



# Convention on the Rights of Persons with Disabilities

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## Committee on the Rights of Persons with Disabilities

### Concluding observations on the initial report of Italy

#### Addendum

#### Information received from Italy on follow-up to the concluding observations\*

[Date received: 16 October 2017]

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\* The present document is being issued without formal editing.



## Follow-up

1. 84. *The Committee requests the State party to submit within 12 months and in accordance with article 35 (2) of the Convention information in writing on the measures taken to implement the Committee's recommendations set out in paragraphs 10 and 82 above, regarding the adoption of a definition of reasonable accommodation and implementing an independent monitoring mechanism, respectively.*
2. 10. *The Committee recommends that the State party immediately adopt a definition of reasonable accommodation aligned with the Convention, and enact legislation that explicitly recognizes the denial of reasonable accommodation as disability-based discrimination across all areas of life, including within public and private sectors.*
3. The Italian Government started the analysis alongside the competent Administrations of the options to adopt a definition of reasonable accommodation into the national legal system.
4. Nevertheless the Italian Authorities would like to point out that existing legal instruments in several areas appear to be entirely consistent with the provisions of the UN Convention on the rights of persons with disabilities.
5. In particular, law n. 99/2013 has been adopted to ensure compliance with the principle of equal treatment of persons with disabilities in the labour market. Both public and private employers are required to provide reasonable accommodation — as defined in the Convention on the Rights of Persons with Disabilities — in workplaces, to ensure full equality for persons with disabilities vis-à-vis other workers. Public sector employers must ensure implementation without additional financial burdens but with recourse to already available resources.
6. In particular, all public and private employers have to ensure the implementation of reasonable solutions with regard to:
  - (a) Access to employment and work, whether self-employment or paid work, including selection criteria and recruitment conditions;
  - (b) Employment and working conditions, including career advancement;
  - (c) Access to all types and levels of professional orientation and training, further training and retraining;
  - (d) Participation to workers' organisations, and or other professional organisations and services provided by those organisations.
7. Article 5 of the Employment Equality Directive (2000/78/CE) states that employers are duty-bound to take 'appropriate measures' to make a reasonable accommodation unless this would result in a disproportionate burden.
8. Recital 21 of the above mentioned Directive states that the evaluation of reasonableness for any financial costs which are disproportionate to the achievement of the objectives will be made in relation to the size and financial resources of the company in question.
9. As regards any allocation of resources, the EU Court of Justice in case law 312/11 introduced a system of obligations for the employer, which cannot be replaced by incentives and aid provided by public authorities. These facilitate determination of the reasonableness of the required adaptation but where employers lack incentives and aid provided by public authorities they are not justified in denying the adaptation.
10. As far as public compensation for expenses and adjustments is concerned, article 14 of law n° 68/1999 states that each Region should create a Fund for the employment of persons with disabilities.
11. The Fund also contributes towards the partial reimbursement of expenses necessary for the adoption of reasonable accommodations in favour of workers whose capacity to work is reduced by over 50 per cent.

12. Finally, Article 5 of the Employment Equality Directive (2000/78/CE) lays down with regard to reasonable accommodation: “*This burden shall not be disproportionate when it is sufficiently remedied by measures existing within the framework of the disability policy of the Member State concerned*”.

13. As for public administration, article 10 of Legislative Decree No. 75/2017 provides for the establishment, within the Department of Public Service of the Presidency of the Council of Ministers, of a National Council (*Consulta*) for the integration of persons with disabilities into the work environment, without additional burden on the public finances.

14. *This* body is composed of representatives from institutions and working market, two representatives from associations for disability appointed by the National Observatory on the Status of Persons with Disabilities.

15. The *Consulta* also provides extraordinary interventions on the adoption of reasonable accommodations in workplaces as established by article 3, paragraph 3-*bis*, Legislative Decree No. 216/2003.

16. Legislative Decree No. 151/2015 (art. 1), provides for national guidelines including the definition of principles on reasonable accommodation to be adopted by employers.

17. Article 8 provides a Database of targeted placements that enhances the monitoring system; all public and private employers transmit information on the reasonable accommodations they have adopted, to the Database.

18. Finally, in accordance with Directive 2000/78/CE and Law No. 99/2013 above mentioned, article 1, paragraph 166, Law No.190/2014, with regard to persons with disabilities at work, the competence on reintegration and working integration is assigned to the National Institute for Insurance against Accidents at Work (INAIL).

### **National implementation and monitoring (art. 33)**

19. 82. *The Committee recommends that the State party immediately establish and implement an independent monitoring mechanism that adheres to the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), and that it provide adequate funding for its functioning and the full involvement of organizations of persons with disabilities in its work.*

20. As for the establishment of an Independent National Human Rights Institution, an important debate is currently taking place in Italy at all levels of the system. Parliamentarians are constantly being made aware of the need for such a body, particularly within the Senate where the Constitutional Affairs Commission is debating the relevant Text.

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