**ITALY**

**

***Ministry of Foreign Affairs and international cooperation***

*Inter-ministerial Committee for Human Rights*

***Italy’s Reply to UNWGDAW***

 ***September 15, 2016***

**Italy’s Reply**

*To the attention of wgdiscriminationwomen@ohchr.org.*

Following to your query, Italy is in a position to provide the following information:

**I. Identification of a law that has eliminated or substantially reduced discrimination and supported women’s empowerment.**

*Background Information on the Law*

1. **Name/Title of the Legislation**: “Act 12 July 2011, No. 120, on Amendments to the Unified Text on finance-related intermediation under Legislative Decree 24 February 1998, No. 58, concerning equal access to the administrative and oversight bodies of quoted companies” (in Italian, *Legge 12 luglio 2011, n. 120, Modifiche al testo unico delle disposizioni in materia di intermediazione finanziaria, di cui al decreto legislativo 24 febbraio 1998, n. 58, concernenti la parità di accesso agli organi di amministrazione e di controllo delle società quotate in mercati regolamentati*” .

2. **Date the law passed and came into force**: It was adopted on July 12, 2011 and entered into force on August 12, 2011.

3. **Was it a new law or an amendment of an existing law?**

New ( ) Amendment (X)

 **If it was an amendment of an existing law, please providing name/title of existing law and any pertinent information here**: Please refer to the above title under question No.1

4. **Is the legislation focused specifically on discrimination against women/gender equality, or is it part of a larger piece of legislation (i.e. Labour law with provisions around gender)? Please explain**.

This is the result of a domestic assessment/analysis process, by which it was made clear the strong “de facto” unbalance in this sector.

By Act 120/2011, the governing bodies of publicly-listed companies, from 12 August 2012 onwards, must renew their boards by reserving a quota of at least one-fifth to the less represented gender. From the second and third renewal of the corporate bodies, women should be at least one-third. The process for amending the statutes of the above companies is a factor that should not be underestimated. The statutory amendments in question are not of a mere regulatory significance but have an impact on the policies of corporate governance of companies, through the renewal of their corporate bodies. In particular, this new Act applies to State-owned companies after the entry into force of DPR 251/2012 on 12 February 2013.

The law will be valid for three mandates, until 2022; and it provides a mechanism for rounding up. The decimals arising from application of one-fifth and one-third are rounded off for excess to the superior unity. The provisions of law establish a legal dual-track: for publicly-listed companies, the discipline stem from the Act under reference, also known as Golfo - Mosca Law and in detail by a subsequent Regulation of CONSOB (Italian Stock Exchange Authority); for State-owned companies, the discipline is governed by a subsequent Regulation, the above mentioned D.P.R., dated November 30, 2012. As for the latter, the oversight is attributed to the President of Council of Ministers or to delegated Minister for Equal Opportunities.

The above Regulation establishes that State-owned companies must communicate to the President of Council of Ministers, or to the delegated Minister for Equal Opportunities, the composition of social organs, within fifteen days since its nomination or the date of substitution in case of composition modification. When the respective supervisors verify that the gender quotas obligations are not met, they apply the following penalties: for publicly-listed companies, CONSOB will issue a warning to the defaulting company asking for compliance within four months. If the company does not comply, CONSOB imposes an administrative penalty of up to 1 million Euros for the administrative board, and up to 200,000 Euros for control bodies, besides setting a new three-month term for the attainment of gender balance. If the company still fails to comply, the bodies will be removed; for State-owned companies, the President of Council of Ministers or the delegated Minister for Equal Opportunities applies a double warning mechanism, with deadline of sixty days each, after which, if the company does not comply, the elected body is removed.

Act 120/2011 has increased female’s rate in boards of listed and State-owned companies. For listed companies, women on boards has risen from nearly 6% in 2010 to 25,5% in April 2015 (from 22,7% in 2014 and 17,8% in 2013), whereas 20% is required by the law for the first renewal. While, after the entry into force of DPR 251/2012 (as at April 2015), women’s rate in boards of State-owned companies amounts to 25,8%.

Within this framework, in terms of background, please note also as follows: following amendments to Art.51 of the Constitution by Constitutional Law 1/2003, increasing awareness refers to the need to rise female participation in elective assemblies and political offices. In this context, Italy adopted: **Act 65/2014** on the European Parliament election and guarantees for women’s representation, including transitional provisions for the 2014 European Parliament elections (when voting for up to three candidates, the choice must refer to candidates of both sexes otherwise the third preference will be annulled; lists must equally represent men and women; and representatives of both sexes have to be placed at the top of each list of candidates); **Act 215/2012** promoting gender (re-)balance in the representation in the regional and local Councils and Governments; and **Presidential Decree 251/2012** on equal access to the Board of State-owned companies[[1]](#footnote-1).

5. **Please provide a summary of the content of the law, its preamble or explanatory note, policy measures, dissemination and implementation regulations, and provisions for access to justice, as well a link to where all these can be found online**

In addition to the above information, you can upload the text from the following link: <http://www.pariopportunita.gov.it/images/stories/documenti_vari/UserFiles/quoterosa/20110712_L_120.pdf>.

Furthermore, the legislative text under reference consists of the following Articles: Art. 1 is entitled “Balance between genders in listed companies”; Article 2, “Duration”; Article 3 “State-controlled companies”. This can be considered a temporary special measure.

6. **When was the first draft of this law introduced, and when was it adopted (please specify dates of first draft and adoption)**? N/A

*The Law’s Compliance with CEDAW*

7. **In your view, does the law in question place a positive duty on the State to achieve substantive equality for women?**

Yes (X) No ( )

 **If yes, please explain**: Please refer to information above provided under question No. 4.

8. **Does the law contain a definition of discrimination that is in accord with Article 1 of CEDAW?**

Yes ( ) No (X)

 **If yes, please direct us to the section of the pertinent document. If not, please indicate if that definition is enshrined already in the constitution or charter of rights**. In Italy, we have a rigid Constitution dating back to 1948. Its first Part is very similar in scope and substance to the Universal Declaration of Human Rights. More specifically, Article 3 sets out the gender equality principle within the overall principles of formal and substantial equality and non-discrimination, as follows:. *“Art. 3 All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions.
It is the duty of the Republic to remove those obstacles of an economic or social nature which constrain the freedom and equality of citizens, thereby impeding the full development of the human person and the effective participation of all workers in the political, economic and social organization of the country”.*

9. **Does the law’s definition of discrimination include and define both direct and indirect discrimination**?

Yes ( ) No (X)

 **If yes, please explain**:

In this regard, please note that in Italy we have introduced a specific Code on Equal Opportunities in 2006 by Legislative Decree 198/2006. Its Art. 1 sets forth: “*Relevant provisions envisage measures, aimed at eliminating whatsoever distinction, exclusion or limitation based on sex, which might affect or hinder the enjoyment and exercise of human rights and fundamental freedoms (..)” in all spheres of life”. It also focuses on direct and indirect discrimination.*

10. **How has the Constitution supported the process of adoption and implementation of the law? Does the Constitution have an equality and non-discrimination provision?** Please refer to the above information under Questions No. 4, 8 and 9.

11. **Does the law contain provisions that address discrimination against women from an intersectional perspective, taking into account a diversity of women’s social identities, statuses and experiences?**

 Yes ( ) No (X)

 **If yes, please explain which social identities, statuses and/or intersectional factors are explicitly noted in the law**:

Please note that in this regard it applies Article 3 of the Italian Constitution, which is also applied in light of an evolutionary interpretation method.

12. **Whom of the following are bound by the law**?

 The State Yes (X) No ( )

Public Authorities/Bodies Yes (X) No ( )

Civil society organizations Yes ( ) No (X)

Private companies Yes (X) No ( )

Individuals Yes ( ) No (X)

**II. How the law came into being and was implemented**

1. **What was the impetus for the development of this law (i.e. social movement activism, political platform, a Supreme Court ruling, an egregious case of discrimination, constitutional reform…)**?

Constitutional reform as indicated above under previous Questions.

2. **Were there any conditions in the political context that made it possible for this law to be developed and adopted at the time that it was (i.e. a particular political party in power, a conflict/post-conflict situation, a recent ratification of an HR instrument, etc.)?**

Yes ( ) No (X)

If yes, please explain:

3. **What actors were consulted and how were they consulted in the law’s development and formulation? Check all that apply, and, where possible, provide names of involved individuals, agencies, organizations, etc**. N/A a comprehensive picture. However, usually this type of measures is always the result of an integrated approach.

Legal Experts/scholars (please specify) ( ) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Government Ministries ( ) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NHRI ( ) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NGOs/CSOs ( ) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Other social groups (specify) ( ) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

4. **Was there opposition to the law**?

Yes ( ) No (X)

If yes, please explain from whom and why, and how it was addressed:

6. **Were there other laws that needed to be reformed in order to enact this law**?

Yes ( ) No (X)

If yes, please list and explain:

7. **Were any international human rights treaties or mechanisms referenced in the law’s creation**?

Yes ( ) No (X)

**If yes, please list and explain:**

In this regard, please note that there is no specific reference. However, the law under reference amends specific legislation on finance-related intermediation. Under the UT of the 1990s, its Article 2 entitled “Relations with EU law and integration in the SEVIF expressly mentions EU legislation and underlines that relevant stakeholders work in harmony with EU law.

8. **Did any international/regional/national human rights mechanism issue recommendations to the State in regard to amendment or formulation of this law, or regarding effective implementation? If yes, was this recommendation formulated prior, during or after the adoption of the law**?

Yes ( ) No ( X)

If yes, please list and explain:

 **9. What measures to support implementation were built into the law or developed immediately after (and as a result of) its passing? This could include such measures as budgetary and resource allocation, monitoring mechanisms, data collection, impact measurement mechanisms, independent monitoring, etc. Please list and explain, providing any relevant documents**. **How was the law made accessible to the public? Did it include formal training on the new law for all stakeholders involved? Were specific groups of women targeted for these activities? Who was involved in these initiatives, and where did the funding come from? Please answer in detail.**

Concerning gender quotas, the Department for Equal Opportunities has, over the last few years, launched an awareness-raising campaign, entitled “Gender Quotas: A More Balanced Country has a Better Future”, to promote gender balance in decision-making, also through the dissemination of the provisions on equal access to Boards of Directors and Boards of Statutory Auditors pursuant to Act 120/2011 and Presidential Decree 251/2012.

11. **Have there been any barriers to the law’s full and successful implementation**?

Yes ( ) No (X)

If yes, please explain the barriers and how they were/are being addressed.

12. **What kinds of roles are being carried out by civil society/women’s organizations in supporting the implementation and impact of the law? How are these activities being financed**? Given the short lapse of time to reply to this questionnaire, it has not been possible to collect this specific information. However, there are many women’s associations and practitioners that cover this sector.

**III. The impacts that the law has had for women on the ground**

1. **Did the adoption of the law result in the creation of any policies**?

Yes (X) No ( )

**If yes, please list and explain**: Please refer to the information above provided under Questions No. 4, 8.

2. **Have court cases/decisions resulted from the law? Has this data been systematically collected? If so, please provide details about the number of cases, convictions, decisions made**. N/A.

3. **What specific and measurable outcomes showing the impact of the law on society and on women’s enjoyment of their rights have been recorded as a result of the adoption and implementation of the law? How have these been monitored and by whom**? The increase of women in Boards.

4. **Are there other impacts of the law that have been observed**?

Yes (X) No ( )

**If yes, please list and explain what they are, as well as monitoring mechanisms used to observe and/or measure those impacts**: Increasing participation and representation of women in leading positions.

5. **What mechanisms have been set up to review and assess the implementation of the law**?

Please refer to information above provided under Questions No.4,8,9.

6. **Is there data on how the law has affected some groups of women differently (i.e. based on race, ethnicity, religion, social class, age, etc**.)?

Yes ( ) No (X)

**If yes, please explain the differential impacts and provide any relevant documents**. In this regard, please note that in accordance with domestic legislation on privacy and data protection, we cannot collect data on religion and ethnicity.

7. **Has there been independent monitoring of the law**?

Yes (X) No ( )

**Please provide information**.

We have in Italy, among others, national, regional and local Equality Counsellors, in charge of monitoring discrimination at workplace. Trade unions are also very active in this area. Plus women professional associations cover this sector, such as Fondazione Bellisario and AIDDA. Please also refer to Italy’s VI and VII periodic report to CEDAW.

1. Implementing Act 120/2011. [↑](#footnote-ref-1)