BE USED WITH EXTREME FLEXIBILITY AND FREEDOM, CHARACTERISTICS VERY APPRECIATED BY THE CAREGIVERS.**

*Such tools are included in the national system of social services to the person, branched in all the areas as indicated by the law 328/2000, destining financial resources through the cooperation*

*among the various institutional levels, State, regions and municipalities.*

*The supplemented interventions and services net constitute the structure for the necessary services, also for the individualised assistance to not self-sufficient people.*

## **- The social expense**

*In Italy, the social expense is jointly supported by the central State, by the Regions and by over 8000 councils*

*The total social expense is approximately equal to 3,5-3,7% of the PIL. The National Social Fund was progressively increased up to 1 billion euro, to divide in indistinct form among the Regions. The financial Law 2004, provides to assign the 10% of such fund to the families with in charge a not self-sufficient or a disabled elder.*

*Furthermore, the current reform of headline V of the Constitution assigns important powers to the regions in the grant of the expense and the welfare services. In this way, a wide territorial differentiation results established.*

*In order to fill the gap, the definition of basic service levels is in an advanced formulation phase.*

*The document, which represents the base for the preparation of such normative provision, has been submitted to the evaluation of the “stakeholders”, and it will be discussed with the Regions in the competent places..*

*The Law N. 18/2001 establishes that the basic levels of the civil and social services must be guaranteed in all the national territory . It is an obligation of the State towards all citizens, with*

*constitutional protection, and with bond for all the institutional system, in order to guarantee and realize the collectability of these rights.*

*On the basis of current provisions, the role, which the municipalities undertake in the associated management of social services, can represent a new way to create a first phase of social sanitary integration, also in the context of co-operation with the ASL.*

*In some Italian areas, management organisation projects of welfare services have already started to be applied. A first form of territorial experimentation has started in this view:*

- ❑ a single entity provided with legal status (sanitary and local authorities have to participate to its formation, at least in the first phase); this entity undertakes the local managerial responsibility of the sanitary and social-charitable assistance of vulnerable subjects;
- ❑ the attribution to the above-mentioned subject of the dispersed financial and economic resources dedicated to this aim;
- ❑ the standardisation of needs evaluation, of the classification of the lack of self-sufficiency and corresponding typologies of offered services;
- ❑ a functional scheme of the welfare pattern, with the involvement of all institutional actors of the social-charitable and sanitary sector, founded on an operating central active all 24 hours, dedicated to the collection and the evaluation of this matter.

*This is the case of Lombardy region, where a convention has been stipulated between the Ministry of Welfare, Ministry of Health, the involved ASL and the municipalities, aiming at defining a integrated evaluation of needs of not self-sufficient elders and identify an appropriate answer.*

Furthermore, in order to oppose the “emergency of heating” (which last year has caused several victims among elderly people, especially in big urban areas where often elders live alone), further experimentation is to be launched in four Italian areas through the institution of the figure of the social keeper.

*The social keeper will get in touch with the elders, who express particular social and sanitary needs, making the solution easier.*



*The experimentation will last two years and will involve 90 social keepers.*

**17. Please indicate what social protection measures have been adopted to enable workers in the informal labour market to provide an adequate standard of living to themselves and their families.**

The following laws were adopted to reinforce policies in support of families:

- **Law n. 133 of 10 June 2003** arranged some relevant measures to help families with a low income and with at least three children in charge.

**- Communication campaign: 1.000 euros for the second child**

Art. 21 of Law Decree n. 269 of 30 September 2003 (converted in Law n. 326 of 24 November 2003, published in Official Bulletin n. 274 of 25 November 2003) provides for a cheque of 1.000 euros granted for every child born within 1<sup>st</sup> December 2003 and 31<sup>st</sup> December 2004, as second one or by order of birth. The same cheque is granted for every child adopted in the same period.

In case of twin or multiple birth, the cheque is granted for every child as second one or by order of birth.

In order to obtain this cheque the mother must:

- be Italian or European citizen;
- be resident in Italy at the time of the childbirth or of the adoption.

When the new born baby or the adopted child is registered, the Council where the mother resides takes charge of verifying the possession of the above mentioned requirements and of transmitting the necessary information to INPS – Istituto Nazionale di Previdenza Sociale (National Institute of Social Security) in order to grant the cheque.

**- First house and support to the birth rate**

The Ministry of Employment and Social Policy has assigned 161 millions euros to Regions and Autonomous Provinces in favour of families for the purchase of the first house and for the support to the birth rate.

**- Day nurseries and micro-nurseries**

With 2003 Financial Law 10 million euros for the creation of day nurseries and micro-nurseries at work were allocated through a proper rotation fund, while other 100 millions euros will be moved from the Fund for day nurseries instituted by 2002 Financial Law (Law n. 448/01) to the Regions in order to assigned this sum to Councils.

These funds will be directly asked from single interested enterprises to the Ministry, as soon as the decrees will be approved.

In the agreement approved in the Unified Conference on April 17<sup>th</sup> 2004 minimum standards were defined for the arrangement of micro-nurseries to be created at work in order to receive and take care of employees' children.

On January 27<sup>th</sup> 2004 the new National Observatory on the Family was furthermore constituted,

in which there are 25 representative Councils of all the Italian Regions, and with the Council of Bologna as leader. With the official settlement of this Observatory the International Year of the family was celebrated in Italy.

18. Please indicate on what grounds divorce is permitted in the State party.

The discipline of the cases of dissolution of the marriage is contained in Law n. 898 of 1<sup>st</sup> December 1970, subsequently modified by Law n. 74 of 6 March 1987, which has introduced the institute of the divorce.

Art. 1 of the above-mentioned Law provides that “The judge pronounces the dissolution of the marriage married according to the Civil Code, when, carried out the attempt of settlement without success [see Art. 4], he verifies that the spiritual and material communion between the consorts cannot be kept or reconstituted for the existence of the causes provided in Art. 3”

Art. 3 lists the causes of dissolution of the civil marriage.

The most frequent one is to be identified in the same Art. 3 n. 2 b), that is when “the judicial separation between consorts has been pronounced with final judgement, or the consensual separation has been approved or a separation *de facto* has been occurred when the separation itself has started at least two years before December 18th, 1970” . In all these cases, for the divorce request, the separation must have last at least three year from the appearance of the consorts before the President of the Court in the procedure of personal separation also when the judgement has become consensual.

Many of the other causes of divorce are based on the result of criminal trials against one of the two consorts.

In relation with the above-mentioned Art. 3, other causes of divorce are: the sentence against one of the two consorts to life imprisonment or a prison punishment higher than fifteen years for not voluntary crimes (n. 1 a); the sentence to any prison punishment for voluntary homicide of own child, for homicide attempt to own child or consort, for incest or crimes of sexual abuse (n. 1 b, c); the acquittal for total mind defect for the commission of one of the above said crimes, when the competent judge for the divorce verifies that the defendant cannot keep or reconstitute family cohabitation (n. 2 a); the final sentence that establishes to not proceed for crime extinction in criminal proceedings against the consort for the same crimes, when the judge charged to pronounce the dissolution of the marriage considers that in these acts there are constitutive elements and conditions to punish the crimes themselves (n. 2 c); the sentence of release or acquittal which declares the fact not punishable for lack of public scandal in criminal proceedings for incest against one of the consorts (n. 2 d); the sentence of prison punishment for serious personal injuries, for violation of the duty of familiar assistance (Art. 570 of Criminal Code), for ill-treatments in the family (Art. 572 of Criminal Code), or for circumvention of unable person (Art. 643 of Criminal Code), committed in damage of the other consort or of own child.

The divorce can be also asked in cases of not consummated marriage, when there is a final judgement for the rectifying sex attribution, when the other consort, as foreign citizen, has obtained the annulment or the dissolution of the marriage abroad or has newly got married abroad.

19. Please indicate whether all forms of discrimination against children born out of wedlock have been removed.

In the Italian legal system all the rules which have create substantial treatment disparities among legitimate children and natural children were abrogated (in particular with 1975 reform of the right of family).

So it can be affirmed that at present there is a complete equivalence between the familiar status of the natural child recognised and that one of the legitimate child as regards both the claims towards the parents and children succession rights.

20. Please indicate the extent of family violence in the State party and the measures adopted to combat this phenomenon.

The great attention of Italy about this phenomenon is proved by the adoption of Law n. 154 of 4 April 2001 (published in Official Bulletin n. 98 of 28 April 2001) providing “Measures against violence in family relations” , which reveals in the title itself the intent of the legislator to introduce new legal instruments to fight this phenomenon in the Italian legal system.

Law n. 154/2001 contains new relevant elements and offers to victims of violence in family life a "double track" protection both in civil and criminal aspects, fully achieved also thanks to the modification of Art. 342 of the Civil Code ( “Order of protection against family abuses ” ), introduced with Law n. 154/2001 and recently realised with Law n. 304 of 6 November 2003, which makes operative the new remedy provided in the civil field also whereas the acts constitute a crime that can be judged by defense (removing the exclusion provided in previous Art. 342 of the Civil Code).

In particular, Law n. 154/2001 has introduced a new personal precautionary measure (Art. 282 bis) in the Criminal Procedure Code, “separation from family house” , that can be disposed if there are general conditions provided for personal precautionary measures, but that, whereas it concerns crimes in family life (Articles 570, 571, 600 bis, 600 ter, 600 quater, 609 bis, 609 ter, 609 quater, 609 quinquies, 609 octies of Criminal Code, committed in damage of relatives or of the cohabitant), is applicable also beyond the punishment limits provided by Art. 280 of Criminal Procedure Code.

In the enforced ordinance of the above-mentioned measure the judge orders the addressee to leave family house immediately, that is to not return, and to not access without his authorisation.

Accessory provisions, which do not have effect when the main provision is not in force too, consist in the prohibition ordered by the judge towards the investigated person, if there are exigencies of protection for the safety of the offended person or his/her relatives, in the prohibition to go to places habitually frequented by the person offended, in particular at work, the domicile of the family of origin or of his/her relatives, unless it’ s necessary for work reasons (Art. 282 bis c), and also the injunction of periodic payment of a cheque in favour of the cohabitants who, for effect of the disposed precautionary measure, remain without adequate means.

A more innovative measure is the introduction of a new Title (IX bis) “Order of protection against family abuses” in the Civil Code, that offers to victims of family violence (not only the consort or the cohabitant, but also the other members, according to Art. 5 of Law 154/2001) a new instrument of protection, because it introduces a new kind of action that has, as its premise, a situation of “serious prejudice to physical or moral integrity, that is to freedom” .

In this case the judge will be able to issue a decree, necessarily temporary, with a fixed term of six months and which can be postponed only for serious reasons, by which he orders the author of the violence to stop the prejudicial behaviour and the separation from family house, also whereas he/she is the owner of the building.

The judge will furthermore be able, where necessary and in parallel with criminal measures, to order the addressee of the provision to not go to places habitually frequented by the victim, “and in particular at work, the domicile of the family of origin or of his/her relatives or of other persons, and near the school of his/her children, unless it’s necessary for work reasons”.

Also in the civil field the judge will be able to order the author of the violence to pay periodically a cheque in favour of the cohabitants who, for effect of protection order execution, remain without adequate economic means.

Furthermore the judge will be able to dispose, when necessary, the intervention of local social services or of centres of family mediation, and associations which have as statutory purpose the support and the reception of women and minors or other subjects victims of abuses and ill-treatment.

The violation of the prescriptions provided in the protection order is criminally sanctioned according to Art. 388 of Criminal Code, as expressly disposed in Art. 6 of Law n. 154/2001.

At the same time it must be highlighted the recent modification of Articles 330, 333 and 336 of Civil Code with Law n. 149 of 23 March (Art. 37): it allows to Minors’ Court, in case of loss or limitation of parents’ power, to provide also for “the separation of the parent or cohabitant who ill-treats or abuses the minor”. It’s a mean of protection in favour of youngsters and that must be harmonised with the most general legislation introduced by Law n. 154.

Complaints, denounced crimes for which the Judicial Authority has begun criminal proceedings and persons denounced according to the kind of crime

	for one crime	Complain ts for several crimes	total	Denoun ced crimes total	of which: of unknown author	Denoun ced persons total	of which: less than years 18
	YEAR 1998						
Violation of the duties of family assistance	3.585	95	3.680	4.631	45	3.699	1
Abuse in family or towards children	1.208	1.164	2.372	2.829	149	2.493	45
Abuse of means of correction and	70	2	72	95	21	58	-

discipline

				YEAR			
				1999			
Violation of the duties of family assistance	3.728	110	3.838	4.877	79	3.807	3
Abuse in family or towards children	1.253	1.292	2.545	3.3	175	2.619	36
Abuse of means of correction and discipline	91	-	91	124	44	56	-
				YEAR			
				2000			
Violation of the duties of family assistance	3.725	83	3.808	4.868	462	3.389	-
Abuse in family or towards children	1.236	1.150	2.386	2.814	275	2.315	21
Abuse of means of correction and discipline	77	-	77	101	37	44	-
				YEAR			
				2001			
Violation of the duties of family assistance	5.544	128	5.672	7.252	58	5.696	-
Abuse in family or towards children	1.621	1.929	3.550	4.167	185	3.717	37
Abuse of means of correction and discipline	103	3	106	152	27	85	-
				YEAR			
				2002			
Violation of the duties of family assistance	5.720	396	6.116	7.462	52	6.167	-
Abuse in family or towards	1.616	2.321	3.937	4.669	202	4.112	40

children									
Abuse	of								
means	of								
correction	and	107	9	116	173	25	101	-	
discipline									

Source of the data: ISTAT

21. Please provide information on whether trafficking in persons has been criminalized in the State party. Please also indicate the extent of the problems of prostitution, trafficking in women and children and child prostitution as well as of the problem of child pornography in the State party.

Implementing the recommendations contained in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women And Children, signed at the Palermo Conference of 10 December 2000, the recent Law n.228 of 11 August 2003 describes more specifically and precisely the crime of reducing a person to or keeping them in a state of enslavement or servitude and the crime of trafficking. More specifically, Law 228 re-formulates Art. 601 of the criminal code, by defining more precisely the offence of “trafficking of people” and at the same time increasing the minimum penalty from 5 to 8 years of imprisonment and introducing, together with a special assistance programme for the victims of the crimes envisaged by Articles 600 and 601 of the criminal code (reducing to or maintaining in a state of slavery or servitude and trafficking of human beings), specific preventive actions that can be financed from a special fund for measures to combat trafficking.

The recent Law n. 228 of 11 August 2003, “Measures against trafficking of people” , which has redefined, modifying Articles 600 and 601 of Criminal Code, the criminal cases of “reduction in slavery” and of “trafficking of people” , specifying the behaviours to be punished and also sanctioning the maintenance in slavery of the individual.

The same section of Criminal Code, concerning the crimes against the individual personality, has been also modified by Law n. 269 of 3 August 1998 ( “Rules against the exploitation of prostitution, pornography, sexual tourism in damage of minors as new forms of reduction in slavery” ), which had introduced new criminal instances ( “juvenile prostitution” , “juvenile pornography” , “detention of pornographic material” , “tourism initiatives against the exploitation of the juvenile prostitution” – Articles from 600 bis to 600 septies) with the intent to oppose the raising phenomenon of prostitution and pornography in damage of minors.

Such legal instrument was inspired from and has implemented the principles of the Convention on the Rights of the Child, ratified with Law n. 176 of 27 May 1991, and the contents of the Final Declaration of Stockholm World Conference, adopted on August 31st 1996.

Art. 1 of Law n. 269/1998 explicitly affirms that children protection against every form of exploitation and sexual abuse to safeguard their physical, psychological, spiritual, moral and social development, constitutes a primary aim pursued by Italy.

22. Please indicate under what conditions asylum-seekers are entitled to family reunification.

*Asylum seekers, unlike refugees, cannot exercise the right to family reunification, because their stay in the State has temporary character.*

**Right to an adequate standard of living (art. 11)**

23. There is a concentration of absolute poverty in southern Italy reaching the level of 11 per cent of the population as against 1.4 per cent in the north and 2.6 per cent in the centre of the country. Please explain what policies and measures have been adopted to deal with this situation.

Italy has envisaged some measures, particularly the creation of a National Fund for Social Policies, in order to mainly support numerous family, especially from the Southern part of Italy.

Italy would like to mention and briefly outline two of the most recent and effective measures, which have been adopted to support regions:

Provisions on Equalisation, Rationalisation and Fiscal federalism is a Law adopted in 1999 (L. 133/1999). Its article 1 lays down structural interventions for equalisation of taxation, in order to respond to the needs of the Italian families. In practical terms, the Italian legal framework aimed at financing regions to respond to general needs.

The Ministerial decree 470/2001 contains criteria and rules on: 1) how to provide financial support to regions, and 2) how to grant resources for ad hoc initiatives for disadvantaged persons, including persons with severe disabilities and serious economic difficulties. In this regard, it is worth recalling that the Italian regions, on the basis of an in-depth exchange of views with the Government, have been required to elaborate the legal framework to implement, at the local level, the decree under reference. As local administrators, they will have to decide how to finance non-profit bodies directly involved in activities, such as regional structures, for economically disadvantaged persons without any family's support and severe disabilities.

24. Please indicate the impact of the first National Action Plan on Social Inclusion (2001-2003) and the priorities set for the second National Action Plan on Social Inclusion (2003-2005) to improve the standard of living of vulnerable and marginalized groups.

The key problem is the activation of policies of integration by the regional and local governments, both in general terms and as regards specific sectors (housing, health care, schools, the family, multicultural affairs, non-profit associations), starting with a reorientation of the services. In order to improve entry in the workforce, the systems for bringing together labour supply and demand must be reinforced. At present they are still tied to informal approaches that prevent workers from breaking free of unskilled professional positions that clash with their training credentials. Despite the extremely low percentage of non-EU immigrants lacking education (9.3%), it has been found that the training credentials of foreigners are virtually useless on the labour market, which offers jobs that generally fall far below the level of skills exercised in the country of origin. Urgent action should be taken to establish not only effective selection

services, but also services of orientation and ongoing training, in order to take advantage of the immigrants' overlooked skills. This confirms both the need to increase the effectiveness of the system for the planning of annual flows, as well as the need for more timely approval of the individual planning decrees. At the same time, mechanisms should be activated to simplify hiring procedures, whose complexity creates a situation in which employers and the institutions of the main contacts are ill prepared to meet the needs of the foreigners.

There is now widespread acknowledgment that immigration, for both structural reasons and its characteristics of increasing stability, is necessary to the country's economic development, though there is less agreement regarding the conviction that immigration provides a measure of a society's values of civility and solidarity. While an effort should definitely be made to reassure public opinion that more rigorous action will be taken in the planning of flows and in measures contrasting illicit immigration, it is also necessary to spread the conviction that the key to reducing social tensions is the selection of suitable policies of immigration. The question is not deciding whether or not to accept immigrants, but finding a way to accept them as new citizens while ensuring conditions of civil, ordered coexistence.

The Consolidated Legislative text of 1998 on immigration presents two points of strength: granting of equal civil and social rights to immigrants, plus the promotion of policies of integration by local government bodies. Immigration can become a tremendous opportunity, if there is development of a model of integration that functions as an ongoing process of exchange and reciprocal cultural contamination, in accordance with the principles of our Constitution. On the subject of integration policies, the Consolidated Text calls for decisive progress, with practices of mere solidarity being left behind for an all-encompassing policy centred around the territory. It is difficult to convert initiatives favouring integration into an "organic policy", which entails addressing all the problems of legally resident foreigners and treating them on a par with the concerns of native born citizens within both general policies and policies regarding specific sectors: housing, health care, the right to education, training and entry in the labour market, plus socio-economic assistance. An organic policy, in addition to being based on services that systematically observe immigration throughout the territory, requires regional, provincial and municipal planning, on both an annual and multiyear basis, as well as focussed initiatives that must be monitored over time; it also calls for fruitful utilisation of the contributions of non-profit associations, made in a manner that is not self-referential but develops itself within a framework of planning and in accordance with the principle of subsidiarity. Focussed initiatives are those regarding the system of information and communications, the facilitation of access to public services and the private social sphere (from the training of operators to the use of cultural mediators, as well as the integration of service windows and the simplification of administrative procedures) and promotion of the knowledge of different cultures. Backing these initiatives are the resources of the National Immigration Fund, which has now been transferred, without the former constraints on its end uses, into the regional funds for social policies. Without this transformation from initiatives of solidarity to a full-fledged policy of integration, public and private action will remain fragmented, moving no farther than plans for emergencies and assistance, all within a charity-based outlook that does not correspond to the real data on immigration, which point to continuous growth, especially in the central-north regions, employment placement, the establishment of families and general stabilisation. The local efforts that make the most progress within an organic policy of social integration are those which are founded on agreement as to the shared objectives of



concerted social action social (social pacts and permanent roundtable) and which draw on the programming and planning of inter-institutional collaboration in order to carry out activities that complement each other. Another precondition for effectiveness is the participation of foreign citizens. By their very nature, policies of integration, even when the implementation of legislation is involved, cannot be planned unilaterally. With the exception of a few admirable cases, too little has been done to promote and support the non-profit associations of foreigners, making available facilities, funding, technical assistance and partnership arrangements with public institutions. In recent years, foreign citizens have been represented primarily by non-profit associations defending their rights, with services being offered at the initiative of local government bodies. Here too significant progress must be made: this means highly participatory planning, with greater clarity over the roles held in the management of initiatives by public institutions, the private sector, the social private sphere and volunteer organisations, as well as, and not with secondary status, the associations of the foreign citizens themselves.

For the purposes of representation and participation, the completed founding of territorial councils for immigration in all the provinces offers a very important resource. The make-up and tasks of these councils, as stipulated under the Consolidated Text, make them the territorial forum for participation in the planning of policies on the part of all the institutional and social partners, as well as concerted inter-institutional and social efforts, the planning of reliable initiatives regarding the handling of immigrants, when the efforts in question meet the objective of maintaining cultural identity, together with the inter-cultural process, and when they serve as the precondition to real access to administrative and social services, such as schooling and health care. The territorial councils on immigration are key institutions, but there is the risk that they will turn out to be a squandered opportunity if, presided over by the Prefects, they fail to gain recognition from local governments and institutions as for forum for participation in and integration of the planning of the policies for which they are responsible.

*The regional legislation adjusting the Consolidated Text, which has been significantly delayed in all the regions, should clarify these procedures of planning and participation. The policy of integration constructed in local territories is the response to the complexity of social cohesion and ordered civil coexistence in the midst of the problematic impact with immigration.*

*In March of 2004, the National Organisation for the Coordination of Local Policies for the Social Integration of Foreigners, operating under the auspices of the CNEL, in accordance with Law no. 40/98, expressed itself on the formulation of the Three-Year Planning Document for 2004-2006 on Policy regarding Immigration and Foreigners in Italy, supplying the opinion called for under the provisions of art. 3, paragraph 1, of Legislative Decree no. 286/98. The CNEL specifically urges the Government and Parliament:*

- to formulate the three-year planning document for 2004-2006 forthwith ;
- to issue as soon as possible, following what have been serious delays, the regulations of implementation for Law no. 189/2002, so as to move beyond the precarious approach characterised by provisional decrees on annual and seasonal flows of immigration;
- to undertake a search, on the part of all the political forces, for joint positions, at least with regard to the fundamental guidelines, given that immigration is an unavoidable and decisive issue for the development of the country, and that its governance calls for ordered, civil coexistence;

*- to optimise the contributions of the social forces, non-profit associations and groups of Italian and immigrant volunteers initiatives regarding reception and initial shelter, the safeguarding of rights, integration and the promotion of the related territorial policies of local government bodies. An initial result should be the reactivation of the advisory commission to the Prime Minister's Office, as stipulated under the law. The Department of Immigration Planning should be inspired by an awareness that immigration is changing our society, giving rise to the challenge of working together to construct a just and cohesive coexistence consisting of dialogue, exchanges, respect for different cultures and the initial steps towards joint recognition of the fundamental values of the individual and the democratic system.*

*The CNEL agrees with what is being stated in the cultural and political debate underway in the country: namely that immigration is not an emergency, but rather a major cultural question, and not simply in terms of economics, and that, if it is to be governed, a decisive role shall be played by policies of welcome and shelter, social insertion and integration, for all of which the preconditions must be established in the countries of origin. This does not mean that policies of security should be neglected, but that there should simply be an awareness that the fight against clandestine immigration cannot be won solely with a repressive policy, in the absence of an efficient regulation of entry and a clear and certain procedure for obtaining legal citizenship. Policies for integration and the planned regulation of legal flows are issues on which national must be reformulated in a more balanced fashion. To lend credibility to this reformulation, the CNEL asks the Government and Parliament for an explicit commitment to:*

*- reinforce the international legal framework in defence of migrants, ratifying and arranging for ratification by the European Union of the UN convention of December 1990 on the rights of immigrants and their family (a measure that went into effect in July of 2003 without the signature of any of the countries with major immigration flows), as well as the UN convention against international crime, plus the protocol on the prevention and repression of the trafficking of human beings and the protocol against the trafficking of immigrants, which has been in force since September;*

*- to take decisive action to ensure that the European Constitution contemplates European citizenship for immigrant citizens who are long-term residents, as requested by the European Economic and Social Committee (under the current proposal citizenship is granted only to those who are already citizens of a member nation);*

*- the promotion of an open method for the coordination of European Community policy on immigration, as contemplated under the program of the EU Commission, involving the coordination of national policies, the exchange of practices, an evaluation of the impact of Community policy, all based on the multiyear orientation of the Union, with short, medium and long-term objectives to be transposed into the national plans;*

*- further development of the practice of bilateral accords with countries of origin and transit willing to collaborate against organised crime and clandestine immigration, and to work towards the readmission and re-entry of immigrants; this approach is generating positive results and it should be pursued with greater determination in the area of development cooperation, and not only through compensation in the form of reserved quotas, all within a context of EU initiatives to be promoted in favour of non-EU countries;*

*- rapid drafting of national legislation that both gives immigrants the right to vote in local*

elections and allows them to obtain Italian citizenship, complete with specification of the time deadlines, plus simplified, transparent procedures and recognition of the principle of *ius loci*, as takes place in the other nations of the Union;

- approval of the all-encompassing law on the right of asylum, which is currently governed under an approach geared towards fighting clandestine immigration and safeguarding security.

*A step in the right direction, in large part on account of the efficient procedures of implementation and the responsibility placed directly on employers, was the regularisation campaign currently being completed, an effort that removed from the sector of submerged, illicit labour approximately 700 thousand immigrants from among salaried employees and domestic helpers. But renewed national legislation must also remove the legislative and functional causes of the difficulties tied to legal channels of immigration, which can be traced to:*

*1. an essentially uncertain, provisional approach, if not outright, de facto delays, in the annual planning of entry quotas; the planned approach, which is also followed by the other European countries on the Mediterranean, whose experience with immigration is more recent, and will be reinforced through its extension to the EU, should be confirmed and combined with innovative initiatives, such as the selective professional quotas and the privileged quotas contemplated under the bilateral agreements with the countries of origin and transit, and under the agreements on education and instruction carried out in the countries of origin;*

*2. the failure to establish an entry quota for those searching for work, with a guarantee of selected subjects that would respond to the need for a direct encounter between the demand and supply, especially with regard to small and extremely small enterprises, plus jobs involving caring for others and domestic employment;*

*3. the incongruity between the limited residual time of the residence permit granted in the event of unemployment and the widespread lack of effectiveness, in terms of finding new job opportunities, of employment services and active policies, which should be the subject of an all-encompassing reform;*

*4. the failure to implement the administrative measures contemplated under Law no. 189/2002, including the “unified window” at the prefects’ offices, plus the integration of the informatics systems of the different administrative branches involved, which represents the underlying condition for an efficient implementation of the residence contract and for the simplification of all the acts required on the part of employers, as well as the procedure under which immigrant citizens are able to obtain and maintain legal citizenship.*

*These difficulties may be overcome:*

*- through timely annual planning of the incoming flows, in keeping with the demand on the labour market and in keeping with the activation of reception activities carried out with the incisive participation of the regional governments and the social partners; the question of immigrants entering to work as domestic helpers plays such a key social role that it should be considered independently, within the framework of policies supporting families;*

*- by making modifications in legislative measures that prove overly rigid or are inspired by an outlook that focuses on temporary immigration, in contrast with the demands of the labour market and with the expectations for stability of the immigrants, thus weakening the conditions for equitable treatment, permanence and living conditions;*

- administrative organisation leading to the establishment of the unified windows; along these lines, consideration should be given to the potential benefits of reassigning to the population registry services of the municipal governments the task of receiving applications and issuing renewals of residence permits and cards, in order to eliminate the grave delays in terms of the legal deadlines.

Policies of social integration regard the territorial dimension, but the decentralisation of responsibilities must not lead to neglect of the development of programming guidelines under national policy. Activities on the national level call for the identification of a single institutional contact capable of promoting, coordinating and monitoring the efforts. The problem of procuring resources for social policies, in light of the difficulties of local finance, combine with the question of the placement of the Fund for Immigration on a regional footing. The regional governments to pass laws of adjustment regarding the national immigration system established in 1998, as supplemented by Law 189. The promotion of representative bodies (advisory committees, territorial councils, electric councils, adjunct councilmen) and the participation of associations of foreign citizens must be an explicit objective of the policies of local government bodies, with resources structures and technical assistance being made available.

In terms of observing immigration and monitoring and processing statistics on a national level, there are a multitude of structures in different sectors which are not integrated, indeed, to a large extent they lack even uniform criteria for the measurement of fundamental factors (in particular as regards the evaluation of indexes of integration) nor are they capable of establishing connections with the territorial systems for the quantitative and qualitative observation of immigration which a number of regions have in fact established. or are currently establishing The three-year program must render feasible the objective of elevating the different national services to the system level while having all the regional governments commit themselves to establishing observatories, structured locally.

Particular attention should be focussed on the living and working conditions of immigrant women; women account for almost half of all immigrants, and they offer suffer a dual discrimination. The quality of their integration, which should be favoured through reinforcement of the social services of conciliation, is of noteworthy importance, given their role in the family and their influence on future generations.

Specific sectors of activity, therefore, should entail recognition and equivalency of scholastic and academic titles, an area where the essential vacuum of national policy should be filled.

In implementing the reform of the labour market, it should be remembered that the promotion of professional mobility on the part of immigrant workers also serves to redeem jobs held to be demeaning or undesirable.

In terms of housing policies, the problems have grown more serious, especially in the central-north zone and the metropolitan areas, on account of the sharply increased demand for lodgings rented at controlled rates, making them accessible to low-medium incomes, the results of a vastly insufficient offer of public housing and private offerings that are extremely limited, rigid and rarely available to immigrants. The response represented by the National Fund for Subsidies for Rented Dwellings, established under Law 431/98, has not proven equal to the situation; this explains the commitment recently made by the Government to the ANCI to restore resources to the 2003 level. Local government bodies have responded to these needs, in collaboration with

*volunteer groups and with the non-profit sector, giving life to initiatives and experiences, some of which represent innovative efforts: non-profit associations, volunteer groups, foundations, cooperatives, enterprises for set objectives, social agencies engaged exclusively in bringing together the supply and demand for rented lodgings, guarantee and rotation funds, employer initiatives etc., each with its own distinguishing characteristics, advantages and disadvantage and risks and potential. But responsibility for public intervention in housing policy rests exclusively with the regional and municipal governments, and the central question remains procuring resources, making necessary supplementary financing from the national government and beneficial measures designed to mobilise private resources. The objectives to be pursued are: the elimination of obstacles to the use of the private resources available through measures that ensure the proper rental of the lodgings, as well as the possibility of regaining their use when the contract expires; placement of price controls on rentals with the contribution of Law 431, plus the activation of the housing policies of the local government bodies, so as to create conditions under which, in return for the granting of public funding, as well as local and national tax subsidies and the offer of low-cost areas for new construction and the creation of lodgings from abandoned buildings, the real estate operator offers something in exchange, primarily in the form of reduced rent; reformulation of the figure of the local real estate operator in innovative terms as regards its goals and structure, with a multiplicity of know-how and with a marked leaning towards non-profit activities. This would mean involving, in addition to local government bodies, business enterprises, banking foundations and credit institutions; stimulating contributions by employers through specific tax incentives: in the event of contributions to rental fees, the amount would be deducted from the income of the business and of the employee, and it would not be considered as income for the purpose of calculating social security payments; in the case of financing, provided jointly with other public or private parties, and to be recovered under the stipulated procedures and deadlines, for the building of residential structures, savings would be granted in the form of tax credits.*

Schooling plays a decisive role in the paths towards integration taken by immigrants. Educational institutes, teachers and administrators have made praiseworthy efforts in serving the approximately 300 thousand young immigrants entered in Italian schools, including local institutions for integrated projects of culture and training. The CNEL holds that a national effort should be made to address the problems involved in training educators to teach Italian as a second language to young people and adults, plus the need for a standardised system certifying levels of learning, as well as the use of well trained cultural mediators for relations between the school and the families, together with knowledge and maintenance of ties with the language and culture of origin.

Health is the key asset of the individual, and it is often precarious social conditions that place it in danger (illnesses arising from malaise, work-related accidents). The relevant legislation fully guarantees the right of access to health-care services; what regional governments and health-care enterprises must ensure is the certainty that the legislation is applied, in order to avoid discretionary treatment and exclusions, as can still occur to those requesting asylum, or whose status has been regularised, or who are momentarily unemployed, as well as irregulars who are temporarily in residence. A number of these categories also pose problems of national financial coverage for the regional governments and local health-care enterprises, generating costs not accounted for by the National Health-Care Fund. In order to guarantee access to health care while promoting the use of the services, health-care agencies must:

*- reformulate their organisational structures: information, flexible schedules, training of personnel, network activities regarding local needs, training and the use of cultural mediators in areas such as gynaecology, paediatrics, psychiatry, orientation outlets and work combining information, orientation, shelter and medical and social assistance;*

- make trans-cultural medicine an ordinary aspect of the services offered, starting with nursing, general medicine and paediatrics, with training procedures involving basic instruction and professional updating, making the best possible use of the specific professional know-how of foreign citizens through feasible approaches to recognising their academic titles and their employment.

**25. According to paragraph 195 of the State party's report, the most serious housing problem is the quality and regularity of the supply of drinking water. In the light of the Committee's general Comment No. 15 (2002) on the right to water, please indicate what effective measures have been introduced to deal with these problems.**

As regards pollution, water epidemics caused by traditional pathogens (Salmonella, Shigella and Vibrio) have been almost disappeared but the evaluation of microbiological risk of other biological pathogens spreading through drinkable water remains difficult. Furthermore Italian population is exposed, through drinkable water, at low levels of several chemical compounds, among whom there are the residuals of phyto-sanitary products, nitrates, products of waters disinfection in order to make them drinkable and the transfer of materials with which nets of collection, channelling and distribution of water to the users were realised.

There are problems of improvement of waters' composition in relation to boron parameter and to arsenic, because in some situations, moreover limited and localised, the presence of these substances is verified in concentrations higher than the maximum admissible ones, for causes connected to the geological nature of the soils.

For this purpose, the following actions will be promoted:

- reduction of the amount of products used in agriculture and authorisation of phyto-sanitary products that have a lower impact on environment and human health;
- adoption of rules for a good agriculture in order to optimize the use of fertilizers and to minimize their environmental impact;
- the promotion of an adequate environmental monitoring and epidemiological investigations, with particular reference to the effects of chemical contaminating elements on human reproductive functions;
- the improvement of water system technologies;
- the optimization of management and promotion of research about supplementary/alternative disinfectants of chlorine and its compounds;
- the increase of waters' protection from the processes of urban, agricultural or industrial pollution;
- the improvement of control over chemical, physic and biological contaminating elements in drinkable waters and the interruption of water supply if irregular.

**26. Please explain conditions under which forced evictions have been carried out in the State party.**

## The expulsion of aliens

Chapter II of the Consolidated Act is entirely devoted to the question of border controls and the rejection and expulsion of aliens. Law 189/2002 introduced a number of important amendments concerning expulsions.

Art. 10 governs the adoption of rejection measures both at the border and immediately after the entry to Italian territory of aliens who do not meet the envisaged entry requirements. These provisions do not apply to political asylum seekers or those applying for refugee status or in cases involving the adoption of temporary protection measures for humanitarian reasons.

Art. 13 governs administrative expulsion. This is adopted by the Minister of the Interior for reasons of public order and state security (para. 1). However, in cases where the alien: has entered Italian territory by evading border controls, has not applied for the issue or renewal of his residence permit in the time envisaged or does not possess such a permit, or represents a danger to public security under the parameters defined by Law 1423/1956 and Law 575/1965, it is adopted by the Prefect.

Law 189/2002 amended para 3 of Art. 10, by establishing that the expulsion should be envisaged “in all cases by means of an immediately enforceable order (with grounds), even if subject to challenge or appeal by the interested party”. If the alien is subject to a criminal proceeding and is not in a state of preventive detention in prison, before carrying out the expulsion the Questore [officer in charge of the police force and public order] applies for authorisation from the judicial authority, who can refuse it only on the basis of mandatory procedural reasons. In such cases the execution of the expulsion order is suspended until the judicial authority provides notification that such reasons no longer apply. Authorisation is also granted in cases where the judicial authority does not respond within fifteen days of the application. Finally, while awaiting the decision on the request for authorisation, the Questore may arrange for the alien to be held at a temporary detention centre.

In cases of arrest *in flagrante delicto*, it is also envisaged that the judge should issue the authorisation at the time of confirmation, except for those cases where preventive detention is applied, other specific cases envisaged by the criminal code, or in cases where one of the reasons for which the authorisation cannot be granted under the terms of para 3 applies. These provisions can also be applied to foreigners subject to criminal proceedings, after the preventive detention measure has been revoked or has expired.

When the provision revoking or extinguishing the preventive detention is issued, the judge also decides on the authorisation for the expulsion. In some clearly defined cases, expulsion entails immediate escort to the border (expulsion ordered by the Minister of the Interior, expulsion ordered but not carried out within the timescale established in the injunction, etc). Law 189/2002 envisages that in the case of aliens who “have stayed in Italian territory for more than 60 days after their residence permit has expired and have not applied for renewal, the expulsion shall contain an injunction to leave Italian territory within fifteen days. The questore shall arrange for the alien to be escorted immediately to the border if the Prefect perceives a real danger that the same alien might take action to evade the execution of the provision”.

In other cases, it is adopted through notification to leave Italian territory within 15 days. As far as appeals against the expulsion order are concerned, Law 189/2002 establishes that “appeals against the expulsion order may only be submitted to the single judge court in the locality where

the authority that issued the order is based. The single judge court shall accept or reject the appeal, making its decision through one single provision that shall be adopted within twenty days of the date the appeal is lodged. The appeal may be signed in person and may also be submitted through the Italian diplomatic or consular mission in the country of destination. The signing of the appeal by the interested party shall be authenticated by officials of the diplomatic or consular mission, who shall certify to its authenticity and forward it to the judicial authority. The alien shall be entitled to legal assistance by a lawyer of his choice holding a letter of attorney issued in the presence of the consular authority. The alien shall also be eligible for state-funded free legal aid and, if he does not have a defence counsel, shall be assisted by one appointed by the judge”.

**If the expulsion order envisages that the alien should be escorted immediately to the border, the appeal may be presented through the Italian diplomatic or consular mission in the expelled alien’s destination country. Only in cases where the expulsion has been decreed by the Minister of the Interior has the competency of the administrative judge been maintained, since such provisions are discretionary.**

To ensure that the provisions envisaging expulsion under escort to the border and ejection are actually carried out, the law provides for the alien to be held in Temporary Stay and Assistance Centres. These measures can only be applied in the cases specifically indicated by the law, i.e. when it is necessary to provide assistance for the alien or carry out checks to confirm his personal identity or nationality, or in other specific cases where it is not possible to carry out the expulsion with immediate effect. In deference to the provisions of Art. 13 of the Constitution, detention in these centres must be validated by the judge within 48 hours and may not in any case be adopted for a period of more than 20 days, which may be extended to 30. If the procedures are not finalised by the end of this period, the alien is released.

Law 189/2002 amended a number of procedures regarding the execution of the expulsion order, envisaging the possibility of a longer period (max. 60 days) of detention in the temporary stay centres: “Convalidation involves detention in the centre for an overall period of thirty days. If the identity and nationality checks or the obtaining of travel papers prove to be difficult then the judge, at the Questore’s request, may extend this period by a further thirty days. Even before this deadline, the Questore may enforce the expulsion or rejection and inform the judge of this without delay”.

Law 189/2002 also establishes that “When it has not been possible to detain the alien in a TSC, or else the maximum period of detention has expired without the expulsion or ejection being carried out, the Questore shall order the alien to leave Italian territory within five days. This order shall be conveyed in written form and shall set out the penal consequences of failure to respect the order”. Any alien who, without justified cause, remains in Italian territory in breach of the order issued by the Questore, shall be punished by arrest and detention of between 6 months and one year. Any expelled alien who is found on Italian territory shall be punished by imprisonment of one to four years.

Articles 15 and 16 of Legislative Decree 286/1998 govern expulsions ordered by the judicial authority as a security measure, in the event of the conviction of the alien for one of the offences envisaged by Articles 380 and 381 of the criminal code or, in the event of plea bargaining, of penalties other than detention for aliens who are already in a situation where the expulsion measure pursuant to Art. 13.2 is adopted, or conviction for a non-negligent offence attracting a penalty of up to two years is applicable.

The expulsion measures do not apply to minors under 18 years, pregnant women or aliens in possession of a residence permit, with the exception of the cases envisaged by Art. 9.5.

Finally, provisions of a humanitarian nature have been introduced to Chapter III (Articles 18,



19 and 20) for the protection of foreign nationals who are victims of exploitation by criminal organisations. Aliens in these circumstances are entitled to a special residence permit that enables them to escape from the violence and influence of the criminals in question and to take part in assistance and social integration programmes. The programme also enables them, where appropriate, to cooperate with the authorities in combating crime by helping with the identification and capture of those responsible for the crimes set out in Art. 3 of Law 75/1958 concerning measures to combat the exploitation of prostitution, or those envisaged by Art. 380 of the criminal code.

From an operational point of view, at 31 October 1999 a total of 60,724 aliens had been repatriated through the implementation of expulsion provisions. This figure includes 31,079 individuals turned back at the border, 9,878 turned down by the Questore pursuant to Art. 10.2 of the Consolidated Act, 9,168 expulsions actually carried out, 463 expulsions through provisions by the judicial authority and 10,136 illegal aliens turned back or expelled and returned to their country of origin through re-admission agreements. This last figure has been considered separately in order to evaluate the role of re-admission agreements in facilitating the implementation of repatriation provisions, even though it is not covered by a separate provision since it in any case requires the adoption of the expulsion or rejection provision as a pre-condition.

In the first six months of 2003, 28,671 aliens in receipt of expulsion orders were actually expelled from Italy. This is about 59.13% of the total number of aliens who, in the same period, were found to be illegally present on Italian territory. This figure compares very well with those for the previous years, with a rise of 56% on 2002 and of 53% on 2001.

The positive trend in the expulsion of illegal aliens is further borne out by the increase recorded in 2002 compared with 2001 (13.9%) and even more markedly compared with 2000 (up 27.8%).

To speed up and increase the effectiveness of the process of escorting aliens to their country of origin, in recent years more frequent use has been made of “dedicated” charter flights. Five such flights were carried out in 2000, for the repatriation of 433 clandestine immigrants; in 2001 there were 13 flights carrying 1,700 aliens; for 2002 the figures were 26 flights carrying 2,294 aliens, and in the first half of 2003 there were 10 flights carrying 712 aliens.

Again for the first six months of 2003, 42 persons were arrested for the transportation of illegal immigrants, having been intercepted at the landings or identified after targeted investigations conducted, including at the international level, with the cooperation of foreign organisations. 76 boats used for illegal transportation were seized. In 2002 the number of arrests (277) was up 38.5% on the previous year’s figure of 200.

From this point of view Italy has attributed particular importance to the re-admission agreements that have been entered into with 27 countries: 4 EU member states (Austria, Greece, France and Spain), 17 European states (Albania, Bulgaria, Cyprus, Croatia, Estonia, FYROM, Latvia, Lithuania, Malta, Moldavia, Poland, Rumania, Serbia Montenegro, Slovakia, Slovenia, Switzerland and Hungary), 4 African states (Algeria, Morocco, Nigeria and Tunisia) and 2 from Asia (Georgia and Sri Lanka).

Targeted initiatives have also been put in place to reinforce cooperation with the main countries of origin and transit of illegal migratory flows, of which the following are worthy of note:

Libya: Operational agreement with the Libyan security authorities and border police

	for a stronger effort to combat illegal migratory flows transiting through Libya and heading for Italy by sea.
<u>Albania:</u>	Technical assistance and staff training programmes and joint sea surveillance measures that also envisage the use of Italian boats in Albanian territorial waters.
<u>Slovenia:</u>	Activation, along the common border, of joint surveillance and control arrangements.
<u>Turkey:</u>	Exchange of strategic and investigative information for use in combating organisations abetting clandestine immigration.
<u>Malta:</u>	Intensification of cooperation in investigations to dismantle criminal groups responsible for the transportation by sea of clandestine immigrants from Malta to Sicily,
<u>Tunisia:</u>	Supply of free equipment and material to the police authorities engaged in combating clandestine immigration.
<u>Cyprus:</u>	Possibility for Italian marine units engaged in operations to combat illegal immigration to receive technical-logistics assistance from Cypriot port structures.
<u>Egypt:</u>	In the framework of the on-going re-admission negotiations, the organisation in November and December 2002, in agreement with the Egyptian authorities, of two charter flights that enabled the repatriation to Colombo of over 300 Sri Lankan nationals who had been stopped by the Egyptian authorities when attempting to reach Italy illegally.
<u>Syria and Lebanon:</u>	Proposals for border policing training programmes.
<u>China:</u>	Mission to Italy, for a two-month trial period, of members of the Chinese police to cooperate in nationality and identification checks on presumed Chinese citizens subject to expulsion measures, with a view to issuing travel papers.

Collaborative relations have also been established with the diplomatic-consular authorities of the main countries of origin of illegal migratory flows to Italy, to simplify the nationality checking procedures for the issuing of travel papers (permits) needed for repatriation. These include: Nigeria, Morocco, Tunisia, Sri Lanka, Bangladesh, Romania and Albania (in view of the well-established cooperation agreement, the Albanian authorities re-admit their nationals even without papers).

**28. There is very little information in the State party's report on the right to health. Please explain how medical security and health care are being provided to all sectors of the Italian society, including the most vulnerable groups of people, in accordance with the Committee's general comment No. 14 (2000) on the right to the highest attainable standard of health.**

- Medical and sanitary care

Population health is a fundamental aim for the individual and the community.

A suitable and effective health system is essential to guarantee the participation to social life

respecting the principle of equal opportunities inside the whole community.

The security of equal opportunities of access to health services is the main aim of SSN – Servizio Sanitario Nazionale (National Health Service) and the element which determines funding modalities and criteria for its organisation.

Italian health system has significantly improved population health conditions.

Main health indicators, such as children and new born babies mortality, and life expectation place Italy among the first countries in the world, well beyond other many countries which invest a higher share of their Gross Internal Product (PIL).

In Italy, however, the share of financial resources for health system, both in relationship to the PIL and in per capita terms, is in the average of OCSE countries.

As regards Italian population health, according to Health World Organization data (“Report on World Health 2000, For a more effective sanitary system”), Italy has a prominent position, in a way to be, for some parameters, among the ten ones and more under consideration, and at the first and second place in the world list.

The National Health Service is working, but settlements, balances and gaps concerning traditional differences among geographical areas, classes, sexes and age are necessary.

In order to mitigate such differences the National Health Plan for 2003-2005 has suggested some priority themes, in particular that one to strengthen the protection of vulnerable social groups.

- Chronic patients, elderly and disabled.

Chronic illness, old age and disability are a reality which must be faced with new means and strategies.

In fact the first and the second one have some similar characteristics: 1) they are both areas in progressive growth; 2) they require a strong integration between health and social services; 3) they need residential and territorial services up to now not sufficiently drawn and locally developed; 4) they have insufficient financial funds.

It is necessary to act in a preventive way so that invalidating conditions, which can contribute to a lack of self-sufficiency, do not verify.

As regards prevention, a feasible approach is of different nature: primary prevention (healthy life styles) and secondary (preventive diagnosis of a few types of tumour), and preventive treatment of particular illnesses.

the chance to live actively for elderly persons, both from a physical and intellectual point of view is important.

Therefore, it is necessary to:

- Make a more effective and efficient management of the existing services through the introduction of competitive mechanisms;

- Attribute a greater capacity of choice to final beneficiaries of the services;

- Support with more attention the families which have a care task;

- Settle and stimulate the plurality of services offer;

- Support the net of informal care and the voluntary service;

- Test new modalities of services organisation, also co-operating with private sector;

- Activate good quality security systems and adequate controls over social and health services distributors.

- Childhood and adolescence.

Children’s and maternal health protection constitutes an engagement of strategic significance

for social and sanitary systems for the importance of the influence that the interventions on the promotion of health, care and rehabilitation have on the quality of the psycho-physical welfare.

In the adolescence the problems are never merely sanitary, but above all psychological and social.

Such troubles can lead to precocious use of drugs, illnesses due to sexual transmission, unexpected pregnancies, abortion, suicides, etc..

For what concerns babies and children's health it is important to point out that since 1975 up to 2003 the rate of children's mortality (died within the first year of life born alive by 1000) in Italy decreased more than 76%, from 20,5 of 1975 to 4,9/1000 of 1999, persisting higher in the center and in the south of the country. The main objective is therefore to reduce the regional disparities in babies mortality rates, approaching the national average to that of the area with the lowest mortality index (3,0). Moreover, to reach a better motherhood's health the initiatives are directed to the enlargement of the information on the various and possible risks.

- Sanitary assistance and immigration.

Provisions regarding the subject derive from Law n. 40/98. The following text on the immigration (Government decree n. 286/98) and relative regulation (DPR n.394/1999), which actually put into effect the rules of the said text (even more specified with the circular n ° 5/2000 of the Ministry of Welfare), gave a clear and organic frame to the theme of sanitary assistance to foreign citizens living in Italy.

Moreover it is necessary to consider that even in the progressive decentralization of the tasks from the central Government to the Regions, the art.1 of the Law decree n.59/97 preserves to the Central Government, together with other tasks, also that of the immigration and the political asylum.

The intention to face in a definite way the matter of immigrants' health has been confirmed in the context of the National Sanitary Plan (PSN 2003-2005) with the insertion of specific provisions aimed to the protection of the "Health of the Immigrants".

The purpose is to include "regular" immigrants in the National Sanitary System giving them equal opportunities such as the Italian citizen.

From this point of view few obstacles, such as the obligatory residence, which in the past had interfered with the enjoyment of the said right, have been removed.

The right to sanitary assistance has been partially recognized also to "irregular" subjects They can enjoy of preventive medicine treatments, besides urgent and basic treatments.

The Ministry of Welfare published a "Decalogue" about the rights of foreigners, translated into 22 languages, to make their access to the structures of the S.S.N. easier and to improve their information; furthermore, it has published a "Practical Guide" for social and sanitary operators, in order to improve the quality of the services supplied.

In the framework of the numerous interventions necessary to eliminate the marginalization of immigrants in difficult conditions, the main actions outlined in the PSN are:

- Improvement of pregnant foreign women assistance and reduction of the recourses to the IVG (voluntary pregnancy interruption).
- Reduction of incidence of the HIV, of illnesses sexually transmitted and tuberculosis, through interventions of prevention.

- Improvement of vaccine therapy to the immigrant children's equal to the one practised to the Italian population.
- Reduction of cases of accidents among immigrant workers, with the same procedures carried out for the Italian workers.

**29. Please indicate to what extent HIV/AIDS, drug abuse and alcoholism problems are problems in the State party. Please indicate what effective measures have been adopted to combat these threats.**

#### **a) AIDS**

In Italy the number of cases of AIDS denounced, as soon as the epidemic burst, reached the level of 50.000. In 2002 the new cases of Aids were 1777. This datum confirms the tendency arisen in the three-year period 1999-2001, in which the number of people affected with Aids had settled to 2000 cases every year, after a constant reduction in the previous period, owed both to the effect of the retro-viral therapies and to the effect of prevention. The systems of control of the new diagnoses for the detection of HIV infection present in a few Italian areas, suggest that the incidence of new infections has reached a constant trend in the last years and, in a different way than the period 1980 and the beginning of 1990, he does not decrease any more.

According to the aim fixed by the OMS in 1999, each Government should carry out, within 2015, a reduction of mortality incidence and of the negative consequences of the HIV infection and of illnesses sexually transmitted.

In this aim, the priority actions are:

- the improvement of the control and the monitoring of the HIV infection;
- the contrast of the transmission of HIV and some other infectious agents;
- the improvement of the quality of life of people infected;
- the reduction of dangerous sexual behaviours and the enlargement of information specially among young people;
- the enlargement of vaccine therapy with interventions in favour of the research which involve public and private funds;
- the social reinserion of the patients with HIV infection.

The social insertion of people affected from Aids, which are treated precociously and which have a quite long life expectation, requires a considerable commitment.

These people, in fact, can more easily plan their life, as the treatments allow them to live for many years. Their life project generally allows the complete reintegration in the world of labour and in that of the society. For this reason, these people need special programs, supported by adequate interventions, aimed to reinsert them in their former positions and occupations..

#### **b) DRUG ADDICTION**

The diffusion of several types of drugs often reaches a quite large number of young people often unaware of the risks the drugs involve and also deprived of positive objectives for their life.

Adequate public strategies require the promotion of an institutional cultural attitude, aimed to oppose the idea of the innocuousness of the drugs and the "normality" in the behaviours of the drug-addicts, which determines a decrease of the alert in the social context.

The main question of the new social policy in this matter is the consideration that drug

addiction and the use of the illicit substances cannot be faced only with the mere pharmacological control, as this would cause the renunciation to the personal and social recovery of the person.

*The Chairmanship Of The Council Of The Ministers has set up the "National Department for the Anti-Drug Policies" (following the Council of the Ministers President's Decrees of November 15th, 2001 and February 15th, 2002), with the task to ensure the necessary administrative support to the President and the National Committee in their function of address and co-ordination of anti-drug plan of action. The structure, in the respect of the functions attributed to other State administrations in the matter of contrast to drug-addiction and recovery of the people devoted to the use of drugs and to substances affecting mental faculties, gathers all the necessary information in order to facilitate the functions of guidance and co-ordination of the Government; to arrange, following Government's guidelines, a triennial plan contrasting the diffusion of drug-addiction, new proposals and operating plans to carry out, together with the other competent administrations, and elaborate adequate statistics on all the aspects of the drug addiction phenomenon; to arrange proposals of revision of the current legislation on the matter to be submitted to the National Co-ordination Committee for the Anti-Drug Plan of Action; to verify the observance, from the part of competent Ministries and the other operating public and private subjects, of the guide-lines and objectives described in the Plan and of the most important further provisions of Government in the field drug addicts recovery, either for the utilization of the financial resources, and for the realization of the interventions.*

The most recent data show that the phenomenon of drug-addiction basically concerns the contemporary use of several substances, from the so-called light drugs, to the anfetamin, to the heroin, to the cocaine.

Moreover data show that the age of the first approach with the substances is in continuous and progressive decrease between the 11 and the 17 years, with an average of the first experience settled beneath the 13 years.

Furthermore, official data put in evidence that:

- the use of heroin is increasing, especially through new ways of assumption ( smoke, inhalation );
- the use of cocaine, which now is a very popular drug, is increasing;
- the use of "ecstasy" and amfetamine is constantly increasing;
- the use of cannabis involves almost a third of the adolescents and such a behaviour is considered "normal" from a great part of public opinion and media.

In order to face such a situation, the European Council officially adopted a Plan of Action on the matter of drugs for the years 2000-2004, showing the following aims and engaging the countries which joined the Plan to the full acceptance:

- large reduction, within 5 years, of the use of illicit drugs and of the number of the new consumers, above all for young people of age lower than the 18 years;
- significant reduction of the incidence of damages caused to the health by the drugs and, therefore, reduction of the correlated deaths;
- considerable increase of the number of the drug-addicts successfully treated for disintoxication;

- important decrease of illicit drugs availability;
- significant reduction of the number of crimes correlated to drugs;
- effective contrast to the recycling of money of illicit origin and to illicit traffic of chemical substances used in the production of drugs.

In our country operate 555 SERT (Services for Drug-Addictions), which give hospitality to 150.400 subjects; such a datum presents an increase of about 2,2% with respect to the previous year. The best part of people staying at SERT (81,4%) is mostly dependent from heroin, while the subjects which use only cannabis, ecstasy and cocaine represent an insignificant percentage.

These structures, whose beneficiaries are 19.465 subjects, are aimed to the social rehabilitation and are partially conceived as a residence and generally managed by private subjects which work in the social sector.

The government intention is to give full application either to the E.U. Plan and to the recommendation of the U.N in the matter of the reduction of drugs demand and supply, strengthening the initiatives (DPEF 2002-2006) oriented to the prevention of drug-addiction, and to the recovery of the value of the person in his entirety and its reintegration in the world of labour, Among the most important intervention are to be considered the campaigns of information aimed to promote responsible and respectful personal and social life style.

### c) ALCOHOL

The reduction of the sanitary and social damages caused by the alcohol is at present one of the most important aims of public welfare.

Several evidences show that people and in particular young people, when they abuse of alcohol, are more frequently inclined to behaviours dangerous for themselves and for the others (drive and work in inadequate psycho-physical conditions) and also inclined to smoke and/or drug-addiction Alcohol acts as one of the way of approaching, especially among the youngest people, the use of illegal substances. The use of alcoholics in Italy has decreased from 1981; however further efforts have been done to reach the aims fixed by OMS and in particular by U.E. for the reduction of the dangers connected to alcohol.

**30. Law 40/1998 on immigration and the conditions of foreigners in Italy accords children of Italians and foreigners equal access to free and compulsory education. Please explain whether children of immigrants, refugees and asylum-seekers are afforded the same treatments ad nationals.**

### **Equality of access to the education and equality of school treatment between Italian and foreign pupils**

Starting from the basic constitutional provisions, and the successive rules of application, for which Italian school is opened to everybody, citizens or foreigners (art.34 Cost), a few statistical data of the Ministry of Education, University and Research ( 2002-2003 –Private and Public Schools) show that:

Foreign pupils are 232.766 and represent a percentage of 2,96% on the total of the school population.

They were 30.547 in 1992-1993 with a significant raise respect to the previous school year

(+50.999).

Their distribution in the different types of schools (2002-2003) is as follows:

> school:	48.356	(3,40% on the total of the school population)
> Primary school:	95.346	( 3,75% " " " " )
> Secondary school:	55.888	( 3,46% " " " " )
> Upper school:	33.176	( 1,45% " " " " )
TOTAL:	232.766	( 2,96% " " " " )

Besides statistics, there are some jurisdictional provisions, which grant not only an equal treatment between Italian and foreign pupils, but also ensure the best conditions for a common life and for the integration in the framework of an intercultural education:

C.M. 09/8/1989, no.. 301, "Integration of foreign pupils in the obligatory school - Promotion and co-ordination of the initiatives for the application of the right to study".

C.M. 07/22/1990, no.. 205, "The obligatory school and foreign pupil - The intercultural education" (this circular introduces, for the first time, the concept of intercultural education).

L. 03/6/1998, no.. 40, art. 36, which underlines the educational importance of the linguistic and cultural differences: "In the realization of didactic and organizational autonomy, the school institutions carry out for all the pupils, intercultural projects aimed to the extension of the formative offer, to the improvement of the linguistic and cultural differences and the promotion of initiatives of hospitality and exchange".

D.L. 07/25/1998, no.. 286-"Legislative Text concerning the discipline of the immigration and the rules on the condition of foreigners", which, in the educational matter, emphasizes the organizational aspects of the school, the teaching of Italian as second language, the maintenance of original language and culture, the training of teachers aimed to the social integration.

D.P.R. 08/31/1999, no.. 39-" Regulations of application of the legislative text concerning the discipline of the immigration and the rules on the condition of the foreigner " (such a regulation, moreover, apart from the juridical position of foreign minors, guarantees them the right to the education).

C.M. no.. 155/2001, aimed to support the staff engaged in schools with high migratory flows.

C.M. no.. 160/2001, aimed to set up language courses for non-E.U. adults and minors citizens.

Actually, a significant statistic element could be the evaluation of the school success (the data are drawn by the mentioned publication).

For the primary and secondary schools, the interpretation of data during the considered three-year period (from 1999-2000 to 2001-2002) and their stability in the time put in evidence that:



- in the primary school the gap between the results of the final examinations of foreign pupils and those of other pupils is slightly higher of a 2% in favour of these lasts;
- in the secondary school this gap reaches about 8% (always in favour of the pupils considered all together);
- the same gap (8%) is registered in the secondary school.

Therefore, the different gap between school improvement of foreign pupils with respect to that of Italian pupils appears of a certain importance with reference to secondary and upper schools; the Ministry recognizes that such a datum should be considered with special analyses and wider researches.

It should also be considered the trend of foreign students to choose shorter educational courses, such as the professional institutes, whose certificates let them easily enter the world of jobs..

It must also be mentioned the presence of foreigners in adults courses, instituted by the M.I.U.R. through the Permanent Territorial Centers, based in all the Country areas.

Moreover the courses settled for the linguistic and social integration of foreign citizens, in the 2001-2002, are 2.219, with 42.855 students registered (22.158 men and 20.697 women), with a majority in the northern areas (especially Lombardia, Veneto, Emilia-Romagna).

For what concerns the didactic activity, the M.I.U.R. carried out a research in the year 2001, on the presence in the school of specific policies for the insertion and the integration of the foreign pupils ( MIUR. "The society transformation" Rome, June 2001).

*The recent provisions underline the distinctive elements of the policies which the single institutes have to carry out in their Plan of Formative Proposals (P.O.F), which constitutes the formative plans every single institute has to elaborate, following the general addresses established by the School College Representatives, the territorial corporations and the proposals of the parents for the most complete drawing up of each personal curriculum.*

This research tried to analyse in which way projects aiming to the integration of the foreign pupils were inserted by the single institutes in their own framework

The results were that best part of institutes (53,7%) inserted in their yearly planning initiatives of intercultural education. The best results have been found in the secondary schools (56,2%), in the primary schools (54,7%) and in institutes including primary and secondary schools (54%).

The research is dated 2001 and it hasn't not yet been updated.

However, it must be considered that the said percentages are susceptible to increase, considered the growing commitment of the administration in planning courses for the multicultural training of of the teaching staff.

**31. Please explain why, despite the considerable budgetary allocations to education, there is a decrease in the number of school population, especially at the pre-primary, primary and lower secondary schools. Is the drop in the birth rate the sole reason for this decrease? Please indicate whether school attendance by children of immigrants has reversed this trend.**

Following data published by MIUR in the yearly issue "Pupils with no Italian citizenship – Public and private schools (June 2002), it can be deduced that in our country non Italian students ( 181.167- 2001-2002), though representing a percentage of 2,3% of the whole national school

population, and lower than the one desumed in other important European Countries (for instance, England, France, Germany, Belgium or Holland) and in any case lower than the incidence of the immigrant population on the whole Italian population in his complex (4,2%, also considering minors without permit of stay and the one that will become regular), however show a rate of annual increase ( +23,3% with respect to 2000-2001, when they were beyond 147.000 and the 1,8% of the whole students in Italy ) and underlines an always more important presence in our country.

It is sufficient to notice that in the last 5 school years the foreign pupils are even more than trebled ( in1996-1997 were in fact only 57.600, the 0,7% of the students registered in the national schools, and then the five-year increase has been of 215,6%), while in less than 20 years their numerical consistency is practically increased by 30 times (in 1983-1984 they were just 6.104, less than 0,1% than all the pupils counted in the Country). In that way, small towns, which till ten years ago never had, if not in exceptional cases, significant presence of foreign pupils in their schools, at present they have a better amount with respect to the big urban centers.

Furthermore, considering the remarkable trend of growth of foreign students in the schools – an increase decidedly accelerated with respect to the rate of physiological increase in the immigrant population in his complex – in 2002 led the MIUR to revise the criteria used to draw up statistics on the presence of not Italian pupils in a 15 years period, connecting it in a more direct way to the greater growth speed of the immigrants until 18 years of age in the Country.

**32. How serious is the problem of dropouts in the State party, especially at the secondary level of education, and what effective measures have been taken to combat it?**

The school dispersion, phenomenon which in the last decades underwent a sensible reduction, settled in the primary schools at "physiological" levels, while it is still significant but restricted, in secondary schools. In upper schools, with slight differences with respect to the last school year, the professional and artistic institutes settled as the most demanded.

This is the situation which emerges from the research on the school dispersion realized by the Statistics Bureau of The Ministry Of The Education considering the school year 2001-02. The research concerns the public primary, secondary and upper school students who formally retired within the law terms (excluding those who moved to other schools), students who were not examined because of their absences, students which went out of the circuit of education after they finished the obligatory school without however getting certificates or diplomas..

The research is not exhaustive of the phenomena of abandonment and escape, however it analyses a few important aspects connected to situations of school dispersion which can provide reliable indications on this matter.

For what concerns primary schools, data resulting from the abandonment of school (students registered but not attending or interruptions not formalized) the percentage is about 0,8%, slightly higher than the past year. Any way forwhat concerns school attendance, few cases observed can determine changes and in terms of a hundredth part of per cent unity. Furthermore, the totality of the cases is almost constituted by nomad students whose families decide of move elsewhere without to give warning or not send the children any more to school: it is this the case, for instance, in which there has been an increase in 0,005% with respect to the last year.

In secondary schools, where values are higher (in 2001-02 the 0,31% of the students abandoned the school), the trend of the last few years has been quite regular, and the values of Italy are at half between those of the southern and insular allotments and those of the Center and North.. The greater concentration of abandonments ( 0,23% national ) is present between the pupils "never attending even though registered", with tips of the 0,45% in the South (0,70 in Calabria) and 0,34% in the islands. Also in this kind of school values are influenced by the choices made by the pupils of nomad origin, which, however, constitute only a part of those who interrupt the studies.

In the upper schools the total percentage of the students who are not evaluated was equal to 4,62% against the 4,54% of the previous year. The increase of the number of students who haven't been is present in all types of education except in the scientific secondary schools whose number is reduced (from 2,15% to 1,84%). From the exam of the typology of the students not evaluated the number of retired students are officially lightly increased (from 2,77% to 2,93%) while the ones withdrawn for other reasons are decreased (from 1,77% to 1,68%). As for the past the school dispersion regards more the professional institutes (8,93%) and school of arts (6,49%) while the phenomenon is quite restricted in the scientific secondary schools (1,84%). The first year of course is the most risky which, even though with respect to the previous school year he registered a light loss for a few types of education, altogether in Italy saw an abstention from the studies of 6,4% with a peak in the islands equal to 10,21%.

**34. The State party's report states that the rights of linguistic and religious minority groups are respected in education. Please explain how these minority rights are actually being implemented.**

The range of constitutional rules provided for the protection of the religious freedom is wide. Here below a synthetic review.

Art. 2: It recognizes and guarantees the inviolable rights of the man, also considered the social formations in which his personality is developed.

Art. 3: It sanctions the principle of non discrimination, also with respect to the religion by whoever professed.

Art. 7: It sanctions the reciprocal independence between the State and Catholic church, each being sovereign in its order.

Art. 8: It provides for the same juridical treatment and freedom for the all the religious confessions.

Art. 19: It recognizes the freedom of religion and cult for anyone.

Art. 20: It sanctions the prohibition of special legislative limitations and special taxes for the constitution, juridical capacity and capacity of acting of the religious corporations.

For what concerns, in particular, religious education, the new Agreement stipulated between Italian Government and the Holy Seat on February 8th, 1984, while it abrogated art. 1 of the Treaty (for which "Catholic, Apostolic and Roman religion is the only religion of the state")), it has at the same time established the engagement of the Italian Government to ensure the teaching of the Catholic religion in the public schools (excluded University), however ensuring each school

the right to choose if teaching or not, without to be cause for that of any discrimination; students who do not choose Catholic religion can follow an alternative teaching proposed by the college of the teachers or can make individual study or can be free from any obligation during this lesson (as confirmed from the sentence of the Italian Constitutional Court no. 2003 of April 11-12th, 1989 ).

For what concerns other minorities rights, and in particular linguistic and cultural rights, it has been promulgated Law no. 482 December 15<sup>th</sup>, 1999 to carry out the principles of art. 6 of the Italian Constitution.

For what concerns education, art. 5 of the said Law establishes that the Ministry Of Public Education can, with its own decrees, promote and realize national and local projects concerning the study of languages and cultural traditions for those student of a linguistic minority and it can authorize, for such purpose an expense of 2 billion of lire (now euro 1.032.614).

Such a funds are annually spent with big satisfaction of the interested minorities.