

Convention No. 106: Weekly Rest (Commerce and Offices), 1957

Direct request 2004/75

Italy (ratification: 1963)

Article 2 of the Convention. Scope of application. The Committee notes the new provisions on the weekly rest contained in Legislative Decree No. 66 of 8 April 2003 which implements Council Directive 93/104/EC on the organization of working time. It notes that the following categories of workers are excluded from the scope of the Legislative Decree.

People working in libraries, museums and archaeological areas. The Committee notes that section 2(2) of the Legislative Decree states that those working in libraries, museums and archaeological areas are exempt from its scope. It notes that their working time will be regulated through a special Ministerial Decree. It requests the Government for further information on whether a special Ministerial Decree has been issued to ensure the provision of weekly rest to these workers and, if not, how it guarantees their right to a weekly rest.

Apprentices. The Committee notes that the Government report states that apprentices who are minors are excluded from the scope of the Legislative Decree by virtue of section 2(3) of the Decree. The Committee requests the Government to provide information on how it ensures that apprentices' right to weekly rest is guaranteed.

Article 8. Temporary exemptions. The Committee notes that section 9(2) of Legislative Decree No. 66 provides exemptions to the weekly rest for those in shift work, wherever the worker changes their team and cannot enjoy their weekly rest before the beginning of the next period (section 9(2)(a)); those activities involving separate periods of work during the day (section 9(2)(b)); and through collective agreements (section 9(2)(d)). The Committee reminds the Government that temporary exemptions, total or partial, are allowed in cases outlined in *Article 8, paragraph 1*, of the Convention. The Committee requests the Government to indicate how the exemptions laid out in section 9 are in compliance with *Article 8, paragraph 1*, and further requests the Government to clarify how compensatory rest is guaranteed when exemptions are used as required under *Article 8 paragraph 3*, of the Convention.

Compensatory rest and the meaning of "appropriate protection". The Committee notes that, under section 9(2)(d) of Legislative Decree No. 66, collective agreements may establish exemptions from the weekly rest as long as it provides the workers periods of equivalent compensatory rest or, in exceptional cases, where the provision of a compensatory rest period is not possible for objective reasons, to offer the worker concerned "appropriate protection". The Committee requests the Government to clarify the term "appropriate protection". It reminds the Government that, where temporary exemptions are made, the person concerned shall be granted compensatory weekly rest amounting to not less than 24 uninterrupted hours in accordance with *Article 8, paragraph 3*. It therefore requests the Government to provide further information on how it guarantees the provision of compensatory rest for all temporary exemptions made.

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Compensatory rest under Act No. 370 of 1934. The Committee notes that section 9(4) of Legislative Decree No. 66 continues to allow exemptions contained in Act No. 370 of 1934. The Committee notes that, with regard to exemptions permitted under section 16 and section 17 of the Act, compensation is only guaranteed for a duration equal to the hours of work carried out on the day in question, although not less than 12 consecutive hours. This does not amount to compensatory rest amounting to an uninterrupted weekly rest period comprising not less than 24 hours in the course of each period of seven days which is required in accordance with *Article 8, paragraph 3*. The Committee requests the Government to bring the provision into line with the Convention to ensure full compensatory rest for any temporary exemptions made.