

Observation (CEACR) - adopted 2013, published 103rd ILC session (2014)

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

The Committee notes the communication from the Italian Union of Labour (UIL), the Italian General Confederation of Labour (CGIL) and the Italian Confederation of Workers' Trade Unions (CISL) dated 2 October 2012 and the Government's reply thereto.

Part I. Articles 2–7 of the Convention. Addressing migration in abusive conditions. Multilateral and bilateral cooperation.

Over the past five years, the Committee has been referring to the serious vulnerability of migrant workers in an irregular situation to violations of their basic human and labour rights. The Committee notes with deep sadness the recent events that took place in Italian territorial waters, near the island of Lampedusa, which led to the death of more than 300 migrant workers. The Committee and the Conference Committee have previously acknowledged the particular challenges faced by Italy in addressing the significant increase in immigration flows and in protecting the basic human rights of migrant workers. They have also recognized that the phenomenon of irregular migration is a complex and global issue, and in the case of Italy of a particularly European nature. The Committee further notes that in their observations, the UIL, CGIL and CISL emphasize the need for more effective and cohesive European governance. The Committee draws the Government's attention to the Declaration of the United Nations High-level Dialogue on International Migration and Development adopted on 1 October 2013 which recognizes the need for international cooperation to address, in a holistic and comprehensive manner, the challenges of irregular migration to ensure safe, orderly and regular migration, with full respect for human rights as well as the need to strengthen synergies between international migration and development at the global, regional and national levels. The Declaration also reaffirms the need to promote and protect effectively the human rights and fundamental freedoms of all migrant workers regardless of their migration status (see A/68/L.5, 1 October 2013, paragraphs 5, 6 and 10). ***While recognizing the broader dimension of this phenomenon and the Government's efforts to find solutions to address migration in abusive conditions, particularly in this time of crisis, the Committee requests the Government to continue to take all necessary***

measures to promote national (through cooperation with workers' and employers' organizations), bilateral, multilateral and regional cooperation to address the issue of irregular migration with full respect of migrant workers' human rights and to prosecute and punish those organizing and assisting in clandestine movements of migrants. Please provide information on any developments in this regard as well as on all the measures adopted at national level to ensure respect, in law and in practice, of the human rights of all migrant workers.

Articles 1 and 9. Minimum standards of protection. Access to justice. The Committee notes that as a result of routine inspection work by local and regional labour directorates in 2011, in the agriculture, construction, industry and other sectors, more than 2,000 workers in an irregular situation were detected. The Committee further notes that section 1(1)(b) of Legislative Decree No. 109/2012 provides for a six month residence permit on humanitarian grounds for those third country nationals who in cases of “particularly exploitative working conditions”, lodge complaints or cooperate in criminal proceedings against employers, at the initiative or with the favourable opinion of the courts. This residence permit may be renewed for one year or the maximum period needed to complete the criminal proceedings. The Government indicates that the irregular situation of migrant workers does not deprive them of their rights in terms of pay, contributions and the provisions in force on working hours and health and safety in the workplace as well as on the principle of non-discrimination. The Committee notes however that the UIL, CGIL and CISL indicate that trade unions have no access to either the Initial Reception Centre or the Asylum Seekers Reception Centre where migrants in an irregular situation are detained which prevents them from assisting and providing information to migrant workers. In this regard, the Committee emphasizes once again that access to justice, including adequate access to assistance and advice, is a basic human right which must be guaranteed to all migrant workers in law and in practice. The Committee highlights in this respect the importance of providing for effective and speedy legal procedures. ***The Committee requests the Government to indicate the specific scope of the term “particularly exploitative working conditions” provided for in article 1(1)(b) of Legislative Decree No. 109/2012 and to provide information on how it is ensured in practice that all migrant workers in an irregular situation can seek redress from the courts with respect to violation of their rights arising out of past employment including non-payment or under-payment of wages, social security and other benefits. In order to***

assess the effectiveness of the mechanisms in place, the Committee once again requests the Government to provide data disaggregated by sex and origin on the number of migrant workers in an irregular situation that have filed administrative or judicial claims with respect to violations of their basic human rights or rights arising out of past employment. The Committee further requests the Government to provide information on the manner in which adequate legal defence for migrant workers in an irregular situation is ensured, including in detention centres. Please also continue to provide information on inspections carried out in the construction and agriculture as well as other sectors to detect illegal employment of migrants and the results achieved.

Part II. Articles 10 and 12. National policy on equality of opportunity and treatment of migrant workers lawfully in the country.

The Committee previously took note of the adoption by the Government of the Plan on Integration in Safety – Identity and Dialogue and requested information on its implementation. The Committee notes that the Government refers to the integration agreements as a new practical instrument under the Plan and indicates that they are still at the launch stage and therefore cannot yet be evaluated. The one-stop-shops for immigration play an important role in the promotion and support services for the training courses that foreign nationals undertake to attend under the integration agreements. The Government further refers to the activities and projects carried out in the framework of the multi-annual programme for the period 2007–13 put in place by the Central Directorate for Immigration and Asylum Policy of the Ministry of Interior following wide-ranging consultation of the institutional stakeholders. The Committee observes, however, that no information is provided on the concrete impact and results of the annual programmes that have already been in place since 2007. The Government also provides information on a range of measures aimed at promoting the integration of migrant workers and raising awareness about migration issues. The Committee notes in particular: the “Migrant Integration Portal” which offers a multitude of services to migrant workers, through a public–private network engaged in integration measures; a handbook on “Immigration: How, when, where – the handbook for integration” designed for those that have not yet arrived in Italy; a campaign for music, sports and integration, as well as the Co.In project, intended to help migrant workers to become integrated and Italian society to become aware of the mutual rewards of integration. Measures have also been taken to improve the approach of the media to immigration, including the drafting of a handbook on migration

and the mass media and the organization of seminars. The Committee notes, however, that according to UIL, CGIL and CISL, migrant workers continue to be concentrated in the lowest income range (27.5 per cent of Italian and 55.9 of migrant workers) and are the most affected by unemployment. The Committee notes that this is confirmed by the third annual report on migrant workers in the Italian labour market from the Ministry of Labour and Social Policies, according to which the remuneration gap between national and migrant workers has increased considerably in the past years. ***The Committee asks the Government to continue to provide information on developments with respect to the national policy on equality of opportunity and treatment of migrant workers, including cooperation with employers' and workers' organizations. The Committee also requests the Government to indicate the impact of the action taken to implement the national policy including the multi-annual programme 2007–13, and any obstacles encountered. Please provide specific information on the measures adopted to address the remuneration gap between national and migrant workers, particularly in sectors where the gap is the highest.***

The Committee is raising other points in a request addressed directly to the Government.