

ITALY

THE REGULARISATION
SHOULD PROTECT THE
RIGHTS OF MIGRANT
WORKERS

AMNESTY
INTERNATIONAL



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INTRODUCTION

On 16 July 2012 the Italian government adopted Legislative Decree No. 109, aimed at implementing European Union Directive 2009/52/CE on sanctions and measures against employers of “illegally staying third-country nationals”.¹ At the same time, the government launched a new regularisation measure for migrants irregularly employed, including those irregularly present in its territory.²

The 2012 regularisation, started on 15 September 2012, is the fourth *ad hoc* regularisation measure to which the Italian government resorted since the adoption of the Consolidated Law on Immigration (*Testo Unico sull’Immigrazione*) in 1998 (previous regularisations having taken place in 1998, 2002 and 2009).

In this paper, Amnesty International analyses the impact of the 2009 regularisation (known in Italy as *sanatoria colf e badanti*) on the human rights of irregular migrants, to draw lessons and provide recommendations for the new regularisation measure.

Amnesty International acknowledges the prerogative of states to control the entry and stay of non-nationals into their territory, subject to their obligations under international law. As such, states’ discretion in the adoption and enforcement of migration policies is limited by their obligation to respect, protect and promote the human rights of all individuals within their territory and subject to their jurisdiction.³

With regard to Italy, Amnesty International is concerned that:

- Ongoing limitations on the ability of migrant workers to participate effectively in the procedures to regularise their status make them completely dependent on the employer and increase their already heightened vulnerability to labour exploitation. These concerns will be discussed in Section 1 below.
- A real risk remains for the migrant workers who are victims of crime or human rights abuses of being detained and expelled as irregular migrants if they approach public authorities, as the Italian government has failed to remove the obstacles that limited access to justice for migrant workers during the 2009 regularisation. This failure not only weakens the government’s response to crime, but, more importantly, undermines its efforts to detect and repress cases of labour exploitation. These concerns will be discussed in Section 2 below.
- Uncertainties and conflicting interpretations of requirements and exclusion criteria may have negative consequences on the enjoyment of human rights of the migrants workers seeking regularisation. These concerns will be discussed in Section 3 below.

This paper is updated as of 31 August 2012.

1. PREVENTING LABOUR EXPLOITATION

THE 2009 REGULARISATION: PLACING TOO MUCH POWER IN THE HANDS OF THE EMPLOYER

Approved days before the entry into force of new legislative measures intended to fight irregular migration on the grounds that it posed a security threat (the “security package”),⁴ the 2009 regularization amounted to an amnesty for those employing carers and domestic workers without a regular contract. These employers could avoid the severe sanctions imposed by the “security package” by declaring the existence of the employment relationship to the authorities and paying a fee of 500 euros per worker. The “parties” (i.e. the employer and the migrant worker) would then be summoned before local immigration authorities to complete the procedure and apply for a residence permit.⁵

However, the procedure of the 2009 regularisation focused entirely on the employer, with no role at all for the migrant worker, who was not entitled to actively participate at any stage of the proceedings. In particular, the 2009 regularisation laid down the following restrictions in respect of the rights of migrant workers:

- **The migrant worker could not submit the application.** Only the employer, not the worker, was entitled to submit an application.⁶ In other words, access to the regularisation process was entirely left to the discretion of the employer, even where the employment relationship met the criteria required by law.
- **The migrant worker could not receive documents and communications directly from the authorities.** Any document or communication from the authorities was sent to the employer, who was required to pass it on to the migrant worker. This included providing the migrant worker with the official acknowledgment of the submission, i.e. the document which entitled them to stay in Italy until completion of the procedure and which therefore became one of their essential identity documents,⁷ as well as information about further procedural steps and requirements.⁸
- **The migrant worker could not finalise the procedure without the cooperation of the employer, even when the employment relationship had been terminated in the meantime.** The 2009 regularisation provided that “the parties” should be present for the procedure to be completed before the relevant local authorities.⁹ As to whether the procedure could be completed when only one of the two

parties was present, the Ministry of Interior clarified that the employer could conclude the procedure alone (not the worker).¹⁰

- **The migrant worker was effectively prevented from leaving their employer.** In the 2009 regularisation, migrant workers who had left or lost their job after the application was made were not allowed to work on a regular basis for a different employer before completion of the procedure.¹¹ Because in some cases it took more than two years to complete the regularization procedure, due to excessive bureaucracy, workers were effectively not free to change employers during this period, regardless of the circumstances.

As a result of these employer-centred procedural requirements, migrant workers were both completely dependent on their employer to obtain a residence permit and effectively prevented from leaving their employment for a period of potentially up to two years. This made it extremely difficult for migrant workers to report exploitation – a problem compounded by the ineffective labour inspection regime (see below).

Recognising some of the deficiencies of the 2009 regularisation in guaranteeing migrant workers' rights, Italian courts have intervened on a number of occasions to ensure that its implementation complies with Italy's own non-discrimination and labour legislation.

In September 2009, considering the case of a migrant domestic worker who had lost her job after having requested that the employer apply for regularisation, the Employment Tribunal in Brescia ordered that the employer must submit the application, as regularisation cannot be dependent on the discretion of the employer.¹²

In December 2010 the Regional Administrative Tribunal of Lombardy confirmed that, when the employment relationship exists and other objective criteria required by law are met, the regularisation procedure must be completed even in the absence of the employer, as it cannot be left solely to the latter's discretion.¹³ Similarly, the regional Administrative Tribunals for Piedmont and Tuscany ruled that the authorities have an obligation not only to notify the migrant worker of all relevant information about completion of the procedure, but also to allow them to complete the process in the absence of the employer if all of the relevant requirements are met.¹⁴

PREVENTING LABOUR EXPLOITATION IN THE 2012 REGULARISATION: A MISSED OPPORTUNITY

Similar to the 2009 regularisation, the 2012 procedure is presented as an amnesty for employers irregularly employing migrant workers and was adopted at the same time as new sanctions and other measures were also introduced. These employers have a month (from 15 September to 15 October 2012) to declare the existence of the employment relationship to the authorities and pay a fee of 1,000 euros per

worker. The “parties” will then be summoned before local immigration authorities, to complete the procedure and apply for a residence permit.¹⁵

The significant shortcomings of the 2009 regularisation, which unduly restricted the rights of migrant workers were perpetuated in the 2012 regularisation. The 2012 regularisation legislation still provides that only the employer, not the worker, is entitled to submit an application.¹⁶ At the time of the drafting of this paper, no clarification had been provided yet with respect to: whether the migrant worker could receive documents and communications from the authorities; whether the migrant worker could ensure the conclusion of the procedure without cooperation from the employer; and whether the migrant worker has the freedom to leave their employer and find regular work with a second employer before the procedure is completed. However, there is nothing to suggest that the Italian authorities intend to correct the shortcoming of the 2009 regularisation.

The right to receive information

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families provides that all migrant workers and members of their families have the right to be informed by the State of employment concerning *“the conditions of their admission, their rights and obligations under the law and practice of the State concerned and such other matters as will enable them to comply with administrative or other formalities in that State”*.¹⁷

Although Italy is not a party to the Convention, it still has the obligation to respect, protect and promote the right of migrant workers to receive information, as this right is enshrined in the Universal Declaration of Human Rights (Article 19) and the International Covenant on Civil and Political Rights (Article 19), which Italy ratified on 15 September 1978.

Amnesty International is concerned that ongoing limitations on the ability of migrant workers to participate effectively in the procedures to regularise their status make them completely dependent on the employer and increase their already heightened vulnerability to labour exploitation. These concerns are particularly relevant in light of the prevalence of labour exploitation, in many cases of a serious nature, among irregular migrant workers in Italy.

Migrants, especially those without a residence permit, are frequently subject to extremely low pay, well below minimum wage, and/or poor terms and conditions of employment, such as long hours of work. In January 2010, Amnesty International expressed concerns on the exploitation of migrant agricultural workers in Southern Italy, who earn as little as €2 an hour while living in abandoned buildings without running water, electricity or heating.¹⁸ The exploitation, violence and other abuses severely affecting migrants working in agriculture have been reported also by NGO Medici Senza Frontiere (MSF, Doctors without Borders),¹⁹ journalists²⁰ and trade unions.²¹ Trade unions have also noted exploitation of migrant workers in the construction sector.²² Concerns were raised by the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related

intolerance,²³ as well as the UN Committee on the Elimination of Racial Discrimination.²⁴

At the same time, labour inspections are ineffective due to both a general lack of resources in the relevant inspection bodies and the fact that migrant workers tend to be employed in sectors, such as domestic work, construction and agriculture, which often are neglected.

In particular, Amnesty International is concerned that both in law and practice Italy is potentially violating its obligation to protect and promote both the right of migrant workers to work and their right to just and favourable conditions of work, as provided for under Arts 6 and 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which Italy ratified on 15 September 1978. Under Article 6(1) of the ICESCR States Parties are under a duty to take appropriate steps to safeguard “the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts”. The UN Committee on Economic, Social and Cultural Rights has made clear that:

“Work as specified in article 6 of the Covenant must be *decent work*. This is work that respects the fundamental rights of the human person as well as the rights of workers in terms of conditions of work safety and remuneration. It also provides an income allowing workers to support themselves and their families as highlighted in article 7 of the Covenant. These fundamental rights also include respect for the physical and mental integrity of the worker in the exercise of his/her employment.”²⁵

The Committee has also highlighted that the right to work safeguards should extend to everybody, including migrant workers, in line with the principle of non-discrimination.²⁶ Indeed,

“The Covenant rights apply to everyone including non-nationals, such as refugees, asylum-seekers, stateless persons, migrant workers and victims of international trafficking, regardless of legal status and documentation.”²⁷

States that fail to take all necessary measures to safeguard persons within their jurisdiction from infringements of the right to work by third parties, including failing to regulate the activities of individuals, groups or corporations so as to prevent them from violating the right to work of others, will be in breach of their obligations under Articles 6 and 7 of the ICESCR.²⁸

The 2012 regularisation procedure should be revised to ensure compliance with international law and standards, in particular the obligation to prevent and combat labour exploitation. To this purpose:

- **Migrant workers should be entitled to initiate the regularisation procedure, by submitting to the authorities information about their employment relationship;**
- **Migrant workers should be entitled to receive all relevant documents and information directly from the authorities;**
- **If relevant requirements are met, migrant workers should be entitled to complete the procedure without the cooperation of the employer;**

- **Migrant workers should be allowed to legally change employer during the time necessary for the procedure to be completed.**

2. GUARANTEEING ACCESS TO JUSTICE

The 2012 regularisation excludes from the procedure several categories of employers, for example those condemned for crimes such as smuggling, trafficking and *caporalato*; and those who had started but not completed previous regularisation procedures. Amnesty International welcomes these provisions, insofar as they are intended to prevent trafficking, smuggling, labour exploitation and fraud-type crimes. However, these provisions seem to be insufficient to guarantee access to justice to irregular migrant workers who become victims of human rights abuses or crimes.

THE 2009 REGULARISATION: “GENERALISED FRAUD”

As mentioned above, the 2009 regularization was exclusively targeted at a specific category of migrant workers: domestic workers and carers. Many migrant carers and domestic workers, as well as the families employing them, seized that opportunity for regularisation. Because of the unavailability of other effective mechanisms to regularise their status, however, many other migrant workers, who were not employed as carers or domestic workers and were not entitled to benefit from the measure, tried to find a way to benefit from it.²⁹

Some migrant workers were helped by their employers, who bended the rules and declared that their migrant employees were working as carers or domestic workers when, in fact, they were employed in the family business.³⁰ Many fell prey to unscrupulous “agencies”, “consultants” and other individuals, both Italian and foreign, who cashed thousands of euros, often borrowed from family and friends, to provide figurehead employers and sell fake documents.³¹ One of the migrant workers interviewed by Amnesty International in the Caserta area during a research mission in July 2012 had paid 6,000 euros to be regularised; he was working in agriculture at the time.³² According to other reports, migrant workers paid 3,000 euros on average³³ – while some ended up paying up to 10,000 euros.³⁴

In some cases, the migrants were provided with a fake receipt, while the application was never submitted.³⁵ Some “employers” turned out to have been dead for years.³⁶ Others were unaware that their name and details had been used to submit applications and found out only when they were summoned before the local

immigration authorities.³⁷ Some “employers” applied to regularise up to 47 domestic workers – a clear scam.³⁸ Many “employers” and intermediaries disappeared after having taken large sums of money, never showing up before the immigration authorities. Others kept requesting additional money to complete the procedure, after having received the payment necessary to submit the application.³⁹

These situations were widespread all over Italy.⁴⁰ Law-enforcement authorities reportedly discovered about 40 cases in the Sondrio area;⁴¹ more than 400 cases in the Milan area;⁴² at least 700 cases in the Vicenza, Verona and Padova areas;⁴³ about 200 cases in the Rovigo, Bologna, Forlì and Ravenna areas;⁴⁴ about 200 cases in the Reggio Emilia area;⁴⁵ at least 250 cases in the Firenze area;⁴⁶ at least 200 cases in the Pisa area;⁴⁷ more than 300 cases in the Massa Carrara area;⁴⁸ about 70 cases in the Pistoia area;⁴⁹ as much as 1,000 cases in the Rome area.⁵⁰

According to law-enforcement authorities, in Padova 81% of the applications involved some criminal conduct.⁵¹ Estimating the true extent of the phenomenon, however, is extremely difficult. The cases discovered by law-enforcement authorities are likely to be only a part of the total number of cases. In the Caserta area, the International Organization for Migration deemed the distortions of the 2009 regularization to be so widespread that it denounced a situation of ‘generalised fraud’.⁵² According to Naga, an Italian NGO, an extremely conservative estimate based on the number of rejected and withdrawn applications would put the likely cases of fraud-type situations to more than 15,000.⁵³

OBSTACLES TO ACCESS TO JUSTICE

The position of the migrants involved in the fraud-type situations of the 2009 regularisation should have been determined on a case-by-case basis, as some migrants might have sought regularization in good faith, believing to meet the requirements, while others might have been aware that they were taking part in a scam. Instead, Italian authorities generally dealt with the migrants involved as a group, ignoring the individual aspects of their cases. At the same time, these standard approaches were left to local authorities and resulted in inconsistent treatment of similar cases in different parts of the country.

In some areas, criminal proceedings for the frauds were opened against the migrants involved.⁵⁴ In Padova, the migrants who had reported cases of fraud enjoyed *de facto* toleration for about a year, as local authorities refrained from detaining and expelling them.⁵⁵ In Massa Carrara, some of the migrants who reported cases of fraud were given a residence permit for ‘justice reasons’.⁵⁶ In Verona, prosecution authorities declared that each individual case would be examined to determine whether a residence permit for ‘social protection’ could be issued;⁵⁷ however, it is unclear whether and how this promise was kept. In the majority of cases, no allegation of responsibility or complicity in the frauds was formulated against the migrants, showing a recognition that they had been victims of a crime; at the same time, however, regularisation procedures were stopped and expulsion procedures initiated.⁵⁸

Despite some exceptions, therefore, a real risk remained for the migrant workers who were victims of fraud-type situations of being detained and expelled as irregular migrants if they approached public authorities.⁵⁹ As a result, many were too afraid to report the crime.⁶⁰ According to a survey organized in Milan by Naga, only 11% of the 438 migrant workers interviewed decided to report having been victim of a fraud to law-enforcement authorities.⁶¹

GUARANTEEING ACCESS TO JUSTICE IN THE 2012 REGULARISATION

Irregular migrant workers are reluctant to report human rights abuses suffered at the hands of their current employer, as they often depend on them to resolve their irregular or uncertain migration status. They are more likely to request support and advice in relation to residence permits and identity documents. Cases of labour exploitation, therefore, are often detected only when the migrant worker approaches lawyers or civil society organisations to regularise its migration status. Regularisation procedures then become precious occasions to grasp the real extent of often hidden and under-reported labour abuses.

Amnesty International is concerned that the Italian government has failed to remove the obstacles that limited access to justice for migrant workers during the 2009 regularisation. This failure not only weakens the government's response to fraud-type crimes, but, more importantly, undermines its efforts to detect and repress cases of labour exploitation.

The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power provides:

Victims [of crime and abuse of power] should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.⁶²

In particular, irregular migrants who suffer human rights violations or abuses should have access to justice and be able to report and/or file legal complaints without fear of deportation or repatriation. The UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families recommended that:

“States should establish effective and accessible channels which would allow all migrant workers to lodge complaints for violations of their rights without retaliation against them on the ground that they may be in an irregular situation.”⁶³

To this purpose, national legislation should allow victims of human rights violations or abuses to stay in the country at least for the duration of any relevant legal (criminal, civil or administrative) proceedings.

The 2012 regularisation procedures should be revised to ensure compliance with international law and standards, in particular the obligation to ensure access to justice for victims of crime and human rights abuses.

National authorities should ensure that local authorities adopt a consistent practice towards those migrants who become victims of crimes or human rights abuses, taking into account their individual circumstances and needs.

For example, victims of crimes committed in the framework of the 2012 regularisation could be granted a residence permit for justice reasons. If the circumstances of the individual case allow, victims of human rights abuses should be granted other relevant permits, including residence permits for social protection.

3. PROVIDING CLARITY

THE 2009 REGULARISATION: INCONSISTENCY AND DOUBTS

During the 2009 regularisation, great uncertainty developed around the causes for exclusion of certain migrant workers from the procedure. For example, a Circular of the Ministry of Interior (“Circolare Manganelli”) interpreted the regularisation legislation in the sense that migrants who had been condemned for remaining in Italy after a first expulsion order (cases of “double expulsion”), could not be regularized.⁶⁴ This interpretation was both upheld⁶⁵ and rejected by administrative courts,⁶⁶ creating inconsistent practice.⁶⁷

Inconsistencies and doubts around the causes of exclusion from the regularisation procedure created two types of problems. First, the applications for regularisation of many irregular migrant workers, who were later (wrongly) excluded from the procedure, became a means to detect and expel them. When the jurisprudence of several tribunals, including the Constitutional Court, intervened to clarify and limit the scope of the exclusion causes, the prolonged lack of clarity had already had a negative impact on migrants, some of whom had been repatriated after their application for regularisation was rejected. For example, the inconsistencies generated by the “Circolare Manganelli” were solved only in May 2011, more than one and a half year after the deadline for regularisation applications, when the Council of State, the highest administrative court, ruled that the migrants who had received a double expulsion order could indeed be regularised.⁶⁸

Second, inconsistencies and doubts around exclusion from the regularisation procedure caused many applications to be rejected without an individual assessment of each application on its merits. In July 2012 the Constitutional Court clarified that the authorities must determine in each individual case whether the migrant poses a threat for public order or state security and condemned as

discriminatory the automatic exclusion of those migrant workers who had previously been condemned for crimes under Art. 381 of the criminal code.⁶⁹ Similarly, in February 2011 the Regional Administrative Tribunal of Campania had condemned as discriminatory the automatic exclusion of migrant workers reported in the Schengen Information System, considering that these reports could be a cause for exclusion only in cases of threat to public order and security.⁷⁰

PROVIDING CLARITY IN THE 2012 REGULARISATION

Amnesty International is concerned about the consequences of further uncertainties and conflicting interpretations of requirements and exclusion criteria on the human rights of the migrants workers seeking regularisation. While evolving judicial interpretations are a normal feature of any legal system, clarity and predictability is required in the application of measures, such as exclusion from regularisation, the consequences of which, such as expulsion and repatriation, have serious implications on the lives of individuals.

The UN Committee on the Rights of the Child recommended that procedures for applying for residence permits should be simple and short.⁷¹ The UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families recommended that regularisation procedures should be easy to access.⁷²

Like any other procedure for obtaining visas and work permits, the procedure of the 2012 regularisation should be short, simple, predictable and transparent. Applications for the 2012 regularisation should be considered individually and on their merits. Decisions on challenges and appeals should be timely.

RECOMMENDATIONS

The 2012 regularisation procedure should be revised to ensure compliance with international law and standards. In particular:

- The 2012 regularisation procedure should be revised to ensure compliance with the obligation to prevent and combat labour exploitation. To this purpose:
 - Migrant workers should be entitled to initiate the regularisation procedure, by submitting to the authorities information about their employment relationship;
 - Migrant workers should be entitled to receive all relevant documents and information directly from the authorities;
 - If relevant requirements are met, migrant workers should be entitled to complete the procedure without the cooperation of the employer;
 - Migrant workers should be allowed to legally change employer during the time necessary for the procedure to be completed.
- The 2012 regularisation procedures should be revised to ensure compliance with the obligation to ensure access to justice for victims of crime and human rights abuses.
- National authorities should ensure that local authorities adopt a consistent practice towards those migrants who become victims of crimes or human rights abuses, taking into account their individual circumstances and needs.
- Like any other procedure for obtaining visas and work permits, the procedure of the 2012 regularisation should be short, simple, predictable and transparent. Applications for the 2012 regularisation should be considered individually and on their merits. Decisions on challenges and appeals should be timely.

¹ Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

² Art. 5, Legislative Decree No. 109 of 16 July 2012.

³ Human Rights Committee, General Comment No. 27: Freedom of Movement (Article 12), UN Doc. CCPR/C/21/Rev.1/Add.9, 2 November 1999, para4.

⁴ Law No. 94 of 15 July 2009.

⁵ Art. 1-ter, Law No. 102 of 3 August 2009.

⁶ Ibid., Art. 1-ter.2.

⁷ Ministero dell'Interno, Circolare no. 10, 7 August 2009, p4.

⁸ Ministero dell'Interno, Circolare no. 7950, 7 December 2009, p3.

⁹ Art. 1-ter.7, Law No. 102 of 3 August 2009.

¹⁰ Ministero dell'Interno, Circolare no. 7950, 7 December 2009, p3.

¹¹ Ibid.

¹² Tribunale di Brescia – Sezione Lavoro, Ordinanza n. 2080, 25 September 2009, par4; unless otherwise specified, all jurisprudence courtesy of Progetto Melting Pot Europa, <http://www.meltingpot.org/>.

¹³ Tribunale Amministrativo Regionale per la Lombardia, Sentenza n. 7528, 13 December 2010. See also, in the same sense: Tribunale di Ferrara, Sezione Lavoro, Ordinanza of 3 May 2010.

¹⁴ Tribunale Amministrativo Regionale per il Piemonte, Sentenza n. 1197, 17 December 2011. Tribunale Amministrativo Regionale per la Toscana, Sentenza n. 384, 22 February 2012.

¹⁵ Art. 5, sections 1, 5 and 9, Legislative Decree No. 109 of 16 July 2012.

¹⁶ Ibid., Art. 5.1.

¹⁷ Article 33, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

¹⁸ Amnesty International, *Italy: All migrants must be protected against attacks and exploitation*, AI Index: EUR 30/003/2010, 12 January 2010.

¹⁹ Medici Senza Frontiere, *Una stagione all'inferno: Rapporto sulle condizioni degli immigrati impiegati in agricoltura nelle regioni del Sud Italia*, 2008.

²⁰ For example: Fabrizio Gatti, "I was a slave in Puglia", *L'Espresso*, 4 September 2006.

²¹ Confederazione General Italiana del Lavoro (GCIL), *Segnalazione al Comitato di Esperti per l'Applicazione delle Norme, OIL: Violazione delle Convenzioni 29 (1930) e 105 (1957) sul lavoro forzato*, 23 February 2010.

²² Emanuele Galossi and Maria Mora, *I lavoratori stranieri nel settore edile: III Rapporto IRES-FILLEA*, December 2008.

²³ In the report on his October 2006 mission to Italy, the Special Rapporteur condemned the “slavery-like conditions of migrants in the agricultural sector”: UN Doc. A/HRC/4/19/add.4, para63; see also para49-53.

²⁴ The Committee expressed concern at the ill-treatment and exploitation of irregular migrant workers, recommending that Italy “take effective measures to prevent and redress the serious problems commonly faced by non-citizen workers”, Concluding observations of the Committee on the Elimination of Racial Discrimination: Italy, UN Doc. CERD/C/ITA/CO/15, 2008, para17.

²⁵ Committee on Economic, Social and Cultural Rights, General comment No. 18: The right to work (Article 6), UN Doc. E/C.12/GC/18, 6 February 2006, para7.

²⁶ *Ibid.*, para18.

²⁷ Committee on Economic, Social and Cultural Rights, General comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2), UN Doc. E/C.12/GC/20, para30, footnote omitted.

²⁸ Committee on Economic, Social and Cultural Rights, General comment No. 18: The right to work (Article 6), UN Doc. E/C.12/GC/18, 6 February 2006, para35.

²⁹ “Né colf né badanti: immigrati alla ricerca di un modo per ‘infilarsi’ nella sanatoria”, *Redattore Sociale*, 27 August 2009.

³⁰ “Sanatoria, Arci: ‘Gli imprenditori spacceranno gli operai per badanti’”, *Redattore Sociale*, 31 August 2009.

³¹ “San Nicola Varco, sanatoria con truffa: ‘fino a 3 mila euro per diventare badanti’”, *Redattore Sociale*, 14 September 2009.

³² Amnesty International’s interview with “Ali” (not his real name), a Tunisian migrant worker, Villa Literno, 29 June and 10 July 2012.

³³ Naga, *Truffasi – Quando la legge crea illegalità: osservatorio sulla “sanatoria colf e badanti” del 2009*, Milano: June 2011, p30.

³⁴ Questura di Pistoia, *False regolarizzazioni di colf e badanti* (public statement), 24 October 2011.

³⁵ Naga, *Truffasi*, p8; Carlo Giorgi, “Sanatoria all’italiana”, *Terre di mezzo magazine*, November 2009, p12.

³⁶ “Sanatoria truffa: ex detenuti e morti i falsi datori di lavoro”, *Redattore Sociale*, 4 June 2010.

³⁷ Amnesty International’s interview with Giovanni Gioia, FLAI-CGIL, Latina, 27 June 2012.

³⁸ Naga, *Truffasi*, p7; “Sanatoria truffa: ex detenuti e morti i falsi datori di lavoro”, *Redattore Sociale*, 4 June 2010; “Sanatoria truffa, egiziano racconta: ‘Una famiglia ha presentato 18 pratiche’”, *Redattore Sociale*, 2 September 2010.

³⁹ Amnesty International’s interview with M. K., an Indian migrant worker, Caserta, 6 July

2012.

⁴⁰ Naga, *Truffasi*, p16; “Sanatoria truffa, denunciate 43 persone”, *Stranieri in Italia*, 19 August 2011.

⁴¹ “Caso finte badanti: in Valle arrivano le condanne”, *Il Giorno – Sondrio Valtellina*, 13 October 2010.

⁴² “Milano, sanatoria truffa per almeno 400 immigrati”, *Redattore Sociale*, 2 September 2010.

⁴³ “Regolarizzazione truffa: centinaia di falsi – Tredici arresti (e 33 indagati) a Vicenza”, *Corriere del Veneto*, 10 December 2009; “Il casolare è sotto sequestro: ‘Comprato grazie alla truffa’”, *Il Giornale di Vicenza*, 3 April 2010; “‘Sanatoria colf e badanti’: 2 arresti per false richieste di regolarizzazioni di cittadini extracomunitari”, *Verona Oggi*, 27 May 2011.

⁴⁴ Guardia di Finanza, Comando Provinciale Rovigo, *Operazione Free Pass – Scoperta associazione dedita al favoreggiamento e sfruttamento a immigrazione* (public statement), 22 November 2011.

⁴⁵ “Dovevano pagare 3.000 euro per diventare finte badanti”, *Gazzetta di Reggio*, 25 July 2010.

⁴⁶ “Prestanome e false assunzioni, il grande bluff”, *La Repubblica - Firenze*, 16 June 2010; “Truffe ai migranti: 5 arresti e 27 indagati fra le province di Firenze, Pisa e Lucca”, *Pisa Notizie*, 22 December 2010.

⁴⁷ Cinzia Colosimo, “Sanatoria colf e badanti, anche a Pisa il boom di truffe”, *Pisa Notizie*, 10 November 2010.

⁴⁸ “Sanatoria truffa: a Massa Carrara ‘riapre’ agenzia in liquidazione”, *Redattore Sociale*, 4 June 2010.

⁴⁹ Questura di Pistoia, *False regolarizzazioni di colf e badanti*, 24 October 2011.

⁵⁰ “Sanatoria-truffa: permessi di soggiorno ‘a pagamento’, arresti a Roma e provincia”, *Redattore Sociale*, 27 October 2010.

⁵¹ “Colf e badanti, permessi truffa”, *Il Mattino di Padova*, 22 December 2010.

⁵² Organizzazione Internazionale per le Migrazioni, *Praesidium V: Rapporto sulla situazione dei migranti presenti nella provincia di Caserta e nell’area di Castel Volturno, gennaio-aprile 2010*, April 2010.

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⁵⁶ “Sanatoria truffa: a Massa Carrara ‘riapre’ agenzia in liquidazione”, *Redattore Sociale*, 4 June 2010.

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- ⁶¹ Naga, *Truffasi*, p29.
- ⁶² Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Annex to UN General Assembly Resolution 40/34, UN Doc. A/RES/40/34, 29 November 1985, par4.
- ⁶³ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Contribution by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to the High-Level Dialogue on Migration and Development of the General Assembly, UN Doc. A/61/120, par15(f).
- ⁶⁴ Ministero dell’Interno, Circolare no. 1843 (“Circolare Manganelli”), 17 March 2010.
- ⁶⁵ For example: Tribunale Amministrativo Regionale per l’Umbria, Sentenza n.277, 4 May 2010.
- ⁶⁶ For example: Tribunale Amministrativo Regionale per la Puglia, Sentenza n. 3858, 2 November 2010; Tribunale Amministrativo Regionale per la Liguria, Sentenza n. 86, 21 January 2011; Tribunale Amministrativo Regionale per la Lombardia, Sentenza n. 771, 22 March 2011.
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- ⁶⁹ Corte Costituzionale, Sentenza n. 172, 6 July 2012.
- ⁷⁰ Tribunale Amministrativo Regionale della Campania, Sentenza n. 305, 22 February 2011.
- ⁷¹ Concluding observations of the Committee on the Rights of the Child: Estonia, 17 March 2003, UN Doc. CRC/C/15/Add.196, para29.
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