

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL COOPERATION,
THE MINISTRY OF THE INTERIOR
AND THE MINISTRY OF LABOUR AND SOCIAL POLICIES
OF THE ITALIAN REPUBLIC, OF THE ONE PART,
AND
THE MINISTRY OF FOREIGN RELATIONS AND HUMAN MOBILITY,
THE MINISTRY OF INTERIOR AND THE MINISTRY OF LABOUR
OF THE REPUBLIC OF ECUADOR, OF THE OTHER PART,
ON MIGRATION AND MOBILITY

The Ministry of Foreign Affairs and International Cooperation, the Ministry of the Interior and the Ministry of Labour and Social Policies of the Italian Republic, on the one part, and the Ministry of Foreign Affairs and Human Mobility, the Ministry of Interior and the Ministry of Labour of the Republic of Ecuador, on the other part, hereinafter individually referred to as the "Participant" and collectively as "the Participants",

RECOGNISING the long-standing and excellent bilateral relationship between the two countries;

CONVINCED that a coordinated management of regular migration contributes to the economic, social and cultural development of the two countries;

ACKNOWLEDGING the need of initiatives that facilitate channels of regular migration, to facilitate the matching of labour offer and demand in Italy as well as to provide information on the opportunities for regular employment and on the risks of irregular migration;

WITH THE AIM of preserving the fundamental rights of the migrant workers and of encouraging the exchange and return of skills to the home country;

DETERMINED to jointly take the necessary steps to prevent irregular migration and to stem criminal organisations exploiting the trafficking of human beings, as well as the measures in the matter of readmission of irregular migrants, in accordance with the respective national legislations and applicable international law;

Have entered into the following Memorandum of Understanding, hereinafter referred as "Memorandum":

Article 1

Objectives and principles

1. The Participants aim at establishing and developing the bilateral cooperation in the following areas:
 - a. facilitating the regular mobility of employed and self-employed, seasonal and non-seasonal workers, as well as of students and trainees;
 - b. preventing irregular migrations, including via initiatives to inform Ecuadorian citizens about channels of legal mobility and about the risks of irregular migration;
 - c. cooperating in tackling irregular migrations, the exploitation and trafficking in human beings, including through voluntary and forced return procedures of persons in irregular situations, in accordance with respective national legislation.
2. This Memorandum will be implemented in accordance with the Italian and Ecuadorian legislations, as well as applicable international law and, as for the Italian Participant, the obligations arising from Italy's membership of the European Union.
3. The Participants will exchange timely updated information in case the introduction of changes to the national or European legislation will make inapplicable one or more provisions of this Memorandum.
4. Personal data, which will be transmitted between Participants will be collected, processed and transmitted only when necessary for the purposes of this Memorandum under provisions set forth in Article 10.
5. The activities envisaged by the Participants may involve the participation of Italian, international or other European partners' organisations, including the involvement of respective relevant agencies or in-house companies.
6. This Memorandum does not constitute an international agreement from which rights and obligations under international law may derive. No provision of this Memorandum will be interpreted or implemented as a legally binding obligation or commitment of the Participants.

Article 2

Definitions

For the purposes of this Memorandum, the expressions below have the following meanings:

- a) "Flows Decree": the Decree of the President of the Council of Ministers of the Italian Republic, which regulates the maximum number of admissions of non-EU citizens into the Italian territory for work reasons in the identified economic sectors;
- b) "Decree determining the three-year quota for the entry of foreign nationals for the participation in vocational training courses and traineeships": the three-year decree of

the Ministry of Labour and Social Policies of the Italian Republic, adopted in consultation with the Ministry of Foreign Affairs and International Cooperation and the Ministry of Interior, containing the maximum number of entries to the Italian territory of non-EU citizens for the attendance of vocational training courses and performance of traineeships in Italian companies;

- c) "Employee/employed worker": a person hired by another person or company to perform a job, having a specific salary and a written employment contract with the employer they work for;
- d) "Self-employed worker": a person working in his or her own business or professional practice for the purpose of earning a profit/salary. A self-employed person may also be defined as self-employed or freelance;
- e) "Seasonal worker": a worker who legally and temporarily stays in the Italian territory (up to nine months) to carry out an activity dependent on the passing of the seasons, in agriculture and tourism sectors, under one or more fixed-term work contracts according to the Italian legislation;
- f) "Non-seasonal workers": a worker who enters Italy with a fixed-term or indefinite contract to carry out an activity as employed worker.
- g) "Internship": a study-work training course aimed at providing guidance and vocational training, and at improving the matching of labour supply and demand. If aimed at obtaining an officially recognised Certification, Diploma or Degree, it is defined as curricular. Extra-curricular internships, on the other hand, are generally aimed at providing job seekers with work experience in the private sector or public institutions. They do not correspond to an employment contract.

Article 3

Regular migration for work reasons

The Participants will consult each other in order to coordinate and assess initiatives to facilitate legal migration for work reasons, including:

- a) exchange of information on employment opportunities in Italy and on the availability of labour in Ecuador, to bring together the supply and demand of work in their respective countries;
- b) vocational and civic language training programmes in Ecuador;
- c) allocation of a reserved quota of work entries for non-seasonal and seasonal employed persons of Ecuadorian nationality, as indicated in Article 4, paragraph 4, of the present Memorandum, also as provided for by the decrees of the President of the Council of Ministers of the Italian Republic (DPCM) on the programming of the flows of legal entry into Italy of workers resident in third countries (c.d. Flows Decree) in the part reserved for nationals of third countries with which Italy has signed cooperation agreements or understandings in the sphere of migration.

Article 4

Mobility of workers

1. The Participants will cooperate in the management of labour migration flows between the two countries, encouraging the mobility of skilled workers and facilitating contacts and exchange of knowledge between employers' organisations in the various economic sectors.
2. The Participants will regularly inform each other about the conditions for entry, residence and work in the respective countries;
3. Ecuadorian workers in possess of a working and residence permit for work reasons will benefit of equal treatment and full equality of rights as accorded to Italian nationals; they are subject to Italian laws and regulations, in particular with regard to working standards, including wages, working conditions, social protection (in the absence of more favourable forecasts within dedicated agreements), health, hygiene and workplace safety.
4. Italy will reserve a quota for employed seasonal workers and for employed non-seasonal workers of Ecuadorian citizenship, for each year, within the specific quota of the Flows Decree reserved to citizens of third countries with which Italy has signed a cooperation agreement or arrangement on migration. The maximum number of citizens who can benefit from this provision may be revised according to the needs of the Italian labour market and the conditions set by the Italian legislation and the Flows Decree.
5. The Participants will cooperate to facilitate the matching of job supply and demand of non-seasonal and seasonal employed workers, in accordance with the procedures established by Italian legislation, and with the possible support of recognised employers' and workers' organisations and entities authorised to provide services of intermediation between labour demand and supply.
6. The Participants may cooperate also in specific economic sectors outside the quota system, such as in the area of sport. Entries of professional sportspersons may take place within the limits and according to the procedures established by Italian legislation.
7. Methods and procedures related to entering into Italy and obtaining the residence permit for employment purposes by Ecuadorian citizens will be established by the Italian authorities in adherence to the Italian legislation.

Article 5

Vocational and civic-linguistic training

1. The Participants, in accordance with their national legislations, will encourage vocational and civic-linguistic training in Ecuador for selected workers, in order to enhance their professional skills, to promote their guided job placement, as well as to develop productive and/or entrepreneurial activities in both countries.
2. The Participants will discuss the implementation of projects aimed at training Ecuadorian workers selected before their departure for Italy, in the field of basic linguistic skills,

professional training, civic education, Italian legislation and, in particular, laws on labour rights, in adherence to the existing norms and guidelines issued by the Ministry of Labour and Social Policies of the Italian Republic.

Article 6

Internships

1. The Italian Participant will facilitate the issuance of study visas to Ecuadorian nationals who intend to enter Italy for a training and guidance period aimed at completing a vocational training course, in accordance with the conditions established by the Italian national and regional legislation, within the quotas set by the "Decree determining the three-year quota for the entry of foreign nationals for the participation in vocational training courses and traineeships.

2. At the end of the traineeship trainees may request to convert their study/traineeship/training residence permit into a work residence permit if they meet the conditions set by the Italian legislation. This conversion is not subject to the quotas set out in the Flows Decree.

Article 7

Cooperation against irregular migration

1. The Participants will strengthen their bilateral cooperation in the field of prevention and countering of irregular immigration, in a spirit of partnership and solidarity, in accordance with their national legislations and applicable international law on the protection of human rights.

2. Participants will cooperate in setting up information campaigns aimed at raising awareness among Ecuadorian citizens on the risks of irregular migration for personal safety. Contents and modalities of such campaigns will be discussed upon in the Joint Working Group under Article 11 of this Memorandum.

3. The Italian Participant will consider the possibility to reserve additional quotas of working permits for employed workers of Ecuadorian citizenship in the framework of the "Flows Decree".

Article 8

Technical and operational security cooperation to prevent irregular migration

1. The Participants will develop technical and operational security cooperation within the framework of their respective legislations, with the aim of preventing irregular migration and countering smuggling of migrants and trafficking in human beings, through the

exchange of best practice and experiences:

- a. in the sphere of inquiries, outcomes of analytical investigations and relevant information in order to identify criminal organizations;
 - b. on document fraud detection;
 - c. in the sector of identification and travel document production in order to increase the level of security of the respective national identity and travel documents and to design new documents in accordance with international standards. The Participants may provide for a non-exhaustive list of documents (in original or in copy) to be considered relevant for identification;
2. The Participants will designate the relevant national Authorities in charge of implementing technical cooperation in the above-mentioned specific areas.

Article 9

Return of persons in an irregular situation

1. The Ecuadorian Participant will accept the return of Ecuadorian nationals who do not meet, or no longer meet, the conditions for legal entry into or legal residence in Italy, according to the Italian legislation. The return of persons in such irregular situation will take place only after the competent Ecuadorian Authorities have conclusively established the nationality.
2. Each Participant will promote voluntary return for nationals of the other Participant subject to a return decision. In the absence of a legal requirement for case voluntary repatriation is impossible, the requesting Participant will resort to forced repatriation on a case-by-case basis, in accordance with the applicable law, after the verification of the national identity by the requested Participant.
3. With regard to a person in an irregular situation, whose supposed nationality, based on the available documents and information, proves to be that of the other Participant, the requesting Participant will demand a nationality verification, in view of the possible issuance of the appropriate documents for the repatriation. If necessary for their identification, such persons may be interviewed, at the request of the other Participant, by officials of the diplomatic mission of the requested Participant. Once it is established that they are nationals of the country have the nationality of the requested Participant, they will be immediately repatriated on behalf of the requesting Participant, in accordance with procedures established by its national law and in accordance with international obligations, and will be immediately issued with the appropriate travel documents for repatriation.
4. The Participants will respond to repatriation requests and will issue the appropriate travel documents for repatriation expeditiously. To this end, the Participants will use e-mails or any other medium allowing the fastest possible data transmission between competent authorities. Furthermore, the Participants will utilize biometric identification

means, wherever possible.

5. The requesting Participant will cover the costs associated with the repatriation.

6. Additional entries for employment reasons may be granted by one Participant to the citizens of the country of the other Participant' citizens taking into account the state and progress of cooperation between the Participants on returns of persons in an irregular situation.

Article 10

Personal data processing

1. For the implementation of this Memorandum, the Participants will exchange personal data only if it is necessary and proportionate to achieve the defined purposes.

2. The receiving Participant will not use these data for other purposes or transfer them to third parties without the prior written consent of the transferring Participant.

3. The Participants will take the necessary technical and organizational measures to ensure a level of security and confidentiality that is appropriate to the risk of data breach.

4. The transferring Participant will guarantee the accuracy and timely updating of the transmitted data, as well as the prompt correction of any errors.

5. Personal data exchanged under this Memorandum will be deleted as soon as they are no longer required for the purposes for which they were transferred.

6. The exchange of personal data aimed at returning persons in an irregular situation or at preventing irregular migration will be carried out only in the following cases:

- a. to protect a key interest of the data subject or of another natural person;
- b. to safeguard the legitimate interests of the data subject as provided for by the law of the transferring Participant;
- c. to prevent an immediate and serious threat to the public security of the Participants or of a third country;
- d. in specific cases, with a view to preventing, investigating, establishing and prosecuting crimes and enforcing criminal sanctions in the country of the transferring Participant or with a view to establishing, exercising or defending a right before the competent judicial authorities in relation to the above-mentioned aims.

Article 11

Joint Working Group

1. In order to monitor the implementation of this Memorandum, the Participants will create a Joint Working Group composed of representatives the Participants.
2. The Joint Working Group will meet at least once a year in either country alternately or, as deemed necessary at the request of either Participant, also through video conference. The Joint Working Group will evaluate the implementation of the provisions of this Memorandum and discuss all appropriate proposals to improve it. The agenda and the composition of the Joint Working Group will be determined by mutual consent of the Participants for each meeting.
3. Representatives of the Participants in the Joint Working Group referred to in paragraph 1 will not be entitled to any fees, emoluments, attendance tokens, reimbursement of expenses or any other emoluments whatever denominated.

Article 12

Budgetary neutrality

The expenses arising from the implementation of this Memorandum will be covered by the Participants within the limits of their ordinary budget availability, without producing additional charges for the ordinary State budgets of the Italian Republic and of the Republic of Ecuador.

Article 13

Divergences

Any divergence in the interpretation and/or implementation of this Memorandum will be settled within the Joint Working Group referred to in Article 11 of the present Memorandum or, alternatively, will be solved amicably through direct consultations and negotiations between the Participants.

Article 14

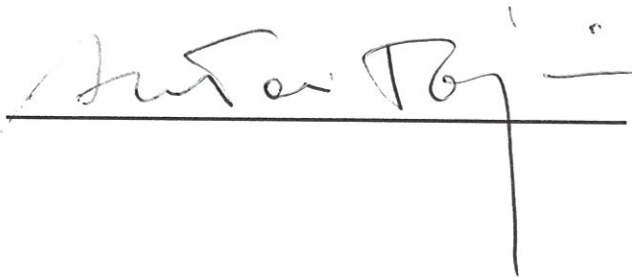
Final provisions

1. This Memorandum takes effect on the date of signature. It will remain valid for three (3) years and will be automatically renewed for further periods of three (3) years unless either Participant notifies the other its intention to terminate it at least six (6) months prior to the date of renewal.
2. Either Participant may terminate this Memorandum at any time, by notifying the other Participant of its intention to terminate it at least six (6) months prior to the intended date of expiration.

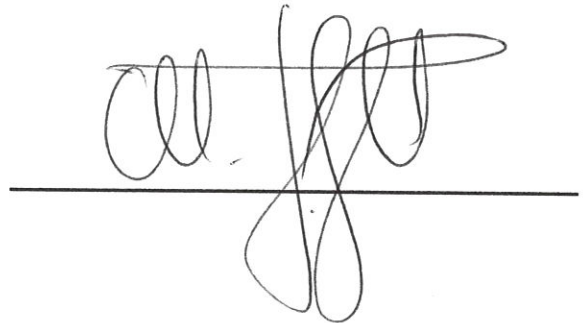
3. This Memorandum may be amended in writing by mutual consent of the Participants.

Signed in Rome, on July 1st, in two originals, each in the English language, both texts being equally authentic.

FOR
THE MINISTRY OF FOREIGN AFFAIRS AND
INTERNATIONAL COOPERATION,
THE MINISTRY OF THE INTERIOR AND
THE MINISTRY OF LABOUR AND SOCIAL
POLICIES
OF THE ITALIAN REPUBLIC

A handwritten signature in black ink, appearing to read "Antonio Tajani", is written over a horizontal line. A vertical line extends downwards from the end of the signature.

FOR
THE MINISTRY OF FOREIGN AFFAIRS AND
HUMAN MOBILITY,
THE MINISTRY OF INTERIOR
AND THE MINISTRY OF LABOUR
OF THE REPUBLIC OF ECUADOR

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, is written over a horizontal line.