

Demande directe (CEACR) - adoptée 2013, publiée 103ème session CIT (2014)

Convention (n° 29) sur le travail forcé, 1930 - Italie (Ratification: 1934)

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. *Law enforcement.* The Committee previously noted that the Government was undertaking several measures to apply the prohibition of trafficking in persons contained in the Criminal Code. The Government recognized the need to strengthen its law enforcement mechanisms, especially as regards trafficking for labour exploitation. It indicated that, since 2006, it had widened the scope of its activities to include measures to address labour exploitation, collecting data and identifying affected national groups and regions of incidence.

The Committee notes the Government's statement that although trafficking is a relatively recent phenomenon in the country, it has reached alarming proportions. The Government indicates that it has taken a number of measures to address this phenomenon, such as awareness-raising campaigns, the operation of a toll-free anti-trafficking line, and cooperation with foreign governments to identify victims of trafficking, prosecute traffickers and assist victims. The Government has begun to develop a national action plan on trafficking with a view to implementing a more wide-ranging and effective national strategy to combat trafficking. The Committee also takes due note of the detailed information provided by the Government concerning the application of provisions of the Criminal Code prohibiting trafficking in persons. In 2010, 152 persons were investigated and 105 persons were prosecuted for trafficking in persons, and in 2011, 250 persons were investigated and 100 persons were prosecuted. However, in 2010, the last year for which data on sentences is provided, only 27 persons were convicted and sentenced.

In this regard, the Committee once again notes that, despite the Government's ongoing efforts, the number of convictions for trafficking in persons and related crimes remains low. The Committee observes, however, that the Government is making considerable efforts to combat trafficking in the country. ***The Committee encourages the Government to pursue its efforts to prevent, suppress and combat trafficking in persons, and to continue to provide information on the measures taken in this regard. It requests the Government to strengthen its efforts to ensure that all perpetrators involved in trafficking in persons are subject to thorough investigations, robust prosecutions and that sufficiently effective and dissuasive penalties are applied in practice. The Committee also requests the Government to continue to provide information on the application of relevant provisions of the Criminal Code in practice, including the number of arrests, as well as the number of prosecutions, convictions, and the specific penalties applied.***

2. *Protection and reintegration of victims of trafficking in persons.* The Committee previously noted the Government's indication that since 2006 it had been undertaking projects to offer support to victims of trafficking.

The Committee notes the Government's indication that it operates the "National Programme for the assisted voluntary return and reintegration of victims in their country of origin" which enables victims of trafficking who wish to return to

their country to do so in a protected manner. This programme has handled 200 cases since 2001. The Committee also notes the very detailed information provided concerning the significant number of victims of trafficking, or suspected victims of trafficking, who have been provided with assistance, including the provision of a special residence permit and social assistance; 1,770 victims received this assistance in 2009–10, and 1,952 victims in 2010–11. The Committee further notes that the Committee on the Elimination of Discrimination against Women, in its concluding observations of 2 August 2011, commended the Government for the efforts undertaken to provide social assistance to identified victims of trafficking (CEDAW/C/ITA/CO/6, paragraph 28). ***Taking due note of the measures taken by the Government, the Committee encourages the Government to pursue its efforts to provide protection and assistance to victims of trafficking. It requests the Government to continue to provide information on the measures taken in this regard, including the number of persons benefiting from these services.***

Articles 1(1) and 2(1). Exploitation of foreign workers in an irregular situation. The Committee previously noted the communications received in 2010 from the Italian General Confederation of Labour (CGIL), referring to the labour exploitation of migrant workers, including those in an irregular situation, particularly in the southern provinces. The CGIL indicated that workers were obliged to live in camps, abandoned buildings and factories and worked under harsh conditions and for long hours, with no written contracts or formal employment agreements. The CGIL further indicated that, despite the initiation of some judicial proceedings, the system of victims' protection and rehabilitation remained inefficient, especially with regard to migrants in an irregular situation. The CGIL observed that victims of exploitation with irregular legal status tended to either hide from the authorities out of fear of deportation or expulsion. As regards the adoption of the European Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, the CGIL acknowledged the importance of legislation punishing employers who hire illegal migrants. However, it also expressed concern regarding the Government's decision, during the process of the parliamentary transposition of the Directive, to remove all articles related to the promotion of measures for the regularization of migrant workers who are victims of exploitation.

In reply to these observations, the Government indicated that particular attention had been given to the issue of the illegal employment of migrant workers and that inspection activities had been undertaken focusing mainly on the construction and agriculture sectors which faced a high incidence of labour exploitation. However, the Government indicated that the allegations of the CGIL were not connected with the definition of forced labour, but were related to other phenomena, such as the exploitation of migrants, illegal migration and trafficking in persons. The Committee recalled, in this regard, that poor conditions of work do not always amount to a situation of forced labour. However, in cases where 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.

The Committee notes the Government's statement that the Italian legislature has been paying particular attention in recent years to the problem of foreign victims of irregular labour exploitation. In this regard, the offence of unlawful

intermediation and labour exploitation was introduced into the Criminal Code in 2011, with section 603bis penalizing anyone “who carries out organized intermediation, hiring labour or organizing its work in an exploitative manner, through violence, threats or intimidation, taking advantage of the state of need or want of workers”. This provision also identifies factors that constitute exploitation, including systematically remunerating workers in a manner manifestly different from national collective agreements or disproportionate to the quantity and quality of the work, systematically breaching provisions on working hours, rest days, mandatory leave and holidays, breaching the regulations on safety and health or subjecting workers to particularly degrading working conditions, methods of supervision or housing conditions. The Government’s report states that only one of these factors has to be present for criminal sanctions to be imposed. The Government also refers to Legislative Decree No. 109 of 16 July 2012, entitled “Implementing Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third country nationals”, which provides for sanctions for employing a foreigner without a valid permit. The Government indicates that the abovementioned types of labour exploitation contained in section 603bis of the Criminal Code are also aggravating circumstances in respect of this offence in Legislative Decree No. 109. This legislation also makes it possible to issue a particular residence permit, on humanitarian grounds, to foreigners who report their employers or take part in the criminal prosecution of their employers. The Committee observes that the Government’s report does not indicate how many residence permits have been issued in this regard, or what protection is available to workers who have been exploited but do not report their employer or take part in their prosecution.

The Committee notes the Government’s indication that to combat irregular employment it has undertaken an Inspection Plan for Agriculture and Construction, through which joint inspections were undertaken in four regions, in collaboration with the Labour Protection Command of the Police, the Ministry of Labour and Social Policy, social security institutions and the state police. The Government indicates that in the agricultural sector, 7,816 farms were inspected and 7,102 irregular workers were detected, and in the construction sector, a total of 10,958 sites were inspected, and 7,565 irregular workers were detected. However, the Government does not indicate what measures were taken to identify potential victims of conditions amounting to forced or compulsory labour during these inspections, or to provide assistance to any victims identified. The Government also indicates that in 2011, routine inspection work by the Local and Regional Labour Directorate detected 164,473 irregularly employed workers, 52,426 of whom were undeclared, including 2,095 clandestine non-EU nationals. The Government does not provide information on measures taken to identify, among this group, victims of exploitative conditions amounting to forced labour.

The Committee notes that the Committee on the Elimination of Racial Discrimination, in its concluding observations of 9 March 2012, expressed concern regarding the lack of appropriate legal protection for migrants, in particular against exploitation or abusive working conditions (CERD/C/ITA/CO/16–18, paragraph 23). Therefore, while noting the measures taken by the Government in both legislation and practice, and acknowledging the difficulties encountered by the Government, the Committee once again recalls that migrant workers in an irregular situation are highly vulnerable to forced labour. It recalls that, in addition to investigating and prosecuting employers who hire workers with illegal status, it is also important to identify and protect, among the irregular workers, those who are victims of trafficking and/or

forced labour. *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. The Committee accordingly requests the Government to provide information not only on the application of section 603bis of the Criminal Code in practice, but also information on the measures taken to offer assistance to victims of exploitation under this provision. The Committee also requests the Government to provide information on the application in practice of Legislative Decree No. 109 of 16 July 2012, including the number of specific residence permits that have been issued under this Decree. It further requests the Government to provide information on the measures taken to offer assistance to victims of exploitation amounting to forced labour who do not report their employers or participate in their prosecution. The Committee also refers to the comments it is making under the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143).*