

# **Social Fieldwork Research (FRANET)**

## **Severe forms of Labour Exploitation**

### **Supporting victims of severe forms of labour exploitation in having access to justice in EU Member States**

**Italy, 2014**

FRANET contractor: COSPE

Author: Marco Balboni, Stefania Crocitti, Nicola De Luigi, Irene Dioli,  
Roberto Rizza, Tiziana Vettor

DISCLAIMER: This document was commissioned under contract as background material for a comparative analysis by the European Union Agency for Fundamental Rights (FRA) for the [project 'Severe forms of labour exploitation'](#). The information and views contained in the document do not necessarily reflect the views or the official position of the FRA. The document is made publicly available for transparency and information purposes only and does not constitute legal advice or legal opinion.

## Contents

Categories of interviewees:.....	3
1 Introduction, including short description of fieldwork .....	4
2 Legal framework .....	7
2.1 Background.....	7
2.2 General Legislation.....	7
2.3 Trafficking .....	7
2.4 Child labour.....	8
2.5 Immigration.....	8
2.6 Sectors particularly concerned.....	9
2.7 Victims' protection.....	9
2.8 Available Data.....	10
2.9 Public discourse.....	11
3 Labour exploitation and the institutional setting.....	12
3.1 Tasks of institutions involved in preventing labour exploitation and in enabling victims to access justice .....	12
4 Forms and frequency of incidents of labour exploitation encountered by experts in their work; economic areas affected.....	16
5 Risks and risk management.....	21
5.1 Identification of common risk factors for labour exploitation .....	21
5.2 Prevention measures aimed to reduce the risks of labour exploitation and the obligations of specific organisations in this area .....	28
5.3 Protection against (repeat) victimisation: actions undertaken by the police to protect victims against the risk of repeated victimisation, including how the police conduct investigations.....	30
6 Victim support and access to justice: .....	38
6.1 Victim support, including available support services.....	38
6.2 Access to Justice and other mechanisms to empower victims .....	41
7 Attitudes:.....	44
8 Conclusion and any other observations, including contentious issues from interviews/focus groups.....	52

## Categories of interviewees:

Nine categories of experts working in the context of labour exploitation took part in the interviews and focus groups:

M – Monitoring bodies (such as labour inspectorates, health and safety bodies)

P – Police and law enforcement bodies

S – Victim support organisations

J – Judges and prosecutors

L – Lawyers

R – Recruitment and employment agencies

W – Workers' organisations, trade unions

E – Employers' organisations

N – National policy experts at Member State level.

FG – Focus Group

Throughout this report, references to these groups as 'M', 'P' etc. are to be understood as referring to the above-named 9 categories.

Where [M(X)] appears, this denotes the group from which the referenced interviewee came, in addition to the number of interviewees from that group referenced (for example, if a statement is supported by references to three interviewees from the M group, two from the S group and one from the J group, the reference will read '[M(3); S(2); J(1)]'. Likewise, if a statement is supported by statements from interviewees who participated in focus groups (in the following example, a lawyer), the reference will read '[FG(L)]'.

For data protection reasons, no names of interviewees have been mentioned.

# 1 Introduction, including short description of fieldwork

## Fieldwork

Starting date: October 2<sup>nd</sup>, 2013 (interview No. 1)

Ending date: February 24<sup>th</sup>, 2014 (interview No. 43)

## Sample outline

- ✓ Number of individual interviews – 43
- ✓ Number of focus groups – 2
- ✓ Number of case studies – 13

## Interviews

The sample matches the initial design.

However, some target groups proved problematic in terms of access and/or willingness to participate in the research. Namely, law enforcement and monitoring bodies were the most problematic target groups in terms of access, as many potential respondents in these categories require authorisation from their organisation in order to be interviewed – a lengthy process which created delays in obtaining and scheduling appointments. On the other hand, representatives of employers' organisations appeared to be hesitant or indifferent to the topic and strong efforts, including, through personal contacts, were required to obtain the appointments.

- ✓ Breakdown of interviews by professional group (N=43)

M	P	J	L	S	W	R	E	N
7	5	6	5	11	4	2	2	1

- ✓ Breakdown of interviews by gender (N=43)

M	F
31	12

- ✓ Breakdown of interviews by age group (N=43)

<30	30-50	>50
2	27	14

- ✓ Breakdown of interviews by number of years of experience on labour exploitation (N=41 - 2 missing data)

>5	>5<10	>10<15	>15<20	>20<25	>25<30	>30<35	>35<40
		5					

2	7	8	8	14	1	0	1
---	---	---	---	----	---	---	---

✓ Breakdown of interviews by geographical area (N=43)

EMILIA ROMAGNA	PUGLIA	CALABRIA	CAMPANIA	ITALY (interviews of national interest)
16	9	9	1	8

✓ Breakdown of interviews by duration of the interview (N=43)

<45'	45'-60'	60'-75'	>75'	n.d.
5	12	5	19	2

✓ Breakdown of interviews by method of conducting the interview (N=43)

Face to face	Via phone
40	3

### Focus groups

	FOCUS GROUP 1	FOCUS GROUP 2
<b>NUMBER OF PARTICIPANTS</b>	5	5
<b>– BY TARGET GROUP</b>	[M(1); P(1); L(1); S(1); W(1)]	[P(1); L(2); S(1); W(1)] The selected participant for the M target group was contacted in December and agreed to take part in the focus group. However, when contacted for confirmation a couple of days before the meeting, the participant changed their mind and there was no further contact.
<b>– BY GENDER</b>	5 M	4 M – 1 F
<b>– BY AGE</b>	4 (30-50) 1 (>50)	5 (30-50)
<b>ADDITIONAL THEMES DISCUSSED</b>	Participants were invited to express their views about the introduction of the criminal charge of “caporalato” (illegal intermediation and labour exploitation), Article 603 of the criminal code (2011).	Participants were invited to express their views about the introduction of the criminal charge of “caporalato” (illegal intermediation and labour exploitation), Article 603 of the criminal code (2011).

### Case studies

✓ Breakdown per economic sectors (N=13)

AGRICULTURE	MANUFACTURE	FOOD SERVICES	DOMESTIC (CARE) WORK	TRADE
9	1	1	1	1

✓ Breakdown per target group providing the case study (N=13)

P	L	S	W	J
2	3	5	2	1

✓ Breakdown per outcome of the case (N=13)

SUCCESSFUL	UNSUCCESSFUL	PARTIALLY SUCCESSFUL (e.g., employer acquitted for a crime and convicted for others)	OUTCOME UNKNOWN (trial pending)	STILL
1	2	3	7	

## 2 Legal framework

### 2.1 Background

Former section 1 of Chapter III of the Criminal Code (Articles 600-604) prohibited a number of crimes relating to slavery, mainly implementing international conventions on the matter (enslavement, trafficking, slave trade). Since the beginning of 2000, a number of new laws have been adopted amending or introducing new provisions.

### 2.2 General Legislation

Law No. 228 of 11 August 2003,<sup>1</sup> Article 1, concerning "Measures against trafficking in human beings" amended previous Article 600 of the Criminal Code which is now titled **Reduction or Maintenance in a Condition of Slavery or Servitude**<sup>2</sup>. The new provision prohibits anyone from exercising property rights on others or keeping or maintaining a person in a state of continuous subjection, forcing him/her to work or provide sex or beg. Such situation may be attained by use of force, threat, deception, abuse of authority or taking advantage of a situation of physical or mental inferiority.

Legislative Decree No. 138 of 13 August 2011,<sup>3</sup> converted into Law No. 148 of 14 September 2011, introduced a new Article 603-bis relating to **Illegal Organisation and Exploitation of Labour**, which provides that an organised activity of recruitment of labour or the organisation of exploitation of labour, carried out through violence, threats, intimidation, taking advantage of the conditions of need of workers constitutes a criminal offense<sup>4</sup>. Exploitation may be presumed on the basis of the following interferences: excessively low wages, breach of working time regulations, violation of safety regulations in the workplace, subjecting a worker to bad working conditions, some methods of supervision or surveillance and, particularly, degrading housing conditions. Paragraph No. 3 provides for an increase in penalties from a third to a half when the number of irregular employees is more than three, employees are not of working age and they are exposed by the employer to serious danger, taking into account the working conditions and type of work.

### 2.3 Trafficking

Law No. 228 of 11 August 2003, Article 1, concerning "Measures against trafficking in human

---

<sup>1</sup> [www.legislationline.org/documents/action/popup/id/4962](http://www.legislationline.org/documents/action/popup/id/4962).

<sup>2</sup> Italy, Law No. 228, 11 August 2003, *Measures against trafficking in human beings* (Misure contro la tratta di persone), published in the OJ No. 195, 23 August 2003.

<sup>3</sup> [www.governo.it/backoffice/allegati/64632-6995.pdf](http://www.governo.it/backoffice/allegati/64632-6995.pdf).

<sup>4</sup> Italy, Legislative decree No. 138, 13 August 2011, *Additional urgent measures for the financial stability (Ulteriori misure urgenti per la stabilizzazione finanziaria e per lo sviluppo)*, converted in Law No. 148, 14 September 2011, published in the OJ No. 216, 16 September 2011.

beings" amended previous Article 601 which is now titled Trafficking in Human Beings<sup>5</sup>. The new provision criminalises trafficking of a person who is in the conditions specified in Article 600 or the trafficking whose purpose is to put a person in such conditions.

## 2.4 Child labour

Generally speaking, employment is permitted above the age of 16 (Law No. 296 of 27 December 2006). Law No. 108 of 2 July 2010, ratifying and implementing the Council of Europe Convention on "Action against Trafficking in Human Beings", introduced a new Article 602-ter titled "Aggravating circumstances" which provides for an increase in the penalty from a third to a half in case the behaviours punished by Articles 600, 601, 602 concern children under 18 years of age<sup>6</sup>. Article 603-bis provides for specific aggravating circumstances if "the recruited subjects are children of not working age", increasing the penalties from a third to a half. Law No. 172 of 1 October 2012, ratifying and implementing the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse amended the previous law and introduced new provisions relating to sex crimes involving children under 18 years old, such as forced prostitution, making sex with minors, using minors for pornography, trading, spreading, detaining pornographic materials or assisting in pornographic exhibitions, including via the Internet or virtually, organising and promoting sexual tourism vacations (Articles from 600-bis to 600-septies of the Criminal Code)<sup>7</sup>. Article 600-octies,<sup>8</sup> introduced by Law No. 94 of 15 July 2009,<sup>9</sup> punished forced or permitted begging of under 14-year olds<sup>10</sup>.

## 2.5 Immigration

Legislative decree No. 286 of 25 July 1998 (Unified Text on Immigration), Article 22 (12), still in force, criminalised employers with a penalty for each irregular immigrant employed<sup>11</sup>.

Legislative Decree No. 109 of 16 July 2012,<sup>12</sup> implementing directive 2009/52 on Employers' Sanctions has introduced new provisions<sup>13</sup>. New Article 22 (12) provides for an increase in

---

<sup>5</sup> Italy, Law No. 228, 11 August 2003, *Measures against trafficking in human beings* (Misure contro la tratta di persone), published in the OJ No. 195, 23 August 2003.

<sup>6</sup> Italy, Law No. 108, 2 July 2010, *Ratification and implementation of the Council of Europe Convention on "Action against Trafficking in Human Beings" held in Warsaw, 16 May 2005 (Ratifica ed esecuzione della Convenzione del Consiglio d'Europa sulla lotta contro la tratta di esseri umani, fatta a Varsavia il 16 maggio 2005)*, published in the OJ No. 163, 15 July 2010.

<sup>7</sup> Italy, Law No. 172, 1st October 2012, *Ratification and implementation of the Council of Europe Convention on "The Protection of Children against Sexual Exploitation and Sexual Abuse", held in Lanzarote, 25 October 2007 (Ratifica ed esecuzione della Convenzione del Consiglio d'Europa per la protezione dei minori contro lo sfruttamento e l'abuso sessuale, fatta a Lanzarote il 25 ottobre 2007, nonche' norme di adeguamento dell'ordinamento interno)*, published in the OJ No. 235, 8 October 2012.

<sup>8</sup> [www.asgi.it/public/parser\\_download/save/legge.15.luglio.2009.n.94.pdf](http://www.asgi.it/public/parser_download/save/legge.15.luglio.2009.n.94.pdf).

<sup>9</sup> [www.asgi.it/public/parser\\_download/save/legge.15.luglio.2009.n.94.pdf](http://www.asgi.it/public/parser_download/save/legge.15.luglio.2009.n.94.pdf).

<sup>10</sup> Italy, Law No. 94, 15 July 2009, *Provisions on public security (Disposizioni in materia di sicurezza pubblica, so-called Pacchetto sicurezza)*, published in OJ No. 170, 24 July 2009.

<sup>11</sup> Italy, Delegated Decree (*Decreto Legislativo*) No. 286, 25 July 1998, *Unified Text on Immigration (Testo Unico Immigrazione)*, published in the OJ No. 191, 18 August 1998.

<sup>12</sup> [www.interno.gov.it/mininterno/export/sites/default/it/assets/files/24/2012\\_07\\_26\\_dlsg\\_16072012\\_n109.pdf](http://www.interno.gov.it/mininterno/export/sites/default/it/assets/files/24/2012_07_26_dlsg_16072012_n109.pdf).

<sup>13</sup> Italy, Delegated Decree (*Decreto Legislativo*) No. 109, 16 July 2012, *Implementation of Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country*



penalties from a third to a half when the same aggravating circumstances indicated under Article 603-bis (3) of the Criminal Code are met. Article 22 (5)-bis, specifies that any authorisation to hire cannot be issued to employers found guilty of abetting irregular immigration for the purposes of sexual exploitation of children, labour exploitation according to Article 603-bis Criminal Code and the crime provided for under Article 22 (12). These provisions must be read in connection with Article 10-bis of the 'Unified Text on Immigration' which provides for the crime of illegal entry or stay in the territory of the State. As reported by Save the Children, the introduction of the crime of illegal entry and stay in 2009 produced serious consequences for minors aged close to 18 years, victims of trafficking<sup>14</sup>.

## 2.6 Sectors particularly concerned

Organised labour exploitation is particularly widespread in the agricultural and textile industries sectors. The domestic sector is full of foreign workers but forms of severe organised labour exploitation are not reported<sup>15</sup>. While many official investigations are reported, especially in the textile industry, not many complaints are lodged by victims.

## 2.7 Victims' protection

Legislative Decree No. 286/98,<sup>16</sup> Article 18, provides for a special permit for serious humanitarian reasons especially for victims of trafficking for sexual exploitation.

Legislative Decree No. 109 of 16 July 2012, implementing directive 2009/52 on Employers' Sanctions<sup>17</sup> added a new Article 22 (12)-quater to Legislative Decree 286/98 which provides that a special stay permit lasting from 6 months to the entire duration of the criminal procedure, is granted to the irregular immigrant who cooperates with the authorities in denouncing the employer. The latter offers less protection than the former so the permit under Article 18 is applied also in cases of labour exploitation even though it may be difficult to meet all the requested conditions.

Assistance to victims is provided by National Authorities on an irregular basis, mainly in collaboration and after the initiative of some NGOs. Some new competences in the field have been assigned to the Department of Equal Opportunities within the Presidency of the Council

---

*nationals (Attuazione della direttiva 2009/52/CE che introduce norme minime relative a sanzioni e a provvedimenti nei confronti di datori di lavoro che impiegano cittadini di Paesi terzi il cui soggiorno e' irregolare)*, published in the OJ No. 172, 25 July 2012.

<sup>14</sup> Save the Children (2009), *Trafficking in Children in Italy (La tratta dei bambini in Italia)*, Rome, Save the Children, available at: [www.programmaitegra.it](http://www.programmaitegra.it).

<sup>15</sup> ISTAT (2011), *Survey on Certain Distortions in the Labour Market (Illegal Work, Illegal Hiring and Exploitation of Foreign Workers)*, Rome, ISTAT, available at: [www.istat.it/it/files/2011/01/Audizione1.pdf](http://www.istat.it/it/files/2011/01/Audizione1.pdf). In relation to the agricultural sector, Osservatorio Placido Rizzotto (Flai/CGIL) (2012), *Agro-mafia and recruitment of daily labourers (Agro-mafie e Caporalato)*, Rome, CGIL, available at: [www.flai.it/attachments/article/783/Scheda\\_Sintesi\\_Rapporto.pdf](http://www.flai.it/attachments/article/783/Scheda_Sintesi_Rapporto.pdf).

<sup>16</sup> [www.camera.it/parlam/leggi/deleghe/98286dl.htm](http://www.camera.it/parlam/leggi/deleghe/98286dl.htm).

<sup>17</sup> Italy, Delegated Decree (*Decreto Legislativo*) No. 109, 16 July 2012, *Implementation of Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (Attuazione della direttiva 2009/52/CE che introduce norme minime relative a sanzioni e a provvedimenti nei confronti di datori di lavoro che impiegano cittadini di Paesi terzi il cui soggiorno e' irregolare)*, published in the OJ No. 172, 25 July 2012.

of Ministers, in connection with the assistance for victims of trafficking (see below). More widespread assistance comes directly from NGOs, often with public financial support. *Gruppo Abele – Libera* works on the connection between organised crime (mafia) and severe labour exploitation, offering job substitution placements thanks also to the use of assets confiscated from criminal organisations<sup>18</sup>. *Medici senza Frontiere* (Doctors Without Frontiers) which provides medical care especially for seasonal and irregular workers in southern Italy, manages 36 clinics in six regions, monitors health services inside detention centres for migrants, checks and treats particular diseases such as tuberculosis and *Chagas*, common among some Latin American groups<sup>19</sup>.

## 2.8 Available Data

Despite the different bodies entrusted with investigation and research activities, it should be stressed that, based on what is known, no official and comprehensive data is available in the country on serious labour exploitation. The Department of Equal Opportunities set up a new data collection system, named SIRIT (Computerised System for the Collection of Information on Trafficking), to coordinate assistance and protection projects for victims of severe forms of trafficking and labour exploitation. SIRIT became operative in July 2010 but the website has not been updated since 2011, apparently because no call for tender has since been launched to carry out the service. There is limited information concern the activities of the Inter-ministerial Commission on Support for Victims of Trafficking, Violence and Serious Exploitation within the Presidency of the Council of Ministers but it is not updated<sup>20</sup>. Concerning criminal proceedings, the situation is broadly the same.

The only official website that is available is under the responsibility of the National Observatory on Trafficking. Even though it is specifically on trafficking, data concerning other crimes of exploitation are available but the site is not updated<sup>21</sup>. More complete unofficial professional databases are available, such as 'dejure.giuffrè.it', though data provided concerns only convictions and not the criminal charges. This source of information shows an average of 1 to 5 convictions per year for each of the following categories of crimes: slavery, servitude, forced and compulsory labour, child labour and human trafficking.

No convictions are reported under the Employers' Sanctions Directive so far, while an average of 5 to 13 convictions per year are reported under the previous national legislation which is still in force and concerns recruitment of irregular immigrants.

Finally, what follows is a list of the main NGO reports in Italy on this topics, available on the internet:

- "Exploited labour: Migrant workers in Italy's agricultural sector"<sup>22</sup>;

---

<sup>18</sup> [www.gruppoabele.org/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/950](http://www.gruppoabele.org/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/950).

<sup>19</sup> [www.medicisenzafrotiere.it/cosafacciamo/dettaglio\\_missione.asp?id=20&msf\\_campaign=missione\\_italia&msf\\_campaign\\_info=homepage\\_bottom-row2\\_188x125&ref=boxHomepage](http://www.medicisenzafrotiere.it/cosafacciamo/dettaglio_missione.asp?id=20&msf_campaign=missione_italia&msf_campaign_info=homepage_bottom-row2_188x125&ref=boxHomepage).

<sup>20</sup> Data are limited to the period 2000 – 2007, available at:

[www.pariopportunita.gov.it/images/stories/documenti\\_vari/Userfiles/II\\_Dipartimento/Art\\_18\\_aggiornato.pdf](http://www.pariopportunita.gov.it/images/stories/documenti_vari/Userfiles/II_Dipartimento/Art_18_aggiornato.pdf)

<sup>21</sup> Data are available at: [www.osservatorionazionaletratta.it/sezione\\_diritto.php](http://www.osservatorionazionaletratta.it/sezione_diritto.php) and

[www.osservatorionazionaletratta.it/files/generics/prodotto\\_2.b1.pdf](http://www.osservatorionazionaletratta.it/files/generics/prodotto_2.b1.pdf).

<sup>22</sup> [www.amnesty.it/italia-rapporto-sullo-sfruttamento-dei-lavoratori-migranti-in-agricoltura](http://www.amnesty.it/italia-rapporto-sullo-sfruttamento-dei-lavoratori-migranti-in-agricoltura).

- “Diritti violate. Indagine sulle condizioni di vita dei lavoratori immigrati in aree rurali del Sud Italia e sulle violazioni dei loro diritti umani e sociali”. Cooperativa Dedalus<sup>23</sup>;
- “Sfruttamento lavorativo in alcuni territori della regione Emilia-Romagna: il fenomeno, gli interventi”, Regione Emilia-Romagna, Associazione Città Meticcias<sup>24</sup>;
- “Una stagione all’inferno. Rapporto sulle condizioni degli immigrati. Impiegati in agricoltura nelle regioni del Sud Italia; Medici senza Frontiere<sup>25</sup>;
- “Le nuove schiavitù”, Save the children<sup>26</sup>.

## 2.9 Public discourse

Topics of labour exploitation are widely present in the national media, especially connected with immigration and organised crime in southern Italy. A wide coverage, not always correct in the reporting, was given to the emblematic case that happened in 2010 in *Rosarno*, a town in southern Italy, while lesser and local attention was given to the case of a Chinese worker. In the first case, hundreds of foreign workers, severely exploited as daily labourers and harvesters in orange orchards, reacted openly against their exploitation by employers as well as against the way they were treated by segments of the local population, including violent acts of intimidation by the local organised crime syndicate that controls the agricultural labour market. There were violent clashes first between groups of migrant workers and the local organised crime and later, between the migrant workers and the police<sup>27</sup>. In the second case, a Chinese irregular worker in the town of Prato (near Florence), an area known for its textile industries, who was paid one euro per hour for 18 hours of work per day, had a serious accident at the workplace and decided for the first time to complain about his condition to the local Municipal Immigration Service<sup>28</sup>. No other cases have had significant coverage in the media.

---

<sup>23</sup> [www.coopdedalus.it/notizie/2012-06-21.pdf](http://www.coopdedalus.it/notizie/2012-06-21.pdf).

<sup>24</sup> <http://sociale.regione.emiliaromagna.it/documentazione/pubblicazioni/campagneinformative/sfruttamentolavorativo-in-emilia-romagna>.

<sup>25</sup> [http://archivio.medicisenzafrontiere.it/allegati/pubblicazioni/rapporti/una\\_stagione\\_all\\_inferno.pdf](http://archivio.medicisenzafrontiere.it/allegati/pubblicazioni/rapporti/una_stagione_all_inferno.pdf).

<sup>26</sup> [http://images.savethechildren.it/IT/f/img\\_pubblicazioni/img122\\_b.pdf](http://images.savethechildren.it/IT/f/img_pubblicazioni/img122_b.pdf).

<sup>27</sup> La Repubblica (2010), ‘Rosarno, immigrati schiavizzati’, 26 April 2010, available at: [www.repubblica.it/cronaca/2010/04/26/news/arresti\\_rosarno-3621507/](http://www.repubblica.it/cronaca/2010/04/26/news/arresti_rosarno-3621507/); Il Gazzettino (2010), ‘Rosarno, nuove violenze’, 8 January 2010, available at: [www.ilgazzettino.it/italia/rosarno\\_nuove\\_violenze\\_feriti\\_4\\_immigrati\\_italiani\\_su\\_barricate\\_rinforzi\\_alla\\_polizia/notizie/86860.shtml](http://www.ilgazzettino.it/italia/rosarno_nuove_violenze_feriti_4_immigrati_italiani_su_barricate_rinforzi_alla_polizia/notizie/86860.shtml); Migrantitorino.it (2011), ‘Quattro province a rischio Rosarno’, 4 July 2011, available at: [www.migrantitorino.it?p=15501](http://www.migrantitorino.it?p=15501).

<sup>28</sup> [http://firenze.repubblica.it/cronaca/2013/03/07/news/sfruttamento\\_di\\_lavoratori\\_clandestini\\_a\\_denunciarlo\\_un\\_orientale-54058368/](http://firenze.repubblica.it/cronaca/2013/03/07/news/sfruttamento_di_lavoratori_clandestini_a_denunciarlo_un_orientale-54058368/); Il Giornale (2013), ‘Prato, un cinese denuncia il proprio datore di lavoro per sfruttamento’, 8 March 2013, available at: [www.ilgiornale.it/news/interni/prato-cinese-denuncia-proprio-datore-lavoro-cinese-893726.html](http://www.ilgiornale.it/news/interni/prato-cinese-denuncia-proprio-datore-lavoro-cinese-893726.html).

## **3 Labour exploitation and the institutional setting**

### **3.1 Tasks of institutions involved in preventing labour exploitation and in enabling victims to access justice**

This section focuses on the institutional setting in place for carrying out inspections and monitoring employers' compliance with laws protecting the rights of workers.

Several institutions address issues of labour exploitation and protection of the rights of workers, principally labour inspectorates, social security agencies (National Institute for Social Security, Workers Compensation Authority, Local Health Agencies) and law enforcement authorities (in particular the Labour Protection Command of the Carabinieri).

The labour inspection system was first reshaped by Legislative Decree No. 124 of 23 April 2004,<sup>29</sup> on the rationalisation of the functions of social security and labour inspection and, at a later stage, by the ministerial Directive of September 2008 on inspection services and surveillance activities in the fields of labour and social security. Both the Legislative Decree and the ministerial Directive were aimed at reinforcing the authority of the Ministry of Labour in fighting unauthorized work and illegal employment and both instruments fundamentally confirmed the hierarchical and quite complex organisation of the labour inspection system.

At the top of the pyramidal structure, are the Minister of Labour and the Director General of the General Directorate for Co-ordination of Inspection Activities, tasked with programming and coordinating labour inspection activities.

At lower levels of the pyramidal structure are the Regional Labour Directorate (regional level) and the Provincial Labour Directorate (provincial level). The first was established by Article 2 of Legislative Decree No. 124 of 2004 for the purpose of supervising and coordinating labour inspection activities in accordance with the directives issued by the Ministry of Labour.

The Provincial Labour Directorate coordinates labour inspection activities at a district level (avoiding for example, the repetition of inspection of the same business activities by different agencies) and defines the operational modalities, following the guidelines provided by the Regional Labour Directorate and the general provisions of the Minister of Labour. Within the Provincial Labour Directorate, labour inspection activities are carried out by the Operative Office for Ordinary Monitoring and the Operative Office for Technical Monitoring. Their principal objective is to ensure observance of employment and social legislation. In particular, these units deal with the activities of monitoring the application of all laws concerning civil and social rights and the correct application of contracts and collective agreements. Moreover, the Operative Office for Technical Monitoring is specialised in inspection activities related to safety and health at the workplace.

As already mentioned, in Italy the function of monitoring and control is assigned not only to the inspectors from the Provincial Labour Directorate but also to the inspectors of the Social Security and insurance institutions and the local health authority, though with different jurisdictions. For example, the inspectors of the National Institute for Social Security (INPS) have the function of preventing, verifying and repressing omissions and evasions of social

---

<sup>29</sup> [www.camera.it/parlam/leggi/deleghe/04124dl.htm](http://www.camera.it/parlam/leggi/deleghe/04124dl.htm).

security contribution payments. The mandate of INPS is to provide a broad and articulated range of services and benefits in the field of retirement, unemployment, maternity and disability. Services and benefits are, in large part, provided in relation to social security contributions paid by workers and businesses. Therefore, in order to make sure that contributions have been paid, INPS has an inspection service in every district.

Similar functions are performed by the labour inspectors of the Workers Compensation Authority (INAIL). They act with business inspections in order to verify whether employers comply with their obligations in the field of public insurance against accidents at work and occupational diseases. In summary, the jurisdiction of INPS and INAIL inspectors is limited to the violations of provisions on social contributions and fees related to compulsory insurance against accidents at work. However, if in their activities INPS and INAIL inspectors find infringements excluded from their jurisdiction, they have to report to the Provincial Labour Directorate or to the district attorney depending on the administrative or criminal nature of offences. Another difference between the two types of inspectors concerns their legal status. Only the inspectors of the Provincial Labour Directorate have the status of judicial police officer, and therefore, only they can deal with crimes and sanctions related to criminal offences.

Finally, it is important to mention also that - as established by the Legislative Decree No. 81/2008,<sup>30</sup> amended by Legislative Decree No. 106/2009,<sup>31</sup> - in the organisation of inspection activities related to safety and health at work, inspectors of the Provincial Labour Directorate working in the Operative Office for Technical Monitoring cooperate with Local Health Agencies.

In Italy, law enforcement agencies are also involved in labour inspection activities. A unit of the Labour Protection Command of the Carabinieri operates within the Provincial Labour Directorate. Beginning with a Royal Decree of 1937, personnel from the Carabinieri corps have been assigned to Ministry of labour to monitor the application of labour legislation. They operate under the functional dependence of the Ministry of Labour and their functions are similar to those of the inspectors. They are generally involved in highly dangerous labour inspection activities, involving every type of human exploitation by criminal organisations such as abetting illegal immigration, trafficking in human beings and enslavement. Explicit powers of inspections are entrusted also to other law enforcement agencies such as Police and Guardia di Finanza (Financial Police) corps. Generally, these agencies as well as local police units, support labour inspectorates in high-risk situations, and whenever they are asked to take part in labour inspections.

To sum up, many institutions and agencies take part in the current labour inspection system. The Provincial Labour Directorate schedules inspections, according to the criteria and guidelines set by the General Directorate for Co-ordination of Inspection Activities through the Regional Labour Directorate, and regularly plans the so-called “joint inspections” carried out with INPS and INAIL inspectors.

Besides the joint inspections, there are also two different types of inspections. ‘Coordinated inspections’ are inspections that involve the same institutions as in joint inspections and address, in a defined and limited time lapse, specific economic sectors or business activities. Generally, coordinated inspections are based on good knowledge of the territory and the local

---

<sup>30</sup> [www.camera.it/parlam/leggi/deleghe/08081dl.htm](http://www.camera.it/parlam/leggi/deleghe/08081dl.htm).

<sup>31</sup> [www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2009;106](http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2009;106).

economic system. For instance, speaking about his experience in planning and coordinating inspections activities in a province where tourism is the main economic sector, an interviewee [M(1)] states that inspectors know very well that over the last few years, it has become more likely to find irregular work in the tourism sector mainly during the summer season. Thus inspectors intensify their activity during this period. At the same time, inspectors also know that, in some areas, monitoring of the local tourist economy needs to be carried out during the night, when businesses such as restaurants, bars, and clubs are open. 'Integrated inspections' are those that involve Provincial Labour Directorates and law enforcement agencies, especially the Carabinieri Labour Protection unit, in relation to working conditions involving child labour, undeclared workers, irregular migrants recruited by employers, abusive intermediary agencies, a phenomenon known in Italian as "caporalato" (gang-mastering) and severe violations of labour laws, such as wages well below the national minimum, arbitrary wage reductions, delays in payment or no payment at all, and long working hours.

Generally, inspections are carried out within the company with a sort of surprise blitz. Labour inspectors, indeed, have the power to enter workplaces at any time of the day or night.

The first action of inspectors concerns the identification of workers who are present in the company at the moment. If in the company there are workers who cannot be identified because of lack of identity documents, inspectors note it on the inspection report as a violation of Article 10-bis of the Consolidated Act on Immigration and inform the district attorney and the Police Headquarters.

Once all workers are identified, the second phase is the interrogation of every worker, as well as the collection of statements by workers, unions representatives or any other person informed of the facts, in relation to all the different aspects of employment contracts, working conditions, and tasks. This information normally constitutes the main source of evidence of irregularities observed during the inspection visit and is registered in the so-called first entry inspection record (*verbale di primo accesso ispettivo*). Since 2009, in case of joint inspection, labour inspectors prepare jointly a single inspection report (*verbale ispettivo unificato*). The report is delivered to the employer and includes the list of work activities carried out in the company and the connected violations in relation to working hours, wages, paid vacations, safety, health and tax and social contribution obligations.

As stated by one interviewee [M(1)], "the law, fair as it may be, requires that the inspector writes a report describing the production process that s/he sees and then s/he must communicate them in the inspection report where s/he states 'I arrived on this day at this time, other inspectors and I saw how the production process works, we saw persons x, y and z doing this and that' [*la legge come è giusto che sia impone all'ispettore la descrizione dei processi produttivi che vede e li deve poi trascrivere nel verbale di accesso ispettivo dove dice "sono arrivato quel giorno a quell'ora, io, l'inps, abbiamo visto l'azienda lavorare lì, abbiamo visto le persone 1, 2,3 che facevano questo, questo e quello"*] [M(1)].

The third phase concerns the acquisition of information and administrative documents from the employer and cross-checking with situations observed at the moment of the inspection. The employer has to provide all the documents requested within a month.

As already mentioned, the process described above is defined in guidelines prepared by the Minister of labour for all the Provincial Labour directorates.<sup>32</sup> However, the effectiveness of the

---

<sup>32</sup> [www.lavoro.gov.it/Strumenti/normativa/Documents/2008/20080918\\_Dir.pdf](http://www.lavoro.gov.it/Strumenti/normativa/Documents/2008/20080918_Dir.pdf).

guidelines depends on how they are implemented by the inspectors. As an inspector interviewed highlights, “the thing that makes the difference is specific knowledge of the territory, what I mean is... knowing that some types of business have certain types of problems at set periods. This helps to discover recurring violations of labour laws. The knowledge of the territory also means knowing what kinds of problem can arise with employers of different nationalities, helping us to understand whether there could be an infringement [*quello che fa la differenza è la conoscenza specifica del territorio, nel senso che... sapere che alcune tipologie di ditte hanno ciclicamente certi tipi di problemi aiuta ad individuare, oppure conoscere la provenienza del datore di lavoro dal quale arrivano normalmente i problemi, aiuta a distinguere se c'è o ci può essere una situazione di sfruttamento*]” [M(1)].

## 4 Forms and frequency of incidents of labour exploitation encountered by experts in their work; economic areas affected

### a) Breakdown of forms of labour exploitation encountered by professional group

Code	Forms of labour exploitation	Number of selections	M	P	S	J	L	R	W	E
5	Moving beyond the categories mentioned so far: exploitation of a migrant worker under particularly exploitative working conditions (in the terms of the Employer Sanctions Directive)	26	6	2	8	2	3	1	3	1
4	Trafficking for labour exploitation	23	2	3	7	4	2	2	3	
2	Forced labour, including bonded labour (e.g. debt bondage)	16	1		7	1	4	1	2	
3	Child labour	16	1	2	6		3	1	1	2
01	Slavery	15	1	1	4	2	2	1	4	

Several interviewees highlight the fact that trafficking for labour exploitation is managed by transnational criminal networks and organisations.

### b) 3 most frequent occupations of exploited migrant workers

There is a general agreement among respondents that low-skill jobs are particularly subject to exploitation.

Code	Occupation	Number of selections (as first, second, or third option)	M	P	S	J	L	R	W	E	Comments
4	Farm worker e.g. farm labourer, tractor driver, fisherman	30	5	4	7	5	4	1	3	1	Prevalence of men.
02	Semi-skilled worker e.g. bricklayer, bus driver, cannery worker, carpenter, baker	18	3	2	6	1	3	1	2		Prevalence of men.
03	Unskilled worker e.g. labourer, porter, unskilled factory worker	18	4	3	4	2	2	1	1	1	Prevalence of men.
05	Service occupations e.g.	18	2	1	5	4	3		2	1	Prevalence of women



	waiter, care-taker, domestic worker																		
--	-------------------------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

### c) 3 most frequent economic sectors

There is widespread agreement among respondents that sectors characterised by high presence of subcontracting and informal work are particularly affected by exploitation.

Code	Occupation	Number of selections (as first, second, or third option)	M	P	S	J	L	W	E
01 02 03	Agriculture Growing of vegetables Growing of fruits	43	6	3	12	7	7	5	3
<p>All interviewees included the agricultural sector among the three most frequently affected by the phenomena of labour exploitation.</p> <p>The phenomenon is particularly concentrated in two focus regions in southern Italy (Puglia and Calabria) and in the harvest of seasonal products (tomatoes, watermelons, oranges, artichokes).</p> <p>Migrant workers are forced to work for 10-12 hours per day (against six and a half hours of the provincial contract) for, at the most, half the salary established by the collective contract [W(1)].</p>									
43 44 46	Construction Construction of buildings Electrical, plumbing and other construction installation activities	18	3	2	5	3	2	3	
<p>The construction / building sector is cited by almost half of the interviewees as one with a high level of labour exploitation.</p> <p>Endemic use of sub-contracting is often cited as an aggravating factor.</p> <p>In addition, several interviewees from Puglia region refer to extensive labour exploitation in the field of construction and installation of solar panels. In particular, exploitation in this sector reached its peak as the deadline of 31 December 2012 for certifying the installation of the panels in order to receive</p>									

national and EU incentives drew closer. Since after, it appears to have subsided [J(1)].									
19 20 22	Manufacturing Manufacture of food products Manufacture of textiles	9	1	4		2	2		
Manufacturing is cited by a number of interviewees, with particular reference to textiles and businesses owned by resident Chinese citizens.									
60 61	Accommodation, food service, hotels	9	3	1	4	1			
Exploitation in this sector is found with particularly severe circumstances in seaside tourist areas of Emilia Romagna.									
54 58	Transportation, warehousing, and storing	7	1		3	1	1	1	
<p>This phenomenon strongly affects the northern part of Italy, including Emilia Romagna, and is aggravated by the extensive use of sub-contracting.</p> <p>The workforce is overwhelmingly made up of migrants and is subject to exploitation, with constantly worsening working conditions and increasingly lower salaries, as well as (threats of) violence in case of rebellion.</p> <p>This sector is predominantly run by cooperatives and through subcontracting, which is an additional risk factor.</p> <p><b>“Many companies, especially sub-contracting companies that are set up to be closed soon after, know from the start that they live in a drugged market, constructions, logistics, where fees do not cover legal labour costs. If I sub-contract moving goods in a warehouse for 12 Euros per hour, I do not have the money to pay the salary, social welfare contributions, income tax and VAT and severance pay. What does this cooperative do?; Makes some money for a while, then goes bankrupt, and look, another cooperative of the same consortium takes over the job, since it is the consortium that has the client portfolio. [...] these situations do not come up by chance, they are purposefully studied and reproduced on an industrial scale because it is a toy that functions very well and they will go on until it is interrupted...”</b> [L(1)]. <i>(ci sono un sacco di imprese, soprattutto le imprese sub-appaltatrici che nascono apposta per morire, sapendo già dall'inizio che per</i></p>									

<p><i>avere il lavoro, per avere commesse, vivono in un mercato drogato, l'edilizia, logistica, in cui trovano opportunità di lavoro a tariffe che non consentono di coprire tutti i costi leciti del lavoro. Se io vado a fare un contratto d'appalto di movimentazione merci in un magazzino per 12 euro l'ora, io non ce li ho i soldi per pagare e lo stipendio, e i contributi e le ritenute fiscali e l'iva e poi il trattamento di fine rapporto. Questa cooperativa cosa fa, macina soldi per un po', poi salta e poi magari, guarda caso, un'altra cooperativa aderente allo stesso consorzio di cooperative si prende in mano il lavoro, tanto il portafoglio clienti ce l'ha in mano il consorzio e via dicendo. [...] non nascono per caso queste situazioni qua, son proprio studiate a tavolino e riprodotte su scala industriale perchè è un giocattolo che funziona benissimo finché non si rompe continueranno.) [L(1)].</i></p>								
120	Activities of non-	7		3	1	2	1	
122	diplomatic							
123	households as							
124	employers of domestic personnel and carers							
<p>Exploitation in this sector is cited as a phenomenon that extends across territories, can feature especially severe conditions (24/7 work, cases of harassment, including sexual), and it is almost invisibility.</p> <p>According to a respondent from the lawyers group, domestic work was excluded from the scope of the law against labour exploitation, so that exploitation of domestic work is virtually impossible to demonstrate and prosecute (for example, according to this respondent, labour inspectors are not allowed into private residences):</p> <p><b>“the explanation I received from an important source is that the political decision made at the time to limit in numerical terms the definition of exploitation was meant to ensure that domestic work and all the severe exploitation often found around it in conditions of semi-slavery, were left out”</b> <i>(la spiegazione che ho ricevuto da una fonte autorevole è che la scelta politica che venne fatta allora, di contingentare, di limitare dal punto di vista della soglia numerica la definizione di sfruttamento è di lasciare fuori con sicurezza tutto il mondo del lavoro domestico e del grave sfruttamento che spesso c'è in condizioni paraschiavistiche nel mondo del lavoro domestico).</i></p>								

A possible explanation for this would be that, as the lawyer explains later in the interview, the use of care-givers, especially for the elderly, cuts across geographical areas and social classes:

**“care work cuts across, covers the entire national territory without distinction between urban areas and provinces, more or less developed areas; the elderly are everywhere, with the same needs, same families in semi-poverty; not only, even the poor have caretakers, evenly distributed throughout the territory”** (*il badantato è trasversale, copre tutto il territorio italiano senza dover distinguere tra città, provincia, zone più o meno sviluppate, gli anziani ci sono dappertutto con le stesse esigenze, le fasce economiche si semipoverità delle famiglie, ma non solo, i semipoveri tengono le badanti in questo modo ma anche i poveri, sono distribuite equamente sul tutto il territorio*).[L(1)]

Therefore, it could be inferred that institutions are unwilling to address labour exploitation in the care work sector, since it could be an unpopular measure among the many families that resort to (largely migrant, underpaid) care-givers (possibly because of the deficiencies of the welfare system and the lack or scarcity of public services).

## 5 Risks and risk management

### 5.1 Identification of common risk factors for labour exploitation

#### Description of the views of the respondents on risk factors

The interviewees mentioned the **irregular status of migrants** as the main risk factor for labour exploitation.

The criticism voiced by respondents concern the whole legal procedure related to stay permit. According to the Immigration Law (Law Decree No.286/1998),<sup>33</sup> in order to legally enter Italy, migrants - who are in their home countries - must sign employment contracts with employers who are in Italy. Moreover, in order to legally stay in the country, migrants must renew the stay permit and the renewal depends on the possibility of being able to prove that they have a regular job. In essence, legal provisions strictly link a regular stay to work. One respondent [M(1)] said that this procedure has led to the development of an illegal market, in which employers offer a job contract for the months the migrant worker needs to obtain a stay permit, for a fee of, generally, 5,000 Euros.

Irregular migrants are forced to work in the irregular economy, since they cannot go into the regular employment; therefore, they are vulnerable and «sitting ducks for exploiters» [*«facili prede per chi li vuole sfruttare»*] [J(1)]. Since **migrant workers need jobs, in order to earn money and send remittances home, they are willing to do all kinds of work**. «If your aim is to work, but you don't have a stay permit, working conditions can be totally decided by the employer» [*«Se il tuo obiettivo è lavorare ma non hai il permesso di soggiorno, le condizioni di lavoro sono decise completamente dal datore di lavoro»*] [S(1)].

As the respondents pointed out, moreover, both regular and irregular migrant workers, victims of labour exploitation, are prevented from reporting their employers to the police because regular migrants are afraid of losing their jobs and consequently, their stay permits while irregular migrants fear deportation, by virtue of their unauthorised stay. For these reasons, there is need for a change in the legal procedure related to the stay permit. One respondent [M(1)], for instance, suggested an *ad hoc* regularisation, i.e. the issuing of stay permits to all migrants already in Italy who can produce evidence showing that they have regular jobs.

The following are the other risk factors mentioned by the majority of interviewees, without differences among the categories they belong to:

- migrants' **precarious and disadvantages social and living conditions** in Italy;
- migrants' **countries of origin**, which are characterised by high levels of **poverty**;
- **lack of knowledge of Italian language**;
- **lack of information about workers' rights**;

---

<sup>33</sup> [www.camera.it/parlam/leggi/deleghe/98286dl.htm](http://www.camera.it/parlam/leggi/deleghe/98286dl.htm).

- **shortage of support services** specifically meant for victims of labour exploitation and lack of adequate assistance by public institutions;
- migrants' **low professional skills** which leads to their being hired only in unskilled (and underpaid) jobs.

To conclude, it is worth referring to other specific opinions expressed by some interviewees. One respondent [J(1)] said that according to them, a widespread Italian attitude to **corruption** and tax evasion fosters the infringement of labour laws and holds back from a hard fight against illegal employment. One respondent [L(1)] linked labour exploitation to the fact that **European directives** have not been completely implemented in Italy in practice. According to this respondent, in particular Italy has not completely enforced the European directives, especially the directive No. 2009/52/CE.

An interviewee [L(1)] emphasised a number of shortcomings they perceived related to the incorporation into Italian law of the directive No 2009/52/CE by stating that:

“Directive 52, 2009 was incorporated into national law in a limited way, as the directive does not distinguish between licit and illicit work for minors, it refers to child labour, full stop. The national norm incorporating the directive refers to illicit child labour as prohibited by Italian law, though, I repeat, a correct application of the national norm, more limited than the European one, would still imply verifying, case by case, the completion of education and training, something which is not done as far as I know”.

And yet the same interviewee says:

“We have to distinguish between the directive and the narrower national norm which only pretends to incorporate it integrally, but in fact restricts it to severe labour exploitation”.

The interviewee has also pointed out the limits, in that interviewee's view, of the Italian “interpretation” of the European directive:

“In addition to these two hypotheses – minors in non-working age and workers exposed to severe danger – the other hypothesis identified by the national norm is the situation of severe labour exploitation, i.e. situations where the worker is subject to a financial treatment blatantly pejorative than what national collective contracts prescribe, particularly frustrating work pace, or particularly degrading management of work relationships, but providing there are at least four workers in this situation under the same employer, or no way. The explanation I received during a parliamentary hearing – organised when there still was the draft of decree that became decree 109, with incorporation of this European norm – the explanation I received from an authoritative source is that there was a political choice to limit the definition of exploitation in order to ensure domestic work and all the severe exploitation we find there, often in para-slavery, was left untouched. But let's say we could move on from this restriction, this norm is very rarely applied – why? Because there is no exploitation? No. Because normally it is not identified and the other obligations expressed in the directive are not complied with, first of all informing systematically and pre-emptively all workers potentially interested by the phenomenon – how can they be informed – are there multilingual forms distributed upon inspections? No”.

“Our law limits this form of protection of victims and support to collaboration with the judiciary to the following three cases: minors of age unfit for work, and I repeat, the directive says

minors full stop, then you have to define working age, which is correlated to age as well as to the completion of education, so age alone tells nothing; workers exposed to severe danger cause by the violation of work safety norms, another provision hard to apply in practice, except when a severe accident already took place, as our law does not contain the notion of severe danger as distinguished from the danger connected with each violation of safety norms.”

Some problems, according to the interviewee, are also present in the daily work of the public administration officials:

“Public administration officials are – even necessarily – used to operate according to instructions, but if they don’t receive instructions ignorance is even “legitimate”, as they are informed on current laws and their changes by the ministry or the Inps general directorate. So, no communication on this, and this – though not just this – explains why nobody ever bothered telling them that according to the directive – though the national norm forgot to consider this specific obligation – they have to systematically inform all workers about their right to claim compensation, even though they do not fall into the category of severe labour exploitation, claim contributions, and a residence permit for humanitarian reasons in the case of particular exploitation”.

With reference to the agricultural sector in the south of the country, an M group respondent said that employers are forced to resort to employing irregular migrants because of the very **high cost of labour**.

Another respondent [W] listed, among risk factors, the lack of public **employment agencies** and the capability of **criminal organisations** to penetrate some economic sectors in which migrants are mostly exploited (as seen in one of the case studies).

Furthermore, an interviewee from the police said that it is important to know «what the migrant has to lose...since if s/he has nothing to lose...also because in his / her home country s/he was used to living in disadvantaged conditions, when s/he arrives in Italy...for him/her, to live in conditions of exploitation is normal» [*«cosa l’immigrato ha da perdere...perchè se non ha nulla da perdere...anche perchè nel suo paese era abituato a vivere in condizioni disagiate, quando arriva in Italia...vivere in condizioni di sfruttamento è normale»*]. These factors, in fact, improve the risk for labour exploitation.

With regard to risk factors for **child exploitation**, respondents from S who have been interviewed on this specific topic, referred to:

- the **poverty of the family**, «not only economic but also cultural poverty» [*«non solo povertà economica ma anche culturale»*][S(1)];
- the **lack of an institutional framework** capable of offering minors better opportunities in their lives and work.

Furthermore, being an **unaccompanied minor** without his/her family in Italy, is another important risk factor for labour exploitation.

**Report and critically discuss the breakdown of answers provided to questions regarding risk factors**

In this section, the responses to questions on risks concerning the institutional setting, personal characteristics of migrant workers and workplaces are analysed and discussed.

**Institutional setting (N=42 - 1 missing data)**

Code	Risk factors	M	P	S	J	L	R	W	E	N	Total (Absolute values)
01	Low risk to offenders of being prosecuted and punished;	6	2	11	5	4	2	4	0	1	35
02	Low risk to offenders of having to compensate exploited migrant workers;	5	3	10	6	4	2	3	0	1	34
03	Lack of institutions effectively monitoring the situation of workers in sectors of economy where labour exploitation occurs;	3	0	9	2	5	2	4	2	0	27
04	Corruption in the police;	0	0	0	1	0	0	0	0	0	1
05	Corruption in other parts of administration;	0	0	1	1	0	0	0	0	0	2
06	Other (please specify)	0	1	1	0	2	0	1	1	0	6
99	Don't know	0	1	0	0	0	0	0	0	0	1

The main risk factor referring to the institutional setting concerns the **functioning of the justice system**. The “low risk to offenders of being prosecuted/punished” and the “low risk of having to compensate exploited migrant workers” recorded the highest responses level. This result points out the ineffectiveness of both criminal (punishment) and civil justice (compensation). The **lack of monitoring activities** also recorded a high response value. As the interviewees clarified, the issue is not the “lack of institutions” in charge of controlling the situation of workers, but mainly the need to improve and strengthen cooperation among the different institutions, in order to make controls more effective.

Corruption in the police and in other parts of public administrations, according to interviews, is not a risk factor in the Italian institutional setting.

**Personal characteristics of migrant workers (N=43)**

Code	Risk factors	M	P	S	J	L	R	W	E	N	Total (Absolute values)
01	Migrant worker has a low level of education;	4	5	3	2	1	2	1	1	0	19
02	Migrant worker does not know the language of the country of workplace;	5	3	6	3	3	2	4	1	1	28
03	Migrant is not allowed to enter into employment;	2	4	4	2	2	1	1	1	0	17



04	Worker comes from a country the nationals of which are often exploited in the destination country;	0	1	2	4	2	0	0	0	1	10
05	Worker is prone to discrimination on behalf of their race or through their identification as belonging to a national minority (such as Roma, Dalit or sub-Saharan African)	1	0	3	1	2	0	3	1	0	11
06	Worker is prone to discrimination on behalf of their sex	0	0	3	0	0	0	0	0	0	3
07	Worker has experienced extreme poverty at home;	5	2	7	4	1	0	3	2	0	24
08	Other (please specify)	1	0	2	0	1	1	0	0	0	5
99	Don't know	0	0	0	0	0	0	0	0	0	0

Among the personal characteristics of migrant workers that function as risk factors of labour exploitation, the interviewees mentioned, above all, **lack of knowledge of Italian language** (28 responses). It was considered as the most important factor, because migrants who do not know Italian are at risk of exploitation for many reasons. Firstly, they are unable to acquire information about the legislation and, therefore, their rights as workers. Secondly, they risk being at the mercy of exploiters, because of the isolation deriving from the lack of opportunities to communicate with other (mainly, Italian) people. Thirdly, difficulties linked to communication affect negatively the possibility for a migrant to seek help from an institution or a service.

Migrants' experiences of **extreme poverty at home** is the second risk factor (24 responses). It is of pivotal importance, since - as many interviewees pointed out - migrant workers accept exploitative conditions because they need to work and earn money, in order to send money home.

Strictly linked to this need on the part of migrants is the factor related to **lack of opportunities to enter into employment** (17 responses). This factor mainly refers to irregular migrants who, because of their unauthorised stay, are more vulnerable to exploitation.

Also, **discrimination** against migrants on grounds of their race and nationality - that is, given that they are foreigners - and the **exploitation they experienced in their home countries** were mentioned as important risk factors. Regarding the latter factor, some interviewees noted that previous experiences of exploitation in the countries of origin, often, do not permit migrant workers to be aware that they are also exploited in Italy, since for them, conditions of exploitation are considered "normal".

### Workplaces (N=43)

Code	Risk factors	M	P	S	J	L	R	W	E	N	Total (Absolute values)
01	The migrant works in a sector of the economy that is particularly prone to exploitation;	7	2	7	5	4	1	3	2	0	31
02	The migrant works in relative isolation with few contacts to	1	4	8	3	4	1	1	0	0	22

	clients or to people outside the firm;										
03	The migrant worker is not a member of a trade union;	0	0	5	3	0	2	1	0	0	11
04	The migrant works in a precarious or insecure situation of employment, e.g. formally not employed but self-employed;	2	2	5	3	1	1	1	0	0	15
05	The migrant worker is not directly employed by the business/organisation for which they work, e.g. agency workers, or employees of cleaning or security companies;	2	1	4	2	1	1	1	0	0	12
06	The migrant worker is employed as a posted worker by a foreign company;	0	0	0	0	1	0	1	0	0	2
07	The migrant is a seasonal worker;	6	4	7	3	3	0	3	2	0	28
08	Other (please specify)	0	0	0	0	0	0	1	0	0	1
99	Don't know	0	0	0	0	0	0	0	0	1	1

With regard to the features of the workplaces, the exploitation of migrant workers is mainly linked to those **economic sectors** in which they usually work, i.e. the agricultural and construction sectors. These sectors, in fact, are particularly prone to exploitative conditions.

From the characteristics of the economic sectors also depend the second risk factor mentioned by the interviewees: the fact the migrants are **seasonal workers**. Furthermore, a high response level has been reached by the **isolation** of the workers who, in fact, usually have no contacts with people outside the firm (for example, one of the case studies collected as part of the research concerned the slavery of Chinese workers. During the police inspection in the employer's home - which was also the laboratory where these migrants worked - little rooms were found that were padlocked from the outside). Isolation does not allow migrants to be informed about their rights and ask institutions for help. The responses concerning the self-employment and the working agencies are linked to the issue of cooperative companies which, above all in the north of Italy, act as intermediaries between the supply and the demand of workforce.

### **Role of recruitment agencies**

The interviewees said that, theoretically, recruitment agencies can have a role in preventing and fighting against labour exploitation, but, concretely, they are not effective. The respondents' opinions about recruitment and employment agencies were different depending on the territory in which professionals work. In the south of Italy (Calabria and Apulia), in fact, **these agencies are judged by several interviewees to be completely ineffective**, since, in the economic sectors in which migrants are mostly exploited (i.e. agriculture and construction), workers are recruited on the basis of an "informal mechanism". The reference is to the so-called "caporalato": the workers' recruitment by an agent (that usually works for the employer) who is paid by the workers for this activity of mediation (see the case studies).

Since 2011, such intermediation is punished as a crime by the Article 603 bis of the Italian penal code. Conversely, in the north of Italy (Emilia-Romagna Region), while some interviewees (above all, representatives of the group M) said that **the role of recruitment agencies is irrelevant**, others **mentioned positive experiences**. In particular, a respondent [M(1)] talked about many migrant workers who have been hired thanks to the mediation of a private agency. More in general, in the interviewee's view, recruitment agencies are very important in the prevention of labour exploitation, since they could play a role in informing migrants about their rights and in reducing the vulnerability of migrant workers.

The main reason why **recruitment agencies are deemed ineffective** is that only "regular" migrants can resort to these agencies; instead, "**irregular**" migrants - who don't have a residence permit - **cannot access recruitment agencies**. And, since irregular migrants are the category mostly involved in labour exploitation, such agencies cannot be useful in solving the problem.

An interviewee [L(1)] said that an effective way for reducing labour exploitation could be the involvement of the municipalities in the activities of labour counselling and placement. And also a W group respondent suggested that a possible alternative to recruitment agencies could be the wording of a "booking list" made by the trade unions in cooperation with the local Administration. Migrants living in a municipality could be included in the list as would-be seasonal workers; if an employer needs a worker (also for a short period, e.g. 2/3 days), he/she selects the workers from this list. However, as he said, this is possible for regular migrants; for irregular migrants, instead, the interviewee suggested to carry out a census in order to map how many migrants are on the territory.

A divergent view about **public** versus **private agencies** arose: a respondent defined public employment offices as a «failure» [«fallimento»] and the private agencies as useful [M(1)]; on the contrary, an interviewee from the same group said that private recruitment agencies are «useless and unwieldy» [«inutile carrozzone»], and that public offices should be re-opened [M(1)] in order to stop the phenomenon of illegal labour intermediaries or recruiters "caporalato".

Other issues concerning the topic were pointed out, such for instance: the usefulness of recruitment agencies just limited to the manufacture sector [L(1)] but not to the sectors in which labour exploitation frequently occurs; temp agencies as a way for employers to avoid the hiring of workers [M(1)] in so increasing the precariousness and the vulnerability of the job.

With regard the **Italian institutions in charge of monitoring the activities of recruitment and employment agencies**, many interviewees said that controls should be very useful, but only few interviewees mentioned the institutions they believed to be responsible for the monitoring, that is, the Minister of Employment - at the national level - and the Labour Inspector's Office - at the local level. All respondents, however, pointed out that controls carried out by those institutions are not effective, mainly because of the shortage of labour inspectors.

## 5.2 Prevention measures aimed to reduce the risks of labour exploitation and the obligations of specific organisations in this area

### Which organisations carry out prevention measures and what kind of prevention measures are carried out

The institutions carrying out prevention measures are, above all, **trade unions, support services and the employers' organisations**. The respondents from M (monitoring bodies) and R (recruitment agencies) said that only "indirectly" they have a specific role in preventing labour exploitation. These interviewees linked prevention to their main tasks - inspections and controls - and said that also these activities, in a way, are oriented to prevent further exploitation and to give support to victims of labour exploitation.

The **main prevention measures** mentioned by the interviewees were:

- **information campaigns** aimed at raising the (migrant) workers' awareness about their rights and, at the same time, at fostering the public debate on labour exploitation. For instance, a respondent [E(1)] said that their institution organised public meetings, in order to discuss the main issues linked to the labour market and, in particular, the workers' safety on workplaces. Support services, usually, resort to informing materials (e.g. billpostings and pamphlets) to make the workers aware about their exploitative situation, and about the ways in which they may seek a way out of exploitation. Information are «crucial, because you cannot win this fight if you do not raise awareness in workers, because if they convince themselves that it's worth rejecting informal labour...yes, some may stay unemployed in the beginning, but in the end...» [*«sono molto importanti perchè, ti ripeto, tu non puoi vincere la battaglia se non sensibilizzi il lavoratore, perchè se nel momento in cui i lavoratori si convincono che se cominciano a rifiutare il lavoro nero...è vero che all'inizio qualcuno non lavorerà, ma alla fine...»*] [S(1)].

Also trade union representatives stressed the importance of information: «our only option is to inform workers, so that they are aware that there is a provincial contract, a national contract. Information is fundamental for workers, as they seldom know about contracts and so accept what employers and "caporali" decide» [*«L'unico modo che noi abbiamo è quello di informare, parlare con i lavoratori in modo che loro siano coscienti che esiste un contratto di lavoro, un contratto provinciale di lavoro, un contratto nazionale, quindi fare riferimento a quello. L'informazione è fondamentale per i lavoratori, perché spesso loro non sanno che esiste un contratto di lavoro e quindi si abbandonano a ciò che decide o il datore di lavoro o il caporale»*] [W(1)];

- **supporting workers victims of labour exploitation**. Two respondents [S(2)] refer to "help desk" activities aimed at giving assistance (also legal advices) to migrants for seeking a way out of their exploitative condition;
- wording of **Guidelines** concerning the rights of workers. A respondent [S(1)], for instance, refers to a guide, written in different languages, by the Industrial Insurance Institute (INAIL), which contained information on workers' rights, and to another

informing guide, worded by the interviewee's organisation in cooperation with the association "No Borders". Another respondent [S(1)] talked about guidelines, written in foreign languages, which would allow labour inspectors, during controls on workplaces, to inform migrant workers about their rights.

As for **children**, labour exploitation is prevented, above all, through **awareness raising campaigns** and, in those Regions (e.g. Rome in Lazio) where shelter centres are available, by **supporting minor victims of exploitation**. One respondent [S(1)] said: «I know that the Italian Ministry of Labour resorts to "Italia Lavoro", a ministerial agency, for the information and training activities oriented to migrant workers in their Country of origin. But, investments are very high, whereas the results are questionable». [*«So che il Ministero del lavoro utilizza Italia Lavoro, agenzia tecnica del Ministero, per attività di informazione e formazione dei lavoratori nei paesi di origine. Ma gli investimenti sono molto alti, i risultati invece sono discutibili»*] [S(1)].

**In this box, specific measures and projects mentioned by the interviewees, in relation to the prevention of labour exploitation of migrant workers, are listed.**

- The project - called "**Legality and Work**" - carried out by the Public local administrations and the Trade unions in a city of the Emilia-Romagna Region, addressed to inform the students of secondary schools about labour market and employment laws [M(1)].
- **Training courses** (e.g. courses on how to legally work in agriculture, and courses for cultural mediators) organised by an association in Calabria, to train some African migrants - members of the association - in order to provide them the tools to inform other migrants about their rights [S(1)].
- **Bilateral agreements** between Italy and the migrants' home Countries (e.g. Tunisia, Senegal, Burkina Faso, and Romania) aimed at informing migrant workers about the Italian employment laws. As the interviewee said, «we cannot dialogue with these workers only when they get to Italy, we have to try and develop orientation policies in the Country of origin» [*«Non possiamo costruire un confronto con questi lavoratori solo quando arrivano in Italia, dobbiamo provare a sviluppare delle politiche di orientamento già dei paesi di provenienza»*] [W(1)]. Also one representative [N(1)] referred to actions implemented in the Countries of origin (e.g. Nigeria and Romania) which included awareness-raising, education and victim support.
- A Trade union organised in Calabria a "**street union**" aimed at gathering information about migrants' working conditions. As the interviewee said, trade union members go to workplaces and in the "camp" where migrants live (once a week, the trade union did consultancy in a tent in the "camp"), in order to acquire information about possible conditions of exploitation [W(1)].
- During one of the focus groups, one participant [FG(W)] described an experimental measure undertaken in Apulia which consists in **public lists for the recruitment of agricultural labourers**. This list would provide an alternative mechanism to the "caporalato". The participant also suggested a law proposal that would make such public recruitment procedure compulsory, in order to cut off the intermediation of caporali altogether.

### **Information on pre-departure information programmes**

All interviewees, irrespective of the group to which they belonged, knew nothing about pre-departures information programmes put in place by the Italian government to prevent labour exploitation. Only few, and general, references were made with regard to: information and training activities carried out abroad (the foreign Country has not been specified) by the Italian Minister of Employment [S(1)], and transnational projects concerning labour exploitation which involved the Italian Department of Equal Opportunities [S(1)]. One respondent [S(1)] said that, in the Emilia-Romagna Region, the association “Rumori Sinistri” had thought to organise pre-departure information campaigns in Romania - since many migrant workers exploited in Italy come from this country - but the project did not happen.

One respondent [R(1)] said that, in their opinion, the agreements the Italian government signed with some migrants’ countries (e.g. Morocco, Albania, Tunisia, Egypt, Moldova and Philippines), referring to the mechanisms of recruitment of migrant workers in their home countries, could be considered as pre-departure programmes. The mechanisms concern the number of migrants who, within the annual quotas established by the Italian government, can be hired by an employer, can enter Italy through a visa, and stay on the territory with a residence permit for working reasons.

The only interviewee who expressed an opinion about the pre-departure information programmes said that these programmes would be very useful, since the main risk factor for labour exploitation of migrant workers in Italy is the lack of knowledge about their rights; therefore, informing campaigns on workers’ rights in the migrants’ home countries could reduce the risk of being exploited [E(1)].

### **Information on mechanisms of standard-setting and accreditation at national and international level**

Only two interviewees gave information on the mechanisms of standard-setting and accreditation. A respondent [W(1)] expressed an opinion on these mechanisms saying that they should be public, and should focus above all on workers’ rights. The other interviewee, instead, said that mechanisms of standard-setting and social accountability could be a useful way to reduce, but not to solve, the problem of labour exploitation [E(1)].

## **5.3 Protection against (repeat) victimisation: actions undertaken by the police to protect victims against the risk of repeated victimisation, including how the police conduct investigations**

### **Victims or delinquents?**

**”The police must enforce the law, and the law establishes that irregular migrants commit a crime”**. This statement summarises the most recurrent interviewees’ response to the question regarding whether workers will be treated as victims or delinquents.

A representative from P clarified that «migrant, for us [the Police], is a clandestine [irregular migrant], and we must carry out all actions foreseen by the law, otherwise...we violate the law» [*«L'immigrato per noi è clandestino e noi facciamo gli atti dovuti per legge, altrimenti...saremmo noi inadempienti»*] [P(1)]. Therefore, if the police carry out a raid on a company and detect migrants who are obviously working under very poor conditions, routinely, they see migrant workers as **irregular staying** in Italy.

But, as another police officer said, «the...agent is torn between a law saying that irregular migrant has to be prosecuted as such, and another law that protects the very same migrant as victim of more serious crimes» [*«l'operatore medio è combattuto da una legge che gli dice subito che l'immigrato è clandestino e va perseguito come tale, e un'altra legge che tutela lo stesso immigrato clandestino come persona che merita tutela in quanto vittima di reati più gravi»*] [P(1)]. In fact, as one respondent [P(1)] specified, the police would see migrant workers as victims only if there are the serious forms of labour exploitation described in the Article 18 of the Italian Immigration Law: that is, if the migrant has been threatened and if also the safety of his/her relatives is at risk.

Furthermore, in order to be considered a victim, the migrant has to cooperate with the police to make it possible to prove the situation of labour exploitation. In this case, migrants are protected according to the special procedure foreseen by the Article 18. Conversely, without the aforementioned factors, migrants are seen as irregularly staying and the police must deport them.

From the interviews, it emerged that not only the police, but also other public actors in charge of monitoring on the regularity of labour conditions (e.g. inspectors from M) if they found irregular migrants during inspections/monitoring of workplaces, they primarily saw them as delinquents and reported them to the judicial authority. As the participant M to the focus group No.1 clarified, in fact, the «clandestine status is evident» [*«è evidente lo status di clandestino»*], whereas the status of victim of labour exploitation is to be proven through investigations. The same opinion was expressed by the participant S in the focus group No.2, who stressed how the criminalisation of irregular immigration is a strong deterrent to migrant workers reporting exploitation and abuses.

Only a few respondents [L(1); M(2); N(1)], instead, believe that the treatment of migrants as crime victims is more frequent than their treatment as offenders. One respondent [S(1)] talked about a «very soft philosophy [of the police], which is about acceptance [and] centred on the person» [*«La filosofia è molto soft. La filosofia è quella dell'accoglienza (ed è) quella della centralità della persona»*] [S(1)].

Two interviewees [L(2)] stressed the importance of the **training of police officers** in order to be able to correctly identify the victims of labour exploitation. Another respondent [S(1)] said: «unfortunately, the police don't have enough awareness about labour exploitation. Differently with victims of prostitution, when a consolidate organisation already exists, for what concerns exploited immigrant workers this process doesn't exist. On the contrary, we have to work in order to affirm what is said in Article 18 [of the Italian Immigration Law], in a more expansive way, starting from the directive No.52 of the European Union [No. 2009/52/CE] that allows the issuing of permits of limited length [to migrants] who cooperate in criminal proceedings against the employer» [*«Purtroppo da parte delle forze dell'ordine sul tema dello sfruttamento*

*lavorativo non c'è sensibilità. A differenza di quanto accade sul versante dello sfruttamento sessuale, dove esiste una prassi consolidata. Invece, occorre lavorare affinché ci sia un'interpretazione estensiva di un articolo di legge come l'articolo 18, a partire anche dalla direttiva n.52 dell'Unione Europea che prevede il rilascio del permesso di soggiorno se hai collaborato con la giustizia»] [S(1)].*

Since the police must enforce the law, almost all interviewees, as mentioned, pointed out that, usually, during a raid, only the irregular migrant is reported. However some respondents [J(2); M(2); S(1)] also underlined that, not only the migrant, but even the employer, who committed the crime of hiring an irregular migrant, is reported to the judicial authority.

As for **child exploitation**, a respondent [S(1)] said that, since minors cannot be “irregular migrants” (according to the Italian legislation, the irregular status only refers to adult migrants), the police usually report the employer (for the violation of the law concerning the employment of minors) and the families (if compulsory schooling is violated, since the child is driven to work instead of attending school).

### **Protection against (repeated) victimisation**

When a case of labour exploitation is suspected, the police, the monitoring bodies and the support services resort to the protection foreseen by the **Article 18 of the Italian Immigration Law, concerning the issuing of the residence permit to irregular migrants victims of exploitation**. This is the main measure the interviewees mentioned in relation to the protection against (repeated) victimisation.

The majority of respondents, in fact, said that the police are not tasked with protecting victims. Protection is an indirect effect of the activities carried out by police, and other institutions, linked to controls, investigations and punishment. The arrest of the employer, the closing of the economic activity, the seizure of the employer's company, and the gathering of evidences of labour exploitation are the factors the interviewees referred to, in relation to the victims' protection. In particular, they are meant as **measures against further labour exploitation by the same employer** since all these elements act as a deterrent factor.

Some respondents [S(1); L(1)] also mentioned the police's task to inform the victims about their rights. In particular, one of these respondents [L(1)] clearly explained: «Public administration officials... have to systematically inform all workers about their right to claim... a residence permit for humanitarian reasons in the case of particular exploitation» [«I funzionari della amministrazione... dovrebbero informare sistematicamente tutti i lavoratori interessati del... diritto di chiedere un permesso di soggiorno per motivi umanitari nei casi di particolare sfruttamento»]. Furthermore, an interviewee [P(1)] also talked about the referral of the workers to the Trade unions as a way to protect the migrants.

### **Referral system**

In the respondents' opinion, the **referral system does not work well**, for at least two reasons: a) the **shortage of support services**, and b) because (as already stated) **the police usually do not see migrant workers as victims of labour exploitation**.

Furthermore, the referral of victims to support organisations is mainly based on an “**informal network**” building at the local level among the police and other public institutions and private



associations dealing with migrants. One respondent [J(1)] said that the effectiveness of these relationships also depends on the cultural approach the local administrations - in particular, the mayors - take towards the phenomenon of labour exploitation. A respondent [S(1)] explained that «in theory [the police] should [refer victims]. In practice, this doesn't happen... As far as I am concerned, in Rimini there is not awareness and expertise referring to this topic» [*In teoria dovrebbe farlo. Nella pratica questo non avviene... Secondo me a Rimini non c'è sensibilità e non c'è competenza sull'argomento*] [S(1)].

A critical and negative view on the referral system has been expressed by the majority of the interviewees, regardless of both the professional group and the region where they work. Instead, **it is worth noting that all representatives of the group P talked differently about the topic**. In fact, they underlined that, although police officers do not have the specific task of referring victims to support services, usually, the police cooperate with local public and private organisations when a case of labour exploitation is suspected; and this cooperation has been positively evaluated by the respondents belonging to the police forces. For example, one respondent [P(1)] talked about a collaboration between the police and the Caritas; another respondent [P(1)], working in the same region, also referred to other associations - e.g. the "Casa delle Donne", the "Papa Giovanni XXIII" - which cooperate with the police. And, one respondent [P(1)] mentioned some local projects (IN.C.I.P.I.T.; Eleutheria, Associazione nazionale oltre le frontiere) oriented to support the victims of labour exploitation.

A few other respondents **evaluated the system in a positive way**, such as one interviewee [N(1)] who said that the police refer victims to Public Prosecutor's Office that, in turn, activates the appropriate procedures according to circumstances (i.e. identification and expulsion of migrants, issuing of the residence permit, referral to social services). In their opinion, the system works well, mainly thanks to a strong network of associations, and the funding from the Regions, the Social European Fund, and structural funds. A respondent [S(1)], instead, pointed out that the referral system is effective, even though it is able to cover only a little part of the cases in which an intervention should be necessary.

When the police refer the victims to a support organisations, these are, often, voluntary associations (e.g. Caritas), NGOs, Trade Unions or the local public Social services. The main possible outcome of the referral to the services, as many respondents said, is linked to the issuing of the special residence permit by the Article 18 of the Italian Immigration Law. Some interviewees also mentioned the shelter of migrant workers as a type of assistance. One respondent [L(1)], for instance, said that sometimes victims are placed in shelters, especially if they can be useful of the police investigations: "these structures are used, I use a brutal term just to be clear, as a bed & breakfast available for the Police Central Station to host a precious witness for investigation. Which is certainly a good thing, but it does not cover everything that should be done" [*queste strutture sono utilizzate come una sorta, uso questo termine, per carità potrebbe essere silente, ma tanto per capirci, una sorta di affittacamere a disposizione della Questura quando la Questura ritiene di dover alloggiare una persona che può essere un testimone prezioso per le indagini, che per carità, è un fenomeno certamente virtuoso ma certamente non copre tutto il campo in cui ci sarebbe da operare*] [L(1)].

## The police investigations and criminal proceedings

The interviewees' view on the police investigations clearly differed if we consider the respondents from J and P and those from the groups S and L. No relevant differences emerged as to the regional territories in which the interviewees work.

Almost all public prosecutors and police officers gave a **positive evaluation** on how the investigations are carried out, even though **to find evidence of labour exploitation** is a difficult task, and investigative activities are time spending and very complex - above all, if they are aimed at combating the whole **(transnational) criminal organisation** involved in the exploitation.

It is worth noting that the respondents distinguished between the way in which investigations are conducted and their results. **The police work well, but only in few cases is prosecution is effective.** A respondent [J(1)], for instance, said that, as to the most frequent cases of labour exploitation (e.g. "caporalato" - illegal recruitment of workers), prosecution is not effective mainly because sanctions are not so high and, usually, the punishment to imprisonment is suspended; therefore, although the employer is convicted, the punishment does not have a deterrent effect neither for the sentenced employer nor for the other employers. The situation is different if the leaders of a criminal organisation are convicted. In this case, in fact, the fight against labour exploitation is effective. But apparently this occurs very rarely: "If you fight against an association, arresting the leaders...then, you stopped an activity which favoured the inflow of tens and tens of immigrants, and sorted them in the labour market, but the single case, statistically more frequent [the "caporalato" and off-the-book jobs], is not useful to eliminate the phenomenon [of labour exploitation]" [*«Se si combatte un'associazione, arrestando quelli che la coordinano e la dirigono...allora sai che hai bloccato un'attività che favoriva l'ingresso di decine e decine di immigrati e li smistava nel mondo del lavoro, però il singolo caso statisticamente più frequente (caporalato o lavoro nero) non serve per eliminare il fenomeno (dello sfruttamento lavorativo)»*] [J(1)].

One respondent [P(1)] added that investigations cannot fight against the whole transnational criminal organisation involved in labour exploitation, mainly because - as another respondent pointed out - "criminal proceedings are long-lasting and the punishment does not affect...the well-structured criminal organization...like in the case of the fight against the Mafia, [because] these organizations are the new forms of Mafia, [since] the sanction should affect the criminal organizations from an economic point" [*«I processi sono lunghi e la sanzione non va a colpire...l'organizzazione criminale ben strutturata...come nel caso dell lotta alla mafia (perchè) queste sono le nuove forme di mafia (e) la sanzione deve colpire le organizzazioni dal punto di vista economico»*] [P(1)]. The same interviewee, in fact, said that the main weak point of investigations is the **lack of cooperation among states**, and mentioned Joint Investigation Teams (e.g. between Italy and Greece) as a good practice.

Other respondents from J and P pointed out further weaknesses of the police investigations, such as, the **shortage of police resources and officers**, and difficulties to enforce some aspects of the Italian Immigration Laws. A respondent [J(1)] pointed out that the power of the **local organised crime** is an obstacle to investigations.

The reasons why respondents from S and L expressed, instead, a **negative evaluation** on the police investigations, can be summarised as follows:

- **investigative activities are too lengthy and complex**, the police and public prosecutors are discouraged from investing time and forces on the fight against labour exploitation. In fact, “each public prosecutor has around 1,500 new files a year on their desk to deal with. These are lengthy, exhausting investigations which require a strong coordination among the police, the Carabinieri, the financial police, and the labour inspectors, therefore involving several offices. Little chance of success in trial, because victims get expelled and who knows where they will be when the trial finally starts. Why should a public prosecutor invest on something like that?” [*« Ogni pubblico ministero ha 1.500 fascicoli più o meno l'anno sulla sua scrivania nuovi da trattare in generale. Queste sono indagini faticose, lunghe che necessitano grande coordinamento fra diverse forze dell'ordine, cioè quanto meno polizia carabinieri, guardia di finanza e ispettorato del lavoro, quindi deve interessare più uffici. Scarse possibilità di ottenere dei risultati processuali perché le vittime, i lavoratori neri i lavoratori sfruttati, vengono espulsi e chi sa con i tempi della giustizia dove andranno, che cosa faranno, che fine faranno. Ma perché un pubblico ministero si deve spendere su un'attività di questo genere?»*][L(1)];

- **the fight against labour exploitation does not seem to be a priority of the police and other public institutions**. This response by interviewees mainly referred to the south of Italy, such as in the Apulia region, where there are some “ghettos” in which migrants live, and in which labour exploitation often occurs. In these places, the police “don’t go to control, these are free zones, the police are afraid and they don’t expose themselves” [*«non si avvicina neanche, sono zone franche, hanno paura, non si espongono»*] [S(1)]. Furthermore, investigations “are few and often there is connivance between the controllers and the controlled people” [*«sono poco diffuse e delle volte siamo dentro ad un meccanismo di connivenza (tra controllori e controllati)»*] [S(1)].

As an example of this “connivance”, it could be useful to mention the following interview, conducted in the same region: “in agriculture...and in manufacturing and textiles, there are situations which are particularly known, and clearly identified as labour exploitation, but [in these sectors] often [the police] do not intervene. I don’t know why, maybe for a political will, or for the inability of institutions to react [to the phenomenon]” [*«Nel lavoro agricolo...e in parte dell'industria manifatturiera, tessile e abbigliamento, ci sono situazioni che sono particolarmente conosciute, evidentemente identificate come sfruttamento sul lavoro e lì è evidente che molto spesso (la polizia) non interviene per, non so, volontà politica o incapacità delle istituzioni di reagire»*] [L(1)].

As stated before, **difficulties in finding evidence of labour exploitation** emerged as a serious weakness of investigations and prosecutions, as some respondents [P(1); J(1); M(1)] pointed out. In fact, it is quite complex to give evidence of all requirements foreseen by the law concerning labour exploitation. In turn, difficulties the police, magistrates and labour inspectors encounter in producing evidence of serious exploitation often leads them to “choose” to **report and prosecute only less severe types of exploitation**.

”If we look at the results, it’s the complexity of the violation that brings results that do not match initial expectations. Reduction of the trafficking crime is very frequent, while it is easier to contest seemingly lesser related crimes, like use of force, loan sharking, extortion, or threats. But trafficking itself is unlikely to arrive in the final stages of trial with a confirmation of the accusation formulated in the beginning of the investigation“[*«Se dobbiamo guardare ai risultati è la complessità del tipo di violazione che porta a risultati non aderenti a quelle che erano le*

*aspettative iniziali. È molto frequente la derubricazione del reato di tratta, rimangono invece assolutamente contestabili con maggiore facilità reati apparentemente minori o connessi come possono essere l'uso della violenza piuttosto che l'usura, piuttosto che l'estorsione, piuttosto che la minaccia, ma il vero e proprio reato di tratta, se ci dovessimo soffermare solo sulla tratta, difficilmente arriva poi ai livelli finali del giudizio con una conferma del tipo di accusa formulata all'inizio delle indagini»] [P(1)].*

Also a respondent [M(1)] talked about a case in which the inspectors and the police were not able to prove labour exploitation, but only that the migrant was working illegally; therefore, the employer was reported for having hired the victim irregularly, but not for the crime of exploitation [M(1)]. The same interviewee underlined another difficulty: some workers, such as those of Asian origins, for cultural reasons, did not consider labour exploitation or slavery as a crime, and this creates some problems in the investigation activities, since it reduces the probability both that migrant worker would report an employer to the authorities, and that he or she would understand in a correct way the meanings of the questions asked by inspectors during the interviews in order to fulfil their report. The respondent, for example, recalled a conversation with a Chinese interpreter during an investigation: the interpreter explained to the inspector that - as the interviewed Chinese worker have said - in China, the presence of children in the workplace or sleeping in the same place in which they work, is not meant as an irregularity or as a crime [M(1)].

**To find evidence of the irregular working relationship** is easier than to prove a serious form of labour exploitation, since it just implies that, during inspections and controls, migrants being onsite at workplaces are lacking the documents required by the law (i.e. residence permit and employment contract). However, in some situations, also the irregularities on employment are difficult to be proved, as resulted from one case study in which, in order to confirm the migrant worker's testimony about her irregular hiring, it has been necessary to resort to both the testimony of the private guardian of the firm and to the CCTV (video surveillance) placed outside the firm.

Investigations and prosecutions are not effective also because of "the typical deficiencies of the criminal justice system in Italy. Trials start and you cannot know whether and when they will be stopped. And, then, there is a problem linked to the crime of "caporalato", which punishes only the "caporale" and not the employer (who is punished only for a misdemeanour, which could be enforced by the labour inspectors). The crime of slavery rarely can be applied, since it requires very high levels of exploitation which, fortunately, only in few cases, and not in the majority of cases, happen"*[«carenze tipiche del processo penale in Italia, tali per cui, si inizia un procedimento penale e non si sa se e quando finirà. E poi c'è un problema legato al reato di caporalato che colpisce esclusivamente il caporale e non il datore di lavoro (che è soggetto solo a sanzioni contravvenzionali, che dovrebbero erogare gli ispettori del lavoro). Il reato di schiavitù è difficilmente configurabile perché ci devono essere dei gradi elevatissimi di sfruttamento, che ogni tanto ricorrono ma nella maggioranza dei casi, per fortuna, no»]* [S(1)].

To conclude, the police investigations in the field of **child exploitation** are judged as «totally ineffective» [*«completamente inefficaci»*] by one interviewee, in their opinion [S(1)]. Although the interviewee on the specific topic of child exploitation did not further explain this statement, they did point out that "there are not specific actions oriented to help minors, unless you find an extreme situation, which, however, is difficult to know...The police forces, when you talk

about children exploitation, only refer to the highest degree of decay, but [also in these cases] no actions aimed at solving the situation are carried out“ [*«Sul minore non si interviene in modo specifico, salvo condizioni estreme che difficilmente vengono registrate... Nell'immaginario...delle forze dell'ordine, quando si parla di sfruttamento di minori, si pensa solo al massimo degrado ma [anche in questi casi] non si mettono azioni in atto per fa sì che si vada a sciogliere la situazione»*] [S(1)].

## 6 Victim support and access to justice:

### 6.1 Victim support, including available support services

#### Assessment of the effectiveness of system of support services

**The whole system of services supporting victims of labour exploitation resulted to be not effective.** In the regions where the research was carried out, there are many private and voluntary local associations which, however, in the majority of the cases, are not specifically oriented to support victims of labour exploitation. Furthermore, as the interviewees pointed out, the **lack of cooperation** among the (public and private) organisations aimed at helping victims of labour exploitation is another weakness of the support network [S(1); W(1)].

Also in one focus group, it emerged that **support services do not have a formalised procedure to be followed in the assistance to migrants.** One participant [FG(S)] said that the support activities are based on informal practices derived from “the confrontation [of professional experiences] of the operators” [*«dal confronto (delle esperienze) degli operatori»*], shared during meetings organised at the regional level. However, as the same participant pointed out, there are (very few) formalised local experiences on the protection of victims, which should be used as good practices at the national level. The reference is to: a) an agreement signed, in Lombardy, between the Labour Inspector’s Office and the support services (involved in the issuing of residence permits by Article 18 of the Italian Immigration Law) in which it is explained how to approach migrants victims of labour exploitation, and b) to the Public Prosecutor’s Office of Teramo (in the Abruzzo Region) that signed an agreement on the topic of the hearing of migrant workers, which includes guidelines to be followed in order to check if migrant workers are potential victims of labour exploitation.

Other **weak points in the functioning of the support system according to interviewees** are:

- the **low quality of responses to victims’ needs.** Some interviewees pointed out that the victims who ask the services for help typically do not only need support (such as, information and legal advice to seek a way out of labour exploitation and claim compensation for damages), but they also want to find another job, and - if they irregularly stay in Italy - to obtain a residence permit [S(1)]. These migrants’ needs, however, are not sufficiently met by the support organisations;
- **the shortage of resources**, in particular, the low number of professionals working in the services;
- the **cuts in the social services budgets** and, therefore, the decrease of public funding to the associations dealing with victims of labour exploitation;
- the **lack of specific training** for operators working in the services;
- the **fear and mistrust of migrants** toward the services;
- the **discretionary power** in deciding whether to start the special programme of victims’ protection, foreseen by the Article 18 of the Italian Immigration Law. The topic is very important, since the Article 18 is the only norm for protecting irregular migrants. According to the Article 18, police can issue migrants who are victims of exploitation (also labour exploitation) with a residence permit allowing them to be included in a programme of

assistance. The permit lasts 6 months (but it can be renewed for one more year following the initial 6 months), and it can also be converted into a residence permit for working reasons if migrants demonstrate that they have a job. The same permit can be issued to migrants who are victims of slavery or trafficking (Article 13, Law No.228/2003).<sup>34</sup>

The main problem, as the interviewees pointed out, is that the recognition of migrants as “victims” of exploitation depends on the discretionary power of the police, since the law does not list the criteria according to which the requirements to be fulfilled in order to recognise a migrant as victim of labour exploitation are to be evaluated, and since there are not specific guidelines on the topic; the police only interview the workers in order to know their situation.

Furthermore, usually, the police granted the permit to migrants who lodge a complaint against the employer - even though this is not required by the law. As one participant [FG(L)] pointed out, for instance, **according to the European directive No.36-2011 (concerning victims of trafficking in human beings), the assistance and support to migrant workers, victims of trafficking, should not be linked to the «concrete cooperation of the victim with the judiciary authority»** [*«collaborazione fattiva con le autorità giudiziarie»*], instead, in Emilia-Romagna such cooperation is essential for obtaining the residence permit. The same lawyer added that the Police Central Station often “consider in a different way [as to the refusal of the residence permit] the requests by the judiciary authority and by the single migrant or the Third Sector” [*«se c’è una richiesta dell’autorità giudiziaria...verrà gestita in modo diverso...rispetto ad una richiesta del singolo o del Terzo settore»*]. Also in the focus group, the participants underlined that residence permits are above all granted upon the input by the police - for investigation purposes – rather than in case of report by a victim.

In the interviewees’ opinion, in fact, in order to ameliorate the effectiveness of the support system, the enforcement of the Article 18 should be improved - such as it has been for sexual exploitation and prostitution [S(2)].

All the existing services are available **free of charge**, but for the Trade union - mentioned as the main support institution: an interviewee said that workers have to pay 15 euro per year in order to benefit from the service, however, “if [migrants] don’t have money for food, how can you ask them 15 euro? They will pay money when they can...we also consider this stuff” [*«se (un lavoratore immigrato) non ha soldi per mangiare, che gli chiedi 15 euro? Quando avrà i soldi li porterà...noi teniamo conto di queste cose»*] [W(1)].

**The recognition of migrants as “victims” of labour exploitation is an unclear issue.** Some interviewees said that support services are available regardless of the formal identification of migrant workers as victims [S(1)]. Others, instead, referred for instance to the condition of vulnerability of the migrant [P(1)], without any further clarification about what vulnerability could mean.

A recurrent statement was that concerning the need to be recognised as victim of exploitation, in order to enter the special support programme aimed at obtaining the residence permit,

---

<sup>34</sup> [www.camera.it/parlam/leggi/032281.htm](http://www.camera.it/parlam/leggi/032281.htm).

foreseen by the Article 18 of the Italian Immigration Law (as said before). One respondent [N(1)], in fact, clarified that only identified victims of severe exploitation can access the protection programmes. The identification is managed by both the police and the associations in cooperation with a lawyer. However, the issue linked to the residence permit seems to be different from the mere possibility for irregular migrant workers to access the services for help (e.g. for receiving information about their rights and/or legal advice on how to fill a complaint or start a civil lawsuit). With reference to these types of support the majority of professionals said that the status of victim is not necessary.

In general, **the migrants' legal status is not a criterion for accessing the services. Both irregular and regular migrant workers can ask the local organisations for support.** Indeed, private associations and, in few cases, the public services (e.g. the "Oltre la Strada" project in Emilia-Romagna) are above all oriented to help irregular migrants, who fear addressing public institutions by virtue of their irregular status, which is punished as a crime by the Italian Immigration Law and should lead to deportation. A respondent [S] said that the assistance "is granted beyond the [migrants'] situation. In fact, we favour irregular migrants, since, in our opinion, they are regulars. It is the State that labels them as irregulars, with reference to the residence permit" [*«avviene al di là di qualsiasi posizione loro abbiano; anzi noi privilegiamo gli irregolari perché secondo noi sono regolari anche loro e lo Stato li ha etichettato come irregolari, con riferimento al permesso di soggiorno»*] [S(1)].

Institutions and organisations mentioned as support services for victims of labour exploitation provide, above all, two types of assistance: **informing migrant workers about their rights** (usually through a help desk), and **giving them legal advice** (thanks to the lawyers who are members of the association) concerning both the law on employment conditions and the penal laws. Some of these organisations (e.g. Trade unions, the "Oltre la Strada" project and the "Associazione Studi Giuridici sull'Immigrazione" - ASGI) also accompany the workers during criminal proceedings. Only one respondent [S(1)] referred to the shelter of migrant workers, who escaped a situation of labour exploitation, in a "guesthouse" managed by the Caritas [S(1)].

The following are the **support services** explicitly mentioned by the interviewees, in each region:

- **Emilia Romagna:**

- a) private organisations: catholic association of **Caritas**, voluntary association called "**Porta Aperta**", "**Associazione Studi Giuridici sull'Immigrazione**" (ASGI), organisation called "**Rumori Sinistri**".
- b) public institutions: **Trade unions**, the "**Oltre la Strada**" project.

- **Calabria:**

- a) private organisations: "**SosRosarno**", "**Omnia**", "**Emergency**", "**Il Samaritano**".
- b) public institutions: **Trade unions**, **Social services**.

The **IN.C.I.P.I.T project**, **Eleutheria** (with a toll-free number) and the "**Associazione Nazionale Oltre le frontiere**" involve both public and private organisations.

- **Apulia:**

- a) private organisations: "**Associazione Studi Giuridici sull'Immigrazione**" (ASGI).
- b) public institutions: "**Progetto Aquilone**" (funded by the Minister but managed at a provincial level).



To conclude, although there were some positive evaluations [N(1); S(1)] by several interviewees who said that some migrant victims of labour exploitation can reach support services and be effectively supported, the system oriented to support workers - in particular, migrants – who are victims of labour exploitation seems to be ineffective for the reasons discussed in this section.

Also considering the services oriented to supporting **child victims of labour exploitation**, the interviewee's evaluation is negative, mainly because legal provisions are not enforced enough. "In Italy, there are norms and rules aimed at safeguarding minors; we are an extremely advanced country, but there is a too much high gap between the norm...and its enforcement in everyday life" [*«In Italia...ci sono norme e regole a tutela, siamo un paese estremamente avanzato ma c'è un divario troppo netto tra la norma...e quello che avviene nella quotidianità della vita»*] [S(1)]. A respondent [S(1)] mentioned a positive experience in the municipality of Venice, where anti-trafficking services have been included in the local social welfare institutions that cooperate with the police in combating labour exploitation [S(1)].

## 6.2 Access to Justice and other mechanisms to empower victims

### Access to justice

**The effectiveness of the civil justice system is negatively evaluated by the majority of the interviewees**, regardless of the region in which they work. Representatives of the categories S just said that the system is not effective (but for one interviewee who gave a positive evaluation), while representatives of P, J, W and L better explained the reasons for their opinions, and pointed out, above all, **the gap between the legal provisions and their enforcement**.

One respondent [N(1)] mentioned a compensation the State can give to victims of severe exploitation (according to Article 12 of Law No.228/2003);<sup>35</sup> it is a compensation meant as *una tantum* which varies between 1,500 and 3,000 euros.

The main issues on the topic referred to: a) access to justice and b) functioning of the system.

a) **Access to justice**. In theory, victims of labour exploitation should have the right to claim compensation and back pay of denied wages, but, concretely, this does not occur. Also irregular migrants can access justice to obtain wages, as it has been established by the Italian jurisprudence. However, the **low number of victims' civil lawsuits against the employers** is mainly due to the **lack of trust of workers** (above all, migrants) in the justice system, and to the **uncertainty about the outcome**, which discourages the workers from bringing a lawsuit, because trials last a long time and it is very difficult to give evidence about labour exploitation. An interviewee [J(1)] said that migrants cannot access the justice since they are, voluntarily or not, part of the exploitation system and mentality.

---

<sup>35</sup> [www.camera.it/parlam/leggi/032281.htm](http://www.camera.it/parlam/leggi/032281.htm).

b) **Functioning of the system.** The very **long-lasting proceedings**, the **lack of suitable knowledge by the Italian judges on labour exploitation**, the **difficulties in gathering evidence of exploitation** to be used in the trial and the **extreme bureaucracy** characterising the whole civil system are the most important factors making the civil justice system not effective in answering workers' needs.

Very little information has been collected on to what extent civil law claims are dealt with by the criminal justice system. The majority of interviewees did not answer the question since they knew nothing about the topic.

The respondents mentioned the right of victims of labour exploitation to **bring a civil lawsuit in the criminal proceeding** in order to obtain a damage compensation. An interviewee pointed out that civil claims are brought neither by the victims nor, for instance, by support associations, local administrations or trade unions. In their opinion, this is a signal that labour exploitation is not meant as a serious crime; in fact, "often [civil action] is a kind of formal act to be used as a symbol of the compensation for the whole community" [*«spesso (la costituzione di parte civile) è utilizzata come atto simbolico per una riparazione della comunità»*], such as in the criminal proceedings concerning the Mafia [J(1)].

Another respondent [J(1)] said that if, during a civil proceeding, the judge suspected that a crime has been committed, he/she must refer to the Public prosecutor's Office who will then start investigations. A respondent [L(1)] added that in cases of unpaid contributions and violation of measures linked to the safety on workplace, both a civil and a penal claim can be brought.

Also with regard to the question "Can complaints be lodged through third parties?", interviewees were not well-informed. Irrespective of the category they belonged to, some interviewees just said that **offences concerning labour exploitation are mandatory prosecutable** («procedibili d'ufficio»), therefore, **the report can be filed by anybody** (e.g. support associations, trade unions). One respondent [L(1)] said that the prosecution of these offences can also be by the initiative of the public institutions in charge of monitoring the regularity of employment conditions, but this rarely occurs because of the lack of effective controls. Other interviewees, instead, clearly distinguished between the **report** - which can be filed by anybody - and the **complaint** - which is to be lodged only by the victim of labour exploitation.

As to the last topic concerning the **mechanisms that would facilitate the lodging of complaints** of migrant workers against employers, the following are (in a descending order) the most frequent measures mentioned by the interviewees, irrespective of their professional category:

- **to improve the issuing of the residence permit by Article 18 of the Italian Immigration Law**, which would act as a stimulus and, at the same time, as a kind of "reward" for illegal migrants, who are, in fact, prevented from reporting labour exploitation since they fear deportation;
- **to grant more information, reassurance and assistance to migrant victims** (e.g. increasing the role of the support services);
- **to improve controls on workplaces;**

- **to make the employers' punishment more certain** and, thus, to enhance the civil and criminal justice system responses (e.g. reducing the length of trials). In one focus group, a widespread perception of illegality and corruption also emerged which prevents migrants from reporting;

- **to change the migrants' culture**, leading them to refuse off-the-book and exploitative jobs, even though this is difficult to occur, above all since the main migrants' aim is to have a job and earn money. In one focus group the **lack of workers' awareness of being exploited** also emerged, as if exploitative conditions were "normal". Migrants think that "this is the necessary path for having something" [*«che questo sia l'iter che devono fare per arrivare ad avere qualcosa»*] [FG(S)].

Finally, it is worth mentioning some specific proposals: a respondent [J(1)] suggested to allow "collective complaints" and to introduce the protected hearing of the victims of labour exploitation [J(1)]; a similar proposal was made by one of the focus group participants [FG(M)]: who said that migrant workers should gather together in a kind of "trade association"; another respondent [L(1)] referred to the "institutional racism" [*«razzismo istituzionale»*] concerning the legal status of migrants and pointed out the Italian Immigration Law should be changed [L(1)]; while another interviewee from the same group suggested introducing an automatic free patronage for victims of labour exploitation [L(1)].

## 7 Attitudes:

### **a) Do experts believe that interventions into situations of labour exploitation, generally speaking, serve the interests of the migrant workers concerned?**

In the vast majority of cases, interviewees are of the opinion that interventions do not serve the interests of migrant workers. Only few interviewees in the target groups M and P state that interventions do serve the interests of migrant workers, and they seem to be referring to the existence of laws and norms rather than their implementation in practice.

The rest of the interviewees highlight several, different reasons why interventions do not serve the interests of migrant workers, including the following:

- ✓ adequate norms do exist, but are not implemented in practice, or only in a limited way [J(1); L(3); P(1)];
- ✓ existing norms are not adequately formulated in order to effectively tackle labour exploitation of migrant workers [J(1); L(1)] – some respondents are under the impression that this signals a lack of commitment and political will by Italian institutions. For example, one respondent [L(1)] argues that European directives are incorporated into Italian law in a purposefully restrictive way, confining severe labour exploitation to exploitation of minors of age unfit for work; workers exposed to severe danger caused by the violation of work safety norms (but the notion of severe danger is not defined); situations where the worker is subject to a financial treatment blatantly pejorative than what national collective contracts prescribe, particularly frustrating work pace, or particularly degrading management of work relationships, providing there are at least four workers in this situation under the same employer;
- ✓ existing norms are not adequate because their primary aim is not to improve working conditions and the situation of exploited workers, but rather to sanction irregular work relationships in an administrative perspective, so that worker protection is a secondary aspect to them [L(1)];
- ✓ lack of adequate resources (staff/funding) available to institutions and organisations tasked with monitoring, inspections, and support services [M(2); P(1); S(1)].

### **b) According to experts, why do more migrant workers who are victims of labour exploitation not come forward and seek a way out of their situation?**

Reasons provided by the vast majority of interviewees as an answer to the above (open question) include:

- ✓ a state of economic vulnerability, i.e. fear of losing one's source of income [J(2); L(2); R(1); W(1)];
- ✓ fear of repatriation [N(1); P(1); R(1); W(2)] – many respondents connect this answer with a negative assessment of the Italian immigration law (“Bossi-Fini”), to the point the law itself is regarded as a deterrent to reporting and an encouragement to labour exploitation of migrants [M(1); L(1)];

✓ migrants' lack of awareness of their rights [N(1); P(1); W(2)], and namely of national/provincial contracts as well protection instruments provided by Italian laws [W(1)].

A couple of interviewees in the M and P target groups emphasise the lack of cooperation by migrant workers, picturing them as complicit in the phenomenon rather than victims [M(1); P(1)].

Answers selected by interviewees for **why more migrant workers who are victims of labour exploitation do not come forward and seek a way out of their situation** are distributed as follows:

Code	Reason	Number of selections	M	P	S	J	L	W	N
01	Lack of effective monitoring of relevant areas of economy	7			6			1	
02	Lack of targeted support service provision available to victims	12	1		4	4	2	1	
03	Victims are not aware of their rights and of support available to them	13	1	4	4	1	2	1	
04	Victims fear retaliation from the side of offenders against them or against family members	21	3	4	6	4		3	1
05	Victims suffer from feelings of shame	0							
06	Victims believe that speaking to authorities is not worthwhile or they would not benefit from subsequent proceedings	16	3	2	6	2	3		
07	Victims believe that proceedings are too bureaucratic and costly	1				1			
08	Victims fear that if their situation became known to the authorities, they would have to leave the country	24	7	3	4	5	1	3	1

09	Victims do not trust that the police in particular would treat them in a sympathetic manner	3			1	2			
10	Victims perceive being jobless as worse than working in exploitative conditions	23	6	3	7	1	3	2	1
11	Other-please specify	0							
99	Don't know	0							

**c) Breakdown and discussion of the three most important factors to migrant workers who are victims**

Answers selected by interviewees for **the three most important factors to migrant workers who are victims** are distributed as follows:

Code	Reason	Number of selections	M	P	S	J	L	W	N
01	To be safe and to be protected against further victimisation	12	2	2	2	2	3	1	
02	For their family to be safe	11	3	2	3	1		2	
03	To be able to stay and to make a living in an EU country	22	2	3	7	4	3	2	1
04	To see that offenders are held accountable and that justice is done	6		1	1	2	2		
05	To be respected and to see that their rights are taken seriously	16	2	2	7		3	2	
06	To be in a position to economically support other family members	26	4	4	7	5	3	2	1
07	To receive compensation and back pay from employers	17	3	1	6	3	2	2	

08	To be able to return home safely	3	2			1			
09	Other (please specify)	0							
99	Don't know	0							

These selections confirm that supporting oneself and one's family are seen – naturally – as the main priorities for migrant workers and the core of the migratory project. However, it is worth noting how the option “to be respected and to see that their rights are taken seriously” comes a close fourth, showing the perception that recognition, integration, and dignity are also significant factors for migrant workers.

**d) Do experts believe that enough is being done in the country to address severe forms of labour exploitation?**

Most experts believe not enough has been and is being done in Italy to address severe forms of labour exploitation. Explanations provided touch a range of legal, social, and cultural aspects, including:

- ✓ widespread prejudice against migrants in general, which leads to high tolerance of their exploitation by the general public [N(1)];
- ✓ lack of political will and commitment by institutions to address the phenomenon, closely tied with economic interests, power relationships, and/or organised crime [L(1)];
- ✓ poor labour culture, weak rule of law, and a traditional presence of informal labour and the informal economy – this view is shared by professionals living and working in the regions of southern Italy (Calabria, Puglia), [J(1)];
- ✓ a general lack of protection of workers in Italian law, due to the spread of “atypical” contracts [L(1)].

With regard to the last point, **a general lack of protection of workers in Italian law, due to the spread of “atypical” contracts**, it is worth exposing a radical divergence among respondents about the degree of worker protection in Italian labour law. Some interviewees, especially in the M category, state that Italian law is – traditionally – strongly oriented to the protection of the worker as the weaker part in the work relationship [P(1)]. Others, however, to be mainly found among professionals engaged in dealing with labour exploitation in practice, point out how – in fact – labour reforms in the last two decades have introduced atypical contracts (now predominantly used) that do not provide adequate guarantees for workers in the first place (social security contributions, severance pay, unemployment benefits) and therefore make all workers more vulnerable to poor working conditions, exploitation, and blackmail. As explained by a lawyer with practical experience of labour exploitation cases:

**“[an atypical job contract] doesn't give me contributions, no safety because accidents on the job are not acknowledged, no severance pay, no unemployment benefits, no social security in general, that's not a regular contract, so the Italian law contemplates contracts that are not such”** “[un contratto atipico] non mi garantisce perché alla base, il diritto alla contribuzione quindi non mi vengono versati i contributi, io lavoratore non ho

neanche la sicurezza sul lavoro perché non vengo riconosciuta quella che può essere un incidente sul lavoro, anche se viene cessata l'attività lavorativa non ho diritto alla disoccupazione, non ho diritto agli ammortizzatori sociali in genere, e quindi non è un contratto di lavoro, quello già alla base la legislazione italiana prevede un contratto di lavoro che non è un contratto di lavoro” [L(1)].

As explained by an official of the Italian public administration, this general development, together with the economic crisis, has affected both Italian and migrant workers:

**“with increasing poverty and worsening living conditions severe exploitation is increasing among Italian workers too, it's not just migrants, because poverty increases, people are forced to accept worse working conditions, poor people are competing on who works for less”** [l'aumento della povertà e delle condizioni così misere delle persone sta aumentando il grave sfruttamento lavorativo anche tra gli italiani, ormai non è solo un problema degli immigrati ma anche degli italiani, però questo accade perché la miseria, la povertà aumenta e quindi di conseguenza e quindi si accettano condizioni di lavoro meno tutelate rispetto a prima e si fa a gara con l'altro povero a chi deve offrire di più] [N(1)]

Nonetheless, migrant workers remain particularly vulnerable, especially those with illegal residence status. As noted by two attorneys working in different regions of Italy (one in the north and one in the south), their very state of vulnerability is what makes them attractive to employers and, at the same time, deprives them of alternatives and opportunities for decent work:

**“the employer...picks the worker in order to be able to exploit them. No exploitation, no job. Employers won't give up on their irregular workers, unfortunately”** [perché il datore di lavoro...intanto fa quel lavoro in quanto riesce ad avere quel tipo di sfruttamento, quando finisce lo sfruttamento è finito il lavoro. Cioè il lavoratore irregolare non se lo perde il datore di lavoro, purtroppo] [J(1)];

**“employers chose migrant workforce precisely because it can be underpaid”** [I datori di lavoro scelgono manodopera migrante proprio perché può essere sottopagata] [J(1)].

#### e) Breakdown and discussion of the three measures which would most improve the way labour exploitation is addressed in the country

Answers selected by interviewees for this question are distributed as follows:

Code	Reason	Number of selections	M	P	S	J	L	R	W	E	N
01	Improve legislation against labour exploitation and its implementation	19	3	2	6	1	2		2	2	1
02	Improve legislation to allow better access to justice and compensation	10	2	1	2	1	2		1		1



03	More effective monitoring of the situation of workers in the areas of economy particular prone to labour exploitation	15	1		5	2	3	1	1	2	
04	Measures to ensure that all workers know their rights	14	2	2	2	2	1	1	2	1	1
05	Measures to ensure that all workers have access to labour unions	3			1			1	1		
06	More effective coordination and cooperation between labour inspectorates, the police and other parts of administration as well as victim support organisations and the criminal justice system	28	5	4	8	4	4	2	1		
07	Setting up of specialised police units to monitor and investigate labour exploitation	4			1	1		2			
08	Regularising the situation of certain groups of migrant workers with an irregular status	12	2		3	4	1		1	1	
09	Regularising the situation of migrant workers once they have become victims of severe labour exploitation	14	3		5	2	2		1	1	
10	Measures addressing corruption in the administration	1	1								
11	More training of police, labour inspectors and other authorities	8	2	4	1		1				

12	Police and courts taking labour exploitation more seriously	6			2	2	1		1		
99	Don't know	0									

Consistently with the widespread critical attitude about the Italian immigration law, a consistent number of respondents call for the abrogation or radical reform of the Bossi-Fini law, which – it is argued – criminalises illegal migration while tying the residence permit to an unrealistic mechanism requiring the migrant to obtain a regular work contract in the country of destination before leaving the country of origin. As an executive of a major recruiting agency puts it:

**“Clearly getting a job before arrival is unthinkable, it's the hypocrisy of Bossi-Fini, can you imagine hiring someone before meeting them, the residence permit linked to the job, before arrival, this is idiocy, the idea of hiring someone you saw in picture or interviewed on Skype, no way”** [*è chiaro che un posto di lavoro prima che uno lo vede è difficile pensare, questa è l'ipocrisia della Bossi-Fini, ma quando mai uno assume uno prima di vederlo, bisogna andare vederlo, lo porti qua, il problema è che il permesso di soggiorno per quella persona per questo posto di lavoro, è idiozia questa, che uno possa assumere uno semplicemente perché ha visto la fotografia oppure ha fatto su Skype un colloquio, non esiste*] [R(1)]

Other frequently cited measures include:

- ✓ improving monitoring, with particular emphasis on providing staff and resources to monitoring bodies;
- ✓ raising workers' awareness of their rights by providing appropriate information;
- ✓ extending the norm introducing the criminal charge for caporalato (Article 603bis of the criminal procedure code) to employers in addition to caporali;
- ✓ improving norms and mechanisms in order to strengthen the certainty of the penalty and discourage exploitative practices, currently high-profit and low-risk;
- ✓ favouring a structural, long-term approach over an “emergency approach”;
- ✓ increasing **financial** penalties for employers, to provide further deterrent to profit from exploitation of workers.

A couple of interviewees [E(1); M(1)] suggest further reduction of labour costs as a way to encourage employers to respect the law, as the high cost of labour would “force” them to impose poor working conditions and underpay the workforce.

Consistently with what emerged in the discussion of point d), changes in general social and cultural attitudes are called for: **“We talked a lot about repression, but repression alone does nothing. Repression is the last step. We would need to find the way for them to have normal jobs. So labour exploitation must be framed differently, not just in terms of laws, but on the social level, rather than repression, working on prevention and mentality...”** [*abbiamo parlato a lungo della repressione penale, ma la repressione da sola non serve a niente. La repressione è l'ultimo dei passi ai quali di dovrebbe arrivare. Bisognerebbe trovare un meccanismo attraverso il quale farli lavorare e farli lavorare normalmente. Quindi il discorso del lavoro e dello sfruttamento lavorativo vanno inquadrati in*

*un contesto diverso ma non solo normativo, proprio sociale e quindi più che sul piano della repressione bisognerebbe lavorare bene su quello della prevenzione e sulla mentalità...]*  
[J(1)].

## **8 Conclusion and any other observations, including contentious issues from interviews/focus groups**

Many of the experts interviewed, especially those belonging to law enforcement agencies, victims support services, as well as lawyers and prosecutors, encounter cases of labour exploitation on a daily basis, even child labour, while human trafficking cases are present, but less frequent.

The interviews carried out show that the most common forms of severe labour exploitation in Italy are connected to the economic and social aspects of the employment relation. For example, when the salary is not paid in spite of the work done, or the salary is much lower than the standard average, or even when migrants are strictly controlled so that they cannot escape, or when their passport is retained by the employer as a deterrent to the reporting of exploiting conditions.

Furthermore, the interviewees have stressed that the severe forms of labour exploitation can be paradoxically enforced by the legal framework governing the migration policies in Italy.

But let's try, in the conclusion, to unravel the knot, starting from the key points.

The economic sectors more affected by severe forms of labour exploitation are agriculture, as seasonal picking of fruit and vegetables and labour in large farms with cases of exploitation especially related to wages and working hours. The construction sector is also affected by labour exploitation, especially in the case of subcontracting and because of the presence of a large unskilled workforce. Severe forms of labour exploitation are also widespread in textile manufacturing, especially in micro and family-led businesses. In this regard, the case of the industrial textile district of Prato has become internationally well known. These forms of labour exploitation include above all men.

Severe forms of labour exploitation are also widespread in the service sector, especially in the field of domestic work and the care of elderly people. In this area of the labour market, women are more subject to labour exploitation. Another sector characterised by labour exploitation is logistics, where men comprise the majority of the labour force.

In general, we can conclude that severe forms of labour exploitation concern mainly the unskilled migrant labour force, and is widespread in the low skilled sectors.

In Italy, the phenomenon has a macro-regional differentiation. In the southern part of the country, severe forms of labour exploitation mainly occur in agriculture and in seasonal work such as tourism and in the construction sector. In these fields, labour exploitation is embedded in the black market which is very common in that territorial area and which is in some part controlled by the criminal organisations. In the central and northern parts of the country, the phenomenon occurs mainly in the service sector and in care work, in manufacturing and in construction. In the first case women are mainly subject to severe forms of labour exploitation, and in the latter, men.

The interviewees mentioned the illegal status of migrants as the main risk factor for labour exploitation. According to the Italian Consolidated Act on Immigration (Law Decree

No.286/1998),<sup>36</sup> receipt of a residence permit is conditional on the migrant worker having a job. Since migrant workers need a job in order to earn a salary and send remittances at home, and considering that having a job is the condition to obtain the permit to remain in the country, they are very vulnerable to any form of labour exploitation, because work conditions are defined by the employer. And, as already mentioned, work conditions in agriculture, construction, manufacturing and in elderly-care can be very hard. The legal framework has in some cases led to the development of an illegal market, in which the employers offer the migrant workers a job contract in order to obtain a residence permit, but without paying a salary, and in some cases, even asking for the money back.

Focusing on the personal characteristics and the initial situation of the migrant workers, the most important factors adding to the risk that migrant workers may be exploited are: the lack of knowledge of the language of the country of workplace; the social and economic origins of the migrant worker due to the condition of extreme poverty they come from and the lack of knowledge of workers' rights as guaranteed by the Italian law.

Looking at the legal and institutional setting, the most important factors adding to the risk that migrant workers may be exploited are: the low risk to offenders of being prosecuted and punished; the low risk to offenders of having to compensate exploited migrant workers and the lack of institutions effectively monitoring the situation of workers in sectors of economy where labour exploitation occurs. The latter aspect is very important, since many interviewees have highlighted the structural shortage of human and economic resources devoted to the prevention and repression of severe forms of labour exploitation. What is absent are not institutions in charge of controlling the situation of workers; rather there is a need for economic resources, and more attention should be focused on strengthening the cooperation among the different institutions in order to make controls more effective.

Furthermore, some interviewees (especially L(1)) also mentioned that according to them, Italy has not completely enforced the European directives, especially the directive No. 2009/52/CE.

With reference to the situation of migrant workers at their workplace, the most important factors adding to the risk that migrant workers may be exploited are: the sector of the economy particularly prone to exploitation; the relative isolation of the migrant worker, with few contacts to clients or to people outside the firm; the fact of not being a member of a trade union; the precarious or insecure situation of employment and the fact that the migrant worker is not directly employed by the organisation for which he/she works.

As regards to the protection of the victims and investigations, when a case of labour exploitation is suspected, the Italian law enforcement agencies, the monitoring bodies and the support services resort to the protection foreseen by the Article 18 of the Italian Immigration Law, concerning having the right of the residence permit to irregular migrants victims of exploitation. Some interviewees maintain that during the last few years, there has been an increase of cases of Article18 for labour exploitation because there is more awareness of the phenomenon. From this point of view, protection procedures for victims of labour exploitation are granted more often than in the past. Other interviewees assert that support services are

---

<sup>36</sup> [www.camera.it/parlam/leggi/deleghe/98286dl.htm](http://www.camera.it/parlam/leggi/deleghe/98286dl.htm).

available to all the victims of labour exploitation and are free of charge, even if migrants do not have a residence permit. Nevertheless, procedures are not well organised, and a system of evaluation of the effectiveness of the protection of victims of labour exploitation has not been put in place until now.

Many interviewees have highlighted the inefficiency of the Italian justice system, because it is not easy to demonstrate slavery work conditions due to the absence of a clear regulation of severe forms of labour exploitation. Investigations are very long and complex and the police forces and the public prosecutors are sometimes discouraged from fighting against labour exploitation, also because a stronger and better coordination among the State police, the Carabinieri, the financial police, and the labour inspectorates is required. The problem is that coordination is not effective. Moreover, the chances of success in trials are low, because victims of severe forms of labour exploitation are often expelled from the country and they are rarely present when trials finally start.

Complaints can be lodged through third parties, but the efficacy is different. The most part of the notifications are lodged through third parties, but have a lesser impact. The majority of respondents assert that the police are not tasked with protecting victims. The protection is an indirect effect of the activities carried out by the police forces and by other institutions tasked with implementing controls, investigations and punishment.

Many interviewees are of the opinion that the referral system does not work well for at least two reasons: a) the shortage of support services, and b) because the police typically do not see migrant workers as victims of labour exploitation. However, interviewees belonging to the target group P differed in their opinions, and often stressed the cooperation activated in many cases with local public authorities and private organisations when a case of labour exploitation is suspected.

Finally, most experts believe not enough has been and is being done in Italy to address severe forms of labour exploitation: there is a widespread prejudice against migrants in general, which leads to high tolerance of their exploitation by the general public; there is a lack of political will and commitment by institutions to address the phenomenon, determined by economic interests, power relationships, and organised crime (especially in the south); there is a weak culture of work and a weak rule of the legal system which is accompanied by a weakness of the labour market, high structural levels of unemployment and a traditional presence of black market, especially in southern Italy.