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by

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ABOUT THE AUTHORS OF THIS REPORT

The *International Human Rights and Strategic Litigation Clinic of the University of Turin* provides students with the opportunity to actively participate in legal proceedings before jurisdictional or quasi-jurisdictional bodies, both at the European and international levels. More specifically, the Clinic engages in litigation strategies before the European Court of Human Rights (ECtHR) and the European Court of Justice (ECJ), and it contributes to monitoring the human rights situation through the available UN mechanisms.

The *Associazione Luca Coscioni per la libertà di ricerca scientifica APS (ALC)* was founded in 2002 by Dr. Luca Coscioni, an Italian Professor of Economics suffering from amyotrophic lateral sclerosis, who advocated for greater freedom of scientific research in Italy, in particular on embryonic stem cells. The ALC promotes the protection of fundamental human rights and freedoms, particularly those at the intersection of scientific progress and healthcare.

It collaborates with legal experts, researchers, and scientists to develop policy proposals aimed at improving compliance between the Italian and the international human rights framework. It advocates for evidence-based debates and decisions and promotes the effective participation of civil society in the public decision-making process. Since 2016, it has contributed to monitoring the human rights situation in Italy and abroad through the submission of statements and reports to the available UN mechanisms.

Science for Democracy (SfD), established in 2018, is an international non-governmental organization advocating for the human right to benefit from progress in science and its applications (right to science). SfD engages with global bodies, like the UN Committee for Economic, Social and Cultural Rights, and African and European institutions to promote the implementation of the right to science and its integration into national and regional policy frameworks.

INTRODUCTION

The International Covenant on Economic, Social, and Cultural Rights (ICESCR) mandates that State Parties respect, protect, and fulfill, among others, the right to health (Article 12) and the right to benefit from progress in science and its applications (right to science) (Article 15.1.b). The Committee on Economic, Social, and Cultural Rights (CESCR), with General Comments 14, 22, and 25, has clarified the content of these rights describing what obligations they entail.

This report has been prepared to assist the Human Rights Council during Italy's fourth UPR cycle (2024). It analyzes the progress (or, at times, lack thereof) Italy has made since the end of the third UPR cycle (March 2020) on several human rights issues relating to certain modern scientific developments (i.e. Assisted Reproductive Technologies and research on human embryonic stem cells; surrogacy; abortion and contraception; informed consent and advance health directives; assisted suicide and euthanasia; CRISPR/Cas-9, new plant breeding techniques and GMOs; cultivated meat) and human rights issues relating to access to health services, goods, and facilities (i.e. mental health; rights of persons with disabilities; medical research on controlled narcotic and psychotropic substances; and gender equality in the workplace in general and in science in particular).

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I. HUMAN RIGHTS AND SELECTED CONTEMPORARY SCIENTIFIC ADVANCEMENTS

1) Assisted Reproductive Technologies (ARTs) and research on human embryonic stem cells

In Italy, assisted reproduction is regulated by Law 40/2004, a statute that is not aligned with Italy's international human rights obligations[i]. Although the Italian Constitutional Court has, over the years, declared several articles of that law unconstitutional, and international human rights bodies have urged Italy to amend it, Italy has not done so. We believe there are several reasons why Law 40/2004 is incompatible with Italy's obligations under articles 12 and 15.1.b of the ICESCR.

First: Art. 5 of Law 40/2004 limits access to ARTs to heterosexual adult couples that are either married or cohabiting and are of potentially fertile age. Therefore, it excludes certain categories of adults, such as homosexual couples and persons not in a relationship, from access to ARTs. According to CESCR General Comment 25, "[s]cientific progress and its applications should be accessible for all persons, without discrimination", with special attention being paid to "groups that have experienced systemic discrimination", such as women, especially single women, and members of the LGBTQIA+ community[ii]. Since there is no legitimate and/or scientific or medical reason for excluding these groups from accessing the most advanced and available reproductive technologies, arguably Art. 5 of Law 40/2004 violates the standards set out in Art 15.1.b of the ICESCR, as interpreted by General Comment 25.

Second: Art. 6 of Law 40/2004 does not explicitly allow women to withdraw their consent to have embryos transferred in the uterus after fertilization. There have been situations

in Italy, in which, women have been compelled to accept the transfer of embryos in utero, even when they no longer wished to proceed. As the CESCR found in *S.C. and G.P. v. Italy*, the prohibition of withdrawing a patient's consent to transfer fertilized embryos violates Art. 12 ICESCR[iii]. Although in 2017 the Committee recommended Italy to "(a) Adopt appropriate legislative and/or administrative measures to guarantee the right of all women to make free decisions regarding medical interventions affecting their bodies, in particular ensuring their right to withdraw their consent to the transfer of embryos into their uterus", to date (July 2024) this has not happened. Italy further entrenched itself in its illegitimate position when the Italian Constitutional Court confirmed with Judgement No. 161/23 that the irrevocability of consent does not violate the Constitution[iv].

Third: Art. 13 of Law 40/2004 prohibits scientific research on embryos unless aimed at improving the therapeutic or medical condition of the embryo itself. As research on human embryonic stem cells is beginning to prove to be crucial for the treatment of life-threatening degenerative diseases, such a prohibition cannot be reconciled with the right to science (Art. 15 ICESCR) and the right to health (Art. 12 ICESCR), including for disease prevention, treatment, and control. Article 4 of the ICESCR allows State parties to subject rights described in the Covenant "only to limitations as are determined by law, only in so far as this may be compatible with the nature of these rights and solely to promote the general welfare in a democratic society". The prohibition of scientific research on embryos cannot be reconciled with the nature of the rights to science and health and does not meet the criteria of necessity and proportionality. Rather, it is an arbitrary measure, lacking scientific basis, that hinders the fight against severe diseases, affecting individuals and society.

2) Maternal surrogacy

Art. 12.6 of Law 40/2004 prohibits maternal surrogacy and carries a penalty of detention from three months to two years, and a fine from six hundred thousand to a million euros, for those performing it. Art. 12.7 also punishes the medical professionals who assist in the process of maternal surrogacy by suspending their medical license for one to three years. According to judgments No. 32/2021 and 33/2021 of the Italian Constitutional Court, the ban on maternal surrogacy is purportedly justified by the need to safeguard women's dignity and shield vulnerable women from exploitation.

Because of the ban, Italians who want to achieve parenthood through surrogacy have been doing so abroad since the enactment of Law 40/2004, with considerable legal challenges. During the first years, Italian heterosexual couples could obtain a birth certificate in the country where the child was born and then have it transcribed into Italian civil records. In 2012, Italy started prosecuting parents who resorted to surrogacy, charging them with the felony of falsifying civil records, which carried a maximum 15-year penalty.

Although prosecution of heterosexual couples who resorted to surrogacy abroad stopped around 2015-2016, prosecutors started seeking the annulment of the transcription of birth certificates of children born out of surrogacy from two fathers. In December 2022, the Italian Court of Cassation prohibited the automatic transcription of birth certificates of children of two fathers because it was considered contrary to public order.[v]

As the European Court of Human Rights declared in *Mennesson and Labassee v. France,* the lack of any legal recognition of the *status filiationis* of children born out of surrogacy is an excessive and disproportionate interference with the enjoyment of the rights protected under the European Convention on Human Rights[vi]. Indeed, "respect for private life requires that everyone should be able to establish details of their identity as individual human beings, which includes the legal parent-child relationship".[vii]

The new total ban on maternal surrogacy should be replaced with less draconian legislation, one that can prevent the exploitation of vulnerable women and, at the same time, ensure that children born out of surrogacy abroad enjoy adequate safeguards once back in Italy. On 24 April 2024, the European Parliament adopted an amendment to Directive 2011/36/EU[viii] that broadens the scope of current measures aimed at combating and preventing human trafficking and providing more robust support for victims. In addition to labor and sexual exploitation, the new legislation criminalizes the exploitation of surrogacy at the European level. More specifically, as regards trafficking for the exploitation of surrogacy, the EU Directive targets those "who coerce or deceive women into acting as surrogate mothers". This means that within the European Union what is necessary is the prosecution of the exploitative conduct of surrogacy and not every form of surrogacy. This intervention by European institutions clarifies that it is possible to criminalize surrogacy only when it involves abuse and exploitation.

In violation of this Directive, Italy is in the process of introducing what is called a "universal crime" of surrogacy which aims to prosecute all forms of surrogacy, even those that occur in countries where it is regulated[ix].

3) Abortion and contraception

In Italy, under Law 194/1978, abortion is legal within the first 90 days of pregnancy (Art. 6).[x] After 90 days, abortion is permitted only upon a doctor's certification of a serious threat to the woman's psychophysical well-being (Art. 7). In general, health professionals can refuse to perform an abortion (claiming conscientious objection) unless the woman's life is in imminent danger (Art. 9).

Although all authorized medical facilities are required to ensure that termination of pregnancies is fully carried out whenever the criteria set in Art. 6 and 7 of Law 194/1978 are met, in practice, actual access to abortion in Italy is often hindered. The primary obstacle is the above-mentioned conscientious objection clause and the lack of transparent data regarding the percentage of objectors in each hospital and/or authorized healthcare facility. According to the "Map Objection 100"[xi], in 72 hospitals the percentage of conscientious objectors exceeds 80%. It reaches 100% in 22 hospitals and 4 specialized clinics.[xii] All in all, in Italy access to abortion is uneven across the national territory, and those do not include adequate information on pharmaceutical abortion, which is in contrast with Art. 15.1.b and 12 of the ICESCR, particularly concerning the availability and accessibility of updated, reliable, and disaggregated information on sexual and reproductive healthcare services.[xiii]

Access to therapeutic abortion is also a challenge. Indeed, although the revised guidelines on voluntary interruption of pregnancy, adopted by the Ministry of Health in 2020[xiv], authorize therapeutic abortion within the first 63 days of pregnancy and in the day-hospital regime, regions such as Abruzzo, Basilicata, Campania, Lombardy, Marche, Piedmont, Puglia, Sicily, Tuscany, Umbria, Veneto have still to implement them.[xv]

4) Informed consent and advance health directives

Law 219/2017 in Italy regulates Advanced Health Directives (DAT), the so-called "living will". Advanced Health Directives make it possible for patients who have become unable to communicate to leave instructions for their care.[xvi] Unfortunately, knowledge of the possibility of issuing Advanced Health Directives and how to do that remains very limited, despite the Ministry of Health issuing operational instructions to municipalities in 2022. Italy has spent 2.4 million euros for the creation of a national electronic database of DATs (Fascicolo

Sanitario Elettronico - FSE). However, the quantity of DATs in the national database remains considerably limited, only 0.4% of Italians have their DATs on file.[xvii]

Arguably, this situation is a violation of the right to health (Art. 12 ICESCR). According to paragraph 12 of General Comment 14, "health facilities, goods, and services have to be accessible to everyone without discrimination, within the jurisdiction of the State party."[xviii]

The lack of clear instructions about DATs and the difficulties related to their use critically undermines the principle of accessibility. This mainly restricts individuals' faculty from making informed decisions, especially in situations where they are not able to properly communicate their wishes.

Also, according to paragraph 35 of General Comment 14, medical professionals should meet appropriate standards of education and skill levels.[xix]

Italy could and should do more to train healthcare personnel, as well as public officers, regarding DATs. Most of them solely rely on the FSE to check whether a patient has submitted their DAT, but more needs to be done to train them to encourage patients to leave DATs and how to do so. Simultaneously, raising public awareness about Law 219/2017 through targeted ou-reach campaigns and education will ensure a better understanding of health-related rights and responsibilities.

5) Assisted suicide

In 2019, the Italian Constitutional Court recognized the right of fully capable individuals to seek assisted suicide if they suffer from an irreversible disease resulting in intolerable physical or psychological suffering and if they are kept alive with the help of life-sustaining treatments.[xx] Although the Court partially reduced the scope of the absolute prohibition of assisted suicide established in Art. 580 of the Italian Penal Code of 1930, the decision left intact the prohibition for those patients who do not meet those four specific criteria. Dependence on life-sustaining treatments is the most controversial criterion. A restrictive interpretation of this requirement has already caused many patients to endure prolonged suffering, due to the interruption of therapies or because they were forced to undergo health treatment against their will.

A case concerning the interpretation of "life-sustaining treatment" is currently pending before the Constitutional Court and a decision may arrive after the filing of this document (15 July 2024).[xxi] In the meantime, the Italian Parliament has before it several legislative proposals

that could worsen the current framework. A legislative proposal currently under consideration provides that the eligibility for assisted suicide would be limited to persons possessing physical autonomy, automatically excluding individuals lacking any mobility.[xxii] Moreover, individuals suffering from irreversible diseases such as cancer, and who do not need respiratory support, nourishment, or hydration, could pursue medically assisted suicide only after they became dependent on such treatments.

The inconsistency of the Italian legal framework regulating assisted suicide with Art. 12 and 15 of the ICESCR is apparent. Indeed, when States either fail to adopt positive measures or interfere with individuals' access to healthcare services and the benefits of advancements in science, leading to unnecessary suffering, they do infringe upon the rights to health and science. It could be argued that they also violate the prohibition of cruel, inhuman, and degrading treatment imposed by Art. 7 of the ICCPR. Italy must regulate end-of-life care in compliance with its international human rights obligations, especially Art. 12 and 15 of the ICESCR, ensuring that no unnecessary pain is imposed on fully capable individuals suffering from diseases that cause intolerable physical or psychological suffering.

6) CRISPR/Cas-9, new plant breeding techniques and GMOs

The EU generally, and Italy specifically, does not have the legal infrastructure necessary to ensure that citizens can benefit from scientific advancement yielded by the genome editing technology also known as CRISPR/Cas-9, which won the Nobel Prize for chemistry in 2020. The European Commission's latest proposal for regulating New Genomic Techniques (NGTs) was published on 5 July 2023. It distinguishes between two categories of genetically modified plants: 1 NGT are modified plants whose modification could have also occurred naturally. 2 NGT plants are all other genetically modified plants. The former are exempted from the restrictions on products produced through CRISPR gene editing, codified under other GMO legislation, such as Directive 2001/18/EC, but remain prohibited from use in organic agriculture. The latter are prohibited. The prohibition prevents crucial applications of the CRISPR technology, such as creating disease-resistant crops at a faster rate.

The distinction applied by the EU Commission's proposal, and therefore its incorporation into the Italian legal system, is arbitrary as it lacks scientific evidence to support it. There is no scientific reason to subject 1 NGT plants to restrictions since they are indistinguishable from plants obtained through traditional breeding methods, which are not

restricted. Therefore, in its current form, the draft does not reflect the government's obligation to align policies with the best available, generally accepted scientific evidence, as provided for under paragraph 25 of CESCR's General Comment 25.[xxiii] The Commission's proposal rests on the argument that the limits it applies are consistent with Art. 35 of the EU Charter of Fundamental Rights and the precautionary principle. However, the scientific literature cited in the Commission's proposal indicates a preference for the liberalization of NGTs and does not indicate concerns of an actual risk to human or environmental health.[xxiv]

There is ample evidence that CRISPR/Cas-9 technology has enormous potential. For example, one notable claim from the scientific community states that "CRISPR Cas-9 raises the possibility [...] to promote global food security and poverty eradication".[xxv] The Italian government has granted temporary authorization to conduct CRISPR research on a dozen plant species, which would fall under the 1 NGT category, until the end of 2024, a deadline recently extended for another 12 months. Italian researchers welcomed that as a step in the right direction. Unfortunately, the first experiment in an "open field" of a specific type of genetically edited rise planted by the University of Milan on private soil was destroyed on 20 June 2024.

7) Cultivated meat

On 1 December 2023, the Italian Parliament passed Law 172/2023 banning the production, import and sale of cultivated meat. Cultivated meat is developed from animal cell culture, which does not require animals to be raised, fed, and slaughtered. On 29 January 2024, the European Commission notified Italy that Law 172/2023 had been adopted in contravention of Article 6 of Directive (EU) 2015/1535, and, therefore, was inapplicable. However, Italian authorities are adamant that Law 172/2023 remains enforceable unless the Commission proceeds with an infringement procedure, although the jurisprudence of the European Court of Justice to the contrary. Art. 1 of Law 172/2023 frames the ban as necessary to protect human health and indicates Art. 7 of EU regulation 178/2002 as its legal basis. Art. 7 of EU regulation 178/2002 establishes criteria for the application of the precautionary principle to guarantee consistent food health standards across the EU. Italy claims that it is applying the principle lawfully. However, the requirement of "*the possibility of harmful effects on health is identified but scientific uncertainty persists*"[xxvi] has not been met, as no proof of possible harmful effects has been provided.

While for the time being Italy and the EU remain in disagreement, Italy's application of the precautionary principle is a disproportionate limitation of the rights contained in ICESCR, a requirement found both under Art. 7 of Regulation 178/2002[xxvii] and paragraph 29 of General Comment 14.[xxviii] A reasonable application of the precautionary principle requires striking a balance between the right to health and other applicable rights. In the case of cultivated meat, by applying the precautionary principle disproportionately and without scientific basis, Italian Law 172/2023 violates the right to science because first it denies the right to benefit from scientific progress and, second, it uses a ban, the strongest instrument available, to interfere with the development and diffusion of applied scientific progress without justifying. In the EU, an example of a proportionate application of the precautionary principle can be found in the Netherlands, where limited and controlled tasting of cultivated meat products is allowed.

II. ACCESS TO HEALTH SERVICES, GOODS, AND FACILITIES

1) Mental health

In Italy, the national health system provides access to mental health services, goods, and facilities. However, private options are also available. Between 2015 and 2018, spending on Mental Health corresponded to 3.5% - 3.6% of the National Health Fund (FSN). Data from 2019 showed a decrease to 2.98%, with a significant reduction in the Regions and Autonomous Provinces that had previously ensured a greater commitment.[xxix] Data from the 2024 ISPI's (Italian Society of Psychiatric Epidemiology)[xxx] report highlights that Italy's spending on psychiatric care as a percentage of the National Health Fund is the lowest among G7 countries; Italy reserves only 5% of its overall health budget to mental investments, while the other high-income countries set reference thresholds equal or over 10%.[xxxi]

The same report underlines how the official data from the Italian Ministry of Health found an annual prevalence of treated users to be 1.5% while incidence (new cases) to be 0.5%. These figures are well below the Global Burden of Disease's analysis estimate of a 15% prevalence of mental health disorders and suggest that the capacity of the service provision in Italy is not sufficient to identify and provide care for the population in need.[xxxii]

On the territory, there are 2.2 community mental health services for every 100.000 inhabitants. However, the information on accessibility, quality, and regulations of the structures is lacking or inaccessible. The continuity of care from hospital to community (patients receiving a

psychiatric visit within 14 days of discharge) is largely unsatisfactory, covering only 25% of cases – approximately 70.000 discharged psychiatric patients do not receive specialized follow–up care within two weeks. The close relationship between community and hospital services ensures the unity of individual therapeutic rehabilitation projects and manages "revolving door" phenomena and other critical episodes, particularly the risk to the community during the 72 hours post-discharge.

Inpatient services are also lacking resources and regulated practice. The number of hospital beds for acute psychiatric admissions is among the lowest in the world, below the national trend parameter: 9.3 vs. 10 per 100,000 inhabitants, which was drastically affected by the emergency measures undertaken during the COVID-19 pandemic.

Italy has registered one of the lowest numbers of compulsory health treatment (TSO -mandated by Mayors who are the institutional figure responsible for such enforcement) globally, possibly underestimated due to inconsistent data collection methods. This inconsistency is significant, considering the TSO rate is the only mental health indicator in the National Outcomes Plan. Other forms of indirect compulsory admission, such as those ordered by judicial authorities, are not accounted for. Even a Support Administrator with exclusive healthcare representation can authorize admissions, potentially contradicting the patient's wishes. This practice conflicts with the UN Convention on the Rights of Persons with Disabilities and Italian law n. 219/2017 that guarantees patients the right to express their will and have their remaining capacities valued.

The number of residential facility beds exceeds the national trend parameters by more than double. As highlighted in a recent Superior Health Council document, available data have significant methodological weaknesses, preventing a disaggregated assessment of public and private residential facilities. Issues of reliability and validity arise, particularly in differentiating intensive and extensive residential facilities. For many regions, data on users in these facilities are missing, reflecting either regional service organizational peculiarities or diverse coding methods. Additionally, it is almost impossible to evaluate supported living arrangements within the social-health integration framework. There is also no disaggregated information on staff in these facilities, which is critical for rehabilitation purposes. The average length of stay in residential facilities far exceeds guidelines, contributing to "re-institutionalization" or "trans-institutionalization," where these facilities become permanent homes, limiting the possibility of returning to independent living. This inertia may result from challenges in achieving autonomy, effective residential treatments, the need for extended time for severely mentally ill

individuals to integrate into more autonomous settings, inadequate staff assessment of patient autonomy, and insufficient implementation of personalized, evidence-based, recovery-oriented practices.[xxxiii]

Significant inter-regional differences in both structural and functional aspects of care are evident in all analyses. Addressing the varying levels of health rights depending on residence is a major priority for advancing differentiated autonomy.

The overall staffing levels, although slightly improved from the previous year, with 60.4 professionals per 100,000 inhabitants, fall short by over 25% compared to national planning targets (83 professionals per 100,000 inhabitants). This shortfall is exacerbated by the need for staff in residential activities and specialized supra-regional networks, such as REMS or eating disorder units, as well as in providing psychiatric care in prisons. These standards, defined by Agendas and agreed upon in the State-Regions Conference (21.12.22), were signed by the Ministry of Health (9.1.23) and the Ministry of the Economy and Finance (22.1.23).

A particularly worrying situation is the one that affects the national prison system where access to mental health services is patchy and understaffed. This may also be one of the reasons why Italy has registered 56 suicides among inmates and six among prison guards[xxxiv].

2) Rights of persons with disabilities

Art. 2.2 of the ICESCR requires States parties to guarantee that the rights enunciated in the Covenant "will be exercised without discrimination of any kind", including on the grounds of disability. However, **i**n Italy, persons with disabilities are repeatedly denied access to the benefits of scientific progress and its applications. For instance, Italian legislation does not allow for participation in political or administrative elections of individuals with disabilities who cannot sign in person. The digital signature is allowed to support so-called popular bills and national referenda but it carries the cost of some 2 euros per signature charged by private service providers as a national system to allow the online signing of proposals has not been launched despite legislation adopted in 2020 to address the observations adopted by the Human Rights Committee in 2019 in the case *Staderini - De Lucia vs. Italy*[xxxv]; furthermore, that legislation does not include the possibility, for anybody, to use their System for the digital identity (SPID, in existence since 2014) to sign for electoral lists. A case on the matter will be brought before the Constitutional Court by the end of the year.

In many municipalities, the implementation of the "Plans for the Elimination of Architectural Barriers (PEBA)" has not adequately addressed accessibility concerns, restricting the freedom of movement of persons with disabilities[xxxvi]. Moreover, the current "Tariff Nomenclature for Aids and Prostheses", issued by the Ministry of Health and aimed at regulating the provision of prosthetic devices and aids by the National Health Service does not ensure that the needs of persons with disabilities are adequately met in all circumstances.

On 26 August 2022, the Committee on the Rights of Persons with Disability (CRPD) found Italy in violation of the right to respect for the home and the family, to live independently, and to ensure an adequate living standard for all persons with disability and their caregivers.[xxxvii] In its views, the Committee recommended Italy to amend domestic legislation for social protection programs to meet the needs of persons with disabilities equally[xxxviii]; inform persons with disabilities about their right to independent living and provide them with empowerment training for rights enforcement[xxxix]; and implement safeguards for autonomous living, reallocating resources to community-based services, and increasing budgetary support[xl]. Italy has not yet taken the necessary steps to that effect.

3) Medical research on controlled narcotic and psychotropic substances

Law 309/90 is the main legal framework on drugs.[xli] Despite it being amended a few times over the past 34 years, it still falls short of providing an effective framework to address the challenges of drug use. Law 309/90 has resulted in an overwhelming number of people involved in criminal proceedings for drug-related charges under Articles 73 and 74. According to the Italian National Anti-Drug Agency (DCSA) over 30,000 individuals were arrested for drug offenses, a substantial portion under Articles 73 and 74 in the year 2020[xlii]. All in all, an average of 30% of inmates in Italy are incarcerated for drug-related crimes making Italian penitentiary facilities severely overpopulated, a situation for which the European Court of Human Rights has found Italy in violation of the European Convention on Human Rights.[xliii]

The existing legal framework is inadequate, inefficient, and ultimately harmful, as it prevents individuals from fully enjoying the right to health. In fact, many of those convicted of drug-related crimes are also suffering from addiction. In detention, they are often denied the necessary medical assistance *i.e.* harm reduction services. Without timely and appropriate treatment, they remain problematic cases while in custody and are likely to face similar issues upon their release. This vicious cycle of incarceration is not only ineffective, but it is also

evidence of the fact that current policies do not prioritize risk or harm reduction. Another example that highlights the inadequacy of Law 309/90 is the peculiar situation faced by Italian pharmacies. Under Law 309/90, and thanks to specific legislation adopted in 2006[xliv], any doctor is legally permitted to prescribe cannabis derivatives for medical use, after exhausting all other "traditional" options. However, despite cannabis derivatives for therapeutic purposes being legal, pharmacies are prohibited from advertising them, which can result in severe sanctions. On 6 July 2024, disregarding a suspension issued by the Administrative Regional Tribunal of the Lazio Region that had fixed a hearing for 16 September 2024, the Minister of Health signed a decree that will schedule together with other controlled drugs, products containing cannabidiol, CBD and used orally. CBD is not present in any schedule of the 1961 and 1971 UN Conventions on drugs, the World Health Organization[xlv] considers it a molecule usable for several conditions[xlvi] and it is in the process of being included in the "novel food" catalog by the European Commission.[xlvii]

All in all, in Italy there is a significant lack of awareness and persistent prejudice on this topic, both among the public and decision-makers. The legal framework regulating drugs is overdue for an update, ideally, one based on contemporary scientific knowledge.

The current legislation complicates the import of controlled substances for medical and scientific use, on the one hand, continues to impose a stigma on the other creates unnecessary bureaucratic hurdles for individuals, universities, and research institutes that wish to study them for their medical potential, creating a problem for the quality of research in Italy that is lagging behind other countries in the subject despite having first-class scientific universities[xlviii].

4) Gender equality in the workplace in general and science in particular.

According to General Comment 25, unequal access for men and women to scientific education and careers is a form of double discrimination.[xlix] First, women face unique challenges in reconciling family responsibilities with their professional pursuits. For years, women have earned less overtime pay on average compared to men because they often opt for part-time roles due to their family caregiving responsibilities. Second, despite general progress in women's equality and empowerment in scientific-technological careers, the overall employment share of women has been worsening over time.[l] In Italy, according to the 2022 Gender Report of the Italian Ministry of Economy and Finance, the female employment rate is 51.1%, 18.2% less than men. Because tax incentives are mainly aimed at encouraging women's

integration into the workforce, 23% of the female hires result in mere apprenticeship contracts. Moreover, gender disparities persist in skills development, with only 18.2% of women graduating in Science, Technology, Engineering and Mathematics (STEM) subjects. Male students in STEM degrees outnumber female students by a difference of 127,000.

Despite their educational qualifications (women were 47.2% of the PhD recipients in 2021), women's access to higher working positions is still unacceptably low. In 2022, out of the 99 Rectors of Italian Universities, only twelve (12.1%) were women.[li] Similarly, despite an increase in the number of full female professors from 20.9% in 2012 to 27% in 2022, males continue to dominate academia, being 73% of full professors in 2022.[lii]

According to General Comment 25, States should "adopt policies for both men and women to balance domestic life with scientific careers", to "eliminate barriers that affect girls' and women's access to quality scientific education and careers".[liii] Temporary special measures could be introduced to address these disparities such as parental leave and the availability of kindergartens.

END NOTES

[i] Italy. Law on Medically Assisted Reproduction. Law No.40. February 19, 2004.

[ii] United Nations Committee on Economic, Social and Cultural Rights, General Comment No.25 (2020) on science and economic, social and cultural rights (article 15 (1) (b), (2), (3) and (4) of the International Covenant on Economic, Social and Cultural Rights), 30 April 2020, E/C.12/GC/25 (§17 and §28).

[iii] SC and GP v Italy, E/C.12/65/D/22/2017, United Nations Committee on Economic, Social and Cultural Rights.

[iv] Italy. Constitutional Court. Judgment No.161/23. June 15, 2023, available at https://www.cortecostituzionale.it/documenti/download/doc/recent_judgments/Sentenza%20n.%2016 1%20del%202023%20red.%20Antonini%20EN.pdf.

[v] Italy. Court of Cassation. Judgment No. 38162/2022. December 2022, available at https://www.formazionegiuridica.org/images/Sentenze/Sez_Unite_38162-2022.pdf.

[vi] Mennesson v France, App. No, 65192/11, Eur. Ct. H.R. (2014); Labassee v France, App.No 65941/11, Eur.Ct. H.R (2014).

[vii] Ibid., Para.96.

[viii] On preventing and combatting trafficking in human beings and protecting its victims.

[ix] Francesco Ognibene,"Al via al Senato la legge per rendere la surrogata reato universale," Avvenire, June 12 , 2024, available at https://www.avvenire.it/vita/pagine/maternita-surrogata-reato-universale-parte-al-senato-l-esame-della-legge.

[x] Art. 6 of Law 194/78 on the social protection of motherhood and the voluntary interruption of the pregnancy.

[xi] Associazione Luca Coscioni "Law 194. Never Data" - Abortion and Contraception.

[xii] Associazione Luca Coscioni "Law 194. Never Data" - Abortion and Contraception.

[xiii] General comment No. 22 (2016) on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights) Para. 18-19.

[xiv] 2020 Report on the implementation of Law 194 of 1978, regulating social protection of motherhood and voluntary termination of pregnancy (VTP).

[xv] Associazione Luca Coscioni "Law 194. Never Data".

[xvi] Ministero della Salute, *Disposizioni anticipate di trattamento*, 11/02/2020.

[xvii] Ansa, *Biotestamento, 5 anni di legge. Fatto solo dallo 0.4% italiani*, 31/01/2023.

[xviii] "Accessibility. Health facilities, goods and services have to be accessible to everyone without discrimination, within the jurisdiction of the State party", Para. 12.

[xix] "Obligations to protect include, inter alia, the duties of States to adopt legislation or to take other measures ensuring equal access to health care and health-related services provided by third parties; to ensure that privatization of the health sector does not constitute a threat to the availability, accessibility,

acceptability and quality of health facilities, goods and services; to control the marketing of medical equipment and medicines by third parties; and to ensure that medical practitioners and other health professionals meet appropriate standards of education, skill and ethical codes of conduct", Para. 35.

[xx] cost. Judgment No.242 of 2019 "declares the unconstitutionality of Article 580 of the Penal Code, insofar as it does not exclude the punishability of those who, in the manner provided for in Articles 1 and 2 of Law No. 219 of December 22, 2017 (Provisions on informed consent and advance healthcare directives) – or, for events prior to the publication of this judgment in the Official Gazette of the Republic, in equivalent ways as indicated in the reasoning – facilitate the execution of the suicide intention, autonomously and freely formed, of a person kept alive by life-sustaining treatments and suffering from an irreversible pathology, causing physical or psychological suffering that he or she considers intolerable, but who is fully capable of making free and informed decisions, provided that these conditions and the methods of execution have been verified by a public structure of the national health service, following the opinion of the territorially competent ethics committee."

[xxi] Trib. Firenze, order No. 32, 17.01.2024.

[xxii] Disposizioni in materia di morte volontaria medicalmente assistita" (Atto Senato n. 104).

[xxiii] CESCR's General Comment 25, para. 25.

[xxiv] Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on plants obtained by certain new genomic techniques and their food and feed and amending Regulation (EU) 2017/625 RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS, Impact assessment, 05/07/2023 (p. 9).

[xxv] H. Zhu, C. Li, C. Gao *Applications of CRISPR–Cas in agriculture and plant biotechnology*, 24/09/2023.

[xxvi] Article 7(1) of EU Regulation 178/2002.

[xxvii] "Measures adopted on the basis of paragraph 1 shall be proportionate and no more restrictive of trade than is required to achieve the high level of health protection chosen in the Community", Article 7(1).

[xxviii] "In line with article 5.1, such limitations must be proportional, i.e. the least restrictive alternative must be adopted where several types of limitations are available. Even where such limitations on grounds of protecting public health are basically permitted, they should be of limited duration and subject to review." (GC 14, par. 29).

[xxix] Dipartimento per la programmazione e il coordinamento della politica economica/ archivio delibere CIPE: delibera n.27 del 3 marzo 2017 (anno 2015); delibera n.34 del 3 marzo 2017 (anno 2016); delibera n.117 del 22 dicembre 2017 (anno 2017); delibera n.72 del 28 novembre 2018 (anno 2018); delibera n.82 del 20 dicembre 2019 (anno 2019); delibera n.20 del 14 Maggio 2020 (anno 2020).

[xxx] SIEP, 'Quaderni SIEP' (2024) https://siep.it/siep/quaderni-siep/ accessed 15 July 2024.

[xxxi] World Health Organization, 'WHO Guideline on School Health Services' (2021) https://iris.who.int/bitstream/handle/10665/345946/9789240036703-eng.pdf?sequence=1 accessed 15 July 2024.

[xxxii] Institute for Health Metrics and Evaluation, 'GBD Results Tool' (2024) https://vizhub.healthdata.org/gbd-results/ accessed 15 July 2024.

[xxxiii] Francesco Pugliese, 'Indagine Fiaso: "Il 71% dei neoassunti in sanità è donna e ha meno di 35 anni"' (Quotidiano Sanità, 2023) https://www.quotidianosanita.it/studi-e-analisi/articolo.php?articolo_id=121380 accessed 15 July 2024.

[xxxiv] Website of one of the prison guards' trade union https://www.polpenuil.it/langolo-della-stampa/12106-inferno-in-cella-56-suicidi-del-2024-e-in-calabria-la-ndrangheta-controlla-i-detenuti-la-cnews24.

[xxxv] Views adopted by the Committee under article 5 (4) of the Optional Protocol concerning communication No. 2656/2015 https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsjvfIjqiI84ZFd1DNP1S9EJu6lfpnEd%2F3ZLczp2klnlgmKELPPo6HyKx5p1pw8LVGafudezBPcTsqZgNY8dop5t5WYeQxVK60NHW6R%2B2GoUUn4Xjg8KUyjkBXQrWR8rTCg%3D%3D.

[xxxvi] Associazione Luca Coscioni, 'Casi aggiornati a luglio 2023' (July 2023) https://www.associazionelucacoscioni.it/wp-content/uploads/2023/07/Casi-aggiornati-a-luglio-2023.pdf accessed 27 June 2024.

[xxxvii] Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3, arts 19, 23, and 28(2)(c).

[xxxviii] Committee on the Rights of Persons with Disabilities, 'Views adopted by the Committtee No. CRPD/C/27/D/51/2018' (31 January 2023) https://unric.org/it/italy-lack-of-financial-and-social-support-to-family-of-people-with-disabilities-amounted-to-human-rights-violation-un-committee-finds/ accessed 27 June 2024.

[xxxix] Para 8 (b) (ii).

[xl] Para 8 (b) (iii).

[xli] *Testo Unico sugli stupefacenti e sostanze psicotrope* (n 309/1990), Italy.

[xlii] Italian National Anti-Drug Agency (DCSA), *Annual Report on Drug-Related Offenses* (2020) https://www.interno.gov.it/it/ministero/dipartimenti/dipartimento-pubblica-sicurezza/direzione-centrale-servizi-antidroga accessed July 2024

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[xlix] General comment No. 25 (2020) on science and economic, social, and cultural rights (article 15 (1) (b), (2), (3) and (4) of the International Covenant on Economic, Social and Cultural Rights) Para. 29-30.

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