

**Italy** (ratification: 1981)

*New developments.* The Committee notes the measures referred to in the Government's report to apply the provisions of the Convention. It notes in particular the establishment of a Central Directorate for Immigration and Border Police under the Department for Public Security of the Ministry of the Interior (Act No. 189 of 30 July 2002), and the amendments made to the Unified Text of Legislative Decree No. 286 of 25 July 1998 on immigration and the legal status of foreigners. The amendments introduce specific sanctions concerning irregular migration, enhanced protection of the right to non-return in the case of loss of employment, and extension of the right to family reunification. The Committee further notes that, following decision No. 5002 of the Council of States (8 September 2006), evidence of the presence in the country for the purpose of regularization can now also be provided by means other than acts or declarations of public bodies. Finally, the Committee notes the initiatives envisaged under the Directive of 3 August 2007 setting out the general objectives for the use of the National Fund for the Social Integration of Immigrants.

*Articles 2 to 5 of the Convention. Migrations in abusive conditions.* The Committee notes that the Central Directorate for Immigration and Border Police is charged with developing intervention strategies from an international perspective to combat irregular immigration. The Committee also notes that an agreement was signed between Italy and the Libyan Arab Jamahiriya on 19 December 2007, laying down the basis for common action against the trafficking of immigrants (Tripoli Agreement). In addition, a bill has been submitted by the Council of Ministers to Parliament, pursuant to which regular or irregular migrants who have been victims of abuse and exploitation in the agricultural and construction sectors would be granted a special permit to stay in the country on the same terms as victims of trafficking. There also appear to be plans to establish a commission to identify action to fight violence and exploitation of foreign workers (CERD, C/ITA/15, 18 February–7 March 2008). ***The Committee requests the Government to:***

- (a) provide detailed information on the strategies developed by the Central Directorate for Immigration and Border Police with a view to combating irregular immigration and on their implementation;***
- (b) supply information on the measures taken or envisaged under the Tripoli Agreement to suppress irregular flows of immigrants and to indicate any other measures taken in collaboration with other States to this end; and***
- (c) provide information on legislative developments regarding the protection of migrants who have been victims of abuse and exploitation and the establishment of the commission to identify action to fight violence and exploitation of foreign workers.***

*Article 6. Sanctions.* The Committee notes that article 12 of the Unified Text, as amended by Law No. 189 of 30 July 2002, provides for specific sanctions for those who carry out acts aimed at procuring illegal entry into Italian territory

for foreigners, those who derive gain, even indirectly, from such acts, and those who carry out such acts for the purpose of recruiting persons for sexual exploitation or minors to be involved in illicit activities. Furthermore, Act No. 228/2003 relating to the prevention of clandestine immigration, in particular the prevention of trafficking in human beings, has in modifying, among others, articles 600–602 of the Penal Code, introduced more effective sanctions against anyone who carries out acts relating to the enslavement of human beings, trafficking in human beings and giving, selling and purchasing of slaves. The Committee further notes that the Government is currently discussing the adoption of a set of rules on national security providing for the introduction into national legislation of the crime of “clandestine immigration”. ***The Committee requests the Government to provide full information on the application of the sanctions contemplated by article 12 of the Unified Text and of those provided in the Penal Code concerning human trafficking and slavery. Please also supply information on the scope and definition of the crime of “clandestine immigration” and keep the Committee informed of any legislative developments in this regard.***

*Article 8. Non-return in the case of loss of employment.* The Committee notes the Council of State’s decision No. 2594 of 22 May 2007 which clarifies the extent of section 22(11), of the Unified Text, as amended by Law No. 189 of 30 July 2002, concerning loss of employment of a non-Community worker. According to this decision, in case of loss of employment, non-Community workers, with the exception of seasonal workers, have the right to be registered on placement lists in order to find alternative employment not only until the expiry of their residence permit but also, should the remaining validity of this permit be shorter than six months, for a further period of time which cannot, however, exceed six months from the expiry of the initial residence permit. The residence permit will accordingly be renewed upon request from the migrant worker. ***The Committee asks the Government to indicate how it is ensured that seasonal workers who have lost their employment prematurely shall not be regarded as being in an irregular situation, in accordance with Article 8.***

*Article 9(3). Expulsion.* The Committee notes that following Decree-Law No. 241 of 14 September 2004 amending the Unified Text, the expulsion order adopted by the administrative authorities shall be transmitted for confirmation to the justice of peace whose decision can be appealed before the High Court. However, this appeal does not suspend the execution of the expulsion order. In this regard, the Committee wishes to draw the Government’s attention to Paragraph 33 of the Migrant Workers Recommendation, 1975 (No. 151), stating that appeal against an expulsion order should stay the execution of the order, subject to the duly substantiated requirements of national security or public order. ***The Committee hopes that the Government will consider amending the Unified Text in the near future to introduce a provision permitting migrant workers who contest an expulsion order to reside in the country for the duration of the case.***

*Articles 10 and 12. Equality of opportunity and treatment.* The Committee welcomes the initiatives envisaged under the Directive setting out the general

objectives for the use of the National Fund for the Social Integration of Immigrants. These include the creation of adequate structures to offer temporary accommodation to migrant workers, the establishment of information and assistance services to help them in the search for housing, the organization of sensitization campaigns to foster the integration of foreign students in the schools, the setting up of programmes to promote the cultural expressions of migrant communities along with programmes aimed at fostering a wider knowledge of Italian language and culture, and the development of specific programmes directed at raising awareness about legislative instruments relevant to migration. Noting that women constitute approximately 49.4 per cent of the total number of immigrants, the Committee also welcomes the projects specifically targeting women migrant workers contemplated in the abovementioned Directive, ranging from training programmes and supply of accommodation, to awareness-raising campaigns aimed at preventing abusive practices against women and programmes intended to enhance women's access to public services. ***The Committee asks the Government to provide information on the implementation of these initiatives and their impact in promoting equality of opportunity and treatment between nationals and migrant workers, in particular with respect to women migrants. Please also provide further details on the national policy designed to promote and guarantee equality of opportunity and treatment in respect of all the subjects mentioned in Article 10 of the Convention and on its implementation, including information regarding cooperation with the social partners, pursuant to Article 12.***

*Article 13. Family reunification.* The Committee notes with interest the amendments to the Unified Text introduced by Legislative Decree No. 5 of 8 January 2007 on family reunification for non-Community workers legally residing in the country, transposing EC Directive 2003/86/CE. In particular, the Committee notes that article 29 of the Unified Text now extends the right to family reunification also to children older than 18 years of age, provided that they are unable to look after themselves for reasons of health.

***[The Government is asked to reply in detail to the present comments in 2009.]***