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Tenth sitting, 8 June 2023, 5.40 p.m.**Dixième séance, 8 juin 2023, 17 h 40****Décima sesión, 8 de junio de 2023, 17.40 horas**

Chairperson: H.E. Ambassador Hashmi

Président: S. E. l'Ambassadeur Monsieur Hashmi

Presidente: Excmo. Sr. Embajador Hashmi

Discussion of individual cases (*cont.*)**Discussion des cas individuels (*suite*)****Discusión de los casos individuales (*cont.*)****Italy**

Labour Inspection Convention, 1947 (No. 81) (ratification: 1952)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1981)

Convention (n° 81) sur l'inspection du travail, 1947

Convention (n° 129) sur l'inspection du travail (agriculture), 1969

Convenio sobre la inspección del trabajo, 1947 (núm. 81)

Convenio sobre la inspección del trabajo (agricultura), 1969 (núm. 129)

Chairperson – The last case on our agenda is Italy on the application of the Labour Inspection Convention, 1947 (No. 81), and of Labour Inspection (Agriculture) Convention, 1969 (No. 129). I will now invite the Government representative of Italy to take the floor.

Government representative (Mr DE CAMILLIS) – I would like to have this intervention with my colleague also for the second part from some operational aspects. We welcome with particular openness this occasion in which Italy can represent the strong and concrete commitment to the full implementation of both Conventions Nos 81 and 129. The element and information that will be presented today and in this room in response to the direct questions that have been addressed to Italy, are already described in the document submitted to the office of the Committee last May the 22nd.

Italy has always been strongly and concretely committed in combating irregular work and labour exploitation. In this way, as you probably know, since 2015 it has set up a national agency dedicated to making more effective and coordinated the labour inspections in our national country. But on this occasion this afternoon, I would like to inform you that in the framework of National Recovery and Resilience plan in December of last year, December 2022, the Minister of Labour and Social Policies adopted the National Plan for the fight against undeclared work. It is the first relevant national document in this area. It is prepared by a specific multi-stakeholder technical table, with the participation of researchers and experts on the matter. Before its adoption, the National Plan was also submitted to the social partners.

With this Plan, which will be implemented in Italy in the period 2023–25, in the next three years, the Italian Government undertakes to carry out concrete and effective actions to combat and prevent the phenomenon of undeclared work in all of the economic sectors, in particular, and this is the first point of one of your questions, a relevant aspect of the

National Plan concerns the strengthening of the collection and sharing of statistical data, in order to better understand the phenomenon of irregular work, in all its forms and to plan better activities and more efficiency for inspections. So, we have a specific line of action for collecting of statistical data.

The analysis of this phenomenon, based on our information at the moment available, has highlighted the need to pay particular attention to some critical sectors, such as domestic work and in agriculture. Both sectors where we know we have relevant presence of migrant workers. The National Plan also intends to encourage, through a reorganization of sanctions, a progressive and continuous transition from irregular forms of work to regular and transparent work in the country.

In the framework of our national agency for inspections, my colleague working in the national agency, created a specific national portal on information on undeclared work. A new database can be useful for the activities of the national agency. And last month in April, the Minister of Labour established a national committee for the prevention and fight against undeclared work, entrusted with the task of coordinating and monitoring the action plan in line with the reform of our PNR of the European Union (EU). The committee is chaired by the Minister of Labour and Social Policies and is made up of representatives of the different institutions at national and regional level with experts appointed by the Minister in this field, with 10 representatives from social partners.

But we have some relevant information that in our opinion can be useful for this discussion. Since 2020, three years ago, the Italian Government adopted all the relevant measures to implement the system of labour inspection. This is the National Strategy for the prevention and fight against labour exploitation in the agriculture sector and illegal hiring.

This plan implements a national law adopted in 2016. The National Law No. 199. It represents an important shift towards a more comprehensive and multidimensional approach of labour inspection, and it is structured around four strategic pillars: prevention, protection, enforcement, and remedies. These are four strategic pillars in our opinion that fully agree with both the Conventions that we are discussing today.

In December 2018 the Italian Government established a specific table – a group of experts – in Italian is *Tavolo per il Caporalato*, chaired by the Minister of Labour to support the national strategy in the agricultural sector. The National Strategy addresses the prevention and contrast of irregular work in agriculture, with a particular focus on the most vulnerable categories such as migrant workers in irregular situation and considering this national strategy, the specific characteristics of the territories of our country and the idea is to convene penalties formulation with a concrete action of prevention and for social inclusion for these migrant workers. It is important to underline that this National Action Plan was adopted in line with the specific action of the European Commission and is co-funded by the Structural Reform Support Programme and as you probably know, the technical support for the National Strategy is provided to our Ministry of Labour by the ILO National Office for Italy.

Another element we think can be relevant in this discussion, since 2020 in the framework of this National Strategy, the Ministry of Labour launched with the National Labour Inspectorate, a specific joint action establishing some special task forces to carry out labour inspections with an innovative approach. The National Labour Inspectors are supported by cultural mediators of the International Organization for Migration. This is an innovative approach and is a multi-agency approach and these taskforces were set up according with this multi-dimensional approach and with specific coordination with local

authorities of single territories. This cooperation among labour inspectors and cultural mediators concern inspection visits, in the workplace but also before the planning phase and after, the phase of taking care of victims of irregular work.

The activities carried out with this specific approach of task forces, now are adopted not also in agricultural but in other sectors: manufacturing, construction, services and logistics. Another point we want to underline, regarding the specific role of labour inspectors – in our national system of labour inspection, the labour inspection is totally addressed to secure the protection of all workers, including protection of all workers, including migrant workers and with specific regard of this group of migrant workers, during this inspection, they are provided with all available information by the inspectors on their rights. Also, through the delivery of a special form adopted in Italy, adopted and translated in collaboration with the cultural mediators, and in the language of each of these migrant workers. In this leaflet, we find information on their rights, the responsibilities of the employer and the special protection mechanism to which victims cannot access on the basis of Italian legislation. So, this is a form of taking care of the support for migrant workers.

At this moment we can offer to migrant workers these multilingual leaflets with an information dossier, in 11 different languages to help migrant workers to present in the Italian territory, to enforce their rights and social inclusion and prevent the risk for this group of the exploitation phenomena. Also, thanks to the collaboration with cultural mediators of international organizations, the inspection request form dedicated to the workers, that is available online, on the website of the inspectorate, at this moment is being translated into nine languages. So, it can be more effectively adopted and used and is accessible for the migrant workers.

These activities have been crucial in building in these four or five years, migrant workers' trust in cultural mediators and labour inspectors. We can observe this phenomenon in our different territories. Especially, with the frequent visits to informal settlements, with a regular presence in the area. With a strong relationship with the migrant association and with the follow up of mechanisms with migrant workers and their families. Capitalizing on this positive experience, the national inspectorate has started strengthening the territorial offices to be closer to the needs of migrant workers. At this moment, we have the experience of six territorial offices, there are specific help desks as a pilot project. They are a multilingual help desk, dedicated to receiving reports of irregularities, of exploitation by migrant workers and more generally, to provide information and support on their rights. Our commitment, the Ministry and the inspectorate, is to improve this approach, to have more help desk offices in all of Italy in the near future.

Finally, a point on the role. There is a specific passage in your question. The role of labour inspectors. The labour inspectors in communicating the presence of migrant workers to the public security authority, the labour inspectors pay specific attention to describe and to emphasise all the useful elements for example, with the collaboration of the victim, in the context of violence, or the serious exploitation to support the timely issuance of the special case residence permits in favour of these workers. It is important to recall this, because this approach moves clearly in the direction to pay all the attention on the workers. This is clearer in our system. In enforcing the protection of migrant workers in every situation, and in enforcing their rights, both labour and social rights as a person, and this is in full respect both of Article 3 of the Convention No. 81 and Article 6 of Convention No. 129.

The final point of my speech is regarding the special permits. There is a dedicated question on your document. Last week in our document, we sent you the data collected by our Ministry of Interior, regarding the two types of special permits. For social protection reasons and for serious labour exploitation. Yesterday, we received very up to date data and so we can send you it after this discussion or tomorrow, a new document that can give you more specific updated elements.

Chairperson – You have finished your time but if you can wrap it up.

Government representative (Mr DE CAMILLIS) – I have only one final point with the inspectors.

Chairperson – If your colleague has to add, he can come back in the concluding statement. We will take a break of 30 minutes and come back to the room at 6.30 p.m. and we will start with the statement from the Worker members.

(The sitting adjourned at 6 p.m. and resumed at 6.30 p.m.)

Miembros trabajadores - Es la primera vez que nuestra comisión examina la aplicación de los Convenios núms. 81 y 129 por parte del Gobierno de Italia.

En sus comentarios, la Comisión de Expertos ha planteado una serie de cuestiones relacionadas, específicamente, con las funciones adicionales encomendadas a los inspectores del trabajo en materia de inmigración. Señaló que el personal de inspección debe notificar a las autoridades de seguridad pública la presencia de cualquier trabajador migrante irregular, ya que, según la legislación italiana, la entrada y residencia ilegal en el territorio del Estado sigue siendo un delito penal. El Gobierno proporcionó datos actualizados indicando que en 2022 se identificaron 1 206 trabajadores sin permiso de

residencia válido. Según el informe del Gobierno estos trabajadores recibieron información sobre sus derechos.

La Organización Internacional para las Migraciones también ayudó a 598 trabajadores migrantes a acceder a mecanismos especiales de protección. En consecuencia, se concedieron permisos de residencia a 313 trabajadores migrantes por motivos de protección social y en casos de especial explotación. También se facilitó información sobre las ventanillas multilingües experimentales creadas por seis inspecciones del trabajo provinciales para recibir denuncias de irregularidad y explotación laboral de trabajadores extranjeros, y darles apoyo e información.

Tomamos nota de la información facilitada. Sin embargo, expresamos nuestra preocupación por la criminalización de la inmigración ilegal en el territorio italiano, su interferencia en el cumplimiento de las obligaciones primarias de los inspectores del trabajo y su impacto adverso en la capacidad de los trabajadores extranjeros para hacer valer sus derechos. Recordamos que de conformidad con el artículo 3, párrafo 2 del Convenio núm. 81 y el artículo 6, párrafo 3 del Convenio núm. 129, el deber primordial de los inspectores del trabajo es proteger a los trabajadores y no hacer cumplir la Ley de Inmigración.

En palabras de la Comisión de Expertos, los trabajadores en situación vulnerable pueden no estar dispuestos a cooperar con los servicios de inspección del trabajo si temen consecuencias negativas como resultado de las actividades de inspección, tales como ser multados, perder su empleo o ser expulsados del país. El objetivo de la inspección del trabajo solo puede cumplirse si los trabajadores están convencidos de que la tarea principal de la inspección es hacer cumplir las disposiciones legales relativas a las condiciones de trabajo y a la protección de los trabajadores. Por lo tanto, la obligación de los inspectores

del trabajo de comunicar a la autoridad de seguridad pública la presencia de trabajadores migrantes en situación irregular, no se ajusta a las prescripciones de los convenios. El Gobierno debería adoptar medidas para que se establezca una clara distinción entre las actividades llevadas a cabo por la inspección del trabajo, según lo dispuesto en los convenios, y los controles de inmigración en los que los inspectores del trabajo no deberían participar.

En cuanto a la protección de los trabajadores migrantes, lamentamos que el Gobierno haya suprimido este año los permisos de residencia para casos especiales, con lo que los trabajadores migrantes corren aún más riesgos. Además, observamos que los dos proyectos trienales, SU.PR.EME y A.L.T. CAPORALATO!, destinados a luchar contra la explotación y los capataces en la agricultura, están a punto de terminar. Lamentamos que el Gobierno haya optado por utilizar medidas limitadas en el tiempo para atajar la explotación sistémica y prolongada de los trabajadores migrantes en la agricultura, que emplea a una proporción significativa de ellos y donde la subcontratación y las cooperativas fantasmas son prácticas habituales. Estas prácticas abusivas requieren una respuesta sostenida y específica por parte del Gobierno, y deben formar parte integral de la estrategia de inspección laboral elaborada por el Gobierno. También observamos que el Gobierno no proporciona información sobre la recuperación de salarios y cotizaciones a la seguridad social pendientes para los trabajadores sin permiso de residencia, y se limita a indicar que el actual sistema de recopilación de datos estadísticos solo permite una visión general de las cifras totales.

Nos hacemos eco de la petición de la Comisión de Expertos de disponer de un conjunto completo de estadísticas sobre el papel de los inspectores de trabajo a la hora de informar a los trabajadores inmigrantes sobre sus derechos laborales, y de hacer cumplir dichos

derechos incluyendo datos mejorados sobre la recuperación de los créditos salariales y de seguridad social específicos de los trabajadores extranjeros sin permiso de residencia. Además, observamos que el trabajo en plataformas y el trabajo doméstico en los que se emplean muchos trabajadores migrantes, y en los que los abusos y las inflaciones de los derechos de los trabajadores son extremadamente frecuentes, no son competencia de la inspección del trabajo. Recordamos que el mandato de la inspección del trabajo debe aplicarse por igual a todos los trabajadores y trabajadoras, y a todos los lugares de trabajo en todos los sectores, ya sean privados o públicos, en zonas rurales y urbanas, en la economía formal y en la informal, con el fin de garantizar el cumplimiento de las disposiciones legales relativas a las condiciones de trabajo y la protección de los trabajadores. El Gobierno debe garantizar sin demora que el alcance de las inspecciones de trabajo abarque a todos los trabajadores y lugares de trabajo, incluidos el trabajo en plataformas y el trabajo doméstico.

Por último, observamos que la Inspección Nacional del Trabajo, creada en 2017, absorbió al Instituto Nacional de la Seguridad Social, a la Autoridad Italiana de Indemnización de los Trabajadores y a los departamentos de inspección del Ministerio de Trabajo y Política Social. En el informe anual de 2022 sobre la inspección del trabajo se observa que, a pesar de esta reforma institucional destinada a racionalizar los procedimientos de inspección, las actividades de inspección del trabajo siguen siendo llevadas a cabo por las mismas entidades antes mencionadas, así como por las agencias sanitarias locales, las agencias regionales de protección del medioambiente y los Carabinieri. Cada una de estas entidades tiene encomendada una competencia específica, ya sea la seguridad y la salud en el trabajo, los salarios o el tiempo de trabajo, y un ámbito de geográfico de actuación concreto. Sin embargo, persisten serias dudas sobre las medidas adoptadas para garantizar la necesaria cooperación de estas distintas entidades y

la coordinación de sus actividades. Prueba de dicha falta de coordinación aparece en el comentario de la Comisión de Expertos que indica que la recopilación y publicación de estadísticas de accidentes de trabajo y casos de enfermedad profesional no son competencia de la autoridad central, la Inspección Nacional del Trabajo, sino que son elaboradas y publicadas, por separado, por la Autoridad Italiana de Indemnización de los Trabajadores. La Comisión de Expertos solicitó además que el Gobierno proporcionara información sobre el impacto de la reciente reforma organizativa en las actividades llevadas a cabo por la Inspección Nacional del Trabajo, en particular en lo que respecta a la coordinación de las Inspecciones de Seguridad y Salud en el Trabajo entre la Inspección Nacional del Trabajo y las autoridades sanitarias locales.

Los informes de las confederaciones sindicales italianas también señalan ejemplos en los que, debido a la limitación de sus competencias, los agentes del Instituto Nacional de la Seguridad Social solo pueden constatar una infracción en materia de cotizaciones a la seguridad social, pero no una falta de remuneración de los trabajadores cuando ambas están intrínsecamente relacionadas. Se trata de una perversa situación que perjudica principalmente a los trabajadores y trabajadoras.

Recordamos que, en virtud del artículo 5 del Convenio núm. 81 y del artículo 12 del Convenio núm. 129, la autoridad competente tomará las medidas adecuadas para promover una cooperación eficaz entre los servicios de inspección y otros servicios de la administración e instituciones públicas o privadas que realicen actividades similares. Por lo tanto, el Gobierno debe tomar medidas inmediatas para garantizar dicha cooperación y el buen funcionamiento de los servicios de inspección del trabajo.

Employer members – Distinguished members of the Committee, the case under discussion concerns Conventions Nos 81 and 129. These two instruments are tightly linked

and form part of the series of international labour standards intended to guarantee protection for workers in the sectors concerned. At the outset, the Employers' group stresses the importance of States' compliance with the ILO Conventions they have ratified. Furthermore, the Employers would like to emphasize the vital importance of labour inspection both for the protection of workers as well as for a well-functioning economy.

Allow me to turn to some background information on this case: Italy ratified Convention No. 81, which is a priority governance Convention, in 1952. Convention No. 129, which is a priority Convention as well, was ratified by Italy in 1981. We also note that since 2007 the Committee of Experts has issued six observations, the last one in 2022, denoting a failure by the Government to meet the commitments undertaken by ratifying the Conventions. Today, however, is the first time that the case regarding Italy's compliance with Conventions Nos 81 and 129 is discussed in the CAS. As to the country situation, it is worth noting that, in July 2020 after the fall of the Government, the President called for general elections in September 2022, which saw a new coalition reaching a majority of seats in the Parliament.

Allow me now to turn to the key issues of this case: The Committee of Experts, in its 2022 observations, identified elements of concern with respect to Article 3(1) and (2) of Convention No. 81 and Article 6(1) and (3) of Convention No. 129, regarding additional functions entrusted to labour inspectors. The Employers take note that the Government indicated in its report that inspection activities have been conducted within the three-year Plan against exploitation in agriculture, through two projects financed respectively by the European Commission and the Ministry of Labour and Social Policy. We further take note that the Government has indicated that labour inspectors shall communicate the presence of migrant workers in an irregular situation to the public security authority. It should also

be noted that, to date, at six territorial inspectorates, multilingual desks have been activated, dedicated to receiving complaints of irregularity and labour exploitation of foreign citizens and, more generally, to give support and information on their rights.

Furthermore, according to the written information provided by the Government in May 2022, the results of the tasks forces of the above-mentioned projects and of the activity against labour exploitation show that 1,206 non-EU workers without a regular residence permit were found at work during inspections. According to the Government, during the inspections, information was provided to migrant workers on their rights and the role of the Inspectorate. Employers also take note of a national Legislative Decree, according to which residence permits may be granted to concerned workers in so called “special cases”, that is for reasons of social protection and in cases of particular exploitation. The granting of such permits is submitted to the condition that the migrant worker in an exploitative situation files a complaint and cooperates in the criminal proceedings against the employer. In this regard, according to Government’s information, 230 special residence permits were issued for reasons of social protection and 83 for reasons of serious labour exploitation.

Finally, the Government mentioned that when inspections reveal failures to comply with contractual obligations, therefore creating financial credits for workers, the labour inspectors may ensure the recovery of such credits of the concerned workers. However, the Government also indicated that the current system of collection of statistical data only allows for an overview of the total figures in this regard, without specific reference to workers without residence permit. In light of the Committee of Experts’ observations and information provided by the Government, the Employers requests the Government of Italy, firstly, to continue to provide information on the number of migrant workers in an irregular

situation detected by labour inspectors; and secondly, on the role of labour inspectors in informing migrant workers about their labour rights and in enforcing those rights.

We ask the Government to include among this information, data on the recovery of wage and social security credits specific to foreign workers without a residence permit; and the number of “special case” residence permits granted as a result of cooperation by those individuals with inspection services. Finally, in line with the Committee of Experts’ observations we request the Government to provide information on the resources of the labour inspectorate that are allocated to the task of verifying the legality of the immigration status in practice as a proportion of inspectors’ overall time and resources. Thank you for your attention.

Worker member, Italy (Ms GROSSI) – I will be speaking on behalf of the three Italian trade union confederations, CGIL, CISL and UIL. The Italian trade unions consider both Conventions Nos 81 and 129 prerequisite standards for the respect and implementation of the occupational health and safety fundamental rights. As addressed by the Committee of Experts, we would like to stress that defending the independence of the public labour inspectors is of utmost importance. In fact, we welcome the withdrawal of the agreement between the national labour inspectorate, which I will call INL from now on, and labour consultants which would have allowed enterprises to be notified before a possible inspection, and enterprises with a certification of compliance issued by labour consultants, obviously for a fee, to be excluded from possible inspections.

This is in the context of a dramatic situation in terms of numbers of inspectors and of resources at their disposal: an enterprise knows that their chances of being inspected would be once in 15 years. We would like to make a few considerations on the additional information provided by the Government:

The number of cases of “special protection” reported continue to be dramatically low, and part of these were notified by the trade unions themselves and specific multi-stakeholder projects, and not as a result of national inspections, as one would have expected. Moreover, we want to challenge the following statement by the Government: “inspectors ensure adequate protection to migrant workers also from the economic point of view through the power of ascertainment notice (article 12 Legislative Decree No. 124/2004) which allows the immediate and free satisfaction of patrimonial rights.”

As we have repeatedly pointed out, the “ascertainment notice” issued by the labour inspectors is an important tool that we hope can be increasingly extended. However, this notice alone does not at all guarantee the recovery of what the ILO and the Committee of Experts have defined as “wage theft” against migrant and non-migrant workers, irregular and otherwise. The INL reform initiated in 2017, which we welcomed as it contributed to strengthen the autonomy of the INL from the Ministry of Labour, still falls short of complying with Articles 4, 5 and 16 of Convention No. 81 and Articles 7, 12 and 21 of Convention No. 129, regarding coordination of inspection activities by a central authority. Despite the efforts deployed through the SU.PR.EME and A.L.T CAPORALATO! programmes (*caporalato* is the Italian word for gang mastering) and some good practices of multi-agency inspection and coordination, in the majority of the territories affected by irregular labour and exploitation, the different inspection services (INPS, INAIL, ASL Inspectors, police like *carabinieri*, *guardia di finanza* etc.) act autonomously, without any coordination among themselves and in a disjointed manner. For example, the inspection activities promoted by the INPS (the national social insurance agency), conclude with reports that only concern social security contributions, without capturing the growing phenomenon of “wage theft,” as in fact, INPS inspectors do not issue ascertaining warnings to workers found to have been paid below contractual minimums.

In this context, Italian unions believe that the setting up of a “guarantee fund” that can ensure the enforceability of ascertainable warnings and the payment of the so-called “wage theft” to workers, would contribute to shifting the responsibility for the recovery of the economic value of the warnings from the worker to the INPS, without removing the overall responsibility from the employers.

What is more, The SU.PR.EME and A.L.T. CAPORALATO! projects are part of the national anti-*caporalato* plan prepared by the Ministry of Labour and financed with EU funds. But these are about to end and, in any case, represent an extraordinary activity that cannot guarantee continuity or stability of interventions as, on the contrary, an institutional structure such as the labour inspectorate should ensure.

For this, in compliance with article 2.2.7 of the ILO guidelines on General Principles of Labour Inspection, which stipulates “Labour inspectorates should collaborate with workers’ and employers’ organizations in the design, adoption and review of inspection policies, strategies, or programmes and plans.” Italian unions think that an institutionalized tripartite body that ensures the regular planning and monitoring of the inspections should be established. And that INL should set up an integrated database that collects disaggregated data on inspections carried out by all the responsible inspection bodies at local and regional levels.

Article 8 of the Italian Law 199/2016 against “Caporalato”, is not fully implemented. Only 6,000 enterprises are enrolled in the Quality Agricultural Labour Network out of a potential pool of 200,000. The territorial sections are less than half of those planned, not fully operational and they are not participated homogeneously by all the inspection services. In this context, we welcome the multidisciplinary experimentation of the six provinces, as mentioned right now by the Government.

Irregular labour and modern forms of slavery are still widespread in the agricultural sector, as documented by Italian trade unions. The introduction of the occasional fixed-term contract in agriculture fuels exploitation and illegal labour, undermining the Italian Law No. 199/2016. This will be further aggravated by the recent re-introduction of payment with vouchers in the agriculture sector for payments up to €15,000 through Decree No. 48/2023. On the ground, we have observed that there has been a significant increase in the number of companies providing signed semi-regular contracts (so-called “grey contracts”) to prevent the INL warning notices and sanctions.

Let me also remind this Committee that, in Italy, labour inspectors shall communicate the presence of irregular migrant workers to the public authority and that illegal entry and stay in the country and the employment of workers without permit are criminalized by sections 10bis and 22(12) of Legislative Decree No. 286/1998.

As raised several times by the Committee of Experts, it should be avoided that the result of the inspection controls is the immediate deportation of workers found in a situation of irregularity. We need to ensure a clear distinction between labour inspections and controls of immigration and to strengthen the independence and resources of the first. As long as the irregular status of migrants remains a criminal offense, there will be no full compliance with Convention No. 81. Punitive measures against employers should be accompanied by reward measures in favour of good practices and virtuous employers, who are now prevented from formalizing the workers because of the Italian Bossi-Fini law.

At the same time, article 18 of the Consolidated Immigration Act should be amended to ensure that inspections can lead to a safe regularization process for vulnerable migrant workers, in a manner that does not place the entire burden of the regularization process on the shoulders of those who are already exploited, the workers.

The gender dimension of the exploitation should not be overlooked. Contact with severely exploited people, and especially with women, requires an outreach work that does not end with one single inspection, but requires the help of cultural mediators. For this, in accordance with ILO Violence and Harassment Convention (No. 190) and Recommendation, 2019 (No. 206), national labour inspections should be further equipped to proactively prevent and report on gender-based violence and harassment in the agricultural sector. Inspections are also particularly challenging and ineffective in the context of subcontracting. Strengthening the labour inspectors, doing joint work with all those involved in the controls is the best answer to bring more legality into procurement.

Finally, let me address the issue of access to remedy. The recovery of unpaid wages and compensation for damages suffered due to exploitation is a key issue for the emersion of irregular labour especially of migrant workers, who otherwise, would have no interest in reporting exploitation, being able to expect only negative consequences. Alongside judicial remedies, which generally do not have the confidence of vulnerable workers, Italian unions believe it is necessary to pursue the path of non-judicial remedies. These are procedures characterized by speed, confidentiality and informality, which can provide positive responses to the pressing needs of workers, especially in relation to unpaid wages. These conciliation mechanisms may take place before the labour inspectorates, or they may be handled jointly by unions and employers, or they may be trade union led.

Employer member, Italy (Ms ROSSI) – I am honoured to take the floor with a short intervention in my capacity of Employer delegate of Italy and on behalf of the Confederation of Italian Industries.

We welcome the opportunity of considering the case of Italy on the application of Convention Nos 81 and 129 on the system of labour inspection, in particular with regards

to functions related to immigration. We believe it is a chance to reflect on the challenges that any country faces when securing the enforcement of the legal provisions on working conditions and the protection of workers who are migrants in an irregular situation. At the same time, we believe it is also an opportunity to show the progress that can be made in this regard, building on the positive steps already taken to address existing weaknesses and gaps. Italy is among the top front-line countries for migrants arriving in Europe and of course illegal immigration represents a huge challenge for our country. In this context, illegal migrants are more vulnerable to become victims of abuse and exploitation in the labour market.

We would like to express our firm opposition to any form of abuse or exploitation of migrant workers. It is first of all, of course, a matter of respect of human dignity and fundamental rights. From our perspective, employment of illegal migrant workers also creates unfair competition for the vast majority of enterprises respecting the law and leads to losses in tax and social security revenues.

Italy has in place an advanced and very detailed legal framework providing protections to migrants going well beyond international standards and EU provisions. Moreover, I would like to stress that in our well-established collective bargaining system, collective agreements address issues that are key to migrant workers such as training, housing, food needs and leaves. Employers collaborate with the public authorities in line with Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), which recognizes the specific role of the social partners, and are engaged, often together with the trade unions, in projects to tackle undeclared work and promote social inclusion of migrants. The aspects relating to inspections and sanctions for illegal employment, also with regard to the more problematic elements highlighted by the Committee of Experts, remain an issue in Italy, but

the information provided by the Government today shows that Italy is well aware of the challenges, committed to structurally address them and has already taken important steps that go into the right direction. This direction, in our perspective, considering the complexity of the phenomenon of illegal migration, must be towards a broad strategy that could bring together different actors at the public and private level with their respective responsibilities and tools. We, as employers, stand ready to contribute to further develop this pathway. We would encourage the Committee to take into due account the efforts and the progress made by Italy to remain strongly and concretely committed to the full implementation of Conventions Nos 81 and 129.

Chairperson – Before we proceed to statements from other members, I would like to bring to the information of the Committee members the following verbatim PVs are available on the Committee's web page: PV 1 Lebanon Convention No. 290; PV 2 Nigeria Convention No. 182; PV 3 Nicaragua Convention No. 87; and PV 4 Nicaragua Convention No. 111. The Committee members may submit amendments to their own statements appearing in these verbatim PVs to the Committee secretariat by tomorrow, that is 9 June at 6.30 p.m.

Miembro trabajador, España (Sr. GALLEGO GARCÍA) - Son muchas las derivadas que pueden extraerse de la denuncia contra el Gobierno italiano que esta comisión, muy acertadamente, ha decidido evaluemos aquí: desde la falta de recursos de muchas inspecciones del trabajo, tras años de políticas de austeridad y recortes, hasta interpretar alguna de las funciones que el Gobierno italiano le encomienda a la inspección del trabajo, fuera de las que se consagran en los artículos 3 y 6 de los Convenios núms. 81 y 129.

Hablaré de una de las que ya ha mencionado la trabajadora italiana, como la falta de garantías para una inspección exhaustiva y eficaz en la cadena de contratación y subcontratación en el sector agrícola o en el de la logística. La contratación y la

subcontratación de las que aquí hablo esconden prácticas fraudulentas e ilegales utilizando falsas cooperativas y otras formas societarias en las que las inspecciones italianas no hacen que se cumpla la ley o las normas de la OIT o los acuerdos colectivos y donde, por lo tanto, reinan los accidentes laborales —muchos de ellos mortales—, jornadas de trabajo interminables, inseguridad en el empleo y descuelgues salariales que no respetan las reglas acordadas entre los representantes de los empleadores y de las y los trabajadores. Es muy conocido el caso de la Emilia-Romaña, en donde cooperativas fantasma subcontratan mano de obra y gestionan partes del ciclo de producción de las empresas-clientes. Muchas explotaciones ganaderas subcontratan la logística a estas «cooperativas espurias», que en realidad gestionan completamente las naves donde se crían los animales. Las trabajadoras y los trabajadores de la cooperativa aparentan ser socios de la misma, pero a menudo son obligados a trabajar en circunstancias terribles. Si la cooperativa cierra como consecuencia de la denuncia y la presión sindical o de la supervisión, vuelven a reaparecer con otro nombre y con otros socios. No es un caso único, vemos que, en otros sectores, como en el de la logística, se ocultan complejos fraudes fiscales que utilizan facturas por transacciones legalmente inexistentes y por contratos ficticios, violando la normativa del sector. La Policía de Finanzas de Milán y la Agencia Tributaria han constatado relaciones laborales con empresas comisionistas blindadas por empresas filtro, que a su vez se servían de cooperativas (o empresas tanque). En esta explotación laboral de los más débiles (de los migrantes), están implicadas empresas gigantes de la logística, por lo que las tres grandes centrales sindicales italianas han pedido protección para los casi 30 000 trabajadores y trabajadoras que allí existen y que se han ofrecido a colaborar con la justicia. Estos casos solo podrán ser parados si la inspección, trabajando con el resto de los actores implicados en los controles, consigue acabar con esta ilegalidad.

Al igual que la perversa reforma laboral de 2011 del Gobierno conservador español, la actual legislación italiana permite que el trabajador que por su naturaleza debiera ser asalariado, se vea forzado a formar parte de una plantilla de pseudocooperativas cuyo único objetivo es eludir las obligaciones que le son propias, bajar los salarios y la protección de las y los trabajadores. Precarizarlos, en definitiva, obviando el artículo 4 del Convenio núm. 129. La inspección del trabajo italiana no puede ni debe ser una agencia centrada en denunciar la presencia de trabajadores migrantes en situación irregular. Bien hace esta comisión en pedir al Gobierno información sobre el tiempo y los recursos que destina a esa tarea que, y que como nos recuerda el apartado 2 del artículo 3 del Convenio núm. 81, puede entorpecer el cumplimiento efectivo de las funciones principales como que tiene la inspección del trabajo y que, como dicen —y cito— no son otras que: «velar por el cumplimiento de las disposiciones legales relativas a las condiciones de trabajo y a la protección de los trabajadores en el ejercicio de su profesión, tales como las disposiciones sobre horas de trabajo, salarios, seguridad, higiene y bienestar».

Membre gouvernemental, Algérie (M. MEKHAZNI) – La délégation algérienne voudrait remercier le représentant du gouvernement de la République italienne pour avoir fourni à la commission les réponses aux questions soulevées par la commission d'experts sur l'application des conventions n^{os} 81 et 129.

L'Italie est partie aux instruments juridiques internationaux relatifs à l'inspection du travail, et s'acquitte dûment et de bonne foi de ses obligations internationales.

Il convient de souligner que les services de l'inspection du travail, grâce à leurs actions en matière de conseil, d'information, de contrôle et des constats d'infraction, surveillent le non-respect des droits fondamentaux dans les relations et conditions de travail et, partant, constituent un volet important dans la vérification du respect de ces droits.

C'est pourquoi ma délégation apprécie les informations pertinentes que nous a données le représentant du gouvernement italien dans le cadre de ses efforts visant à garantir l'accomplissement effectif des tâches de l'inspection du travail dans le secteur de l'agriculture et notamment pour relever les manquements aux obligations contractuelles des travailleurs concernés, y compris les travailleurs migrants, et pour que les lieux de travail soient inspectés aussi souvent et aussi scrupuleusement que nécessaire notamment en matière de santé et sécurité au travail.

En effet, il ressort des réponses du représentant du gouvernement italien que des actions majeures ont été engagées aux fins de la régularisation de la relation de travail et des conditions de travail des travailleurs migrants et au sujet des droits connexes qui leur sont reconnus.

Sur un autre plan, les mesures prises contre l'exploitation et l'intermédiation illégales du travail dans l'agriculture, le renforcement des capacités des services interprovinciaux de l'inspection du travail, de leurs effectifs, et de leur système d'information et coordination avec les services publics de santé, de sécurité sociale et de gestion des flux migratoires, ainsi que l'amélioration des méthodes de travail, des techniques d'investigation et de prévention contre le travail illégal dans ce secteur particulier, contribuent, sans nul doute, à renforcer la protection de tous les travailleurs réguliers ou irréguliers, et par conséquent de faire valoir leurs droits que la législation du travail leur garantit.

Toutes ces actions traduisent les efforts de l'Italie pour donner plein effet aux conventions n^{os} 81 et 129.

Enfin, mon pays estime qu'il convient d'aborder les questions relatives à l'amélioration générale des conditions de travail dans le cadre d'un dialogue constructif et mutuellement

avantageux avec tous les acteurs y compris avec les exploitants agricoles et les organisations syndicales représentatives.

Compte tenu des engagements pris, la délégation algérienne félicite la République italienne sur les résultats obtenus à ce jour et encourage le gouvernement à poursuivre le processus visant le renforcement des moyens, des capacités et des prérogatives des services de l'inspection du travail en conformité avec le système juridique national et les instruments internationaux du travail en vigueur.

Worker member, Republic of Korea (Ms RYU) – I would like to emphasize the importance of strengthening the inspection capacity and the control tools to identify and respond to the situation of exploitation, violence and harassment against workers, gender pay discrimination in agriculture as well as in domestic sector.

The gender dimension of exploitation cannot be disregarded. We witness the feminization of migration and of poverty as a global phenomenon when more and more women are forced to leave home to support their families. In this situation, agriculture, domestic work and sex work are the only options available for women, especially migrant women in irregular situation to work in the informal economy even under prohibitive conditions. Women working in irregular situation is vulnerable to the most serious forms of exploitation and abuse.

In Italy, there is a growing feminization of exploitation in the agricultural sector, among workers not only from other EU countries, especially Bulgaria and Romania but also Italians to a much lesser extent. The tragic case of Paola Clemente, a women worker who died from fatigue while working in agricultural sector in 2015, painfully reminds us of this. Paola died in the deafening silence of the Apulian countryside. There are more than 40,000 Italian

women victimized by the Apulian “caporalato” or illegal forms of labour intermediation, who are facing the same silence. The reality of the exploitation of women workers affects the whole country and other sectors.

The Government of Italy particularly expressed his concern on the dire conditions of the workers in the domestic sector and committed to strengthen the labour inspection in this area and this was well noted. I would like to draw the Committee’s attention to the lack of inspection in the sector. Violation and irregularities in the domestic sector continue to be under documented. In 2022, the Italian national inspectorate carried out only 1,055 inspections in the domestic work sector and found irregularity in 49.29 per cent of inspected. However, the number is insignificant considering that there are around one million employers of domestic workers, according to the Italian national social insurance agency. The Italian Government, as one of the first countries that ratified the Convention No. 190, should strengthen the national labour inspectorate so that it can proactively prevent and report gender-based violence and harassment in agricultural sector and this should be extended to domestic work and platform economy work. An alternative approach to tackle this specific area should be developed.

Miembro trabajador, Argentina (Sr. PIUMATO) - Debo decir que acompaña mi presentación la Central Autónoma de Trabajadores del Perú y, en función de esto, comienzo diciendo que, respecto al caso que nos ocupa, resaltamos los esfuerzos realizados por el Gobierno italiano, pero afirmamos y reafirmamos que han sido absolutamente insuficientes.

La labor de los inspectores del trabajo es fundamental para garantizar el cumplimiento de los derechos laborales contenidos en las convenciones internacionales. La dramática situación que atraviesan los trabajadores en especial, los relacionados con la actividad

agropecuaria, agravada por la realidad que padecen los migrantes, exige a los inspectores del trabajo un apoyo gubernamental del que no cuentan ni por el número de los inspectores actuales ni por las condiciones en que desarrollan sus funciones. La explotación laboral y la economía sumergida son signos claros y explícitos de un sistema productivo enfermo e ilegal que, en muchos casos, es llevada adelante y esto agrava la situación por la propia delincuencia organizada.

Es bueno resaltar que la violación de los derechos humanos se corrobora con la precariedad de los trabajadores migrantes, en especial los irregulares, principalmente las mujeres y los niños sometidos al trabajo infantil. Ellos muchas veces son escondidos durante las inspecciones por quienes explotan su fuerza de trabajo y son la cara más dolorosa de las nuevas formas de esclavitud moderna. Por ejemplo, podemos decir que en cada temporada estival unos 7 000 jornaleros migrantes, tanto fijos como temporarios en la región de Capitanata, ofrecen mano de obra barata principalmente para la cosecha de tomates, cuya producción representa un tercio del total nacional. Allí son dramáticas las condiciones de trabajo en cuanto cifras de explotación e ilegalidad. Donde más allá de la magnitud de la producción los procesos de mecanización de la cosecha están absolutamente atrasados. La absoluta explotación se ve no solo por las irregularidades salariales y el incumplimiento de las obligaciones contractuales, sino que se extienden al caporalato generalizado con una fuerte penetración de la delincuencia organizada en toda la cadena de suministros afectando todos los aspectos de la organización del trabajo, desde la contratación hasta el transporte, desde el alojamiento hasta el pago de los días de trabajo, todo con controles insuficientes.

Los inspectores del trabajo no cuentan con medios para cumplir con eficacia su función y ello permite abusos de los explotadores. Las inspecciones que afectan a migrantes

irregulares, incluso cuando se verifica su explotación, no comprueban ninguna demanda laboral ni emiten «advertencias de comprobación» ni tampoco son denunciados, por lo que sabemos, a estructuras que puedan expresar una «protección especial» sino que se limitan a denunciarlos rápidamente junto con el empleador a las autoridades judiciales para la emisión para su expulsión.

El choque entre el cumplimiento de la función del inspector del trabajo y la legislación que obliga a pasar a la justicia penal a los irregulares requiere cambios. La solución del Gobierno para normalizar su situación a partir de la contratación regular ha sido de aplicación muy limitada frente a la magnitud de los casos. En ese universo los inspectores del trabajo se encuentran absolutamente desbordados en atención a las amplias obligaciones que plantea el artículo 6 especialmente en sus incisos 1) y 3) como bien lo destaca el informe de la Comisión de Expertos, y de allí que ante la falta de fortalecimiento en número y medios, su tarea no alcanza el objetivo planteado por los convenios de que estamos tratando y ello acarrea que las violaciones a los derechos humanos que sufren los numerosos grupos de migrantes exceden la explotación salarial y las condiciones de trabajo que sufren a diario.

Por ello, mientras que la situación irregular de los inmigrantes siga siendo un delito penal, según los artículos 10 *bis* y 22, 12 del Decreto Legislativo núm. 286/98, no habrá pleno cumplimiento con los Convenios núms. 81 y 129, ya que el papel de los inspectores será ineficaz. La presencia irregular de inmigrantes debe ser despenalizada.

Interprétation de l'arabe: Membre travailleur, Tunisie (M. HFAIEDH) – Les représentants des trois parties à la production au nom de la Fédération générale des travailleurs en Tunisie, je vais parler des violations commises par le gouvernement italien des deux conventions n^{os} 81 et 129, et dont souffrent toutes les nationalités étrangères qui

arrivent en Italie particulièrement, en plus des souffrances de ceux qui ont eu la chance d'échapper à la noyade, à la mort et à des pratiques inhumaines dans les camps et le déplacement forcé. Ainsi, la situation devient encore pire dans les lieux de travail.

La convention n° 81, dans son deuxième article, qui définit les fonctions du travail comme telles, garantit la mise en application des dispositions légales relatives aux conditions de travail, telles que les dispositions relatives à la santé, au travail et l'emploi des jeunes et autres questions. D'habitude, ces dispositions doivent être respectées et les inspecteurs du travail doivent vérifier que ceci est bien appliqué. En effet, plus de 97 000 tunisiens habitent de façon régulière en Italie et 21 000 vivent en Sicile, où les travailleurs tunisiens sont exploités dans les secteurs de la santé et de l'agriculture. Ils souffrent de conditions de travail et des actions inhumaines de la part du Caporalato, lorsqu'ils doivent travailler en Italie.

Lorsque le travail est irrégulier, ces travailleurs doivent avoir des contrats saisonniers qui sont renouvelés partiellement et qu'ils doivent signer de nouveau une autre fois durant l'année. Lorsque ces salariés passent d'une entreprise à l'autre, ou d'une région à l'autre, les conditions de travail demeurent les mêmes avec des modes de travail instables.

Ce mode d'emploi prévaut partout sur le territoire italien, car en plus d'un nombre limité de salariés permanents et des dizaines de milliers de salariés dont les contrats vont bientôt expirer, parmi les cas examinés en Sicile, il y a souvent un salarié permanent pour 40 salariés saisonniers, et les salaires ne sont pas suffisants. Ceci apparaît de façon importante dans le cadre de l'absence de reddition des comptes administratifs et des sanctions, notamment les sanctions pénales, imposées de la part des inspecteurs du travail en cas de contravention.

Partant de là, et sur le plan de la forme, et en cas d'inspection, les sanctions potentielles ne dépassent pas le minimum, alors qu'il faudrait adopter des mesures différentes car c'est un secteur important, il y a beaucoup de travail précaire, et une grande partie des salaires est inférieure à la moyenne contractuelle, y compris le salaire minimum.

En même temps, à Syracuse, il y a 20 inspecteurs du travail pour environ 7 000 entreprises. Donc le taux est d'un inspecteur pour 350 entreprises. Partout en Sicile il y a un inspecteur pour 443 entreprises, soit un total de 185 inspecteurs pour environ 80 000 entreprises, ce qui veut dire un inspecteur pour 900 entreprises. C'est pour cela qu'il est difficile de vérifier le respect par les entreprises des règles et normes du travail décent. En effet, les chiffres indiquent qu'il n'y a pas assez de dissuasion ni assez de capacités à modifier le comportement des entreprises pour ce qui est des travailleurs.

La ratification par l'Italie des deux conventions incite les autres à prendre les mesures nécessaires, et ce pour mettre en application des législations nationales strictes portant sur les contrats de travail qui comprennent dans leurs dispositions des conditions de travail décentes et donner et accorder aux inspecteurs du travail les capacités pour assumer les tâches avec transparence, professionnalisme et impartialité, sans discrimination aucune, entre les salariés locaux et les étrangers.

Nous devons donc améliorer les situations de travail, surtout dans les pays du Sud. Il est nécessaire que nous soyons solidaires entre les syndicats de par le monde afin de ne pas perdre les acquis qui ont été réalisés par les travailleurs grâce à des sacrifices importants et qui avaient commencé en 1886 à Chicago où des dizaines de personnes ont été tuées.

Worker member, United Kingdom (Mr RUSSELL) – We note with concern the similarities between this case of labour inspection in Italy and issues regarding the United Kingdom that the TUC has raised with the Committee of Experts previously and which were the subject of extensive observations in 2020. We had noted that analysis of Government enforcement agencies shows that bodies tasked with protecting victims of modern slavery are also sharing information on their immigration status. Although in our case we have a concern that this threatened the UK's compliance with the Forced Labour Convention, 1930 (No. 29) and its 2014 Protocol. We note the inter-related nature of the Fundamental Principles and Rights at Work, and that of the bodies tasked with protecting victims including the work of labour inspectors. Indeed, in the United Kingdom, the Immigration Act of 2016 makes it a legal requirement for information gateways to exist between immigration enforcement and enforcement bodies. We have seen the damage this has caused to the effectiveness of labour inspection.

Our own practical experience, as trade unions supporting garment workers in the exploitation-ridden city of Leicester, emphasizes the seriousness of this corruption of the inspector role. Where unions, community groups, NGOs and journalists have found multiple victims of modern slavery and other abuses over a long period of time, government agencies report few serious issues. The workers tell our representatives that this is because they are afraid to speak to the authorities in case their status or in some cases that of their fellow workers is reported to immigration authorities. Their employers know this, and the most unscrupulous of them will exploit workers' fear of speaking to inspectors to break labour laws with effective impunity. In short, by combining the duties of labour inspectors with those of immigration inspectors, they cannot effectively do their vital work, and workers suffer as a result. Effective labour inspection is crucial to the realization of

fundamental workers' rights. The obsession with immigration displayed by both our Governments harms all workers.

And yet in Italy, while inspectors are all required to report on immigration, in other areas they are specifically prevented from intervening. A health and safety inspector who uncovers evidence of wage theft, for example, has no power to intervene. This says everything we need to know about the priorities of the Italian Government. The ILO's own guidelines recognize the centrality of inspection with a clear inclusive mandate. Its most recent guidance on General Principles of Labour Inspection emphasizes, in paragraph 1.1.1, that: the mandate of labour inspection should apply equally to all workers and all workplaces in all sectors, in the formal and informal economy. It also notes that the range of regulatory oversight of labour inspection should include, as it sets out in 1.3.1: "any aspect of legislation pertaining to conditions of work and protection of workers, as defined by national legislation according to Article 27 of Convention No. 81, including the informal economy".

Chair, management of migration must not be prioritized over realization of the Fundamental Principles and Rights at Work and other ILO Conventions. Labour inspectors must be allowed to do their vital work in an environment that gains the trust of workers. Only someone deliberately exploiting or endangering workers should fear inspection. We therefore urge the Italian Government to wholly change this approach and allow inspectors, as Convention No. 81 sets out in Article 3.1(a), to "secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work".

Observer ITF (Mr SUBASINGHE) – In the context of the Committee of Experts' analysis of Italy's application of Article 3(1) and (2) of Convention No. 81 concerning additional

functions entrusted to labour inspectors related to immigration, it would be pertinent to consider another segment of the economy where many migrant workers – some of whom are in vulnerable situations – are concentrated, namely the platform or gig economy. While data is hard to come by, the results from the European Trade Union Institute's internet and platform work survey suggests that around 5 per cent of Italy's gig workers in logistics are foreign born. It is also understood that migrant agricultural workers in the south of the country often travel north after harvest season to work in other industries, like tourism, logistics, domestic work and the gig economy.

In October 2021, a tribunal in Milan found a manager of an intermediary private employment agency that procured workers for a large multinational food delivery platform to be guilty of gang-mastering offences – the same unconscionable practice that has plagued Italy's agricultural sector for years. In this case, investigators found that workers were “subjected to degrading work conditions and paid €3 per ride”, and had their tips confiscated. Prosecutors said the workers were “extremely vulnerable migrants and asylum seekers from conflict areas, including Mali, Nigeria, Côte d'Ivoire, Gambia, Pakistan and Bangladesh. The prosecutor found one migrant delivery rider who worked 68 hours over the course of a week to have earned only €179.50. The prosecutor also concluded that some migrants were “punished” with an “arbitrary reduction in their compensation if they violated the terms of their agreement”.

More widely, following another 2021 investigation conducted jointly by the public prosecutor and a specialized branch of the labour inspectorate, the “Comando carabinieri per la tutela del lavoro”, four major multinational food delivery platforms were fined a staggering €733 million over health and safety violations and employment status misclassification. Indeed, the platform companies were ordered to hire their 60,000 riders

as employees or para-subordinate workers. The actions by the public prosecutor in the specialized branch of the labour inspectorate in these cases are commendable. Effective labour inspection and access to relevant data and records by the competent authorities is absolutely critical to ensure the rights of platform workers, including migrant workers, are protected. This is why the mandate of the labour inspectorate should be extended to the platform economy with material resources made available to inspectors for this purpose.

As the UN Working Group on Business and Human Rights highlighted following an official ten-day visit to Italy in 2021, “migrant workers, including from African and Asian countries, working in sectors such as agriculture, garment and logistics, are trapped in a cycle of exploitation, debt bondage and human rights abuses that must be broken – this requires decisive action by the Government and business to provide decent work conditions for all workers”.

In this regard, while recognizing the ability to grant “special case” residence permits, for reasons of social protection and in particular cases of exploitation, we need to highlight the dangers of inspection personnel notifying the public security authorities of the presence of any irregular migrant workers as “illegal entry to and residence in the State territory” remains a criminal offence. If undocumented workers, including those in the platform economy, face immigration enforcement, they are less likely to raise complaints of abusive employment practices. Further, it will also be difficult for prosecutors and the inspectorate to build a case against an abusive employer if workers aren’t reporting these practices.

We trust that the Italian Government will engage meaningfully with trade unions and employers to address the issues raised by the Committee of Experts in order to bring its legislation into conformity with the Conventions in question.

Government representative (Mr DE CAMILLIS) – I can conclude my previous remarks with three elements and after I will pass on the floor to my colleague.

First of all, regarding the inspectors employed by the labour inspectorate, we can confirm that its number is sufficient and adequate to provide all the activities in the field of labour inspection and the concrete and effective protection of all workers. Of course, we can confirm that all Italian labour inspectors are public officials with the stability of employment and are totally independent of the chains of government and from improper external influence. Their recruitment is prescribed by national law only on the basis of their qualifications as expected in Italy for the generality of public officials. Regarding the number, at the end of December 2022, the total number of inspectors coordinated by the national agency was just under 4,000. During last year, and we continued this year, the national plan for the fight against undeclared work, provided for the national labour inspectorate were a total of 2,412 new inspectors. All inspectors as we can confirm are located to verifying the compliance with the labour and social protection at national level without any distinction for workers.

The second point is related to the question of the data on the recovery of wage and social security credit related to foreign workers without a residence permit. At this moment we can provide inaugural information on the credits for social security, that in the last year 2022, are calculated by the national institute for social protection, just under €4 million. This is the total amount for all workers without a residence permit.

Finally, it is important to highlight that on the basis of Italian legislation, the regular employment of migrant workers, does not undermine the right of these workers without residence permits to comply with the obligations of a proper wage, social security contribution and provisions regarding work hours, health and occupational safety, as well

as those concerning the principle of non-discrimination for the protection of minors and working mothers. For specific element and technical remarks, I would like to give the floor to my colleague from the national inspectorate.

Government representative (Mr VENTURI) – My colleague already spoke about the question which was raised about the independence of the labour inspectors in Italy. The first thing to note is that we have a specialized authority which is detached and separated from the Government and this is a fact.

The other remarks have been already pointed out. What I can say is that the whole legal system concerning labour inspection in Italy is intended to provide for protection to the worker. There is no confusion in that. Our system is traditionally based on sanctions, a sanction-based system. No sanction is made in a labour inspection report to workers, either migrants or not. The sanctions in the reports of labour inspectors in Italy are always for employers who in this case exploit workers and in this more specific case, migrant workers having or not having, regular working permits. This is an important point because I have heard something which is not correct. Labour inspectors provide for fines to employers, not to workers. So, this is a fact.

More technically, about coordination with other bodies, it has been said that there is no coordination at all, particularly with the remaining inspectors of all the social security system. Every month in each province of Italy there is a meeting between the labour inspectorate and the INPS. The person who said that probably does not know, but this is like that in all Italy since 2015.

About coordination with the Occupational Safety and Health (OSH) system, where this is a new entry for the labour inspection in Italy. We traditionally have worked on OSH

matters in the building sector, now we have competence in all sectors. But this is very new, so actually, it is true that we are implementing the system and the OSH inspectors of the regional system have very long competence and they work in this field since the 1970s. So, in this sense, we have regional/local coordination between the National Labour Inspectorate (State-level authority) and the regional OSH inspection system (regional/local OSH inspection authorities). In that way, every region has coordination in this specific field, so this is coordination as well.

More specifically on the remarks made, right to the point, tools and remedies – an important tool that we have besides fines and sanctions in a strict sense of the word, we have the order of compliance concerning the payment of unpaid salaries, which is an order, which is made by labour inspectors and this is an important tool which makes possible the recovery of the salaries and more specifically of decent salaries because these orders refer to the salary which is put in the collective agreements at national level. This is a tool and a remedy to which are entitled even all migrant workers having or not having regular permit. This is another important point, the same thing to all migrant workers having or not having a regular permit is in terms of access to the settlement procedures which we have inside our labour inspectorates. So, we have settlement procedures to which migrant workers are also entitled even though they do not having a regular permit in Italy. This is quite important to say as well, so there is access to that.

A further tool concerning this item is the administrative assessment in labour inspection reports – the administrative assessment of the social security contributions to which workers are entitled. Even this measure is a measure to which all migrant workers are entitled whether or not they have a regular permit in Italy. So, the access of the right to social security contribution even in informal economy. I have heard a comment about

chains of subcontractors. In Italy we have a very widespread system of joint and several liability concerning all in the chain, which is quite an important measure concerning wages and social security contributions and this is a measure which is activated by the national labour inspectorate. Just a very quick remark about the gig economy and where we have a very obviously innovative legislation, as very recently in Italy we have extended the protection of the law provided to employed workers to gig economy riders and this is implemented by the labour inspection system in Italy.

Finally, if I have less than one minute, just to say a very quick word about what happens in practice. I am the director of a small territorial labour inspectorate in the north of Italy where there are many migrant workers. We have seen that this new approach to inspection with the collaboration of the International Organization for Migration (IOM) – my colleague spoke about that in the first speech – is very important, not only in the six provinces where this is implemented but even in my province where we do not have this implementation. In this context, we have met with the officers of IOM and the cultural mediators during the task forces in other territories, and we import in our province these meetings, and we are starting other new approaches, which are much more informal obviously. But this means that this measure, contrary to what was said before, it is a measure that is not going to end and which has now been renewed for the next two years, but it is a new approach which is really important for us who work in the territory as labour inspectors, and it causes an important change of cultural approach. The multi-agency contamination is very important and changes the cultural approaches of labour inspectors as well.

Employer members – We have carefully listened and thank the various speakers who took the floor for the interventions and detailed information provided. We reiterate that Conventions Nos 81 and 129 are priority governance Conventions, which therefore require

special consideration by Governments, Workers and Employers. The Employers wish to stress once again the importance of States' compliance with ratified ILO Conventions. Considering the Committee of Experts' observations in today's discussions, the Employers recommend the Government of Italy to provide information on the number of migrant workers in an irregular situation detected by labour inspectors, and on the role of labour inspectors in informing migrant workers about their labour rights. We ask the Government to include among this information, data on the recovery of wage and social security credits specific to workers without a residence permit, and the number of special case residence permits granted as a result of cooperation within inspection services. Finally, in line with the Committee of Experts' observations, we request the Government to provide information on the resources of a labour inspectorate that are allocated to the task of verifying the immigration status in practice.

Miembros trabajadores - Agradecemos al Gobierno de Italia la información y las aclaraciones proporcionadas. También damos las gracias a los demás oradores.

En primer lugar, queremos aclarar tres cuestiones: la primera de ellas es que en nuestro discurso nunca hemos cuestionado la independencia de los inspectores; en segundo lugar, nos parece extraño decir que 4 000 inspectores es suficiente cuando nos recordaba la miembro trabajadora de Italia que una empresa sabe que sus posibilidades de ser inspeccionada serían de una vez cada 15 años, y en tercer lugar, nunca hemos dicho que los inspectores sancionan a los trabajadores, sino que hay un riesgo indirecto de que a raíz de esta inspección se pueda provocar la expulsión del país. De tal modo que queremos reiterar nuestra preocupación por la criminalización de la inmigración ilegal y por las obligaciones adicionales impuestas a los inspectores del trabajo de comunicar a la autoridad de seguridad pública la presencia de trabajadores inmigrantes en situación

irregular. Recordamos una vez más que el deber primordial de los inspectores del trabajo es proteger a los trabajadores y no es aplicar la Ley de Inmigración. Por lo tanto, estas obligaciones adicionales son incompatibles con los Convenios núms. 81 y 129.

Pedimos al Gobierno que derogue las leyes y reglamentos que imponen que los inspectores del trabajo notifiquen a las autoridades de seguridad pública la presencia de cualquier trabajador migrante en situación irregular. También observamos con pesar, la interrupción de los permisos de residencia para «casos especiales» que solían concederse a los trabajadores migrantes en situación irregular y en situación de explotación y la falta de datos desglosados sobre la recuperación de los salarios pendientes y las cotizaciones a la seguridad social adeudadas a los trabajadores y las trabajadoras migrantes. Recomendamos que, en lugar de alejar aún más a los trabajadores y las trabajadoras migrantes en situación irregular de la formalización de su trabajo, el Gobierno adopte medidas para hacer cumplir las disposiciones legales relativas a las condiciones de trabajo y para proteger a los trabajadores migrantes, entre ellas: facilitar el acceso a recursos no judiciales rápidos, como son los procedimientos de conciliación; reforzar las sanciones impuestas a los empresarios infractores; establecer un fondo de garantía para asegurar el cumplimiento de las advertencias y sanciones impuestas por los inspectores del trabajo y el pago puntual de los salarios y cotizaciones a la seguridad social pendientes a los trabajadores y las trabajadoras migrantes, y ampliar el ámbito de las inspecciones de trabajo al trabajo en plataformas y al trabajo doméstico. También deberían adoptarse medidas específicas, a largo plazo, para abordar las numerosas infracciones de los derechos de los trabajadores y las trabajadoras y los casos de explotación, incluidos los migrantes, en el sector agrícola.

En este sentido, animamos al Gobierno a hacer uso de las diversas herramientas existentes y, en particular, del análisis comparativo realizado en 2020 por la OIT y la Unión Europea sobre la protección y asistencia a las víctimas de la explotación laboral. Además, en vista de la evidente falta de coordinación entre las distintas entidades encargadas de la inspección del trabajo, el Gobierno debería tomar medidas inmediatas, en consonancia, por una parte, con el artículo 5 del Convenio núm. 81, para elaborar, en colaboración con los interlocutores sociales, una estrategia de inspección del trabajo que defina claramente las misiones y funciones de cada entidad y servicio y reforzar la cooperación y colaboración entre ellos. Y, por otra, en línea con el artículo 2.2.7 de las Directrices de la OIT sobre los principios generales de la inspección de trabajo para establecer un proceso tripartito para la planificación y el seguimiento de las inspecciones. Recomendamos al Gobierno que cree una base de datos para la recopilación coordinada de estadísticas entre las distintas entidades y organismos encargados de la inspección del trabajo. Instamos al Gobierno de Italia a solicitar la asistencia técnica de la OIT para abordar las lagunas identificadas y garantizar que los Convenios núms. 81 y 129 se aplican plena y eficazmente en el país.

Chairperson – With this we have come to the end of the discussion this case. The conclusions will be adopted on Wednesday, 14 June in the afternoon. While we are finished our work for today, I just want to share with you that we will meet again tomorrow at 10 a.m. for the examination of four cases: first is Liberia on Convention No. 87; second is North Macedonia on Convention No. 98; third is Madagascar on Convention No. 87, we had planned for Nepal on Convention No. 182 but we are still awaiting confirmation from them because they are arriving late and we are working with Cameroon to see if a swap can be made. I can inform you that we have consulted with the Workers' and Employers' groups, and they are in agreement that as soon as we have either a swap arrangement we will

update whatever is the case whether Nepal or Cameroon tomorrow on the Committee's web page. This sitting is closed.

The sitting closed at 7.55 p.m.

La séance est levée à 19 h 55.

Se levantó la sesión a las 19.55 horas.