

CGIL Submission to inform the report of the UN Special Rapporteur on contemporary forms of slavery, including its causes and consequences, to the 79th session of the General Assembly

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CGIL (Confederazione Generale Italiana del Lavoro) is the oldest trade union organization in Italy and also the most representative, with its more than 5 million members.

Example of trade unions' role in preventing workers from being subjected to contemporary forms of slavery, or helping victims to move out of exploitative situations.

Awareness raising, outreach, legal assistance - Cgil, and FLAI (agriculture union of CGIL) whistleblowing activities have been growing over the past decade; the awareness-raising and organising campaigns have been joined in an increasingly structured way by the so called "Street Union", or "trade union caravans", with which we are able to outreach to and intercept this segment of workers, give them guidance and protection, and denounce forced labour exploiters.

CGIL through the [observatory](#) 'Placido Rizzotto' produces yearly reports on the state of play regarding the phenomenon of *caporalato* in Italy, with data collected across sectors and regions, and on the implementation of the laws and different policies.

Recently, CGIL supported a case to a local tribunal in bologna, which ruled in an emergency decree, on the right to conversion of a residence permit for special protection into a permit for reasons of work. With this decision, the Tribunal refuted the interpretation of the law provided by the various Ministerial Circulars intervening over time to support the non-convertibility of the permit for special protection under Art. 32 Legislative Decree No. 25/2008 into a residence permit for work. The judge also recognized the existence of imminent and concrete danger as the special protection holder would remain without a permit that would allow him to work, as well as to access social and welfare services, with the risk of suffering repatriation to the country of origin.

Legislative work - CGIL strongly promoted and supported the adoption of Law 199 of 2016 and fought for its implementation, believing it to be an important, structured law with broad possibilities for action. In fact, law No. 199 of 2016 introduced the crime of illicit intermediation and exploitation of labor (Article 603bis of the Criminal Code) into the Criminal Code. The law text provides four indices of labor exploitation, namely:

1. the repeated payment of wages in a manner manifestly different from the national or territorial collective agreements stipulated by the most representative labor organizations at the national level, or in any case disproportionate to the quantity and quality of the work performed;
2. the repeated violation of the regulations on working hours, rest periods, weekly rest, mandatory leave, vacations;
3. the existence of violations of regulations on occupational health and safety in the workplace;
4. the worker's subjection to degrading working conditions, surveillance methods or housing situations.

The crime of labor exploitation occurs when at least one of the above violations occurs, together with taking advantage of the worker's state of need. Moreover, the law addresses the criminal phenomenon of "*caporalato*" by reformulating and updating its definition, tightening penalties for exploiters and providing new reintegration measures for victims. Law 199/16 states, therefore, that a crime of exploitation is committed by anyone who recruits for third parties or personally employs labor by taking advantage of the workers' state of need. In particular, it is an indication of exploitation to repeatedly pay

manifestly lower wages than those stipulated in national contracts, to violate regulations on working hours, rest and hygienic conditions, and to subject the worker to degrading conditions.

Adoption and implementation of specific strategies/guidance on contemporary forms of slavery within their organisations - The [Three-year Plan to tackle labour exploitation and unlawful recruitment in agriculture \(2020 – 2022\)](#) envisages, among the priority actions, the planning and implementation of a system of integrated services (referral) for the protection and initial assistance of victims of labor exploitation in agriculture and the strengthening of interventions for their socio-labor reintegration. A key element of the action plan is the so called “ Quality Agricultural Labour Network, a network whose membership certifies compliance with key fiscal, administrative, health and safety and labor contract rules, but verification of the documentation submitted by member companies is particularly slow and to date it is difficult to guarantee the effectiveness of the method.

In the framework of National Recovery and Resilience plan in December 2022, the Minister of Labour and Social Policies adopted the [National Plan for the fight against undeclared work](#), and established the National Committee for Preventing and Combating Undeclared Work, also participated by the labor unions, specifically addressing 4 issues: timely production, collection and sharing of data on undeclared work; measures to transform undeclared work into regular work by making it more advantageous to operate in the regular economy; national information campaign on the "disvalue" of undeclared work; and measures to encourage the regular employment of foreign workers in agriculture by combating illegal settlements and promoting active policy actions.

CGIL-FLAI contributed to the drafting of the "[National Guidelines on the Identification, Protection and Assistance to Victims of Labor Exploitation in Agriculture](#)," adopted on Oct. 7, 2021. These define the minimum common standards and general principles for the implementation of a public-driven National Referral (Referral) Mechanism on the Identification, Protection and Assistance to Victims of Labor Exploitation in Agriculture. The aim is to create a model of intervention that will grow victims' trust in institutions and break the chains of exploitation. It is necessary to ensure national and regional governance through forms of coordination among all the actors with expertise in the different areas called upon (identification, taking charge, social protection, assistance, including legal, reception, socio-labor integration, etc.)

In June 2023, the Italian government appeared before the [ILO Committee on the Application of the standards](#) for noncompliance with ILO inspection conventions, notably C81 and C129 (inspection in agriculture). The case has been supported by the trade unions, which saw it as an opportunity to obtain conclusions on long-standing and decade long unresolved issues. Importantly, the committee conclusions recommended setting up a dedicated tripartite body of the national inspectorate, as well as of establishing a guarantee fund to ensure the payment of undisbursed wages and contributions especially to those workers found in situation of exploitation and irregularity. Trade unions are currently developing proposal to discuss with the government about the implementation of these recommendations in Italy.

Challenges or limitations experienced by workers’ organisations in your country to prevent contemporary forms of slavery and protect victims

low of enforcement- There is great deficiency on the side of public institutions in enforcing Law 199 of 2016, especially with regard to labor market management in agriculture. This is the fundamental node on which to act in order to break the criminal chain underlying *caporalato/gang mastering* and exploitation. Even today, several years after adoption of the law, we are witnessing a lukewarm, when not non-existent, response with respect to the activation of the territorial sections of the Quality Agricultural Labour Network, which instead were and remain the heart of the measure. The establishment of the sections is almost at a standstill, and those that are operational can be counted

on the tips of two hands. 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, trade unions welcomed the multidisciplinary experimentation of the six provinces which represented a good practice.

Also, the National Guidelines have also not been implemented as the regions are not using them. The guidelines should be uplifted at normative level to ensure their reception at all territorial levels and improve implementation.

Circumvention of the law- 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 national inspectorate warning notices and sanctions. The link between risk of exploitation and precariousness refers to other sectors as well. In fact, in Italy, the undeclared economy from under-reporting and irregular labor is worth 160 billion euros. The proliferation of precarious forms of work and their extension, due to the latest regulations, are the instruments that facilitate the forms of labor exploitation, which widens from the agriculture sector (15.7 percent of value added) to personal services (34.6 percent), trade transport accommodation and catering (20.9 percent), construction (18.2 percent).

Weak and poorly coordinated inspection system- As outlined in the conclusions of the Committee on the Application of the standards (CAS) in 2023, inspection system in Italy is fragmented and poorly coordinated amongst the inspection bodies. The creation of a unified database of inspection as mandated by the CAS will be significantly useful. There is also a substantial risk that the extension to the agriculture sector of the European Directive on Transparent and Predictable Working Conditions, will lead to a surge in the occurrence of administrative irregularities and potential inspection prosecutions, without, however, directly addressing the severe risks of exploitation under article 603a of the Criminal Code. Trade unions insist, that the inspectorate needs to make a clear distinction between the reports of non-compliance with the directive, and the cases of severe exploitation pursuant to art 603a. Failing to do this, there is a serious risk that inspections will only monitor and persecute bureaucratic and administrative non-compliance.

Migration legislation - The security approach to migration has monopolized the public debate for many years, cyclically reintroducing tensions and controversies that seem to be dictated more by the need to coalesce public consensus using the weapon of fear, rather than by a scientific and proven basis of statistical data to support the dreaded danger arising from the prospective immigration invasion. CGIL has been calling for a need to decriminalize the offence of illegal immigration established by section 10bis of Legislative Decree No. 286 of 1998 (Consolidated text of provisions governing immigration and rules on the status of foreigners). Trade unions have repeatedly pointed out that foreign workers in an irregular situation who are victims of labour exploitation may be reluctant to cooperate with the inspection authorities due to risk of deportation. 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. As noted in its 2022 concluding observations, the United Nations Committee on Economic, Social and Cultural Rights noted a rise in the number of irregular migrants and increased risk of their exploitation, suggesting that decriminalising illegal migration could significantly reduce the chances of labour exploitation and forced labour in all(E/C.12/ITA/CO/6).

