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

Reports submitted in accordance with Council resolution
1988 (LX) by States parties to the Covenant, concerning
rights covered by articles 10 to 12

Addendum

ITALY**

[16 April 1984]

1. The present note updates the information contained in the initial report submitted by the Government of Italy (E/1980/6/Add.31) concerning the social rights set out in articles 10 to 12 of the International Covenant on Economic, Social and Cultural Rights.
2. The updated information is presented in the numerical order of the chapters and sections of the initial report.

* E/1984/30.

** The present document contains supplementary information submitted by the Government of Italy in connection with the consideration of its initial report (E/1980/6/Add.31) concerning rights covered by articles 10 to 12 of the Covenant.

ARTICLE 10: PROTECTION OF THE FAMILY, OF MATERNITY, OF CHILDREN
AND JUVENILES

Chapter I

PROTECTION OF THE FAMILY

C. Measures to facilitate formation of the family

3. Law No. 123, dated 24 April 1983, has set new rules concerning nationality, with great innovation over the fundamental law on this matter which dates back to 1912. The new law decrees that the foreign or stateless spouse of an Italian citizen may obtain, upon request, Italian nationality if he or she resides within the Italian Republic's territory for at least six months, or if three years have elapsed from the date of marriage. The acquisition of Italian nationality is granted through a decree of the President of the Republic and on condition that there are no impediments expressly stated by the law.

4. The same law furthermore states that Italian nationality is transferred to the children, according to the basic principle of Italian law, jus sanguinis, not only by the father of Italian nationality but also by the mother of Italian nationality.

5. Through the above rulings, the Italian legal system abides by the principles of recommendations 12 and 13 of the Committee of the Ministers of the Council of Europe, dated 27 May 1977.

D. Measures to facilitate fulfilment of the family functions

(a) Family allowances

6. According to present regulations, the last sentence in paragraph 39 of the initial report (E/1980/6/Add.31) should be modified to read as follows: "The amount of family allowances is set by law in a uniform manner for all workers in the private sector, regardless of the type of their activity." For the public sector, family allowances, which are known in this case as aggiunta di famiglia, are established by similar uniform criteria.

7. Furthermore, through Law Decree No. 463 of 12 September 1983, new criteria, which tend to favour lower-income families, were added for the granting of family allowances and to abolish family allowances for the income exceeding a given threshold.

Chapter III

PROTECTION OF CHILDREN AND JUVENILES

C. Protection of a general nature

3. Psycho-social development

8. In addition to the information contained in the initial report on the prevention of the diffusion of narcotic substances among young people (paras. 161-169), the initiatives described below were taken up in 1983 by the Ministry of the Interior in agreement with the Ministries of Health and of Public Education in order to co-ordinate public and private action in the fields of prevention and of rehabilitation of young drug addicts.

(a) Establishment of an Interministerial Committee

9. The Committee was set up through a Presidential Decree; the membership comprises the Minister of the Interior, the President, and the Ministers of Justice, of Health, of Public Education, of Foreign Affairs and of Finance. The primary objective of the Committee is to study the innovations to be made to the 1975 anti-drug law, and especially those concerning the development of preventive and repressive action, the definition of the competences of the relevant ministries and regions, the revision of penal laws and the promotion of voluntary work. The opportunity to tighten sanctions for drug peddlers, inter alia, was considered during a recent meeting of the competent ministers.

(b) National Conference

10. Following a seminar organized by the Ministries of the Interior, of Health and of Public Education during which a Permanent Consultative Group was set up on the initiative of the Ministry of the Interior, a national meeting was organized in 1983 with the participation of the Ministries of Health, of Public Education, of Justice and of Labour. The participants reviewed all aspects of the drug diffusion phenomenon among young people and singled out the priority choices to be made to ensure the best possible result of public and private action.

(c) National research

11. This research, carried out in collaboration with a qualified institute of social studies (CENSIS) was recently concluded.

12. The final report highlights:

(a) The great extension of the phenomenon in its various forms: drug-addiction, continuous drug-taking and occasional drug-taking;

(b) A change in motivation: "refusal of society" appears to be less frequent on the part of the drug-taker, whilst it appears that passive acceptance of consumer

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models seem to be more frequent; in addition, a higher number of persons make use of drugs in forms which are not prejudicial to their integration with society;

(c) The great penetration power of organized crime;

(d) The noteworthy importance of public and private action which nevertheless seems to be still inappropriate when compared to the magnitude of this phenomenon.

(d) Action in the schools

13. In addition to what was stated in paragraph 162 of the initial report, the Ministry of Public Education has established within its peripheral bodies (Provveditorati agli Studi) a number of standing study and planning committees made up of teachers, medical practitioners, psychiatrists, pharmacists and social assistants. The activities of the said committees presently include: educational and didactic planning for specific subjects; distribution of educational material supplied by the Ministry of Health; film projections; and organization of round-table conferences.

14. The same Ministry, furthermore, sponsors each year a national course for teachers on prevention of drug-taking. Representatives of parents and students of secondary schools also take part in these courses. The minutes of the courses are distributed to all schools.

(e) Illegal drug-traffic

15. The data which appear in paragraphs 166-169 of the initial report updated to 1982/1983 are as follows:

(a) In the four-year period 1980-1983, over 30,000 kilograms of drugs were seized and over 45,000 traffickers were referred to the legal authorities; approximately 38,000 of them were already under arrest;

(b) In the period 1976-1983, the legal authorities were informed of approximately 20,000 persons in possession of small quantities of drugs for personal use; health organizations were informed of approximately 22,000 persons;

(c) Finally, from 1973 (the year in which the first death from drugs occurred) to 31 December 1983, the number of deaths connected with the use of drugs and known to police authorities amounted to 1,246.

4. Juridical protective institutions: adoption, special adoption, fosterage, guardianship and international adoption

16. Law No. 184, dated 4 May 1983, introduces a new ruling concerning the adoption and fosterage of minors, and has replaced the preceding Law No. 431, dated 5 June 1967, which had introduced within the Italian legal system the so-called "special adoption"; it also replaces the greater portion of the Civil Code and regulations concerning ordinary adoption.

17. Thanks to the new law of 1983, adoption (tout court) has become the most suitable and common legal instrument to guarantee the protection of minors deprived of family assistance who are to be entrusted to a new family's care.

18. The main innovations brought about by the new law concern the following points:

(a) Age limit of the adoptee, which is presently the coming of age, that is, up to 18 years of age, rather than up to 8 years;

(b) Age and condition of the adopters: they should be at least 18 years older, and not more than 40 years older than the adoptee; adoption is permitted only to those couples who have been married for at least three years, who are not undergoing legal separation or de facto separation and who are able to bring up, instruct and support the adoptee.

19. As in the preceding law, the adoptee must be declared suitable for adoption. Such a declaration should cover those minors who have been abandoned, unless such a situation is transitory or due to force majeure. In addition, as set out in the preceding law, adoption confers on the minor the status of legitimate child.

20. The new law considers the entrustment of minors to another family as a provisional and temporary measure. Fosterage, in fact, is governed by the understanding that the minor should be allowed to return to the family of origin when the causes leading to his or her departure have ceased. In the case of the contrary, fosterage is then converted into adoption.

21. Ordinary adoption (i.e., not legitimization) is permitted according to the new law for those minors who are in special situations and/or persons who have come of age.

22. The new law has abolished the status of affiliation mentioned in the initial report.

23. In practice, the new law has aligned the rulings for adoption with the decision reached at the European Convention on 24 April 1967, which the Government of Italy ratified in 1974.

24. International adoption was also governed for the first time by Law No. 184 of 4 May 1983. The relevant rules and regulations are intended primarily to ensure that the entry into Italy of foreign minors for adoption, and adoption proceedings, are duly monitored through procedures that avoid undue travel and guarantee a satisfactory integration of the minor into the new family.

25. It is, therefore, established that the preliminary condition to the adoption of foreign minors is the suitability of the adopting parents: they should be married for at least three years, they should not be undergoing any process of separation, either legal or de facto, and they should be able to bring up, instruct and support the adoptee. In addition, the age of the adopters should exceed by at least 18 years and by not more than 40 years the age of the adoptee.

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26. Other conditions included in the international adoption procedures may be summarized as follows:

(a) Rules concerning the entry into Italy of foreign minors to be adopted are especially detailed for children under 14 years of age so as to ensure the better protection of these minors. The entry of the above-mentioned minors into the country is allowed when a ruling exists concerning the adoption or pre-adoptive fosterage of the minor, issued by the foreign competent authority to the Italian citizens, or when other rulings exist concerning the protection of the minor;

(b) The competent Minors' Court of Justice endorses the validity of the above-mentioned rulings within the Italian territory, after undergoing certain controls (i.e., suitability of the adopting parents, conformity of the foreign ruling to the law of the State which issued it and undisputed alignment with the fundamental principles which discipline the family and the minors' rights in Italy; proved existence of a pre-adoptive fosterage for at least one year, in the absence of which the ruling emitted by the foreign authority is declared to be effective as pre-adoptive fosterage);

(c) If the pre-adoptive fosterage has not given rise to positive results, and in other cases in which the foreign rulings may not be declared effective for adoption, the foreign minor is considered to be "in a state of abandonment" and the normal procedure for adoption in Italy is then applied after the minor's country of origin has been informed.

27. The entry into Italy of foreign minors for adoption is also allowed when the Ministry of Foreign Affairs, in agreement with the Ministry of the Interior, grants the permit (*nihil obstat*) upon the foster parents' request, on the basis of a declaration of suitability for adoption, in the cases in which the jurisdiction of the minor's originating country does not allow for the issuance of an adoption or pre-adoption fosterage procedure, or other protective measures, and on condition that special reasons, in the exclusive interest of the minor, exist for entry into Italy for adoption.

28. This permit is also granted when, owing to war, natural calamities or other exceptional events, it may not be possible to comply with the provisions set out in paragraph 18 (a) above, on the proviso that the authorities of the minor's originating State authorize the expatriation of the minor for adoption or for fosterage.

29. Foreign minors adopted by Italian parents acquire Italian nationality and the status of legitimate children of the adopters. The rules described above have given legal status to the practice followed for the adoption of foreign minors by making it consistent with that followed for Italian minors.

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Chapter VIII

RIGHT TO PHYSICAL AND MENTAL HEALTH

E. National Health Service: principles, objectives and means

30. As indicated in paragraph 435 (g) of the initial report, according to principles laid down by the law which established the National Health Service, psychiatric assistance is considered to be an integral part of the general health assistance services. Such a principle was stated in Law No. 180 of 13 May 1978 which led to the abolition of psychiatric hospitals as separate institutions for the treatment of mental illnesses and for the defence of society.

31. This radical innovation was not, unfortunately, followed by the establishment of new adequate structures for the treatment of the mentally disabled, so that some of them were reintegrated into their families without the possibility of availing themselves of alternative forms of hospitalization. So as to face this difficulty, the Government presented as a basis of parliamentary debate a draft bill that, on the one hand, confirms that psychiatric hospitals are now an obsolete means and, on the other hand, provides for the establishment of health assistance services to be carried out at home and in dispensaries, services for the treatment of acute cases, and social and health assistance within a suitable framework for long-lasting treatment.

32. The draft bill also makes provision for two kinds of treatment - voluntary and mandatory. Finally, it is intended to set up a Consultative Commission on Protection and Control, made up of representatives of the mentally ill patients' families.

H. Programming of the National Health Service

33. As indicated in paragraph 458 (a) of the initial report, the National Health Service (NHS) for the three-year period 1981-1983, as formulated by the Government, has met with technical and approval difficulties in Parliament. Although the proposed law is still pending, NHS has nevertheless developed according to the indications set out by the Government, in step with the so-called "sliding" planning procedures so as to render NHS progressively consistent with the changing social and sanitary conditions of the country. In practice, the Government and the Parliament have singled out a more rapid procedure which follows more closely the planning characteristics of NHS, exactly as is the case with other sectoral services.

34. The above was confirmed by Law No. 638 of 11 November 1983 which no longer links the global health services to the legal system, confining legal approval only to the binding and financial aspects; it refers the approval of other elements to Parliament for non-legislative decisions, and to the Government for the adoption of technical and implementing rules presented by the regions.

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35. According to the new procedures, the financial rules concerning the National Health Fund were approved in the State's Financial Law No. 730 of 27 December 1983; the binding rules drafted by an appropriate commission, set up by the Ministry of Health, will be presented in the near future to Parliament for approval by means of a legislative act, whilst the statutory rules elaborated by the same commission will be presented to Parliament for approval by means of a non-legislative act.
