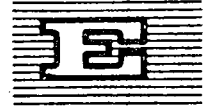


UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/1155/Add.24
15 November 1974

ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS
Thirty-first session

PERIODIC REPORTS ON HUMAN RIGHTS

Reports on economic, social and cultural rights, for the period 1 July 1969-30 June 1973, received from Governments under Economic and Social Council resolution 1074 C (XXXIX)

ITALY

/10 September 1974/

This note contains an account of developments in Italy with regard to the recognition of economic, social and cultural rights during the four-year period from 1 July 1969 to 30 June 1973 and is arranged according to the main headings given in the outline of headings suggested by the Committee on Periodic Reports. Some provisions relate to more than one subheading, and a discussion of these measures under each subheading would therefore be too fragmentary.

A. The right to work

The most significant development in the labour field during the period under review was the adoption, by Act No. 300 of 20 May 1970, of the "Workers' Statute", containing norms designed to provide more extensive and organic safeguards for the freedom and dignity of workers for trade union freedom and trade union activity at the place of work.

The Statute ensures workers effective enjoyment of certain fundamental rights and freedoms which, although covered fully by the Constitution in terms of principles, could be somewhat restricted in actual practice without specific rules for their application. The first article of the Act is particularly important in this respect as it affirms the principle of the worker's right, regardless of political leanings, trade union affiliation or religious belief, freely to express his own opinion subject to respect for the freedom of others and in ways that do not interfere with the conduct of enterprise activities. Other articles of the Statute deal with:

The installation of audio-visual equipment on condition that it is not used for purposes incompatible with the interests of safeguarding enterprise property (arts. 2 and 3);

Regulations concerning the investigation of absences due to sickness and personal examinations for purposes of verification (arts. 4 and 5);

Procedure for giving formal notice of breaches of discipline (art. 6);

Annulment of agreements designed to make employment subject to membership or non-membership in a trade union association (art. 7);

Prohibition of emoluments (especially the so-called "anti-strike bonus") designed to encourage non-participation in trade union organization or action and prohibition of the establishment of trade unions of convenience (arts. 8 and 9);

The right to job reinstatement in the event of dismissal without good cause or a statement of reasons (art. 10).

Other provisions are designed to ensure the autonomy of the trade union association and to prevent action by the employer aimed at obstructing or restricting the exercise of trade union freedoms and activities.

As regards compliance with the Workers' Statute it can be said that, on the whole, management seems to be acting responsibly and co-operatively, apart from some resistance in the early stages of implementation of the law. Also, the presence of trade union bodies within the enterprise, for which express provision is made in the Statute, not only facilitates widespread and prompt application of the law but also serves, from the workers' point of view, as a means of promoting additional forms of trade union protection.

Another important provision adopted in the field of labour law was decision No. 26 (1969) of the Constitutional Court, confirming the illegality of articles 2948 (4), 2955 (2) and 2956 (1) of the Civil Code as regards those portions which allow the time limitation on the right to remuneration to lapse while the labour relationship is still in effect. The Court recognized that while that relationship is still in existence a limitation on the right to wages often conceals a renunciation by the worker of certain rights for fear of dismissal.

Also in the field of labour law an earlier decision of the Constitutional Court (decision No. 75, of 1968) - whose first effects were felt during the period under review - made article 2120 (1) of the Civil Code illegal in so far as, in the case of termination of a permanent contract, it denied the worker who was dismissed through his own fault, or who resigned, the right to an allowance based on the number of years of service.

B. The right to social security

This has been a period of particularly intense legislative activity, carried out in exercise of numerous powers conferred on the Government by Act No. 153 of 30 April 1969, or as a result of earlier commitments, with a view to extending the right to social security to new categories of workers. The more important new provisions include the following:

(a) Presidential Decree No. 1432, of 31 December 1971, concerning the voluntary continuation of compulsory insurance for disability, old age, survivors and tuberculosis.

This decree resulted in the inclusion in a single systematic text of the earlier norms, with some innovations designed to improve the system for the voluntary continuation of insurance.

(b) Presidential Decree No. 403, of 31 December 1971, concerning compulsory social insurance for workers engaged in domestic service and services for the cleaning and maintenance of premises.

The decree provides that this category of workers has the right to social insurance regardless of the number of hours worked daily, the sex of the worker or the size of the population of the municipality in which the work is performed. Moreover, there has been a considerable increase in the coverage for this type of worker in the matter of health assistance, maternity benefits, industrial accident benefits, sickness benefits for dependent family members, unemployment benefits and family allowances.

(c) Presidential Decree No. 325, of 12 May 1972, regarding minimum pensions for self-employed workers, who are gradually being given equivalent status with employees.

(d) Act No. 464, of 8 August 1972, concerning the compensatory wage supplement scheme, which is now extended to cover cases of enterprise conversion, and office workers (who were not covered by this scheme). Periods of payment are now taken into account for pension purposes.

This provision, which is intended to provide against times of business or sectoral crisis, represents an attempt to achieve the goal of a guaranteed wage by means of continued compensation until the crisis is over. Other aspects of the provision relate to the worker's right to re-employment and the State's right to supervise the application of the law for the benefit of management and labour.

(e) Act No. 457 of 8 August 1972, on social security and assistance benefits and wage supplements for agricultural workers.

This provision is based on the principle of equal status for such workers and constitutes a further step towards the goal of the guaranteed annual wage. It also

facilitates the development of a modern system of collective bargaining in agriculture, instituting new legal categories of agricultural workers and helping to curb the exodus from the countryside.

(f) Act No. 485, of 11 August 1972, concerning improvements in some pension and assistance benefits. The main improvements are: an increase in minimum disability, old-age and survivors' pensions (paid on the basis of the compulsory workers' insurance system) and in the social pension (for persons without income and over the age of 65); the extension of health assistance to the holders of a social pension.

Among other developments in the field of social security mention may be made of some decisions of the Constitutional Court, declaring illegal certain rules regarding the dismissal of individual workers (decision No. 174 of 1971), regarding non-payment of the termination allowance where length of service is less than one year (decision No. 204 of 1971), and regarding apprentices (decision No. 14 of 1970).

C. The right to an adequate standard of living

The rights enumerated under this heading (adequate food, clothing and housing, necessary social services, continuous improvement of living conditions, improvement of the environment) are generally not covered by separate measures but by over-all social policy, whose object of steadily improving the living conditions of the economically disadvantaged classes was pursued during the period under review, in all sectors, either by means of provisions which have a direct and positive impact on living conditions by provision for broad reforms in the main social sectors (especially the health and education sectors) or by the protection of low incomes from the effects of inflation. The working class has played an increasingly active part, through the trade union organizations, in increasing and protecting real income from work and improving the conditions in which work is performed.

As regards social services proper, the reader is referred to part E (the right of the family, motherhood and childhood to protection and assistance), which contains an account of some provisions that will help to improve conditions for the working classes and the elderly.

D. The right to the enjoyment of the highest attainable standard of physical and mental health

As already indicated, work on the health reform is now at an advanced stage. The main purpose of the reform is the assumption by the State of full responsibility for the organization of health care and protection, and for related services, through the institution of the National Health Service and the progressive fiscalization of contributions.

In view of the scope and complexity of the reform and the fact that, although far advanced, it is still in the process of preparation, detailed information will be provided in the next report.

As regards safeguarding the physical and mental well-being of the worker, the working environment has been singled out as the focal point for preventive action to offset the negative effects on health of technical progress and work organization. Hence the introduction of various devices to facilitate the systematic collection of individual and collective data on safety and hygiene conditions at work - such as the personal risk record, the register of environmental data, the individual health record and the departmental register of biostatistical data.

E. The right of the family, motherhood and childhood to protection and assistance

During the period under review two important laws were enacted which represent substantial progress towards full recognition of motherhood as a social factor and of the rights of the working mother and of infants.

Act No. 1044 of 6 December 1971 provides for the institution of State-assisted municipal crèches. This ensures the right of all children to a crèche as a decentralized social service linked to the home of the child's family. It is intended by means of this law, whose implementation must naturally be gradual, to provide an adequate means of assistance for the family, to facilitate job access for women and to safeguard employment and wage levels for women. The law specifies the characteristics of the crèche, which is visualized not simply as a place for safe-keeping, but as a place for the early training and socialization of the child.

Act No. 1204 of 30 December 1971 sets forth new norms for the protection of the working mother, updating and improving on earlier norms with a view to facilitating the performance of maternal functions by the working woman without adversely affecting her status as a worker.

In the more general field of social assistance for the family and particular population groups, the main development with a positive impact on the organization of the whole sector was the institution under articles 117 and 118 of the Constitution, of the Ordinary Statute Regions (some regions already had a special statute for many years). Under Act No. 281 of 16 May 1970, the Regions have legislative powers and related administrative functions with respect to public welfare, health assistance and public assistance.

The institution of the Ordinary Statute Regions had no effect, however, on the functions performed by various national public bodies competent to deal with particular population groups. There is thus still a need for a legal framework further defining the division of responsibilities, while leaving the State sole responsibility for the direction and co-ordination of regional activities. To

this end a number of bills, drafted by representatives of the various political groups, were submitted to Parliament during the period under review. Although these bills differed widely in approach, they had as their common denominator an awareness of the capital importance of social services, and of the need for a "local" policy for these services and for community participation in their management.

Special mention should be made, lastly, of the developments that have taken place even without the adoption of new legal provisions, in the field of assistance for the elderly. In a departure from the current widespread policy of providing care in special institutions for the elderly, there is a growing tendency to organize what are known as "open" services, and particularly "home services", whereby assistance and health services are provided at the home of the elderly person, and "day centres" offering general and special transport services to and from the home. The institution of the Ordinary Statute Regions, mentioned above, affords an opportunity to develop these new trends further.

F. The right to education

In response to the growing awareness of the fundamental rights of the individual, the Functional Committee on Programming prepared a set of proposals for a new school plan in 1971. It was subsequently decided, by the Government and Public Education Administration, that the school system should be developed not so much on the basis of a second formal plan as on the basis of support for the programming process as it progressed, through the necessary legislative and administrative action. In line with this approach the Government was empowered, by Act No. 477 of 30 July 1973, to issue decrees on the restructuring of the school system, in which the problems of student participation are of particular importance.

Developments in the field of education in the period under review can be summed up as follows:

In the case of children between the ages of 3 and 5 years (nursery school children) the enrolment rate rose from 46.5 per cent in 1969 to 57.7 per cent in 1973.

In elementary schools (first cycle of compulsory schooling) the trend has followed the demographic trend; in lower secondary schools (second cycle of compulsory schooling) there has been a further increase in enrolments (from 1.9 to 2.4 million) and a decline in the percentage of school drop-outs.

In higher secondary schools (entered on completion of compulsory schooling) the number of enrolments has risen from 1.5 to 1.8 million.

In this type of school the number of drop-outs is still quite high, and is related to the territorial distribution of the various types of education. There is therefore a growing tendency to establish integrated and interlocking systems

which give young people a greater opportunity for initial choice and for moving from one type of school to another in the course of their studies.

As regards higher education, Act No. 910 of 11 December 1969 has made access to a university possible for graduates from secondary education establishments with a five-year course of study and for persons who are 25 years of age and have no such diploma provided that they pass a special examination. Furthermore, Act No. 754 of 27 October 1969 provided for the introduction, on an experimental basis of special courses in vocational training establishments to broaden the students' cultural background and extend the course of study to five years so as to facilitate access to a university. As a result of these two measures the number of enrolments in universities rose from 415,000 to 657,000 between 1969 and 1973. On the other hand there are already signs as in other countries (Sweden, United States), of a slow-down in the expansion of university education which is attributed to the current reassessment of the value of the university degree in terms of social and professional advancement. However, in view of the needs that still have to be met in the field of higher education, an Act was passed on 23 January 1973 setting up new universities and instituting decentralized degree courses and subsidiary teaching courses involving the use of closed-circuit electronic devices to relay lectures and laboratory experiments. Plans are also being made to promote the establishment of colleges, hostels, student restaurants and co-operatives for the sale of books and lecture texts at cost price.

In the field of school construction, a number of laws and administrative measures were adopted during the period under review for the construction of new schools of all kinds and at all levels.

As regards education assistance which is the responsibility of the Ordinary Statute Regions, services now vary according to the educational level: at the compulsory-schooling level (elementary and lower secondary) assistance is inherent in the right to education and is available to all needy children regardless of scholastic merit; at the higher secondary and university levels, instead, merit is also taken into consideration in the award of scholarships and education allowances. It should be noted, however, that there are various types of assistance:

Economic-logistic assistance: free transport to nursery schools, especially in mountain and rural areas, and free school meals; free text-books for pupils at the compulsory-schooling level; issue of book coupons to approximately one third of all economically disadvantaged secondary-school pupils; exemption from payment of school fees (which begin at the higher secondary level) in the case of pupils at that level who lack adequate means and show a minimum of scholastic achievement varying according to the neediness of the case; education allowances, exemption from fees and community services at the university level (Act No. 162 of 21 April 1969 and Act No. 574 of 26 July 1970).

Education-compensation assistance: promotion of awareness among teaching personnel of the socio-cultural deficiencies of pupils at the compulsory-schooling level, with the help of social workers and psychoanalysts; coaching and cultural

and recreational activities under the after-school programmes of secondary schools, pending restructuring in the full-time school programme; organization of back-up courses and summer make-up courses.

Vocational guidance assistance: its current aim is to disseminate knowledge of educational and occupational structures and organizations, and of forecasts concerning expansion or contraction in the demand for labour in various sectors, etc.

For the sake of brevity, a detailed account will not be given of developments in the field of vocational training - which, according to Presidential Decree No. 10 of 15 January 1972, is now the responsibility of the Regions where new approaches are being explored in the light of the economic characteristics of the individual region; in the field of adult education and popular education, including courses for military personnel who have not completed their compulsory schooling, leading to a diploma equivalent to a lower secondary school certificate for purposes of admission to public examinations; the field of continuing education, where administrative provisions were laid down in 1969 for the establishment of special "centres" in which the political parties, trade unions, cultural associations and research centres are also required to play a part.

Special mention should be made, on the other hand, of the new developments regarding student participation in the life of the school. In this connexion attention is drawn to Italy's reply to note No. SO 153/42(24) of 25 February 1974 on the world youth situation. To supplement this information it may be mentioned that in 1970 and 1971 administrative measures were adopted which provide for the inclusion of students in school boards; this new approach will be systematically developed in the new legislative norms on school boards at the institute and grade levels which the Government has been authorized to adopt, within the framework of the aforementioned delegation of powers by Parliament, on the restructuring of the school system.

G. The right to participate freely in cultural life

In Italy there is no restriction on the right to participate freely in cultural life. During the period under review, therefore, the main development was the institution of the Ordinary Statute Regions, which were also given responsibilities with regard to museums and libraries under local administrative bodies. The first regional laws were enacted in 1973. Also during this period, progress was made towards a more clear-cut system for the organization of libraries, exhibition halls and recreation centres affording people with common study and discussion interests an opportunity to meet and benefit from the assistance of experts in various fields wishing to make available their experience and specialized knowledge.
