

Direct Request (CEACR) - adopted 2011, published 101st ILC session (2012)

Forced Labour Convention, 1930 (No. 29) - Italy (Ratification: 1934)

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. In its previous comments, the Committee has been examining the issue of trafficking in persons in Italy and the measures adopted by the Government to combat it. The Committee notes the detailed information provided by the Government in its reports concerning both Convention No. 29 and Convention No. 143 (Migrant Workers (Supplementary Provisions) Convention, 1975), which witnesses its commitment in combating trafficking for sexual and labour exploitation. It notes, in particular: (a) the adoption of Act No. 108 of 2 July 2010 on “Ratification and Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, signed in Warsaw on 16 May 2005, and adjustment of domestic regulations”; (b) the statistical data provided on the judicial proceedings instituted against perpetrators, as well as on the number of victims of trafficking in persons for the period between 2004 and 2009; (c) the information on detection, prosecution and sanctions imposed on persons involved in trafficking in persons (data concerning 2008). With regard to the effective application of the legislation, the Government recognizes the need to strengthen its law enforcement mechanisms, especially as regards trafficking for labour exploitation. It indicates, in this connection, that it is making considerable efforts to confront and find appropriate solutions to the difficulties encountered, such as the lack of international judicial cooperation faced by the National Anti-Mafia Directorate. The Government also indicates that it has, since 2006, widened the scope of its activities to include measures to address labour exploitation, collecting data, identifying affected national groups and regions of incidence, and elaborating projects to offer support to victims. In collaboration with the General Directorate for Inspection Activities and the Department of Equal Opportunities, the Ministry of Employment and Social Policies has been taking a number of actions to set up coordination and intervention networks involving regional and provincial employment directorates, police forces, trade unions and NGOs in order to strengthen the capacity of actors involved in detecting, investigating and combating trafficking for labour exploitation. The Committee notes that, despite the Government’s ongoing efforts, the number of decisions imposing sanctions for trafficking in persons and related crimes is still significantly low in comparison with the number of victims. The statistical figures presented illustrate the difficulties stemming from the complexity of the phenomenon of trafficking in Italy, which is directly related to the activities of criminal organizations and involve different national groups and sectors of the economy. The Committee acknowledges, however, that the Government is aware of the extent, as well as of the particular characteristics of the phenomenon in the country, a crucial step for targeting the problem in an efficient manner, as it has been notably doing in the last years. ***The Committee hopes that the Government will continue to make every effort to combat trafficking in persons, and particularly to protect and assist victims of sexual and labour exploitation. Please indicate the measures adopted to overcome the problems so far identified by the Government, especially as regards the improvements required in the identification, arrests and prosecution of perpetrators. The Committee requests the Government to continue to provide***

information on the judicial proceedings initiated against those responsible for trafficking and related crimes, indicating the penalties imposed.

Exploitation of foreign workers in irregular situation. In its previous comments, the Committee requested the Government to indicate the measures adopted to combat the exploitation of foreign workers amounting to forced labour, regardless of their legal status. Referring also to the report submitted on the application of Convention No. 143, the Committee notes that the Government provides detailed information on the policies developed to address the exploitation of migrant workers, including information and statistical data on the actions taken under the strategic programme of inspections that has been carried out by the Ministry of Labour and Social Policies. It also indicates that it intends to enhance the domestic legislative framework through the adoption of European Directive 2009/52/EC of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (Sanctions Directive).

The Committee notes, in this regard, the communications dated 23 February 2010 and 23 September 2010 received from the Italian General Confederation of Labour (CGIL), which contain observations on the application of the Convention by Italy. The communications by the CGIL contain allegations of labour exploitation of migrant workers, including those in an irregular situation, particularly in the southern provinces, where, according to the Confederation, workers are obliged to live in camps, abandoned buildings and factories, working under harsh conditions and for long hours, with no written contracts or formal employment agreements. The CGIL also points out that, despite some judicial proceedings initiated with a view to investigate and prosecute perpetrators involved in the exploitation of migrant workers, the system of victims' protection and rehabilitation is still inefficient, especially as regards migrants in an irregular situation. While the Government tends to transfer regular migrant workers to other regions within Italy, the CGIL observes that victims of exploitation with irregular legal status tend to either hide from the authorities fearing deportation or be expelled from the country. As regards the adoption of the European Directive 2009/52/EC, the CGIL acknowledges the importance of a legislation punishing employers who hire illegal migrants, but it also expresses concern about the Government's decision, during the process of parliamentary adoption of the Directive, to remove all articles related to the promotion of measures for the regularization for migrant workers victims of exploitation.

In its reply to the observations made by the CGIL, the Government states that the allegations have no connection with the definition of forced labour, being related to other phenomena, such as exploitation of migrants, illegal migration and trafficking in persons. It also denies the existence of instances of forced labour in Italy and emphasizes that all forms of forced labour have been prohibited since 1934. The Government indicates that particular attention is being given to the issue of illegal employment of migrant workers, focusing on inspection activities mainly in the construction and agriculture sectors, which face a high incidence of labour exploitation. In this regard, it provides statistical data on inspections conducted in 2009, as well as on inspections conducted following the approval of the "Extraordinary inspection plan for agriculture and construction in the regions of Calabria, Campania, Apulia and Sicily", in January 2010.

While noting the above information, the Committee recalls that poor conditions of work do not always amount to a forced labour situation. However, in cases in which work or service is imposed by exploiting the worker's vulnerability, under the menace of any penalty (such as dismissal, deduction of wages and threats of denunciation to authorities), such exploitation ceases to be merely a matter of poor conditions of employment and calls for the protection of the Convention. In this connection, the Committee draws the Government's attention to the fact that migrant workers who are illegally resident are in a highly vulnerable situation and therefore even more prone to become exploited in forced labour.

The Committee acknowledges the difficulties encountered by the Government, in particular due to the rapid increase in immigration flows Italy has been facing in the past few years. It also recognizes the Government's significant efforts in addressing the issue. It observes, however, that besides investigating and prosecuting employers who hire workers with illegal status, it is also important to identify and protect, from among the illegal immigrants, those who are victims of trafficking and/or forced labour. The Committee recalls, in this respect, that forced labour, as established by the Convention, is a broader concept than trafficking in persons and also includes exploitative conditions amounting to forced labour which are unrelated to an element of movement across or within borders and consequently to trafficking in persons. ***The Committee therefore requests the Government to continue to provide detailed information on the measures adopted to protect migrant workers, both in law and practice, from forced labour exploitation, regardless of their legal status, and to ensure that they can assert their rights, including by means of accessing the competent authorities. Please also indicate the activities carried out to raise awareness on these issues among the competent law enforcement authorities, and the difficulties encountered. The Committee also refers to the comments it is making under the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143).***