

Convention No. 118: Equality of Treatment (Social Security), 1962
Direct request 2002/73

Italy (ratification: 1967)

1. *Article 5 of the Convention (branch (e)) (old-age benefit).* Referring to its observation and the comments received from the CGIL, the Committee notes the Government's statement concerning the non-exportability of the social allowance (*assegno sociale*) provided for in section 3, paragraph 6, of the Act of 8 August 1995. The Committee recalls, in this respect, that this benefit falls within the scope of EEC Regulation No. 1408/71, but has been included in Annex II (bis) as a special non-contributory benefit. As far as Convention No. 118 is concerned, payment of this type of benefit in the event of residence abroad may be made subject, under *Article 5, paragraph 2*, to the participation of the Members concerned in schemes for the maintenance of rights, as provided for in *Article 7* of the Convention. The Committee therefore expresses the hope that the Government will provide information on any new developments in this respect in its future reports.

2. *Article 6 of the Convention (branch (i)) (family benefits).* In its previous comments, the Committee noted that under the terms of the Legislative Decree of 13 March 1988, as amended, and in particular its section 2, paragraph 6(a), family allowances are payable to a foreign worker employed in Italy for dependants living abroad, if the State of which he or she is a national has a reciprocity arrangement for Italian nationals, as well as in the cases provided for by an international convention on family assistance. In its previous report, the Government stated that a number of social security agreements covering family allowances had been concluded with Argentina, Brazil, Cape Verde, Liechtenstein, San Marino, Switzerland, Tunisia and Uruguay. As a Member of the European Union, Italy is also bound by EEC Regulations Nos. 1408/71 and 574/72. New agreements have been concluded, according to the Government's report with Slovenia, the former Republic of Macedonia, Latvia, Romania and Austria (countries which however are not bound by Convention No. 118).

As regards nationals of countries which have not concluded an international convention or a bilateral agreement covering family benefit with Italy, it was decided, according to the information previously supplied by the Government, that applicability of the reciprocity principle to such countries would be established on a case-by-case basis, each time a request for family benefit is submitted by a foreign national with respect to his family members residing abroad.

It appears, from the information provided by the CGIL, that this situation has not been changed, in practice, by section 1 of Presidential Decree No. 394 of 31 August 1999, which provides that a condition of reciprocity shall not apply to foreigners holding a residence card or a residence permit for the purpose of employment or self-employment, in view of the decision taken by the competent Ministries of Employment, Finance and Foreign Affairs, following a request for clarification by the INPS.

The Committee recalls that, under *Article 6* of the Convention, the Government shall guarantee the granting of family allowances both to its own nationals and to the nationals of any other Member which has accepted the obligations of the Convention for that branch (at present Bolivia, Cape Verde, Central African

Convention No. 118: Equality of Treatment (Social Security), 1962
Direct request 2002/73

Republic, France, Guinea, Ireland, Israel, Libyan Arab Jamahiriya, Mauritania, Netherlands, Norway, Philippines, Tunisia and Uruguay) in respect of children who reside on the territory of any such Member.

In these circumstances, the Committee would like the Government to give detailed information on the impact of section 1 of Presidential Decree No. 394 of 1999 on the implementation of the principle of reciprocity referred to above. It once again expresses the hope that, in regard to the nationals of member States which have accepted the obligations of the Convention for branch (i), but who are not covered by a bilateral agreement concluded with Italy or by EEC Regulations, the necessary measures will be taken by the Government to ensure that such nationals are automatically regarded as fulfilling the reciprocity condition when their applications for family allowances in respect of children who reside abroad are examined, in accordance with *Article 6* of the Convention. The Committee also hopes that the Government will be able to draw up instructions or circulars to that effect for the attention of the competent social security institutions responsible for examining the applications of the persons concerned for family allowances.

Articles 7 and 8. The Committee would like the Government to continue to supply information on any future bilateral agreements concluded or negotiated with countries which have ratified the Convention and, in particular, with countries whose nationals work in Italy.

Finally, the Committee would be grateful if the Government would continue to supply statistics on the number, by nationality, of foreign workers employed in Italy.