

Current national legislation on diversity in Italy

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An analysis of the state of the policy framework for social inclusion in Italy in the fields of social welfare, education and youth work from the constitution to laws and strategies.

I – Italian Constitution

The Constitution of the Italian Republic provides 4 articles about education, social welfare and youth work.

1.1. Education

In Italy, Constitution provides Education for everyone, without any discrimination. The 34th article of the Italian Constitution is a symbol of the openness of education to everyone. It says: "Schools are open to all. Lower education, given for at least eight years, is compulsory and free. Those students capable and deserving, even if without financial means, have the right to reach the highest levels of studies. The Republic makes this right effective with scholarships, family allowances and other benefits, which must be awarded by competition."

First of all, in Italy education is a duty, because culture is a fundamental value for the intellectual growth of individuals and for the development of society. The 34th article is about the right to education, in continuity with Article 33. It starts from a principle of extreme social importance, in line with the provisions of the Charter of Fundamental Rights of the Union European: the fact that the school is free and open to all. It does not discriminate in terms of financial means or learning ability, the right to study is also recognized for students with disabilities for whom personalised educational plans with support teachers are provided. Also, for migrant students, in addition to courses for learning the Italian language, a specific cultural mediation is provided. The education system in Italy is organised according to the subsidiary principle and autonomy of schools (33rd article). The State has exclusive competence on general issues on education, on minimum standards to be guaranteed throughout the country and on the fundamental principles that Regions should comply within their competences. Regions have exclusive competence on vocational education and training. Schools are autonomous as for didactic, organisation and research and development activities.

1.2. Social welfare

About Social Welfare (called as Previdenza sociale), the 3rd article of Italian Constitution says: "It is a duty of the Republic to remove any obstacles that

constrain freedom and equality of citizens to assure the full development of the human person". Article 3 should be divided into two parts: the first part it is recognized equality in a formal sense ("All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinions, personal and social conditions") while 2nd paragraph establishes equality in a concrete way (" It is the duty of the Republic to remove the obstacles of an economic and social and the equality of citizens, prevent the full development of the human person ").

A formal equality means that people are on the same level: everyone is equal before the law and must respond to it without any diverse treatment dictated by a particular social background, culture, or gender. And for this reason, Italy has a duty in that sense: to remove obstacles in self-realisation of its citizens. As far as substantial equality is concerned, it can be summarised in this way: each individual has the possibility of realising his own life without any kind of obstacle related with social background or with other types of particular constraints. This means that, with the right commitment and a good dose of luck, even a humble person can become wealthy.

1.3. Youth work

About youth work there is nothing very specific in Italy, above all in the Italian Constitution. Otherwise, it is guaranteed a form of protection by the State. About this topic, the 31st article says: "(The State) protects motherhood, childhood and youth, promoting the institutions necessary for this purpose". The legislation, inspired by the 31st article, provides for a series of measures for the creation of structures and bodies aimed at promoting policies in support of children and young people, for example in the fields of culture, sport and education. The protection of youth is provided also in the workplace, with the various support for recruitment provided for by law in favour of young people (for whom, some forms of social security relief are often provided). So, the laws that facilitate the employment of young people are due to the Constitution itself, which protects youth the most. On the other hand, the 117th article says that issues relating to young people are governed by concurrent legislation. Therefore, the legislative power about youth policies is attributed both to the central government and to the regions and autonomous provinces; the determination of the fundamental principles is instead reserved to the law of the State. It means, there are fundamental topics like social welfare or protection of motherhood, children and youth, which are under the protection of the government of Italy.

II - Italian legislation (laws and strategies)

2.1. Education

The education system in Italy is organised according to the subsidiary principle and autonomy of schools.

The State has exclusive competence on general issues on education, on minimum standards to be guaranteed throughout the country and on the fundamental principles that Regions should comply within their competences. Regions have exclusive competence on vocational education and training. Schools are autonomous as for didactic, organisation and research and development activities. Education is compulsory for 10 years, from 6 to 16 years of age, and covers the eight-year first cycle of education (5 years of primary school and 3 years of lower secondary school) and the first two years of the second cycle (DM 139/2007). However, all students have the formal right to continue their studies via general or vocational pathways until the age of 18/19, including students with disabilities.

Educational provision is granted for students with disabilities in all phases of education, even after compulsory school. Every child from 0 to 3 years of age is entitled to go to the crèche (day nursery) along with all the other children; these facilities are directly dependent on the local Council, which draws up proper regulations for their functioning, and disabled children have priority for admission lists. Law 104/92 provides for the presence of support teachers in all schools. The number of hours spent with the child by the support teacher is based on the Functional Dynamic Profile and is therefore appropriate to the child's needs.

The teacher is assigned to the whole class and collaborates with other teachers to improve the inclusion of the disabled child, who is part of the class as well and to whom all teachers must relate. Often Assistant/educator for inclusion and communication and the assistant for personal hygiene at school and for afternoon home assistance is provided by the Municipality. Most assistants have university degrees. While the specialised support teacher is co-titular in the classroom and therefore responsible for the whole class, the assistant ad personam is a support measure allocated to the student with disabilities only. Where there is a disabled student, it has been established that there cannot be more than 20 pupils in the first classes of the respective cycles. Free transportation to and from school is provided by the Municipality. Specific didactic material is supplied mainly by the Municipalities and partly by the school administration. As regards university, Law 104/92 provides that disabled students with the legal qualifications may negotiate syllabuses and examination modalities with the professors. According to Act 17/99 every university should have a professor in charge of the reception of disabled students and there must be "tutors" (undergraduate students). The University should guarantee the elimination of architectural barriers and there should be assistants to support the mobility.

It is necessary to submit a document attesting the degree of disability at the time when the child is enrolled; this also has to show a functional diagnosis which singles out the areas of the child's functional potential, as well as verifying the kind of disability and its seriousness. The functional diagnosis is written by the team of doctors of the local public health unit.

The Presidential Decree dated on 19.5.2006 states that the Medical Commission in charge for delivering the certificate of disability must refer to the International Indicators OMS – ICF.

From 2017 (Legislative Decree 66/2017 - ART. 16) Educational institutions, in collaboration with the regional school office, local authorities and local health cooperatives can provide home education to guarantee the right education for students whom it is ascertained that it is impossible to attend school for a period of not less than thirty days of lessons, even if not continuous, a cause of serious certified pathologies, also through projects that can make use of the use of new technologies.

As for the phenomenon of recent migration, it was important to answer to new needs in education, through the law 47 of 2017, educational institutions of all types and levels and the educational institutions accredited by the regions and autonomous provinces of Trento and Bolzano activate measures to facilitate the fulfilment of compulsory education and training for unaccompanied foreign minors, also through the preparation of specific projects that involve, where possible, the use or coordination of cultural mediators, as well as agreements aimed at promoting specific apprenticeship programs. Schools have to follow the "Guidelines for the right to education of minors outside the family of origin", that means: "To guarantee the right to study of this type of pupils, it is necessary to allow enrolment and placement in school at any time of the year, even after the deadline has expired and by submitting the enrolment application directly to the chosen school, without having to use the online registration platform." Everyone has the right to study, it is written in Italian constitution and implemented by different laws and strategies: a Ministerial Circular 2 of 8 January 2010 - about integration of pupils with non-Italian citizenship attributes the responsibility of integration and inclusion to the schools through network of schools, diversified educational offer, quality projects for the schools at risk to attract the native students, strengthening of the extra-curricular activities to facilitate the social inclusion of the new-comers. Inclusion of refugees and also of people with special needs: the "Hosting protocol"/ Protocollo di accoglienza is an operational document which is proposed as a guide information for teachers, school staff and parents, functional to the reception and inclusion of pupils with Special Educational Needs.

Education is an important field, and it is valuable to be part of the 4th mission of the Italian recovery plan. State wants to promote reforms and investments to reduce the structural deficiencies of the Italian education system. It includes kindergartens, childcare services, increasing basic skills, tackling early school leaving and educational poverty, active guidance in the school-university transition, extension of full time and canteens and the strengthening of sports infrastructures at school, scholarships for university access, student accommodation and extension of the number of research doctorates.

2.2. Social welfare

In 1992 the Italian Parliament approved the Disabled Persons Bill (L.104/92), it represent the main frame for all disability issues: it guarantees people with disabilities and their families the ownership of specific rights; it provides assistance; it states the full integration and the adoption of prevention measures and functional recovery; it ensures social, economic and legal protection, creating the premises and conditions for full affirmation of civil rights and participation

in the social life (family, school, work, leisure time) of disabled people. It states the principle of inclusion - in any public service and in any funding - as a right of people with disabilities. It contains dispositions about:

- ◆ interventions for prevention and early diagnosis;
- ◆ care and rehabilitation;
- ◆ services for social integration;
- ◆ labour inclusion;
- ◆ personal support provided by the local authorities;
- ◆ daily centres and rehabilitation centres;
- ◆ adapting Public and Private buildings and equipment enabling the removal of any barriers (architectural and sensorial);
- ◆ transport: Local Authorities are required to provide free transport for people with disabilities - in particular, Local Boards have to provide the daily transport of people with disabilities to schools and education and health centres and sport and leisure time centres during the day (according to their budget);
- ◆ work permits for carers to assist their relatives with disability;
- ◆ education and school life.

Work placement and economic autonomy are absolutely very important factors for social integration of people with disabilities. The Italian law has had a significant development in that field, in fact the 68/99 Act "Norme per il diritto al lavoro dei disabili" (law for right of working disable people), promotes work placement and work integration of disabled people by supporting services and aimed employment. The principle of aimed employment foresees that the placement of the disabled person respects the working capacities of the workers without penalising the expectations of the employing company. In other words, the company has to charge the disable person with a necessary job and at the same time suitable for his capacities and adapted to his needs (through support aids if necessary) in order that the engagement will result fruitful for each other. The accommodation of disabled persons in a job is decided by a medical commission of the local ASP (Provincial Sanitary Agency).

This commission has the following tasks: to formulate a functional diagnosis in order to determine the whole ability of disabled persons i.e. to specify the grade and quality of his/her impairments and the type of this; to propose the lines to facilitate his/her accommodation in a job. The commission will precisè the position of disabled persons inside his/her environment, attitudes, family relations, taking into account the school's degree and the work already effected in order to create a detailed schedule of the work potential of the person with disability. The system for the aimed working placement is focused on people in working age with physical, psychic, sensorial, intellectual and relational disabilities, furthermore to the people with civil disability, up of 45%, working disability up of 33%, total blindness o with blindness a residual of no more than one tenth in both eyes with a correction, deafness at birth or before the speaking learning, war disability, civil disability of war and disability for service. Compulsory employment quota system.

Based on the size of the workforce, both private and public sector employers are required to hire a certain percentage of disabled workers:

- ◆ Employers with more than 50 employees must meet a 7% disability employment quota;
- ◆ At least two disabled workers must be hired in workplaces with 36 to 50 employees;
- ◆ Workplaces of 15 to 35 employees must hire at least one disabled worker if they operate a new intake.

The 68/99 Act foresees an incentive for the enterprises which conform their behaviour to the law: exempting the companies from social security taxes up to 100% and up to eight years proportionally to the disability of the workers to be employed; partially reimbursing the expenses for the adaptation of the work environment; financing activities aimed to support work placement of invalids. Law 68/99 established the creation of lists for employment.

On 10 October 2002 the President of the Italian Republic promulgated a Regulation n. 333 to implement the law 1999, which contains a further specification of people having the right to be enclosed into the special lists for the compulsory assumption, the duty to reserved parts, the exceptions to such duties and the suspension from them, the way to enrol people. The principle indicated in that act regards the so-called nominative assumptions that means that the public and private employers have the possibility to choose inside of the lists the Disabled Person who has more ability to effect a certain work and to call this person. Italian legislation pays special attention to the cooperative enterprises which are divided in two categories in conformity with art. 1 of Law 8 November 1991 n. 381: category A - finalised to the management of social-sanitary and educational services; category B - with the aim to give job opportunities to disabled persons.

Most type B social cooperatives have been established to provide temporary employment for disabled people and subsequently ensure they are hired by standard companies. However, although the main objective of such cooperatives is to find outside work for disabled people, they may also employ them permanently within their own co-operative or find jobs in other cooperatives when workers are unable to find other employment.

Another important law in the field of inclusion is the Law 180/78, the reform of the psychiatric system in Italy: it contained directives for the closing down of all psychiatric hospitals and led to their gradual replacement with a whole range of community-based service. This law is a revolutionary measure regarding mental health and it that all health treatments are voluntary (except in a few cases). After this law, all the asylums were closed, and the concept of mental rehabilitation was revised: no more restraints and the promotion of inclusion and integration of people with mental health problems in society. It gave dignity to psychiatric patients removing barriers and bad terminology regarding mental health and protection for people with mental health issues.

About the provision of social services, in general there is the trend to decentralise

it, at first through the Law 381/91 which recognized and defined the role of social co-operatives, non-profit organisations to deliver social services, by agreement with municipalities, able to produce wider benefits for the local community and its citizens, especially if these citizens are disadvantaged. This process had its maximum expression with Law 328/00, that aims to refine "Integrated system of interventions and social services"; it is a welfare reform to develop "local welfare" and an integrated system of social services introducing the use of Local Social Plans, based on the principles of subsidiarity, co-operation and services integration, and the individual project of life that families can request and agree with Municipalities in order to realise a full integration "within the family and social life".

Non-discrimination in speech, acts and work is ensured by the law n. 205/93, which sanctions and condemns phrases, gestures, actions and slogans with the purpose of inciting hatred, incitement to violence, discrimination and violence on racial, ethnic, religious or national grounds, and by the legislative decrees 215 and 216 - 2003, introduced according to European directives of 2000 - the States develops and implements new possibilities about the equal treatment of races, religions, disabilities and sexual orientation and the European objectives of promotion of gender equality from the point of view of economic independence, remuneration for equal work performed and participation in decisions. Legislative Decree 215/2003 is thus applicable to discrimination on the grounds of race and ethnic origin in all the fields mentioned in Directive 2000/43/EC, while Decree 216/2003 applies within the field of employment to discrimination based on religion and belief, sexual orientation, disability and age.

Equality means equality in any field, for these reason in 2006 the Law 76 ruled LGBT civil marriage in Italy and the rights for homosexual people connected to marriage.

As regards the topic of gender equality in our country is not governed by the State but in our Recovery Plan (1st Mission), it is suggested as a strategy for the years 2021-2026, to encourage female participation in the labour market, directly or indirectly, and to correct the asymmetries that hinder equal opportunities from school age. It aims to promote equality, although there are no specifically gender-specific measures. Among other things, the mission provides for the adoption of new recruitment mechanisms and the revision of those to identify managers, in order to neutralize discrimination and bring out merit in a path that often penalizes women. The measures dedicated to agile work and connectivity are designed to encourage a better balance between professional and private life, for the benefit of those (much more often women) who are forced to choose between work and family. From a technical and technological point of view, the allocations provided for the ultra-broadband are designed to support entrepreneurship, including those run by women. In the 4th Mission of Recovery Plan there is the promise to increase in employment and inclusion prospects with respect to marginal situations: through the strengthening of Employment Centres, the creation of women's businesses, the universal civil service for young people between 18 and 28 and the so-called "dual system" which, in line with what we saw in mission 4, sets itself the task of linking training and the labour market using an on-the-job learning approach.

2.3 Youth work

At a national level a framework law on young people hasn't been approved yet, among the 20 Italian regions, 16 have their own legislation on youth policies.

Nevertheless, Italy has its own National Youth Strategy: each year the national government establishes the priorities of policies for young people, after consultation with the Regions and other competent local authorities. The Department for Youth Policy and Universal Civil Service (DPGSCU) manages the Annual Fund for Youth Policy, which aims to promote the rights of young people and support the annual strategy, through calls for proposals by youth organisations and civil society organisations. From 2006 the fund for youth policy is being funding initiatives to promote:

- ◆ **Non formal and informal education***
- ◆ **Young people access to the job market**, including the creation of start-ups and youth entrepreneurship
- ◆ **Social inclusion** and specific measures to reach the disadvantaged groups of young people
- ◆ **Youth participation** and rights
- ◆ Cultural activities, talent development
- ◆ **Prevention and contrast of addictions**
- ◆ Volunteering and access to European programmes and projects

*In bold are the national political priorities for the field of youth.

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The above analysis underlines how the Italian constitution states the formal equality of all the citizens and the duty of the government to remove obstacles in self-realisation of its citizens, as well as it provides Education for everyone, without any discrimination. In both the fields of social welfare and education the measures for the inclusion of people with disabilities are the ones more structured and detailed, able to provide a comprehensive framework of measures and rights both to the beneficiaries of the laws and to the service providers. That, in spite of the fact that the laws related to the inclusion of people with disability are very old (the one about the inclusion of people with disabilities in the labour market has been approved in 1968, the one about the inclusion of people with disability is from 1992); if these laws were futuristic in the years they have been drafted, they really need to be revised now, most of all about the definition of disability they are based on, as a physical, psychological, sensory impairment. As regards the measures addressing non-discrimination, they appear fragmented and too general in terms of concrete application: for example, the legislative decrees 215 and 216 - 2003 refer to the duty for the employer to provide a "reasonable accommodation" but they do not give a definition of reasonable accommodation nor any sort of guidance to employers on how to respect this duty, but simply compels employers to make provision for reasonable accommodation. This together with the lack of provision of funds to be allocated to the cause of fostering non-discrimination, makes the application of the law's provisions harder to be realised.

However, the field of education is the one more exhaustively covered and protected by the Italian legislation and protocols with specific measures both for the inclusion of pupils with disability and foreigner students and with concrete measures to ensure education for all.

The field of youth work is not even covered in the national framework of laws and the youth policies are regulated by regional laws but only in the 80% of the regions. The national strategy for youth together with a national programme of paid traineeship (Garanzia Giovani) and some tax relief for those who employ under 35 with a permanent contract are the main elements of the national provisions for young people in Italy. It seems that Diversity revolution in Italy still needs to define its strategy.