

Observation (CEACR) - adopted 2015, published 105th ILC session (2016)

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

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Article 3(1) and (2) of the Convention. Additional functions entrusted to labour inspectors.

The Committee notes from the Government's indications and the statistics provided in its report that labour inspections have continued to focus on combating undeclared employment. It notes that in 2013, 139,824 labour inspection visits were carried out (including a significant number of so-called "summary inspections" solely designed to assess the incidence of undeclared employment including with the *Carabinieri Command for Labour Protection*), during which 1,091 irregular non-EU workers were detected.

The Committee notes the Government's reiterated indications that labour inspections concerned with the detection of irregular employment are aimed at the protection of workers. According to the Government, labour inspectors take measures to: (i) regularize the employment relationship for non-EU workers in an irregular situation; (ii) recover outstanding social security and insurance contributions; and (iii) are increasingly applying measures to ensure the rapid and effective payment of outstanding wages and entitlements of workers (such as the submission of cases to conciliation and the possibility of voluntary payments). The Government also refers to the envisaged decriminalization of the offence of illegal immigration and its conversion into an administrative offence which should make it easier for non-EU workers

in an irregular situation to claim their rights before the competent authorities, and for labour inspectors to provide for their effective protection. The Government emphasizes that the functions of labour inspectors to provide effective protection for all workers, including workers in an irregular situation, are clearly different from the *Carabinieri* entrusted with combating illegal immigration, and that cooperation during inspection visits is in many cases intended to ensure the physical safety of labour inspectors.

The Committee welcomes the abovementioned efforts made to ensure that workers in an irregular situation are being granted their due rights. Noting however the important part of inspection activities in the area of control of the legality of employment, and with reference to its previous observation, the Committee would like to emphasize that the role assigned to labour inspectors in preventing the irregular employment of foreign workers should not jeopardize the performance of their primary duties as defined by the Convention. Moreover, the Committee is of the view that the association of the *Carabinieri* may not be conducive to the relationship of trust that is essential to enlisting the cooperation of employers and workers with labour inspectors. ***The Committee therefore requests the Government, in conformity with Article 3(2), to ensure that the functions relating to the prevention of the employment of foreign workers in an irregular situation do not interfere with the primary duties of labour inspectors or prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers.***

It requests the Government to continue to provide information on 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 (including subsequent to the decriminalization of the offence of illegal immigration). Please also provide information in relation to the concrete actions that are taken when regularizing the employment relationship of such workers, as well as information on the rights that were granted to them following their detection (number of cases in which their relationship was regularized, number of cases in which their outstanding wages and other benefits were fully paid, cases in which compensation was paid in the event of past work accidents, etc.).

Noting from the Government's indications that the Carabinieri have the independent power to carry out inspections in workplaces, the Committee requests the Government to provide information on the measures taken so as to ensure that the cooperation of labour inspectors with the Carabinieri is limited to an extent that is compatible with the purpose of the Convention.

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