

**ITALY**

***MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL COOPERATION***  
*Inter-ministerial Committee for Human Rights*  
*Comitato Interministeriale per i Diritti Umani*

**ITALY'S CONTRIBUTION,  
IN VIEW OF UNGA 73  
TWO QUESTIONNAIRES ON FORCED LABOUR  
AND  
DOMESTIC MIGRANT WORKERS**

*June 14, 2018*

## ITALY'S CONTRIBUTION

*To the attention of  
srslavery@ohchr.org*

Following your query, we are in a position to provide the following information concerning your two questionnaires on forced labour and domestic migrant workers, **for your information only**:

### Introduction

1. The Italian Constitution determines the political framework for action and organization of the State. The fundamental elements or structural principles of the constitutional law governing the organization of the State are as follows: Democracy, as laid down in Article 1; the so-called *personalistic* principle, as laid down in Article 2, which guarantees the full and effective respect for human rights; the pluralist principle, within the framework of the value of democracy (Articles 2 and 5); the importance of work, as a central value of the Italian community (Articles 1 and 4); the principle of solidarity (Article 2); the principle of equality, as laid down in Article 3 (it is also the fundamental criterion applied in the judiciary system when bringing in a verdict); the principles of unity and territorial integrity (Article 5); and above all, the relevant principles, including the social state, the rule of law and the respect for human rights and fundamental freedoms.

- In particular Article 1, para.1, sets forth as follows: “*Italy is a democratic Republic founded on labor*<sup>1</sup>”.

2. The Italian legal system aims at ensuring an effective framework of guarantees, to fully and extensively protect the fundamental rights of the individual. Indeed, we rely on a solid framework of rules, primarily of a constitutional nature, by which the respect for human rights is one of the main pillars.

- On a more specific note, the Italian Constitution envisages the protection of all rights and fundamental freedoms included in relevant international standards, such as the European Convention on Human Rights and Fundamental Freedoms, the Human Rights Universal Declaration or the International Covenant on Civil and Political Rights. The protection and promotion of rights – be it civil and political, economic, social and cultural, be it referred to freedom of expression or to the fight against racism or to the rights of the child and of women – constitute one of the fundamental pillars of both domestic and foreign Italian policies. [SEP]

3. Within the domestic system of protection of human rights, mention has to be made, among others, of the Italian Constitutional Court that deals only with infringements of a constitutional level (the Constitutional Court consists of fifteen judges; one-third being appointed by the President of the Republic, one-third by the Parliament in joint session, and one-third by ordinary and administrative supreme court).<sup>2</sup>

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<sup>1</sup> The Italian Constitution in English is available at the following link: [https://www.senato.it/documenti/repository/istituzione/costituzione\\_inglese.pdf](https://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf)

<sup>2</sup> The constitutional court consists of fifteen judges; one-third being appointed by the Head of State, one-third by the Parliament in joint session, and one-third by ordinary and administrative supreme court.

4. The Constitutional Court exercises its duty as one of the highest guardian of the Constitution in various ways. It becomes active when it is called on. For example, it supervises the preliminary stages of referenda and is competent in case of presidential impeachment. Complaints of unconstitutionality may be submitted to the Italian Constitutional Court by central and local Authorities claiming that a state or a regional Act might be unconstitutional. Therefore, the Court monitors Authorities to see whether they have observed the Constitution in their actions. It also arbitrates in cases of disagreements between the highest State's organs and decides in proceedings between central and local Authorities.

- Procedurally, the Court must examine *ex officio* (the prosecutor) or upon request of the plaintiff/defendant whether the provisions to be applied are in compliance with the Basic Law. When the court considers that an act is unconstitutional, such evaluation brings to a suspension of the *a quo* proceeding. Accordingly, a decision is made by the Court itself, pursuant to Art. 134 of the Italian Constitution. The constitutional court decides (and its decisions cannot be appealed on) disputes: 1. concerning the constitutionality of laws and acts with the force of law adopted by state or regions; 2. arising over the allocation of powers between branches of government, within the state, between the state and the regions, and between regions; 3. on accusations raised against the head of State in accordance with the Constitution. More generally, the Court decides on the validity of legislation, its interpretation and on whether its implementation, in form and substance, is in line with the Basic Law. Thus, when the court declares a law or an act with the force of law unconstitutional, the norm ceases its force by the day after the publication of its decision.

#### From a normative standpoint

5. On a preliminary note, mention has to be made of the following:

- Relevant ILO Conventions ratified by Italy are: Forced Labour Convention, 1930 (No. 29), ratified by Law No. 274 of 29 January 1934; Discrimination (Employment and Occupation) Convention, 1958 (No. 111), ratified by Law No. 405 of 6 February 1963; Migration for Employment Convention (Revised), 1949 (No. 97), ratified by Law No. 1305 of 2 August 1952; Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), ratified by Law No. 158 of 10 April 1981; Worst Forms of Child Labour Convention, 1999 (No. 182), ratified by Law No. 148 of 25 May 2000.

6. Under UPR-II (October 2014) Italy recalled the ratification of ILO Conventions C143 and C189, under which we have accepted to be periodically reviewed.

7. In general terms, according to article 2094 of the Civil Code, an employee is someone who assumes the obligation of collaborating in a company, for pay, by furnishing intellectual or manual work, under the direction of the employer<sup>3</sup>.

- Act No. 196 of 1997 introduces temporary employment relationship (“lavoro temporaneo or interinale”), when the company refers to job agencies.

8. In general terms, domestic employment is a particular type of employment, regulated by: Articles 2240 through 2246 of the Civil Code; Act No. 2940 of 27 December 1953; Decree of the

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<sup>3</sup> From ILO GenProm report on Italy, Working Paper 4.

President of the Republic No. 339 of April 1958 (extending insurance to domestic servants against accidents, for unemployment and family benefits), as well as general national collective agreements for domestic employment.

9. A domestic employment relationship can be defined as when a worker provides services for the governance of the house and the needs of the family of the employer. Domestic employees can therefore have specific professional experience, or a general ability to do such services. Living with the family of the employer is not always necessary to provide the services.

10. More in detail, according to Act No. 339 of 1958, the hiring of domestic servants is direct, with the employer obligated to communicate to the competent office for unemployment the engagement; during the “trial period”, which can not exceed 30 days, domestic servants should receive a normal wage; domestic employees have the right to a full day of rest during the week (normally on Sundays, or at least half a day should be on Sunday). Furthermore, domestic employees have the right to annual paid holidays (from ILO GenProm report on Italy, Working Paper 4).

11. On a more general note, Article 4 of the Italian Constitution envisages as follows: “*The Republic recognizes the right of all citizens to work and promotes those conditions which render this right effective. Every citizen has the duty, according to personal potential and individual choice, to perform an activity or a function that contributes to the material or spiritual progress of society*”.

12. Art. 600 et ff. of the ordinary penal code of Italy codifies the crime of reduction into slavery (See further information especially under Trafficking section below).

13. The economic sectors under which migrants are mainly exploited include clothing and manufacturing, restaurants and catering, agricultural sector, and seasonal jobs.

14. Forced labour in Italy is also associated with trafficking in human beings.

### A brief overview

15. More generally, it is to be considered that the phenomenon of immigration in our country is quite recently. From a country of emigration, Italy has become a country of immigration, with migrants coming from many different areas.

- From an economic standpoint, it is to be considered the increase in small-sized enterprises and that labour demand and employment has grown in the tertiary sector<sup>4</sup>.
- Please find below data disaggregated per sector with variation percentage between Italian and migrant workers (from the last Ministry of Labour Report on Migrant Workers 2017 at <http://www.lavoro.gov.it/temi-e-priorita/immigrazione/Pagine/default.aspx>).

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<sup>4</sup> (As mentioned under ILO GenProm report on Italy, Working Paper 4) Pugliese E., L'Italia tra migrazioni internazionali e migrazioni interne, in Migrazioni. Scenari per il XXI secolo. Agenzia Romana per la preparazione del Giubileo. Convegno Internazionale Roma, 12–14 July 2000. Dossier ricerca vol. II, p. 791 e seg.).

Tabella 2.5. Occupati 15 anni e oltre per settore di attività economica e cittadinanza (v.d.). Anni 2007, 2015 e 2016

SETTORE DI ATTIVITA' ECONOMICA	CITTADINANZA	2007	2015	2016	Var. '16/'07	Var. '16/'15
Agricoltura	Italiani	859.850	710.086	737.076	-122.774	26.990
	Stranieri	48.404	132.754	146.924	98.520	14.170
	UE	14.767	48.908	59.773	45.007	10.866
	Extra UE	33.637	83.846	87.151	53.514	3.305
Industria in senso stretto	Italiani	4.645.436	4.071.595	4.120.398	-525.038	48.803
	Stranieri	338.499	435.741	420.789	82.289	-14.953
	UE	63.576	143.946	131.848	68.272	-12.098
	Extra UE	274.924	291.796	288.941	14.017	-2.855
Costruzioni	Italiani	1.671.525	1.231.179	1.163.819	-507.707	-67.361
	Stranieri	242.751	237.116	239.908	-2.843	2.792
	UE	65.751	103.416	101.236	35.485	-2.180
	Extra UE	177.000	133.700	138.672	-38.328	4.972
Commercio	Italiani	3.361.316	2.994.137	3.007.229	-354.087	13.092
	Stranieri	128.703	200.072	234.299	105.595	34.227
	UE	25.896	39.668	41.213	15.317	1.545
	Extra UE	102.807	160.404	193.085	90.278	32.682
Altre attività nei Servizi	Italiani	10.908.867	11.098.691	11.328.400	419.533	229.708
	Stranieri	689.064	1.353.382	1.358.997	669.933	5.615
	UE	173.675	444.479	465.440	291.765	20.961
	Extra UE	515.390	908.903	893.557	378.168	-15.346
Totale	Italiani	21.446.994	20.105.688	20.356.921	-1.090.073	251.233
	Stranieri	1.447.422	2.359.065	2.400.916	953.495	41.851
	UE	343.664	780.417	799.510	455.846	19.094
	Extra UE	1.103.758	1.578.648	1.601.406	497.648	22.758
	Totale	22.894.416	22.464.753	22.757.838	-136.578	293.085

## Qs.1 - 2

16. In general terms, migrant workers can benefit of the acquired pension and social security rights once all the requirements established by the law have been met. This is also possible if they return to their country of origin and even in absence of a reciprocity agreement (Art. 22 par. 13 of Leg. Decree n. 286/98).

17. Irregular migrant workers can refer to the relevant authorities (i.e. judicial authorities, police, social security offices, provincial labour offices (*Direzioni Territoriali del Lavoro*) as well as to trade unions and patronages), to claim the payment of their salary and any social security contributions they are entitled to.

18. Moreover, Article 22, para. 12-ter of Legislative Decree No. 286/1998, the so-called *Testo Unico Immigrazione* (T.U.I.) regulating immigration and the stay conditions applied to foreign citizens, establishes that in case of illegal recruitment, the employer is condemned to inter alia cover the travel cost for the repatriation of the migrant worker.

### Mechanism for irregular migrant workers to bring complaints without fear of reprisals

19. A migrant worker who brings to the Court complaints against the employer and collaborates with the justice during the legal proceeding is entitled to a residence permit for humanitarian reasons. The permit is valid for 6 months and can be extended for 1 year or for the entire duration of the legal proceeding. It entitles the holder to work (Art. 22 co. 12-quarter of T.U.I.).

20. On October 18<sup>th</sup> 2016, the Parliament approved a new legislation (Act No. 199/2016), to combat undeclared work and labour exploitation in agriculture ("*Legge sul Caporalato*"). The new law extends the objectives of the Fund for victims of trafficking (*Fondo Anti-tratta*) - foreseen under Law n. 228/2003 - also to victims of illegal recruitment and labour exploitation. In accordance with art.18 of T.U.I., the above Fund finances the implementation of assistance and social integration/protection programs in favour of the victims.

### Administrative sanctions against employers of irregular migrant workers

21. The fight against illegal migration is a key area of Italian labour legislation and the exploitation of irregular migrant workers is subject to criminal prosecution. In this regard, art. 603bis of the Italian penal code, as amended by the new law approved on October 18<sup>th</sup> 2016 ("*Legge sul Caporalato*"), establishes that employers recruiting and exploiting irregular migrant workers are punished with a prison sentence from 1 to 6 years. They are also condemned to pay a fine between 500 – 1,000 Euros for each migrant worker they have recruited and/or employed.

22. When the above crimes are committed using violence or threats, the following penalties are applied: 5 to 8 years of jail and a fine of 1,000 – 2,000 Euros for each recruited worker.

23. T.U.I. and its subsequent legislative amendments provide the following measures against the exploitation of migrant workers:

- Employers exploiting irregular migrant workers or facilitating their illegal stay in Italy are punished by up to 4 years of prison and sanctioned to pay a fine of up to 15,493 Euros. If the crime is committed by two or more people, the above penalties are increased by one third (Art. 12, para.5 T.U.I.).
- Employers recruiting migrant workers with no stay permit, with an expired stay permit for which a request for renewal was not submitted within the deadline established by the law, or with a stay permit that was lifted or annulled, are punished by a minimum of 6 months to a maximum of 3 years of prison and sanctioned to pay a fine of 5,000 Euros for each irregular migrant worker they have employed (Article 22, para.12 T.U.I.).
- The above penalties are increased from one third to one half (Art. 22, para.12bis T.U.I.) if: more than 3 irregular migrant workers have been employed; the irregular migrant workers are minors under the working age; the irregular migrant workers were subject to extreme forms of exploitation, as per Art.603bis of the Italian Criminal Code.

24. In addition to that, in order to strengthen the provisions against undeclared work, Art.3 of Law-Decree No. 12/2002, as amended by Art.22, para.1 of Legislative Decree No.151/2015, provides for a penalty ("*Maxi sanzione*") in case of employment without informing the relevant authorities in accordance with the procedures established by the law in force: for up to 30 days of work, a fine from 1,500 to 9,000 Euros is applied for each irregular employed worker; from 30 to 60 days of work, a fine from 3,000 to 18,000 Euros is applied for each irregular employed worker; for more than 60 days of work, a fine from 6,000 to 36,000 Euros is applied for each irregular employed worker.

25. The above-mentioned sanctions are increased by 20% in case of employment of foreign workers in accordance with Article 22, para.12 of T.U.I., or minors not yet of a working age (Article 22, para.3-quater of Legislative Decree No. 151/2015).

### Retirement system

26. Foreign workers who paid social security contributions in Italy are entitled to the same retirement benefits as of any Italian worker. Non-EU citizens who did not pay any contribution before December 31<sup>st</sup> 1995 but are included in the social security contributory system, have special treatment and are entitled to receive old-age pension even if their payments do not reach the minimum amounts established by the law [i.e. minimum 20 years of contributions and pension not lower than 1,5 of the value of the social security check (448.09 Euro, as per 2017)].

27. The age limit for access to old-age pension is the same applied to Italian and EU workers (currently 66 years and 7 months for men; and 65 years and 7 months for women. This will be 66 years and 7 months for both sexes starting from 2018).

28. The Ministry of Labour is committed to fighting against undeclared work. Within this framework, mention may be made of the following projects (as implemented by MLSP DG Immigration):

- RE.LA.R – Network of services for the prevention of undeclared work (2011-2014). It is a project aimed at tackling undeclared work in the sectors of construction, agriculture, and tourism in the regions of Campania, Apulia, Calabria, and Sicily. Project activities focused on the prevention of undeclared work by the implementation of a series of active labour market policies at a local level (information services, career guidance, tutoring, trainings, skill certifications, etc.) and the delivery of an “individual dowry” to persons attending the traineeships proposed by the accredited employment services so as an economic benefit for companies hiring beneficiaries involved in the project. Initially, RE.LA.R initiatives were mainly addressed to unemployed, both migrants and nationals. In a later stage, the project focused mainly on refugees and asylum-seekers, as involved in a total amount of 613 traineeships. The project achieved important outcomes and proved to be a strategic initiative for the job matching among beneficiaries and enterprises. Nevertheless, due to the economic crisis and to the specific characteristics of companies in the South, the long-terms impacts varied from region to region in terms of access to the local labour market.

- Unaccompanied Children (UAMs): the Italian experience of “DOWRIES” (DOTI) – (2012-2015). Central and local Institutions consider the effective and positive integration of UAMs into the Italian society as essential. In this regard, a series of measures have been adopted to support UAMS in their “life project” by empowering their skills and potentials, and enabling them to access to the labor market and become an active member of the society. After a first stage of tutoring dedicated to each beneficiary, accredited services defined Personalized Intervention Plan (PIP) of active labor market policies aimed at developing an individual and personalized “life project” on the basis of needs and skills emerged. The Ministry of Labor and Social Policies funded 1,226 PIPS by delivering 910 “work dowries” to accredited services (maximum value of 5,000 euros per each beneficiary took in charge) to support the supply of job orientation services (such as career guidance, language course, apprenticeship, housing orientation, etc.), and 310 “qualifications dowries” (maximum value of 3,000 euros per beneficiary) to minors attending traineeships and professional trainings aimed at facilitating the development of their qualifications.

- Malaika - Development and mainstreaming of innovative models aimed at supporting the autonomy of young women of a migratory origin (Feb. 2014 – Dec. 2014). The Ministry of Labor and Social Policies promoted Malaika Project for the “development and dissemination of innovative models aimed at supporting the autonomy of young women from a migrant background.” Financed by EIF and ESF, the project aimed to support the integration of young migrant women and girl UAMs in transition to adulthood (16-17 years old). The project was realized in 17 territorial contexts (Rome, Turin, Bologna, Ferrara, Rho, Mantova, Milan, Florence, Verona, Vicenza, Bolzano, Palermo, Catania, Ragusa, Catanzaro, Cosenza and Naples) and 10 Regions (Lazio, Piedmont, Emilia-Romagna, Lombardy, Tuscany, Veneto, Trentino-Alto Adige, Sicily, Campania and Calabria). The aim is to enable young recipients to reach a good level of autonomy and integration in the Italian society. To this end, the EIF financed a set of personalized services intended to increase the level of autonomy of beneficiaries in the society (juridical-administrative assistance, psychological support, home searching, and intercultural mediation), whereas the ESF covered activities aimed at facilitating the access to the labour market (job orientation and trainings). The project involved 350 recipients: 273 were involved in the actions financed by EIF, whereas 206 of them also took advantages of the employment orientation services and the trainings opportunities covered by ESF.

- *Percorsi per la formazione, il lavoro e l'integrazione dei giovani migranti.* According to the data collected by the Italian Ministry of Labor and Social Policies, 13.862 unaccompanied minors were present on the territory of the State as at 30st August 2016. Among them, 797 (5,7%) are females and 3.065 (95,1%) are males. According to data, most UAMs present in Italy are children aged between 16 and 17 years, while only 7.8% is aged 7-14. The project aims at strengthening integration of unaccompanied children and young migrants entered in the country as unaccompanied children, especially in the light of preventing their social discrimination and their risk to fail in undeclared work activities. The project is based on the definition of an individual integration plan which include a set of integration services aimed at facilitating recipients to access to the labor market (tutoring, coaching, job guidance, etc.) and the possibility of attending an internship. The project foresees the realization of a total of 960 internships. To this end, an individual grant will be offered to the 960 recipients in order to enable them to take part to the integration path. The main activities underpinning the measure are the following:

- Skills profiling and needs assessment
- Offering of a personalized set of active labour market policies (tutoring, counselling, career guidance, job orientation, traineeships)
- Offering of a grant to: intermediary societies providing job orientation and active labour market services (2.000 euros per each individual integration plan), enterprises for tutoring activities (500 euros per each vocational training), beneficiaries for attending vocational trainings (500 euros per month/5 months)
- Job scouting, job searching, coaching

29. The call for grant was opened on the 13th of October 2016. About 225 leading proponents have submitted their applications for a total offer of a theoretical amount of about 5787 vocational trainings. 203 internships started as at 31st of December 2016. The project is funded by national fund for migration policies (Fondo Politiche Migratorie FPM) for a total amount of 4.800 Euros. The project will be evaluated to verify key conditions of success and its replicability on larger scale throughout all the national territory by using ESF and AMIF.



30. As for all labour relations involving children under the age of 18, both Italians and foreigners, we must refer to the legislation on the protection of child and adolescents, in particular Law No. 977/1967, as amended by Legislative Decree No. 345/1999 and Legislative Decree No. 262/2000.

31. In particular, the minimum age to be admitted to employment for minors, already established in 15 years of age by Article n. 3 of the above law, has been increased to 16 years, in parallel with the rise of compulsory education provided for in Article 1, paragraph 622 of Law No. 296/2006 (State Budget Law 2007).

32. As of today, the ban on admission to work until the age of sixteen years is in force, except for the apprenticeship contract for the qualification and professional degree, the upper secondary education and higher technical specialization certificate included in Art.43 of Legislative Decree. No. 81/2015. It is also admitted the possibility of employing children under 16 years at work, but only with regard to certain activities, subject to a special procedure under Article 4, paragraph 2, of Law No. 977/1967 and subsequent amendments and additions: the Territorial Directorate of Labour (now Territorial Work Inspectorate) could, in fact, allow, under written consent of the holders of parental responsibility, the involvement of children in work activities of a cultural, artistic, sports or advertising nature and in the entertainment industry, as long as these activities do not compromise the security, integrity and physical and psychological development of the child, school attendance or participation in vocational programs or training.

33. Concerning the prohibitions for minors in relation to the danger of work processes or tasks, in particular Art. 6 of the above Law refers to a list (updated by decree of the Labour Ministry in agreement with the Ministry of Health), on tasks and work processes prohibited in relation to the worker's exposure to harmful agents (physical, biological and chemical) or danger for the safety of the worker; the prohibition of assignment to work involving exposure to risk factors could be waived only for adolescents and for some didactic reasons, essential for professional training and for the time strictly required for the training - provided that the work is carried out under the supervision of competent trainers also in terms of prevention and protection and respecting all safety and health conditions prescribed by law.

34. Our legal system generally envisages the ban on night work for minors, except for the provisions of Art.17, paragraph 2 of Act No. 977/1967 which provides that "adolescents who have reached 16 years may be exceptionally, and for the time strictly required, used to work at night when there is a case of *force majeure* which hinders the operation of the company, provided that such work is temporary and does not allow any delay, adult workers are not available and should be granted an equivalent compensatory rest periods within three weeks. The employer must immediately inform the local Labour Office (now the Territorial Work Inspectorate), indicating the names of the workers, the conditions establishing the *force majeure*, the hours of work".

35. Article 8 of the above Law also provides that minors may be admitted to work if they are recognized, following a medical examination, suitable for the work activities they would be employed for and that such eligibility should be further assessed by regular visits, at least yearly. A doctor of the National Health Service makes the aforementioned medical examinations at the expense of the employer and their results must be supported by appropriate certificate.

36. If, however, children are used in activities, which involve a specific risk, Article 41 of Legislative Decree No. 81/2008 expressly and specifically requires health monitoring. In this case, health surveillance is carried out by the competent doctor in care and at the expense of the employer, includes the clinical and biological examinations and diagnostic tests targeted to risk, considered

necessary by the competent doctor. Pursuant to the aforementioned Article 41, paragraph 2, letter b), the periodic visits to check the workers' health status and to assess his/her suitability for the specific task has an annual basis, but can take on different frequency as established by the competent doctor in accordance with the risk assessment.

37. Besides the above-mentioned measures for the child protection legislation, the issue of illegal child labour relates also to the general sanctioning regime above reported for migrant workers.

38. As reported under the introduction, the use of irregular labour takes place in particular in the agricultural sector. Nevertheless, over time it has spread to the construction, manufacturing, catering and tourism sectors. In these production areas, the most frequently detected forms of offenses are attributable to the "black/informal" hiring made by employers, which is characterized by complete non-compliance with social security and social security and fiscal regulations at the workplace.

39. There have been also episodes of exploitation, sometimes resulting in forms of reduction into slavery perpetrated by employers or the so-called "*Caporali*", the latter being authors of illicit intermediation between job supply and demand. This criminal phenomenology has found constant nutrition in the increasingly substantial flows of irregular migrants in our country and has shaped the "cycle of fruit-vegetable harvest", by employing the irregular workers first in the crops of the provinces of Calabria and Apulia Regions, then in the collection of agricultural products, especially in the Vulture-Melfese area of Basilicata Region, and finally in other regions in the North, where, in fact, the harvest cycle ends.

40. It is not always easy to demonstrate the existence of irregularities or even crimes in agricultural work, an economic-productive area in which labour relations are still generally affected by poor traceability. Against this practice, mention can be made, as a way of examples, of the plan to combat *caporalato* in Piana di Gioia Tauro (Reggio Calabria).

41. In Apulia Region, there is a "sustained" action to counter the phenomenon of the *caporalato* in the context of the "Inter-institutional WG for the fight against the *caporalato*" at the Prefecture of Bari. At the outcome of a meeting, on March 14, 2016, between Prefects of the region, the Regional Councillor for Work and Training, the Quaestor of Bari, the Regional Commanders of the Carabinieri, the Guardia di Finanza and the *Corpo Forestale dello Stato*, the Territorial Director of Labour and the regional directors of INPS and INAIL, it has been proposed, in order to a more effective strategy to fight the "*caporalato*", a better sharing of the data held by the various bodies that oversee the controls to businesses and the use of technological coverage of the territory on the routes affected by transportation of workers in strategic areas for the development of the agricultural sector.

42. This initiative is part of the "three-year Memorandum of Understanding" signed between the Prefectures of Bari, Barletta-Andria-Trani, Brindisi, Foggia, Lecce, Taranto, and Apulia Region on 5 August 2013, for an inter-institutional collaboration against 'illegality and undeclared work, and in view of the subsequent "Convention for the coordination of actions to combat the irregular economy and work in Apulia ", as signed between the above stakeholders.

43. Finally, with the aim to combating irregularities in the agricultural sector (which mainly affect women and migrants), the Government has established (Art.6 Law Decree 91/2014 as amended) *inter alia* the Network for the quality agricultural job, which certifies the agricultural firms taking into account their respect of both labour and social legislation.

## Trafficking

44. Since 1990s Italy has been at the forefront of the fight against trafficking in human beings. The first National Action Plan against Trafficking in and Serious Exploitation of Human Beings was adopted by the Council of Ministers on 26 February 2016, in line with Legislative Decree No 24/2014 transposing Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.

45. The Plan aims at identifying multiannual intervention strategies for the prevention and fight against these phenomena, as well as measures aimed at increasing public awareness, social prevention, emergence and social integration of victims.

46. With a view to enhancing the national response to human trafficking, through prevention, prosecution, protection interventions and actions for the social integration of victims, the National Action Plan envisages measures aimed at:

- Improving the emergence of the phenomenon and ensuring an effective and coordinated response;
- Devising adequate mechanisms for the rapid identification of human trafficking victims through the drafting of specific guidelines on the topic;
- Establishing a National Referral Mechanism;
- Updating the existing reception actions;
- Providing multi-agency training;
- Adopting specific guidelines on the fulfilment of the obligation to inform victims of 1) their right to stay permit (in compliance with Article 18 of Legislative Decree No. 286/1998) and to ask for international protection; 2) the opportunity to ask for psychological assistance by an association having proved experience on the topic; 3) request for legal aid; 4) ask for a protected hearing (in accordance with Art. 498 of the Code of Criminal Procedure); 5) ask for the compulsory presence of an expert in psychology or child psychiatry for minors during examination carried out by law enforcement agencies and the judicial authority.

47. The Plan establishes the coordination of the international cooperation actions, with a view to strengthening and promoting the collaboration between Italy and the international organisations working on human trafficking and serious labour exploitation (IOM, ILO, etc.), and the EU and Non-EU countries involved in these phenomena.

48. The implementation of the Plan and the results achieved at the national, regional and local levels will be monitored through a specific System of Monitoring and Verification of the National Action Plan.

49. The Plan is in line with the EU Strategy towards the Eradication of Trafficking in Human Beings (2012-2016).

50. The Plan involves all the competent Administrations. Therefore, on 2 August 2016, a political and institutional Steering Committee (*Cabina di regia*), which is chaired by the Undersecretary of State in charge of gender equality, was established. The Committee is composed by the political and technical representatives of the Ministry of the Interior, Ministry of Justice, Ministry of Education, University and Research, Ministry of Foreign Affairs and International Cooperation, Ministry of Health, Ministry of Agricultural, Food and Forestry Policies, Ministry of Defense, Ministry of Economy and Finance, Ministry of Labour and Social Policies, as well as by the representatives of the National Anti-Mafia Directorate, Carabinieri Corps, State Police, Financial Police, Regions and local Authorities.

51. Within the Steering Committee, 4 specific working groups have been established with a view to ensuring the implementation of all aspects dealt with by the Plan. In particular, 3 out of the 4 groups work on the traditional dimensions of “Prevention”, “Protections” “Cooperation”. The fourth is an ad hoc group established to facilitate coordination between the protection system for refugees and asylum seekers and the system for the protection of human trafficking victims.

52. On the occasion of the EU Anti-Trafficking Day, on 18 October 2016, the Department for Equal Opportunities launched the new awareness campaign (TV advert) aimed at increasing knowledge of the National Toll-free Anti-Trafficking number 800 290 290. The campaign was broadcast on the main national public network and was developed in collaboration with NGOs within the framework of the above-mentioned Steering Committee.

### Data and financial resources

53. As a general context, it useful to bear in mind that only in 2016, about 176,554 migrants reached Italy. Through Decree of the President of the Council of Ministers of 16 May 2016, a single Programme for the emergence, assistance and social integration of victims was set up with a view to guaranteeing temporary adequate board and lodging conditions and healthcare and, subsequently, the continuation of assistance provision and social integration for victims of human trafficking and exploitation.

54. With the aim of implementing the Programme and in line with the above-mentioned Plan, on 10 June 2016, the Department for Equal Opportunities of the Italian Presidency of the Council of Ministers published a public Call for proposals to fund assistance projects for victims of trafficking in human beings, including women and children, for a total amount of about 14 million euros. In 2017, the Italian Government has worked on the new Call for Proposals, for a total amount of about 23 million euros. The Call will fund, inter alia, projects specifically dedicated to the assistance of child victims of human trafficking. Further 200,000 euros have been allocated for 2017 for the starting of the activities related to the development of the new National Database against Human Trafficking.

55. The Department for Equal Opportunities (DEO) of the Italian Presidency of the Council of Ministers uses a special database (the so-called **SIRIT** – *Sistema Informatizzato di Raccolta Informazioni sulla Tratta* – Computerized system for the collection of information on trafficking in human beings) to monitor the phenomenon.

56. The Italian Government receives data on victims of human trafficking who are protected under the specific funded protection projects. According to this data, as of May 2017 the **victims of human trafficking protected** within the framework of the abovementioned projects are **1,382 totally**, about 90% of whom are women (Annex No. 1).

57. More generally, the victims or alleged victims of trafficking benefit from assistance and social protection projects promoted and co-funded by DEO. The dimensions and development of THB, as well as the high interests of transnational organized crime in managing it, have forced the Police to make strategic decisions and to re-organize its departmental and local offices.

58. The Chief of the Police ordered the re-organization of the Aliens' Offices and *Squadre Mobili* since 2001, by establishing the "ad hoc prostitution and Non-EU crime sections".

59. The Immigration Offices were tasked with "all administrative Police practices and activities concerning entry, stay, refusal, repatriation, refugee status, citizenship and any other related issues".

60. The Central Operational Service (acronym, SCO) has always played a very proactive role in professional training of State Police: SCO is engaged in promoting and organizing meetings and seminars within European projects, in cooperation with IOs and NGOs. Some specific seminars have been also organized for the "Special Units" of local investigative Police (*Squadre Mobili*).

### UAMs

61. In general, unaccompanied foreign minors apply the rules provided for assistance and protection by Legislative Decree No. 142 of 18 August 2015, to "Implement Directive 2013/33/EU laying down rules on the reception of applicants for international protection, as well as Directive 2013/32/EU, laying down common procedures for the recognition and revocation of the international protection status", which includes specific "Provisions on minors (Article 18)" and on the "Reception of unaccompanied minors" (Article 19). These provisions were supplemented by Law 17 April 2017, No.47 containing "Provisions concerning measures to protect unaccompanied foreign minors", which came into force on 6 May 2017.

62. Regarding the identification procedures, it should be noted that from 6 January 2017 it is in force the Decree of the President of the Council of Ministers concerning the definition of mechanisms for determining the age of unaccompanied children victims of trafficking, in implementation of Article 4, paragraph 2, of Legislative Decree No. 24/2014, which envisages a multidisciplinary (holistic) procedure requiring the intervention of various experts.

63. With regard to protection and assistance of minors (also inspired by international conventions and European directives and resolutions), our system assigns a priority role to social services in the area, upon authorization or agreement with the juvenile court.

### Trafficking for sexual exploitation, including of minors, and SCO-Police role

64. The victims of trafficking for sexual exploitation purposes, including minors, are recruited in the countries of Central Africa, in the Balkans and, more recently, even in China by criminal organizations, mostly foreign ones, which deal with the various traffic phases: recruitment, handling and subsequent exploitation.

- Such criminal associations, often, are part of articulated transnational structures, with operational bases in the countries of origin and branches in the destination countries.

65. The Central Operations Service (SCO) of the Central Anti-Crime Directorate of the State Police has the address and coordination functions from an informational and operational standpoint vis-à-vis the territorial bodies engaged in the prevention and the fight against the phenomena of abuse against minors.

- With regard to the aforementioned territorial structures, the following bodies are coordinated by the Central Operations Service: the Minors Offices of the Anti-Crime Divisions, with essentially preventive functions; and the Mobile investigative Teams, which manage the investigative activities.

66. The Minors Offices were established a few months after the promulgation of Law of 15 February 1996, No. 66 (containing "Rules against sexual violence"), by ministerial circular No.123/A1/ 130/3/54 of 8 May 1996, within the framework of a specific project, called "Rainbow (*Arcobaleno*)", with the purpose of dealing not only with the protection of children, victims of exploitation for prostitution, pornography and sex tourism, but of the whole family in distress, thus also performing, in this context, functions of liaison with other bodies and institutions operating on the ground. With this, the area of intervention is extended to all that revolves around the female world and "domestic violence".

67. Following the approval of Law of 3 August 1998, No. 269 (containing "Rules against the exploitation of prostitution, pornography, sexual tourism to the detriment of children as new forms of enslavement"), with circular No. 123/A1/183/B/15/1 of 27 November 1998 "Specialized sections in investigations concerning the exploitation of prostitution, pornography and sexual tourism to the detriment of minors" have been established at each Investigative Mobile Team.

68. Subsequently, the directive of the Chief of Police - Director General of Public Security No.123/A1/193B194 of 16 July 1999 (concerning "Prevention and repression of sexual violence, abuse and mistreatment of women and minors. Broadening the skills of the Specialized Sections in the Mobile Teams, established by decree of the Minister of the Interior in implementation of Article 17 of Law 269/98 ") has entrusted the treatment of the delicate subject of "gender violence" to the aforementioned articulations, in order to constitute a single reference point.

69. The operators assigned to the above-mentioned territorial Offices receive a specific multidisciplinary training, which places at the core the victims and the most effective ways to prevent violence.

70. On the training front, they were launched in January 2017, mainly for refresher purposes and specialization of judicial police (investigative and scientific techniques) and the personnel of the State Police (including officials): on duty at the Police investigative Offices of the Police Headquarters (Mobile Teams and Digos); at the Regional and Interregional Police Authorities; and the Judicial Police Teams of the Road and Railway Police Departments. Specific seminars on gender-based violence have been envisaged too.

### Relevant criminal conducts

71. In Italy, all forms of THB are prohibited<sup>5</sup>.

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<sup>5</sup> Act 228/2003 introduced THB under Article 601, CC,.

72. With the aim of harshening penalties, besides ensuring that all forms of trafficking are comprehensively punished, Legislative Decree No. 24/2014 amends Arts.600 (Placing/holding a person in conditions of slavery or servitude) and 601 (Trafficking in persons).

73. The Criminal Code specifically envisages prosecution in case of trafficking in children under ‘child prostitution’ (Art. 600-bis), ‘child pornography’ (Art. 600-ter) and ‘possession of pornographic material’ (Art. 600-quater). More specifically, this conduct is punished even if the crime is not committed by fraud, deceit, and threat or by promising or giving money.

74. As for victims’ protection, in accordance with the relevant European Directive, the above Legislative Decree also amended the Italian Code of Criminal Procedure in order to extend the existing protection — already envisaged for child victims or mentally-ill adult victims — to all adult victims being under particularly vulnerable conditions.<sup>6</sup>

75. To further strengthen the protection system, the above Legislative Decree envisages the obligation to adequately inform victims of their rights, especially those unaccompanied minors being victims of trafficking; this also establishes that a further Decree will be adopted to define specific mechanisms as for the determination of their age and identification. Thus, trafficked children are provided with special assistance and care programmes, carried out by individualized age-appropriate-related services — supplied under national assistance projects co-funded by DEO, including dedicated shelters, specific counselling, medical and social support.

### Relevant data

76. As for data, while the percentage of Nigerians (women and young girls trafficked) remains stable (approx.40 per cent), decrease emerges for nationals from Eastern Europe (Romania, Moldova, Bulgaria and Albania) — though victims from Africa (Nigeria, Egypt, Morocco, and Tunisia) are increasing (approx. 60 per cent). The other national groups are numerically quite limited. Sexual exploitation is still the most common purpose (about 70 per cent). However, persons trafficked for purposes other than that refer to various forms of exploitation, such as forced labour, begging, criminal activities. Over the past years, women have been mainly exploited in forced prostitution. However, an average of 20% of women resulted to be victims — between 2012-2013 — of other forms of exploitation (forced labour, begging, criminal activities).<sup>7</sup>

77. As for the sex, trafficked men for forced labour purposes are exploited in: the agricultural sector in southern Italy; and in the textile industry, construction, and other sectors of the labour market, mainly in the North, They are from the Maghreb countries, China, India, Pakistan, and Eastern Europe. Their percentage has steadily increased since 2007.

### Q.3

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<sup>6</sup> By Art.1, the following are considered vulnerable: children; unaccompanied minors; elderly; persons with disability; women, especially if pregnant, single parents with underage children, persons with mental disorders, and persons who suffered rape or other serious forms of physical, psychological, sexual or gender-based violence.

<sup>7</sup> According to an ILO study-2012, 800,000 persons in the EU are victims of forced labour and THB (1.8 in 1000 inhabitants).

78. In terms of relevant Authorities, it is to be recalled (not exhaustive list), the role played by: the Anti-Trafficking network<sup>8</sup>; The Ministry of Labour and Social Policies<sup>9</sup>; The National Labour Inspectorate<sup>10</sup>; The National Gender Equality Councillor<sup>11</sup>; Trade Unions; Carabinieri and State Police; The Judiciary, including labour-related justice (*giudici del lavoro*).

79. Against this background, Italian Authorities welcomed an initiative taken by the European Commission, to establish, inside Eurofound (European Foundation for the Improvement of Living and Working Conditions) a “Platform on the Undeclared Work” for workplace supervisors in the EU Member States, in order to ease, also with the help of representatives of political institutions, business world and working classes, exchange of information and good practices and to implement a larger cooperation in the European Union to fight the undeclared work, according to the goals set by “Strategy for Europe 2020”.

## Q.4

80. In general terms, employment policies in recent years have been aimed at strengthening the public employment services (PES) and private (employment agencies and other bodies authorized to provide services into the labor market), with particular attention to the disadvantaged, women and young people.

81. Since 2011, the Government, in the context of the European Strategy EU 2020, issued three

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<sup>8</sup> Since 1998, Italy has been at the forefront of the fight against THB and the protection of victims, both children and adults. The Italian model, considered as a best practice, is based on a victim rights-centred approach. The main legal provisions include: Art. 18 of the National Law on Immigration (Legislative Decree 286/1998); and Art.13 of the National Law against THB (Act 228/2003), whereby Programmes for temporary assistance (above Art. 13) and Programmes for long-term assistance and social inclusion (above Art. 18) are established. Another powerful instrument is the National Anti-Trafficking Toll-Free Helpline. Within this framework, victims of trafficking benefit from special residence permit for social protection, which can be granted upon participation in the “Article 18 programme”. The permit, renewable for one year, is valid for six months. It can be converted into a residence permit for education or work purposes. In compliance with Art. 7 of Legislative Decree 24/2014, transposing Directive EU/2011/36, DEO is the Authority responsible for guidance, coordination and monitoring of interventions against THB. Besides these tasks, the above Legislative Decree officially recognizes DEO as the equivalent mechanism and national contact point for the EU Anti-Trafficking Coordinator. By this Decree, the above two programmes have been incorporated in a more structured one to ensure victim’s better integration. This Decree entitles victims to the right to compensation, (1,500 euros, each), under the Annual Fund for Anti-Trafficking Measures, already existing and to be fed with the proceeds derived from the confiscation of assets following a conviction verdict.

<sup>9</sup> The Ministry of Labour is active in fighting against the illegal exploitation of those migrant workers lacking valid residence permits. It also increased the number of job inspections. In 2013 only, out of 139,624 companies inspected, the total amount of informal workers amounted to 44,652, of whom 1,091 EU workers lacking residence permits. By Act 9/2014, it added 250 more units to the inspection sector. More recently, According to the June 2015 report by the Ministry of Labour (Inspection Division), jointly with the National Equality Councillor, monitoring cases of both resignation and consensual resolution of job contracts for father and mother workers in the year 2014 pursuant to Art.55, Lgs. Decree 151/2001 and Act 92/2012, indicates that the overall figure amounted to 26,333, of which 24,319 (+3%) resignation-related cases and 2014 consensual-resolution ones, of which 85% (=22,480) referred to mother workers: compared to 2013, a slight reduction should be noted (20,774 in 2014 vs. 21,282 in 2013), whereas resignation cases by father workers are marked by an increase (3,545 vs 2,384 in 2013). By examining motivation behind the resignation, it emerges: the difficulty to reconcile job and family. Additional resignation-figures indicate the increase in cases of transfer to other enterprise (6,414), prevailing in the North and Centre of Italy (6,195) — owing to the local market situation. Additional motivation refers to: no part-time, no flexible working hours granting (1,465 vs. 1,541 in 2013); personal choice to exclusively take care of their children (4,690 vs. 5,031 in 2013); excessive distance from workplace (1,383 vs. 1,719); enterprise bankruptcy (491 vs. 1,169 in 2013). To counter such a situation, Italy is carrying out several actions, especially to promote work and family care reconciliation: Art.1, paras. 8-9, of Act 183/2014 (“Jobs Act”), amending Legislative Decree 151/2001, has just been enacted by Legislative Decree 80/2015, which extends the parental leave applicable to parents, both women and men, with children, including those who are adopted or with disabilities, up to the age of 12. Further, by Act 81/2015, both women and men are entitled to choose to shift the full-time into a part-time contract (Art. 8, para. 7).

<sup>10</sup> At the organizational level, it is important to highlight the launch, from 1 January 2017, of the Single Agency for Labor Inspections (National Labor Inspectorate), established by Legislative Decree No. 149/2015, implementing Law N. 183/2014 (Jobs Act). The new body integrates the inspection services of the Ministry of Labor and Social Policies, INPS and INAIL, in order to rationalize the supervisory activity in the field of labor and social legislation.

<sup>11</sup> Article 3 of the Italian Constitution sets forth the principle of formal and substantial equality, including between women and men. With the aim of preventing and eliminating any forms of gender-based discrimination, the so-called *Equal Opportunities Code* (Act No.198/2006) has been amended and further supplemented. Its Articles 12-20 are devoted to the Equality Councillors, the work of which is mainly based upon complaints lodged with by women workers, on the ground of discrimination at workplace.



labour market reforms (Law No. 92/2012; Law No. 99/2013<sup>12</sup>; Law No. 78/2014; and Law No. 183/2014).

82. The most recent reform of the labour market is called “Jobs Act” aims at reforming the labour market and social protection system. The reform has been implemented through several legislative acts, such as Decree-Law No. 34/2014, converted into Law No. 78/2014, and the Law No. 183/2014, followed by the adoption of several legislative decrees that implement the principles highlighted in the above Law No. 183/2014.

83. In terms of relevant legislation, mention may be also made of the following: Legislative Decree No. 80/2015 on “Measures for reconciliation between care, work and family life”, which envisages, inter alia, the setting up of a special paid leave for working women victims of violence following duly certified protection programs; Law No. 124/2015 on the reorganization of Public Administrations, by which the working woman victim of violence is entitled to ask to move to another Public Administration of a different Municipality; Reform of the national education and training system (Law No. 107/2015), which provides for, inter alia, the inclusion of education to gender equality; Law No. 119/2013 envisages that protection is extended to foreign women victims of violence, who are thus entitled to obtain a humanitarian residence permit.

84. In June 2017, the Minister of Economy and Undersecretary of State for Equal Opportunities signed a specific Decree on Gender Budgeting within State budget, by which the impact of public policies on women and men will be assessed with regard to pay, services, time and unpaid work.

85. Starting from 2010, under “Italia 2020” Plan and by means of a coordination between State and Regions, the Department for Equal Opportunities (DEO) has been promoting the 2010 “Agreement on reconciliation between work and private life” to allow the regional implementation of initiatives for working women and men who, at the same time, take care of children or adults in difficult situations. So far, 65 regional projects involving over 27,000 women have been funded. Data is partial as the second relevant agreement is still on-going.

86. DEO (Department for Equal Opportunities), under European Social Fund, has been responsible also for the system-actions aimed at supporting Sicily, Puglia, Calabria, and Campania regions on reconciliation and women’s employment, including with regard to teleworking, part-time job, city schedules’ organization, job sharing and support for company’s best practices on gender issues.

87. In compliance with Directive 2010/18/EU and in line with the provisions already in force in other European countries, also the compulsory paternal leave has been introduced in the Italian legal system. On 15 June 2015, as part of the Labour Reform Law, the Italian Government adopted Legislative Decree No. 80/2015 establishing “Measures for reconciliation between care, work and family life” and Legislative Decree No. 81/2015 concerning the re-organization of employment contracts and duties.

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<sup>12</sup> The Decree-Law No. 76/2013, coordinated with the conversion Law dated 9th August 2013, No. 99, the so-called “Plan for the Youth”, was developed on three main directives: the acceleration of job creation both through permanent and temporary contracts, with particular regard to young and unemployed people; the implementation of the Youth Guarantee; interventions related to social security and social policies; the strengthening of protections for workers and companies. The main actions of the decree-law regarded the introduction of extraordinary measures to promote employment, especially for young people: the institution of a “Mission structure”; the allocation of a fund of 15 million Euros for the curricular traineeships, as well as a subsidy for universities that activate traineeships lasting a minimum of three months with public or private bodies; the possibility for the social partners and the most representative organizations of employers to agree on initiatives and extraordinary measures, by encouraging job on call contracts, contracts with a training program of no more than 120 hours; raising the payment for accessory work from 2,000 to 5,000 Euros; the creation of the “database of active and passive policies” that collects and provides information on workers to be placed in the labor market, the services provided and the existing opportunities; provisions on labor contracts, employment and social security (from the Ministry of Labour website).

88. By Law No.124/2015, public administrations adopt organizational measures for the implementation of teleworking. With the same purpose, Stability Act-2016 acknowledges to working women - employed by public administrations or private employers, or registered under the separate management scheme (*Gestione separata*) - the possibility to obtain, in lieu of the parental leave, an economic contribution for baby-sitting services or, alternatively, to cover the costs of public child-care services.

89. Law No. 232/2016 states that from January 1, 2017, in case of birth or child adoption, upon mother's request she receives an 800-Euro premium. The same Law states that starting from 2017, for those born from January 1, 2016, the parents receive an annual 1.000-Euro bonus (*Bonus nido*), to pay public and private kindergartens' fees or for support forms at home, in case of children up to age of 3 with serious chronic diseases.

### **Specific additional information on domestic workers**

#### **Q.2**

90. In addition to the above, with regard to **legislative system concerning domestic worker** – mention has to be made of the following: In Italy regular migrant workers are fully protected and benefit — by working contract — from equal rights as Italian workers. According to our legislation, the national collective contract of employment signed with organizations representing workers and associations of employers, aims at jointly pre-regulate the minimum economic and regulatory issues applicable to all workers.

91. In addition to information provided under the introduction, it must be recalled that the National Collective Bargaining for domestic workers for the period 2007/2011 envisages 8 different levels, compared to the previous regulatory system. Domestic workers have been defined by four different levels (A, B, C, D), under which there are two different level of retribution.

- By Ministerial Decree of October 30, 2007, aside from the online compulsory communication about hiring a worker, the employer can make the communication about hiring a domestic worker via job centres. By doing so by the day before the start of the job relation, the employer does not have to communicate it also to INPS and INAIL, and for Non-EU citizens, to the Single Desk for Immigration.

- The New Collective Labour Agreement 2018 provides indications about all areas related to relevant workers' rights from permits to ad hoc Fund, and so forth<sup>13</sup>.

92. As a way of examples, it may be recalled all elements concerning the treatment of the domestic personnel working for foreign officers on duty at foreign Missions accredited in Italy.

i) The entry is allowed through a visa for subordinate job “outside flows” (Circular on Visas No. 1 of July 31, 2014).

ii) The 1961 Vienna Convention envisages in Art. 1, lett. h, the possibility to have domestic workers with them. However the treatment is decided by each state's relevant normative framework.

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<sup>13</sup><http://www.caafcgiltoscana.it/attachments/article/51/SINTESI%20DEL%20NUOVO%20CONTRATTO%20DI%20LAVORO%20DOMESTICO%202018.pdf>

iii) On its own, Italy determined the requirements and rule for the staff that follows its diplomatic personnel abroad. Therefore, the following must be submitted a) job contract; b) health-related contributions paid; c) the employer's commitment to pay pension-related contribution and the contribution at the end of the job contract; d) retribution adequate to the place where they live when abroad.

iv) As anticipated, MAECI authorizes the entry through a visa for subordinate job "outside flows" and releases a specific ID card, replacing the stay permit, to be withdrawn by the person concerned. This has been done with the aim of interviewing the domestic worker and to give him/her a vademecum, in Italian and English, with information about rights and duties. The discipline so reported, even though not of a mandatory nature for foreign Missions in Italy, indicates the provisions, which are in force in Italy. It is also used as a minimum standard by the domestic justices should complaints be lodged against Embassies in Italy (See [https://www.esteri.it/mae/resource/doc/2016/02/disciplina\\_ambasciate\\_2016.pdf](https://www.esteri.it/mae/resource/doc/2016/02/disciplina_ambasciate_2016.pdf)).

93. **Main Working Rights are as follows:**

The Right for Remuneration

- The right for remuneration includes the basic pay, accumulated length of service increments and – if stated by Italian law – post allowance, performance bonus and family allowance.

The Right to Study

- The employee is entitled to 150 hours of study leave per year.

Working Hours

- The ordinary working week is 36 hours and forty minutes. Remuneration for overtime work shall be calculated as stated by Italian law. The overall number of hours worked (ordinary and overtime taken together) shall not exceed the statutory limits of 48 hours a week.

Weekly Rest Day and Holidays

- The employee is entitled to a weekly rest day. In the event that the employee is required to work on his/her weekly rest day or other holiday, he/she will be entitled to the same daily rate of pay plus a premium salary rate in accordance with the Italian labour regulations.

Holidays

- Annual holidays are compulsory. The employee is entitled to paid holidays for each year of service. During his/her annual holiday entitlement, he/she shall receive the normal remuneration. Entitled holidays can range between 26 to 30 working days as stated by the Italian discipline.

Sickness and Accident

- During a period of sickness or in the case of accident, the employee has the right to retain his/her post for a maximum of 180 days in any one calendar year. In case of sickness, it can be extended for a further period of unpaid leave of a maximum of 120 days.

Insurance

- The employer is obliged to ensure the employee providing him with a regular insurance against injuries and sickness during work.

Maternity Leave

- The Italian law approves maternity and nursing benefits such as: maternity leave and daily time in lieu. Alternatively, the working mother or the working father has the right to take the parental leave and the childcare leave.

Trade Union Rights

- The employee representing a Trade Union is entitled to carry out his/her duties within his/her own working places, according to the procedures provided by Italian law.

Equal Opportunities

- Male and female workers have the same rights and opportunities in an environment free from every kind of discrimination.

Termination of Employment

- No employee may be dismissed except for “just cause and with justification”. Nevertheless the termination of employment has to adhere to timing and procedures provided by Italian law.

Social Security and Pensions

- Assistance and providence are guaranteed by Italian law and international agreements.

94. **Main Working Duties**

Due Diligence

- The employee has to commit to carry out its own duties with due diligence.

Loyalty

- The employee has to pledge for loyalty at his/her working place, to keep confidentiality of any work-related subject and to avoid any interference with other duties which are not compatible to his/her own.

Official Secrecy

- The employee must respect official secrecy.

Adherence to Work Timetable

- The employee has to adhere to working hours. During this time, he/she must avoid stepping out of the office without any previous requests or authenticated medical causes.

Respect of Internal Rules

- The Employee must comply with all applicable provisions of disciplinary, organizational and regulatory terms within his/her working place.

Documentation and Compliance

- The employee must provide documents which will ascertain leave requests due to sickness, injuries, other serious causes, etc. (See Annex No. 2)

**Qs.4 -5**

95. In 2016, nearly half of domestic workers in Italy<sup>14</sup> was made of Non-EU citizens: 429.940 out of 866.747 (49,6%). This percentage indicates a slight reduction if compared to the years 2014 and 2015 when Non-EU workers were 51,7% and 50,6%, respectively. As was the case with the past years, 82,2% is made of women, whereas the male migrant percentage among domestic workers remains high (17,8% vs. 11,9%). Geographically, they are mainly concentrated in North-West Regions (36,3%) and in the Centre (27,4%). Lombardy is the region scoring the higher presence (25,9%), followed by Latium (15,8%), Emilia Romagna (10,7%), Veneto (7,9%), and Tuscany (7,4%).

96. With regard to the citizenship, over 60% of domestic workers are from the following five countries: Ukraine (22,7%), the Philippines (16,4%), Moldova (10,6%), Peru (7,0%), and Sri Lanka (6,5%).

<sup>14</sup> Please refer to the VII report on migrant workers in Italy by the Ministry of Labour, available at: [http://www.lavoro.gov.it/documenti-e-norme/studie-statistiche/Documents/Settimo%20Rapporto%20Annuale%20-%20Gli%20stranieri%20nel%20mercato%20del%20lavoro%20in%20Italia%20\(2017\)/Sintesi-Settimo-Rapporto-Annuale-Gli-stranieri-nel-mercato-del-lavoro-in-Italia-DEF.pdf](http://www.lavoro.gov.it/documenti-e-norme/studie-statistiche/Documents/Settimo%20Rapporto%20Annuale%20-%20Gli%20stranieri%20nel%20mercato%20del%20lavoro%20in%20Italia%20(2017)/Sintesi-Settimo-Rapporto-Annuale-Gli-stranieri-nel-mercato-del-lavoro-in-Italia-DEF.pdf)

97. From the report 2017 of the National Inspectorate, it emerges that this Institution adopted 6936 measures in 2017 with regard to a number of labour sectors, including with regard to domestic assistance.

- As per tradition, the majority (6932) were due to informal workers at companies whose number was superior or equals to 20% of those at workplace, while four suspension measures were adopted for serious and reiterated cases.
- Within this framework, 11 cases referred to domestic workers. They were detected, in accordance with Art. 14 of legislative Decree No. 81/2008 as amended by Art.11 of Legislative Decree No. 106/2009. The employers promptly regularized them.
- The revocation of the suspension measures – after regularization - took place for 6.098 cases.

### **Q.6-7**

98. Both administrative and judicial proceedings, including labour justice sector, are to be considered to protect workers. The labour judge is a specialised ordinary judge for complaints related to the labour market (See Title IV, Book II of the civil proceedings code, the provisions of which have been introduced by Act No. 533/1973).

- By Legislative Decree No. 51/1998, the Tribunal (single judge composition) is competent for first instance trials; and the Court of Appeal, for the appeal.

99. Act No. 339/1958 qualifies domestic job the one under which the domestic worker gives its services for the functioning of the family. The subordination feature is to be acknowledged when the service is characterized by continuity and bindingness (App. Roma Sez. Labour, 14/06/2007)

100. With a view to the request for stay permit of a Non-EU citizen, whatsoever document, if reliable for origin and content, must be considered to prove the domestic work (Cons. Stato Sez. VI, 03/03/2007, n. 1024).

101. It applies to the domestic work sector, the principle according to which it is not necessary to submit medical certificate indicating the date of the delivery (Trib. Roma, 02/12/1998 Zapala v. Mattioli and Others).

102. In case of accidents at workplace, domestic workers do not benefit from Legislative Decree No. 626/1994. However, they will benefit from the relevant general provisions (Cass. pen. Sez. IV, 14/08/2004, n. 34464).

103. Under the job relation, money is not necessarily the only form of retribution. Also food and accommodation may be due by the employer. Therefore the value of food and accommodation has to be considered in view of the determination of the overall retribution (Constitutional Cour, 06/06/1973, n. 72).

### **Conclusion**

104. Italy takes this opportunity to reiterate its firm willingness to fully and effectively cooperating with UN Special Procedures.