

# Observation (CEACR) - adopted 2011.

## *Labour Inspection Convention, 1947 (No. 81) - Italy (Ratification: 1952)*

The Committee notes the Government's report, which was received at the Office on 23 September 2010. It also notes the comments from the Italian General Confederation of Labour (CGIL) dated 25 May and 20 September 2010, which were sent to the Government on 27 July and 28 September 2010, respectively.

**Article 3(1) and (2) of the Convention. Impact of monitoring and sanctioning of illegal employment and undeclared work on inspection of conditions of work.** The Committee notes that the annual activity reports on inspections in the areas of labour and social security of the Ministry of Labour, Health and Social Policy for 2007, 2008, 2009 and 2010 show that labour inspection is essentially concerned with monitoring the legality of employment, including that of migrant workers.

The Government points out that, in view of the current economic and social structure of the national labour market, in which employment of foreign workers is constantly increasing, it is inevitable that inspection work also has to focus on the control of the establishment of appropriate and lawful employment relationships with citizens of non-EU countries and of new EU Member States.

The CGIL indicates that the role of the inspection unit of the *Carabinieri* attached to the Ministry constitutes an important and particularly pertinent component of the strategy to coordinate various inspection activities and that this unit has always focused on the strict observance of the rights of workers, particularly minors. However, it considers that the "Extraordinary Plan" for combating undeclared and illegal work in the four regions of the south of the country has major defects and gaps in terms of the coordinated use of resources and, in particular, the allocation of additional resources, given that it is based on the transfer to southern Italy of labour inspectors working in other regions and is therefore detrimental to their inspection work in those areas.

The Committee recalls once again that the role assigned to labour inspectors as *Carabinieri* of the criminal police may severely jeopardize the performance of their primary duties as defined by the Convention, namely to ensure the protection of workers. It refers once again to paragraph 78 of the 2006 General Survey on Labour Inspection

according to which the primary duty of labour inspectors is to protect workers and not to enforce immigration law. Given the potentially large proportion of inspection activities spent on verifying the legality of immigration status, the Committee has emphasized that additional duties that are not aimed at securing the enforcement of the legal provisions relating to conditions of work and the protection of workers should be assigned to labour inspectors only insofar as they do not interfere with their primary duties and do not prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers. The Committee has also emphasized that the attribution of police functions to the labour inspection is not conducive to the relationship of trust needed to create the climate of confidence that is essential to enlisting the cooperation of employers and workers with labour inspectors. It must be possible for inspectors to be respected for their authority to report offences, and at the same time to be approachable as preventers and advisers.

The Committee has therefore emphasized that the function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all the workers if it is to be compatible with the objective of the labour inspection. This objective can only be met if the workers covered are convinced that the primary task of the inspectorate is to enforce the legal provisions relating to conditions of work and the protection of workers. The Committee observes in this regard that in the framework of the European Union, Directive 2009/52/EC also provides for minimum protective standards for third country nationals in illegal employment situations such as the establishment of effective national mechanisms to recover outstanding wages and other benefits due as a result of their employment relationship.

***The Committee requests the Government to take the necessary measures in order to re-establish labour inspectors in their duties defined by the Convention and limit their cooperation with the immigration authorities to an extent that is compatible with the purpose of the Convention. It urges the Government to ensure in this regard respect for the rights and working methods attached to the function of the labour inspection which are radically different from those of other officials entrusted with the task of combating illegal employment and immigration. Please keep the Office informed of all progress made towards this end. The Committee would also be grateful if the Government would indicate the manner in which the labour inspectorate ensures the discharge of employers' obligations with regard to foreign workers in an irregular situation, from the point of view of residence***

***status (payment of wages and other benefits owed) for work done, in cases where such persons are liable to expulsion from the country by the authority responsible for controlling illegal immigration.***

**Article 4. Supervision and control by a central authority.** The Committee notes that the CGIL criticizes a government initiative which seeks, firstly, to centralize choices with regard to inspections to be carried out and the evaluation of the results within the Ministry of Labour (which, in the opinion of the CGIL, deprives inspectors of their authority) and, secondly, to sign “protocols” with various associations representing enterprises and their consultants stating that any “abnormal conduct” by inspectors must be indicated. ***The Committee requests the Government to communicate to the Office any comments it considers appropriate with regard to the points raised by the CGIL. It would be grateful if the Government would indicate in particular the basic criteria used for the determination of inspection visits to be carried out and for the evaluation of their results and to send copies of models of the protocols mentioned by the CGIL.***

**Article 11. Labour inspection resources.** The Committee notes that, according to the CGIL, cuts in public expenditure since 2008 have resulted in major restrictions on inspection work, to the extent of blocking the possibility for inspectors to use their own means of transport, as provided for in Act No. 122/10. ***The Committee requests the Government to give details on the evolution of the budgetary and other resources allocated to the labour inspectorate in the framework of the national budget and provide further information on transport facilities made available to labour inspectors for the performance of their duties and on procedures for the reimbursement of travel and other expenses.***

**Articles 5(a), 20 and 21. Publication and communication to the ILO of an annual inspection report. Statistics of industrial and commercial workplaces liable to inspection and the number of workers employed therein.** The Committee notes that the annual inspection reports sent to the Office contain general information on the number of enterprises inspected, the number of labour inspectors and also on infringements and penalties imposed. However, they do not contain any information on workplaces liable to inspection

or on industrial accidents and cases of occupational disease. The Committee notes that, according to the Government, the Ministry of Labour and Social Policy, in cooperation with the social security institutions, is preparing databases to assist with the rationalization and coordination of inspection work.

***With reference to its general observations of 2009 and 2010 concerning the establishment of a register of workplaces liable to inspection and the publication of an annual inspection report, the Committee requests the Government to clarify whether the annual labour inspection report is published by the central authority. It also requests the Government to keep the Office informed of any steps taken or contemplated, including by means of inter-institutional cooperation, to ensure that the annual report contains detailed information on each of the points listed in Article 21.*** The Committee draws the Government's attention to the indications contained in Part IV of the Labour Inspection Recommendation, 1947 (No. 81), regarding the appropriate level of detail for information required by Article 21(a)–(g) of the Convention.