

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

Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) - Italy (Ratification: 1981)

The Committee notes the communication from the Italian Union of Labour (UIL), submitted on behalf of the UIL, the Italian General Confederation of Labour (CGIL) and the Italian Confederation of Workers' Trade Unions (CISL), and the Government's reply thereto. The Committee also notes the observations by the Italian Confederation of Workers' Trade Unions (CISL) received 23 September 2010.

Articles 2 to 6 of the Convention. Multilateral and bilateral cooperation. Human rights of migrants in an irregular status. The Committee notes the information in the Government's report on the Project Across-Sahara II (concluded in February 2010) and Project Sahara-Med regarding institutional capacity building with respect to border controls and migration management (signed December 2009), as well as on the other measures to prevent and manage migration in irregular conditions through multilateral and bilateral cooperation and agreements. The Committee also notes the observations by the UIL reiterating concerns raised in the Conference Committee on the Application of Standards in 2009 regarding the ineffectiveness of some of these agreements and the forced return of immigrants in an irregular situation and refugees reaching Italian territorial waters to countries not respecting human rights, or through detention centres. While the Convention leaves it to each State to determine the manner in which it intends to organize the potential entry of migrant workers or the refusal of their entry, and while acknowledging the serious difficulties encountered by Italy to manage significant immigration flows and recognizing the Government's efforts to find solutions to address migration in abusive conditions, the Committee recalls the Government's obligation to ensure the respect for basic human rights of all migrant workers. The Committee draws attention to recommendations made by the United Nations High Commissioner for Human Rights to States to address flows of migrants and refugees fleeing northern Africa, which included making efforts to prevent deaths at sea and efforts to ensure that adequate border procedures are implemented to clarify individual protection, considering granting temporary permits on humanitarian grounds, ensuring protection from arbitrary detention, and supporting legislative and institutional reform to protect rights of all migrants including those in an irregular situation (A/HRC/18/54, 1 September 2011). ***The Committee asks the Government to ensure respect, in law and in practice, of the human rights of all migrant workers in the context of measures to curb irregular migration, and asks the Government to provide information on the measures taken in this regard, including through multilateral and bilateral cooperation, and the results achieved. Please also provide information on the effects of this cooperation on the prosecution and punishment of those organizing and assisting in clandestine movements of migrants.***

Article 8. Non-return in the case of loss of employment. The Committee notes the UIL's observations concerning loss of employment of a non-European Union (EU) worker and the application of section 22(11) of Legislative Decree No. 268/1998, implying that foreign workers on a fixed-term contract do not benefit from the possibility of a six-month period of residence after loss of employment. The Committee notes the Government's explanations that loss of employment does not, in any case, constitute grounds for revocation of the residence permit of a non-EU resident and his or her family members lawfully in the country. The Committee further notes the information provided by the Government regarding the number of non nationals and nationals who benefited from the Earnings Supplement Fund in 2008 and 2009. ***The Committee asks the Government to***

indicate how it is ensured that non-EU workers on a fixed-term contract who have lost their employment prematurely shall not be regarded as being in an irregular situation, in accordance with Article 8.

Expulsion. The Committee recalls that section 13(5bis) and (8) of Legislative Decree No. 286/1998, provide that a foreigner can appeal against the expulsion order confirmed by the justice of the peace without, however, staying the execution of the order. The Committee notes the Government's explanation that appeals to the ordinary courts against decisions ordering expulsions or decisions refusing the issuing or renewal of a residence permit do not suspend the effectiveness of the decision, but that the applicant is still entitled, simultaneously with the appeal to the court, to request provisional suspension of the execution of the decision. In such a case, the court is required to assess the matter and grant a suspension of the order when there are well-founded reasons for considering that its execution may cause serious and unjust harm to the applicant. **The Committee asks the Government to provide information on the number of workers who have contested an expulsion order, which has been suspended, and who have subsequently been allowed to reside in the country for the duration of the case. Please also provide information on any refusal and the reasons for such refusal.**

Article 9(d). Regularization. The Committee notes the Government's clarifications regarding the procedure under Law No. 102/2009 on "Declaration of employment in the domestic help and care sector", which was completed on 30 September 2009. Within the statutorily allowed period, the Ministry of Interior received 295,076 applications concerning non-EU nationals in addition to 4,965 applications regarding Italian and EU nationals. The Government states that to date 144,576 cases have been determined; of those, regularization was rejected with respect to 10,586 cases, while accepted for 133,990 cases. **The Committee asks the Government to provide information on the situation of the remaining applications, and on the outcome including refusal, of their application. The Committee asks the Government whether any consideration has been given to the UIL's observations to consider similar regularization procedures for other sectors such as agriculture, construction, industry, trade and services.**

Articles 10 and 12. Equality of opportunity and treatment. The Committee notes the public notice to promote the adoption of positive action to prevent and compensate for disadvantages due to racial and ethnic origin. Priority is being given to developing micro-enterprises and enterprises set up by female immigrants; preventing and combating racial discrimination among the younger generations and through the development of local associations promoted independently by immigrant communities. With respect to measures regarding second generation migrants, the Committee notes that the Plan on Integration in Safety – Identity and Dialogue intends to address this, but that the CISL considers that the issue is insufficiently covered. The Committee will address the action taken to prevent discrimination and promote equality of opportunity of Roma and Sinti migrant workers with nationals, such as the "Dosta campaign", in the context of the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The Committee notes that the UIL raises issues relating to equality of treatment with respect to unemployment benefits and pensions, which the Committee will address in the context of the Social Security (Minimum Standards) Convention, 1952 (No. 102). **The Committee asks the Government to provide information on the results achieved following the public notice to promote positive action, including with respect to projects targeting women immigrants and second generation immigrants. Please also indicate how the Plan on Integration in Safety – Identity and Dialogue intends to promote integration of second generation immigrants. Please also provide information on the number and nature cases of discrimination against migrant workers brought to the attention of and addressed by the labour inspections services, the courts or the National Office against Racial Discrimination (UNAR).**

Integration agreements. The Committee recalls section 4bis of Legislative Decree No. 286/1998 making the issuing of a residence permit conditional upon the signing of an "Integration Agreement". The Committee notes the observations by the UIL regarding the inappropriateness of

the possible evaluation of the achievement of the objectives by the public security administration, the payment of a contribution fee of €80 and €200 for application for issue and renewal of residence permit, except in certain, mostly humanitarian, cases, and the lack of real integration mechanisms as in some other countries. ***The Committee asks the Government to reply to the observations made by the UIL, and to provide copies of the regulations establishing the criteria and modalities of signing the integration agreements.***