联合国 A/HRC/50/40/Add.2

大会

Distr.: General
17 June 2022
Chinese
Original: English

人权理事会
第五十届会议
2022年6月13日至7月8日
议程项目3
促进和保护所有人权——公民权利、政治权利、
经济、社会及文化权利，包括发展权

对意大利的访问

人权与跨国公司和其他工商企业问题工作组的报告* **

概要

人权与跨国公司和其他工商企业问题工作组于2021年9月27日至10月6日对意大利进行了访问。工作组感到鼓舞的是，该国正在努力促进负责任的商业行为，解决仍然存在的不足，特别是预防和解决农业和其他部门移民工人遭受的严重侵权行为。然而，仍然存在许多挑战，特别体现在：需要解决此类侵权行为的根源、整个供应链不安全的工作条件以及如何追究企业的责任。

工作组还注意到政府努力兼顾工业－经济发展与人权和环境保护，并注意到受影响社区仍然没有充分、切实地参与环境决策，这也妨碍了确保向绿色经济全面过渡以及社会和环境问责。

* 本报告逾期提交，以反映最新信息。

** 本报告概要以所有正式语文分发。报告正文附于概要之后，仅以提交语文分发。

请回收

Annex

Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises on its visit to Italy

I. Introduction

1. Pursuant to Human Rights Council resolutions 17/4, 26/22, 35/7 and 44/15, the Working Group on the issue of human rights and transnational corporations and other business enterprises, represented by its Chair, Surya Deva, visited Italy, at the invitation of the Government, from 27 September to 6 October 2021. During the visit, the Working Group assessed the efforts made by the Government and business enterprises, in line with the Guiding Principles on Business and Human Rights, to identify, prevent, mitigate and account for the adverse impacts of business-related activities on human rights.

2. During the visit, the Working Group met with representatives of the Interministerial Committee for Human Rights; the Ministry of Foreign Affairs and International Cooperation; the National Contact Point of the Organization for Economic Cooperation and Development (OECD), which is located within the Ministry of Economic Development; the Ministry of Agricultural, Food and Forestry Policies; the Ministry of Culture; the Department for Equal Opportunities-Presidency of the Council of Ministers; and the National Office against Racial Discrimination. At the Ministry of Labour and Social Policies, the Working Group met with representatives of the National Labour Inspectorate, the National Equality Councillor and the Carabinieri Command for Protection of Labour. The Working Group also met with representatives of the Ministry for Ecological Transition, the Ministry of Justice and the Ministry of Health. At the Senate, it met with members of the Extraordinary Commission for the Protection and Promotion of Human Rights, the President of the Parliamentary Commission of Inquiry on working conditions, exploitation and safety in public and private workplaces in Italy and the President of the Permanent Committee on Human Rights in the Chamber of Deputies. The Working Group also met the President of Puglia region, the Deputy Mayor and the Public Prosecutor of Avellino, the Mayor of Taranto and representatives of the Territorial Labour Inspectorate in Prato.

3. Meetings were held with representatives of civil society (including lawyers, academics, trade unions, impacted communities and workers as well as industry associations in Rome, Latina province, Avellino, Foggia, Taranto, Val d'Agri, Milan and Prato) and with representatives of business enterprises, including the steel enterprise Acciaierie d'Italia S.p.A. and the energy company Eni S.p.A. The Working Group also met with representatives of a number of United Nations agencies located in Italy.

4. The Working Group extends its gratitude to the Government of Italy for the support it provided during the visit, as well as its willingness to engage in a constructive discussion on the challenges faced and lessons learned in promoting respect for human rights in business. The Working Group also thanks the representatives of the organizations, businesses and communities and the individuals with whom it met for their openness and willingness to engage in a constructive and solution-oriented dialogue.

II. General context

5. The Working Group's visit was its first country visit since the onset of the coronavirus disease (COVID-19) pandemic and its first visit to a Western European country. While the sanitary restrictions posed several logistical challenges, they also opened up the innovative format of hybrid meetings. Italy is one of the European countries that has been hardest hit by the ongoing COVID-19 pandemic, and the Working Group saw its effects on businesses and people, especially marginalized communities.

6. The visit coincided with the final steps in the adoption of the revised national action plan on business and human rights by the Government of Italy, as well as its assumption of the Presidency of the Group of 20.

7. Italy, which is also a member of the Group of Seven has one of the world's most powerful economies, driven largely by the manufacture of high-quality consumer goods produced by small and medium-sized enterprises.

8. The challenges Italy faces in ensuring responsible business practices and the protection of human rights reflect those at the global level: many economic sectors are based on modes of production that involve multiple actors through supply chains, characterized by unfair purchasing practices aimed at reducing the costs of production and increasing profit margins. This model, combined with the suppression and/or reduction in the protection of workers' rights and their bargaining power, make the supply of labour across borders acutely vulnerable to abuse. In this regard, the COVID-19 pandemic has both revealed and exacerbated the vulnerable position of workers, in particular migrant workers.

Impact of the COVID-19 pandemic

9. The Government of Italy is to be commended for its efforts to develop sector-specific protocols for prevention, protection and recovery based on the data and risk matrix produced by the Ministry of Health. The Working Group was informed that COVID-19-related deaths are treated as accidents in the workplace, thus qualifying the families of victims to compensation, although it appears that migrant workers are often either unaware of this policy or have not received any compensation. The pandemic has shown the importance of the provision of free universal health care, including for undocumented workers. The Working Group welcomes this as a model that should be followed by other States.

10. At the same time, important lessons must be learned to enable Italy to build back better and to address systemic challenges and inequalities that the COVID-19 pandemic has revealed and exacerbated, especially for women workers who have been disproportionately affected by pandemic-related job losses.

11. Against this background, the Government has an opportunity to show leadership in the promotion of responsible business conduct at the national, regional and global levels.

III. Law and policy framework

12. Italy has an extensive legislative framework related to business and human rights, including labour rights, anti-discrimination, occupational health and safety and the environment, and has a strong and active trade union movement. Italian law has several tools addressing corporate responsibility to respect human rights, such as the disclosure of non-financial and diversity information by large enterprises and groups (Legislative Decree No. 254/2016 and Legislative Decree No. 231/2001). The latter decree introduced a due diligence process covering both specific human rights abuses and specific severe impacts on the environment. It can be considered a pioneering example of mandatory due diligence legislation as it established corporate responsibility for crimes perpetuated in the interest or to the advantage of a legal entity. The scope of the decree has been extended and currently includes specific human rights abuses, including slavery, human trafficking, forced labour and environmental crimes. While the decree incentivizes companies to strengthen their self-regulatory systems and processes to prevent crimes, it does not cover corporate abuses of all human rights and contains an exemption from and/or mitigation of liability if companies demonstrate they have adopted adequate models of risk prevention and management. Legislative Decree No. 81/2008 defines a clear institutional process for developing national policies and strategies for occupational health and safety and provides support and guidelines for prevention activities at various levels.

13. According to official figures, the informal economy in Italy is estimated at 183 billion euros (€), which is 10.2 per cent of its GDP. Recognizing that the employment of migrant workers is often informal and exposes workers to exploitation, the criminal code regulates

such matters and prohibits the "illegal intermediation and exploitation of the labour force" (article 603 bis). This offence was introduced by Legislative Decree No. 148/2011, updated through Legislative Decree No. 199/2016, to establish, inter alia, penalties for both recruiters/intermediaries and for those who exploit such mechanisms and services. Furthermore, the law covers other aggravating factors, including cases in which the number of unlawfully recruited workers is greater than three; minors are involved; and unlawfully recruited workers are exposed to dangers of any type.

14. Nevertheless, several significant challenges remain. Some of the challenges identified in the report tarnish the reputation of Italy in the business and human rights field and should be immediately addressed to protect the rights of individuals and communities at heightened risk of abuse.

15. The Working Group was encouraged by the commitment shown by many Ministries and Departments to implement the Guiding Principles on Business and Human Rights. However, greater efforts should be made to raise awareness, enhance coordination and build the capacity of all stakeholders, including Government officials, judges, lawyers, businesses, trade unions and civil society actors. The Working Group welcomes initiatives by bar associations, academics and lawyers to conduct training and awareness-raising workshops, although these initiatives should receive more significant support.

Revised national action plan on business and human rights

16. The Working Group welcomes the release of the revised national action plan on business and human rights 2021–2026 after a multi-stakeholder consultation process, led by the Interministerial Committee for Human Rights.[1] The Working Group notes with appreciation that the revised plan captures emerging business and human rights issues, such as artificial intelligence, digitalization and climate change, and provides for an improved system of monitoring implementation, revealing positive developments in respect to its scope and content.

17. The Working Group is concerned, however, about the lack of indicators that are specific, measurable and time bound, as well as an indication of the resources assigned for the realization of the national action plan. The lack of a clear framework for measuring the impact of actions taken by relevant ministries to deliver on assigned responsibilities under the action plan may obstruct its implementation and may also negatively affect the ability of other stakeholders to meaningfully participate in monitoring and evaluating progress during its implementation.

IV. Specific human rights risks and impacts

18. The Working Group was informed by numerous sources that many economic sectors are based on modes of production involving multiple actors throughout their supply chains, and that many small and medium-sized enterprises are involved in this kind of production. According to official figures, 78.7 per cent of employees in Italy work in such enterprises. At every step of the production and distribution chain, the pressure to reduce the costs of production and to increase profit margins compromises workers' rights, exposing them to severe forms of abuse and occupational health and safety risks. The role of small and medium-sized enterprises is critical in addressing businesses-related human rights abuses, including breaking the cycle of labour exploitation observed by the Working Group. While the Guiding Principles apply to all business enterprises, the Working Group acknowledges that small and medium-sized enterprises face unique challenges in implementing human rights due diligence processes and establishing effective operational-level grievance mechanisms.

[1] See https://cidu.esteri.it/comitatodirittiumani/resource/doc/2021/12/secondo_pan_bhr_en.pdf.

A. The *caporalato* system

19. During its visit, the Working Group learned about the *caporalato* system – an illegal form of outsourcing the hiring and exploitation of manpower through intermediaries. The system is most common in the garment sector and in agribusiness, where there is a preponderance of seasonal work and where demand often exceeds the supply of low-skilled workers.

20. Migrant and Italian workers alike fall prey to this system, often due to desperate circumstances. Several stakeholders described the situation of migrant workers as one of occupational blackmail where, because of their vulnerable situation, including regarding work contracts and residency permits, workers have no choice but to work under conditions of extreme exploitation, frequently falling into a cycle of debt-bondage. The current regime of regularization ties the permit for the legal stay in Italy to a work contract, which puts migrant workers in a situation of dependency, thus exposing them to the risks of an exploitative cycle. The Working Group learned that the *caporali* have networks in migrants' countries of origin in Asia and Africa where the recruitment for the purpose of labour exploitation is likely to start.

21. Many workers recruited and controlled through the *caporalato* system earn far below the minimum legal wage and are forced to pay high costs, in the thousands of euros, for the processing of documents to receive or extend work permits (including "charges" that should be free). The dependency relationship extends to virtually every aspect of their lives, including access to housing, food and transportation. Camps and communities of migrant workers are extremely isolated and lack basic services. In such an unbalanced power relationship, female migrant workers are at heightened risk of sexual harassment and gender-based violence. Oftentimes, the fear of speaking out against the abuse and losing their livelihoods prevents many victims from seeking help.

22. The Working Group welcomes the efforts by the Government to map the supply and demand of labour in order to adopt more effective measures to fight illegal recruitment practices for labour exploitation. These include, in addition to Legislative Decree No. 199/2016, Legislative Decree No. 19/2018, which established the "*Tavolo caporalato*", a multistakeholder body with representatives of national and local institutions, trade unions and business associations, and a three-year plan (2020–2022) to combat labour exploitation in agriculture and the *caporalato* system.[2] The plan is structured around priorities concerning prevention, surveillance, protection of victims and their re-integration into society and work.[3] As of April 2021, the Government had invested over €95 million (European Union and national funds) in relevant initiatives, including €3 million dedicated to "*ALT caporalato*!".[4]

B. Migrant workers in the agricultural sector

23. According to a recent report, 1.1 million workers are employed in the agricultural sector, 90 per cent of whom have temporary contracts. Unofficial data produced by civil society associations and research centres in 2018 revealed that a significant share of workers, between 400,000 and 430,000, were hired irregularly, that is without any correlation between the working hours officially declared and those actually worked, or in a condition of "invisibility", that is, without any contract or declaration.[5] Of that population, an estimated 180,000 workers were considered to be in a situation of severe social vulnerability and employment distress.[6]

[2] See https://www.lavoro.gov.it/temi-e-priorita/immigrazione/focus-on/Tavolo-caporalato/Pagine/Attivita-tavolo-Caporalato.aspx#:~:text=Il%20Tavolo%20caporalato%20%C3%A8%20presieduto,delle%20Infrastrutture%20e%20dei%20trasporti%3B (in Italian).

[3] See https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---ilo-rome/documents/genericdocument/wcms_764982.pdf, p. 4 (in Italian).

[4] See https://integrazionemigranti.gov.it/it-it/Dettaglio-progetto/id/33/ALT-Caporalato (in Italian).

[5] See https://ecollections.law.fiu.edu/lawreview/vol14/iss3/8/, p. 526.

[6] See https://www.flai.it/wp-content/uploads/2020/11/Sintesi_Stampa5Rapporto.pdf (in Italian).

24. Although migrant workers are essential to the health of the Italian economy, in a number of cases their treatment falls far below international standards, never mind those expected in a highly developed European country. During the visit, the Working Group visited locations where migrant agricultural workers live, including camps in Agro Pontino in the Lazio region and in Borgo Mezzanone and Rignano Garganico in the Puglia region. The delegation met workers, union representatives, representatives of non-governmental organizations and cultural mediators providing support to migrant workers. In addition to being forced to live in inhumane conditions, migrant workers are hired on short-term contracts, work excessively long hours, without weekly holidays, face discrimination and have no prospect of integration into Italian society.

25. During its visit to Agro Pontino in Latina province, the Working Group met with migrant workers, mainly from sub-Saharan Africa and India, who were victims of serious human rights abuses. At the time of its visit, the Working Group learned that about 30,000 Sikh workers from India had been exposed to extreme forms of coercion and that some workers had been forced to take performance enhancing drugs to extend the working day to 14 to16 hours, sometimes for salaries between €50 and €150 per week. Moreover, workers are often victims of physical assault, withholding of wages and documents and threats to their families if they refuse to work. The Working Group visited the workers' accommodations, in isolated, often overcrowded, dilapidated apartment buildings. The Working Group also learned, from direct testimonies, that during the pandemic migrants have been working in environments that are not compliant with COVID-19 regulations, including transportation in overcrowded trucks without basic protective gear. Furthermore, some workers have not been provided with adequate safety equipment while using pesticides and chemicals, exposing them to harmful effects.

26. In the Apulia region, according to figures from the Federation of Agro-Industrial Workers-Italian Confederation of Labour (FLAI-CGIL), as of 19 April 2021, there were 32,341 migrant workers in the agricultural sector registered in its 2020 annual list. Every year an estimated 7,000 migrants arrive in the province of Foggia, in Apulia, primarily for tomato harvesting. The Working Group learned that since the early 1990s, migrants have been gathering in Apulia in various informal settlements.[7] The Working Group visited two settlements that were initially intended to be temporary and are now stable and settled, and are currently the largest ghettos in Italy: Borgo Mezzanone and Gran Ghetto of Rignano. The population of the settlements can reach 3,000 during seasonal peaks in the summer.[8] The Working Group heard testimonies of workers who reported working from 12–15 hours a day in the fields, including during peak heat, for salaries between €3.50 and €6 per hour. Workers must eat lunch while working and buy food from the *caporali*. According to information received by trade unions, only 44 per cent of migrant workers reported having a work contract: of that number, 57 per cent stated that they received payslips, among whom 73 per cent declared that they were paid for less than a third of the days they had actually worked.

27. The Working Group was shocked by the extremely unsanitary conditions in the isolated shantytowns where the migrant workers are forced to live, where women are at high risk of gender-based violence and trafficking for the purpose of sexual exploitation. People living in the ghettos explained how the *caporali*, who often are former victims of exploitation from the same ethnic group as those being exploited, exercise control over every aspect of their lives and demand high costs for accommodation, transport and basic services, such electricity and gas. Water tanks supplied by the region of Apulia are often insufficient for the needs of the population, resulting in a lack of water and sanitation services.

28. Such extreme conditions of exclusion and segregation exacerbate the already precarious living and working conditions of migrant workers, worsening situations of vulnerability to exploitation. In the absence of alternatives, many migrant workers see the *caporali* as the only authority present in the territory able to provide them with livelihoods and basic services.

[7] See, inter alia, https://www.thenewhumanitarian.org/news-feature/2020/09/08/Italy-agricultural-migrant-workers.

[8] Information provided by trade unions in Rome and Foggia.

29. The Working Group was also informed of "double-bidding" practices, which are used by supermarkets to force artificially low prices from food producers, thus putting pressure on the producers to reduce costs to maintain profits, ultimately resulting in the further exploitation of workers who are already poorly paid. Retailers, suppliers, unions and workers have jointly sought to address this problem to ensure that prices better reflect the true cost of production and that workers' rights are protected. The Working Group welcomes the adoption of Legislative Decree No. 198/2021 prohibiting the sale of food products below the production costs, including double-bidding practices. Since consumers also have an important role to play, efforts should be promoted to ensure that consumers are aware of human rights concerns relating to the production of the goods on their supermarket shelves.

30. Sustainable solutions that put the human rights and the dignity of workers at their core must be identified, including a gateway to the full integration of workers into society and the possibility of family reunification. The Working Group learned of initiatives in the Apulia region to break the vicious cycle of exploitation and marginalization, including some funded by the Ministry of Labour and Social Policies that are aimed at reducing the incidence of undeclared work and exploitation in agriculture. For example, the Working Group was informed about an initiative to provide migrant workers with better housing by accommodating them in uninhabited buildings: access to decent housing is a critical element to break the vicious cycle of dependence and exploitation.

31. The Working Group also learned about Casa Sankara in Foggia province, opened in 2019, which, at the time of the visit, hosted 600 migrant workers. It provides a full range of services from legal advice, transportation to the workplace and basic health services, to avoid any intermediation from the *caporali*. In addition, residents of the Casa Sankara settlement created an association called "Ghetto out" to manage a farm owned by the authorities of the Apulia region.[9]

32. A system of cultural mediators operating in the informal settlements also constitutes a positive practice as it contributes to efforts to remove obstacles for migrant workers to access critical information about services available in Foggia, including health and legal counselling services.[10]

33. Although these initiatives constitute positive steps, they remain isolated and sporadic. The Working Group notes that a previous regularization initiative failed to achieve its objectives.

C. Labour rights in the textile and fashion industry

34. In 2020, the Italian fashion sector exported goods worth nearly €46,7 billion.[11] This sector is characterized by supply chains rooted in subcontracting practices where abuses of the human rights of workers thrive, affecting the most vulnerable.[12] This includes workers with precarious on-demand contracts, which are often administered through temporary agencies, and invisible workers who are part of the informal economy. Workers' conditions have worsened as a result of the decreased number of inspections during the pandemic. In the Prato district, the Working Group learned of workers from Bangladesh, China, Pakistan and countries in sub-Saharan Africa (especially Ghana, Nigeria and Senegal),[13] who have been exploited for years to serve the "Made in Italy" mark of quality, which is prized in global fashion supply chains. It learned about supply networks based on the structural exploitation of labour, unsafe and exhausting working conditions and wages that are below the poverty line.

35. The Working Group met with people who had been victims of workplace abuses, who consistently described working 12–14 hours a day, seven days a week, which is standard

[9] See https://www.casasankara.it/chi-siamo/.

[10] See https://www.intersos.org/wp-content/uploads/2019/10/Report-Campaigns-of-hate.pdf; information provided by CGIL FLAI Foggia, and IOM.

[11] See https://www.sace.it/studi/dettaglio/focus-on-il-fashion-tornera-di-moda (in Italian).

[12] Tailored wages in the fashion industry.pdf (ohchr.org).

[13] See https://api.fairwear.org/wp-content/uploads/2021/03/Italy-Risk-Assessment-2020.pdf.

practice in Chinese- and Italian-owned businesses. These workers either had no contracts or their contracts stipulated working hours not in line with national legal standards. Workers also described how daily work cycles prevented them from learning the Italian language or from participating in activities that would facilitate their integration into society. Workers also described threats of dismissal, pay-cuts, the denial of documents required for the renewal of residence permits and even episodes of violence against workers who wanted to exercise the right to join, or have joined, trade unions. The lack of transparency in supply chains hinders the identification of commissioning companies and the beneficiaries of such exploitative labour practices.

36. In Prato, the Working Group met with workers at Texprint, a Chinese-owned textile printing plant, and representatives of their local trade union. Si-Cobas. The workers reported enduring 12-hour shifts seven days a week, the denial of the right to paid holidays and sick leave, undeclared work and abuses of health and safety regulations. In addition, workers and trade union representatives reported on a high level of work-related accidents in the factory, which, according to testimonies, included amputated fingers, hands crushed in rollers and acid burns. The workers' demands for fair working conditions are representative of the claims for the protection of workers' rights in the textile sector in general. One such demand was summed up by the slogan "8×5", calling for compliance with the general provision in Italian labour law that the hours worked by employees should not exceed eight hours a day, five days a week. The Working Group sought to engage with the representatives of Texprint to no avail.

D. Labour abuses in the logistics sectors

37. In Milan, the Working Group met workers in the logistics sector (including in warehouses, distribution centres, call centres and transportation) and their union representatives. The situation of the workers is particularly alarming in sites that handle deliveries that are guaranteed to arrive within 24 hours. While often performing work for large multinational companies, it is a common practice for workers to be recruited through agencies or cooperatives that employ illegal or unethical recruitment practices and to work under the constant threat of being fired. Workers explained that they had no involvement in the cooperatives' decision-making, nor in the division of profits among members, effectively subjecting them to a subordinate working relationship. Testimonies indicated that workers are often on temporary contracts and may be called upon to work for many more hours than declared in their pay slips. They reported working for an average of 10 hours per shift, including at night, under part time contracts, thus allowing companies to increase their profits and to evade the tax system. Workers stated that they were often asked to perform tasks that did not correspond to the terms of their employment contracts, including operating machinery for which they did not have the required technical knowledge, exposing them to the risk of workplace accidents – for salaries under €700 per month. It is evident that the precarious situation of such workers means that they have little choice but to comply with exploitative employment terms.

38. The Working Group also heard testimonies from lorry drivers hired by trucking companies and/or cooperatives whose working conditions were not in compliance with the national transportation collective labour agreement and safety requirements, including driving and break times, in order to reduce costs, ensure competitive rates in the market and evade social contributions and tax regulations.

39. The Working Group stresses that, instead of benefitting from cheap labour costs while distancing themselves from any wrongdoing in recruitment and labour practices, all business enterprises should conduct regular human rights due diligence to identify, prevent and remediate abuses in line with the Guiding Principles on Business and Human Rights.

40. The role of independent trade unions is critical in assisting workers to break out of the ongoing cycle of exploitation. The Working Group commends the activities and the support of local unions for highly vulnerable workers and notes that national trade unions should offer more assistance to informal and migrant workers. It also expresses its concern about

reprisals and intimidation against local trade union representatives who are standing up against exploitative labour practices or organizing peaceful strikes in Prato.

E. Labour inspections

41. Occupational health and safety issues were some of the most serious human rights concerns noted by the Working Group during the visit. The Working Group was deeply disturbed to learn that during the first few days of its visit 10 workers had lost their lives. In 2021, 555,236 injuries occurred, 1,221 of which resulted in fatal outcomes.[14]

42. A system of inspectorates, including in the areas of labour, health and occupational health and safety, performs essential functions to ensure that all relevant regulations are observed at work. The ability of inspectorates to carry out an adequate number of inspections proactively or to respond rapidly to complaints is an essential tool for the State to ensure that the worst forms of abuses do not go unchallenged. Effective inspections and sanctions are also a powerful deterrent and prevention tool for abuses by businesses. However, the Working Group learned from many stakeholders that regulations and sanctions – when imposed by inspectors – are minor deterrents compared to the enormous profits that companies make while abusing workers' rights.

43. Inspections are planned on the basis of risk assessments that focus on sectors and companies with a higher likelihood of irregularities. While the number of detected irregularities may be seen as an indicator of the effectiveness of such inspections, the Working Group learned that the national Labour Inspectorate for safety in the workplace faces serious issues of resources and capacity. According to official data, as of 31 December 2020, there were only 3,000 public inspectors in Italy. Although the recruitment of 2,000 additional inspectors was announced for 2021, the numbers are still too low when compared to the extent of the problem.

44. Despite the adoption of Legislative Decree No. 199/2016 to combat illegal work and the *caporalato* system and the excellent work done by the judiciary and law enforcement, the high number of companies poses a challenge for the small number of inspectors. In Apulia, for example, according to the 2020 annual report released by the national Labour Inspectorate, irregularities were found in 60 per cent of companies inspected in the agricultural sector, (i.e., 688 of 1,167). According to FLAI-CGIL, these numbers represent an average of only 1.5 per cent of inspected companies.[15] Concerns were also raised about coordination among the inspectorates.

45. Between 2015 and 2019, thousands of work-related accidents occurred in the textile-clothing-footwear sector,[16] which employs more than 500,000 workers in Italy.[17] In Prato, there are about 29,000 companies,[18] with almost 5,000 in the garment sector.[19] According to official figures, of the 64 inspections carried out by the Prato Labour Inspectorate between May and September 2021, irregularities were found in 100 per cent of cases, and 45 per cent were related to undeclared work. The Working Group met with representatives of the Prato Labour Inspectorate who were committed to improving the situation on the ground, who shared the structural challenges faced in the effective discharge of their mandate. They explained how even where sanctions impose the seizure of property and businesses are shut down, the owners of companies restart business activities under different identities. Specific efforts should be made to identify the real owners of companies, including through current

[14] See https://www.inail.it/cs/internet/comunicazione/sala-stampa/comunicati-stampa/com-stampa-open-data-2021.html (in Italian).

[15] See https://www.ispettorato.gov.it/it-it/studiestatistiche/Documents/Rapporto-annuale-attivit%C3%A0-di-tutela-e-vigilanza-2020-signed.pdf, p. 139 (in Italian).

[16] See https://www.inail.it/cs/internet/docs/alg-dati-inail-2020-dicembre-inglese.pdf?section=comunicazione.

[17] See https://api.fairwear.org/wp-content/uploads/2021/03/Italy-Risk-Assessment-2020.pdf, p. 7.

[18] See https://www.camera.it/application/xmanager/projects/leg17/attachments/upload_file_commissione_contraffazione/pdfs/000/000/004/04_Relazione_Prefetto-Note_demografiche.pdf, p. 4 (in Italian).

[19] See http://www.po.camcom.it/servizi/datistud/dmuladd.php (in Italian).

State actions to map tax evasion. In addition, the Working Group was told that workers' lack of trust in State institutions and their fear of reprisals by employers makes the submission of complaints to the Inspectorate more difficult. In the face of such challenges, the Working Group was astounded to learn that the Prato Labour Inspectorate is composed of only 11 inspectors, while, according to the institution, it should have at least three times that number.

V. Environmental pollution and climate change

46. The Working Group visited several locations where they witnessed a clash between industrial-economic development priorities and respect for human rights and the environment.

47. In Avellino, the Working Group heard grave concerns raised by the community of Valle del Sabato related to the effect of environmental pollution from industrial development since the 1970s. The Working Group was informed that, until recently, the community's concerns remained unheard, and they had to use their own resources to conduct an environmental impact assessment that revealed the full extent of the pollution problems.

48. The Working Group learned about the pollution and illness caused by the Isochimica asbestos plant that removed asbestos from railway carriages in the middle of the city centre in the 1980s and, after the closure of the plant, mismanaged its removal. About 30 deaths and some 185 cases of persistent illness have been attributed to the effects of working with asbestos. After the closure of the asbestos plant, community members described practices of dumping asbestos in the river, burying asbestos in locations around the plant and elsewhere and mixing waste asbestos with concrete to form cubes that were left to deteriorate in public places. The local administration acknowledged in a meeting with the Working Group that the clean-up of asbestos had only been partial and that further measures were required.

49. Community members also raised concerns about current and future pollution of water sources, including with e-coli and heavy metals, and a series of incidents of industrial-related fires since the 2000s. According to Legislative Decree No. 155/2010, the level of air pollution can exceed the legal limit 35 times per year. The official publication of a study on susceptible populations ("Studio di Esposizione nella Popolazione Suscettibile") showed that, in 2020, the air in Avellino was above the legal limit 78 times.[20] Recent scientific research calculated that 48 deaths related to the air pollution could have been avoided if lower levels of air pollution were met.[21] Daily air pollution peaks are also a source of grave concern. According to official data on 21 December 2021, measurements from the Regional Environmental Protection Agency (Agenzia regionale per la protezione ambientale) indicated levels of air pollution 900 per cent above the threshold recommended by the World Health Organization (WHO).[22] The specific morphological configuration of the territory and climate conditions of the area are not conducive to the aerial dispersion of emitted pollutants; these are factors that should be taken into consideration when planning measures to mitigate the risks linked to industrial emissions.

50. Although environmental licences for businesses to operate in the area are issued in line with environmental regulations, the Working Group shares the concerns of the community in relation to the cumulative effect on the environment of the current and planned industrial sites. The Working Group stresses the importance of public authorities initiating meaningful consultation with affected communities in Avellino to agree on a way forward, including concerning remediation and cleaning-up of the asbestos sites and ensuring corporate accountability for causing or contributing to environmental pollution.

51. The Working Group also visited Taranto, the site of Europe's largest steel production facility, which is located close to the town centre. Through various legislative interventions in the 1980s and 1990s, Taranto has been included in the list of Italian areas "at higher risk

[20] See https://pubmed.ncbi.nlm.nih.gov/34653810/.
[21] ISGlobal (Barcelona Institute for Global Health): ranking published by *The Lancet*.
[22] Submission received in Avellino.

of environmental crisis" and among the first of the sites of national interest that require special environmental monitoring and remediation.

52. In Taranto, the Working Group met with a range of stakeholders, including epidemiologists, doctors, civil society representatives and representatives of the local population, including from the northern neighbourhoods that are closest to the plant. The Working Group visited the neighbourhoods and heard moving testimony about the serious impact that environmental pollution originating from the plant has had, and continues to have, on peoples' health, as substantiated by several environmental and biomonitoring studies. For example, epidemiological studies in the area point to a significant excess mortality, which increased from 2011 to 2020 across the northern neighbourhoods, with age-standardized mortality ratios in those neighbourhoods consistently higher than those in the entire Apulia region, with peaks exceeding 50 per cent between 2015 and 2017 among both women and men.[23] Compared to the Apulia region, in northern neighbourhoods a total of 1,020 excess deaths of women and men were recorded from 2011 to 2019, with a peak of 68 per cent in excess mortality in 2019 among men living in the Paulo VI district.[24] The results of a recent SENTIERI study, a national survey of sights of national interest in Italy, confirmed the excesses of observed cancer incidence and mortality for respiratory and cardiovascular diseases. It also revealed a higher mortality in children compared to regional and national data.[25]

53. Members of the community described regular "wind days", when they would be advised to close their windows, cancel activities, prevent children from going to school and avoid being outside owing to critical pollution events resulting from winds from the industrial site registered by Arpa Puglia. The Working Group witnessed first-hand the harmful deposits in these neighbourhoods and the constant anxiety among members of the local population that their loved ones may develop serious health issues as a consequence of environmental pollution.

54. The Working Group also learned about the significant negative socioeconomic impacts of the pollution caused by the plant. This included the slaughter of almost 2,000 cattle, the prohibition of farming within 20 kilometres of the plant ordered by local authorities because the level of dioxins found in the milk and meat exceeded permissible levels, the prohibition of production of mussels in certain areas and economic losses owing to the lack of development of the tourism industry. In addition, residents have seen the value of their properties drop drastically (by 40 per cent) and have described themselves as "trapped in cages" from which they cannot leave because of the impossibility of selling their properties and moving elsewhere.

55. Since 2012, the ILVA steel plant has gone through complex legal proceedings. In 2012 the Public Prosecutor's Office in Taranto ordered the arrest of several members of the group's management and political figures on charges of deliberately producing high levels of pollution. The preliminary investigation concluded that the company's "hot working area" generated "events of disease and death" and ordered its seizure, without right of use, quantifying the costs of the clean-up at €8 billion. Since then, the Government has issued several urgent legislative measures known as "Save ILVA", which has enabled production to continue without interruption, despite the findings of the judiciary. The Italian Constitutional Court, in its judgment No. 85 of 2013, stated that the 2012 decree of the Public Prosecutor's Office had placed an unreasonable balance between the principles of health and employment protection. Subsequent legislative decrees provided for criminal and administrative immunities for the future purchaser of the plant (Legislative Decrees No. 1/2015 and No. 98/2016).[26] In 2018, the Constitutional Court ruled that Legislative Decree No. 92/2015 authorizing, inter alia, the continuation of the plant's operations, was

[23] V. Gennaro and others, "Use of official municipal demographics for the estimation of mortality in cities suffering from heavy environmental pollution: results of the first study on all the neighbourhoods of Taranto from 2011 to 2020".

[24] Ibid.

[25] A. Zona and others, SENTIERI: Epidemiological Study of Residents in National Priority Contaminated Sites, Fifth Report, *Epidemiologia e prevenzione*, 2019.

[26] See https://www.fidh.org/IMG/pdf/industrieitaly711aweb-1.pdf.

unconstitutional, insofar as it gave excessive priority to the economic interest linked to production activities.

56. On 5 June 2017, the deadline for implementing the measures set out in the environmental plan was postponed by the Government until August 2023.[27] In December 2020, ArcelorMittal and Invitalia signed an agreement that allowed the agency controlled by the Ministry of Economy to enter the shareholding structure at 50 per cent (and later to rise to 60 per cent), taking on a new name, Acciaierie d'Italia S.p.A.

57. In May 2021, the 2012 trial of the ILVA group's management and political figures resulted in prison sentences ranging from 20 to 24 years and the Taranto Court of Assizes ordered the seizure of the former ILVA plant. On 23 June 2021, a judgment that had confirmed the order of the Mayor of Taranto in March 2020 to shut down the hot working area because it was causing pollution and not respecting a municipal order was annulled by the Council of State.

58. Regarding litigation at the international level, in 2011 the European Union Court of Justice launched infringement proceedings because the ILVA plant did not comply with Union emission standards (European Union directives 2010/75/EU and 2004/35/EC).[28] Concurrently, the European Court of Human Rights, in *Cordella and Others v. Italy*, ruled that Italy had failed to take appropriate measures to protect the right to respect for the private life of its citizens, nor had it provided effective remedy.[29] As of 2021, the Court found that compliance with measures stated in the judgment was still unsatisfactory due to the lack of information provided to authorities and persistent lack of effective remedies.[30]

59. Government-appointed commissioners and the company currently running the plant, Acciaierie d'Italia, informed the Working Group during a virtual meeting that emissions fall within acceptable levels, that various measures have been introduced in recent years to control pollution, including a €1 billion investment in technologies to reduce the emissions, and that regular reports are being submitted to relevant authorities. They also reported that the company was developing a plan to spend about €20 million on community and children's welfare. However, in March 2022, three predictive assessments for the output of the plant indicated its negative health and environmental impact: one at 8 million tons per annum, one at 6 million tons per annum and one at the minimum level of 4.7 million tons per annum of steel. This suggests that, regardless of the level of production, the plant will continue to negatively impact the rights of the local population.

60. Government authorities and Acciaierie d'Italia explained they face a dilemma between a desire to maintain thousands of jobs versus protecting the rights to health and a clean environment.

61. The Working Group visited Val d'Agri, the site of a major oil production facility run by Eni. The Working Group heard the views of both community members and company representatives relating to the impact of the oil industry in the area. The territory of Val d'Agri, site of Val d'Agri Oil Centre, has been identified as an area at high risk of "major disasters", according to the classification criteria outlined in the Seveso Directive (Directive 82/501/EEC),[31] which requires, inter alia, a State obligation to produce external emergency plans.[32]

62. Members of the community raised significant concerns relating to environmental and health issues as well as the wider economic and social impact of the industry on the region and the community. The Working Group was told that the facility in Val d'Agri had experienced a series of "non-incidents" (officially called events) characterized by flames, sudden noises, stenches and allegedly polluting emissions into the air, soil and water. From 2001, local associations have recorded 163 such non-incidents. Some of these are the subject of judicial investigations, such as a leak of 400 tons of oil that led to the shutdown of the

[27] Decree of the President of the Council of Ministers of 29 September 2017.
[28] See https://ec.europa.eu/commission/presscorner/detail/en/IP_13_866.
[29] See https://hudoc.echr.coe.int/eng.
[30] See https://hudoc.exec.coe.int/ENG.
[31] See https://ec.europa.eu/environment/seveso/.
[32] See https://ec.europa.eu/environment/seveso/legislation.htm.

facility in 2017. This is the only non-incident that, four months after its discovery, was later recognized as a major accident. Despite this, the external emergency plan, pending renewal since 2009, has apparently never been triggered.

63. According to a 2017 study (by the Istituto Superiore di Sanità and the Institute of Clinical Physiology of the National Research Council) on the population of the municipalities of Viggiano (the most affected by oil installations, on whose territory the oil production facility is located) and Grumento,[33] there is "robust epidemiological evidence supported by biological plausibility for associations between air pollution exposure and cancer of the trachea bronchi-lung and diseases of the respiratory and circulatory systems". The study concluded that "for several diseases examined, as exposure to COVA [the oil production facility] emissions increases, the risk of death and/or hospitalization increases".[34] The report recommended, inter alia, the improvement of environmental monitoring and assessment of health impacts and risks of different pollutants of harmful emissions, including their cumulative effects, and their impact on residents over time. The Working Group learned that, even after four years, authorities have not followed up on recommendations, nor have they properly acknowledged or addressed the concerns of local communities.

64. The company highlighted its efforts in environmental protection and community engagement. However, further efforts are required on the part of Eni S.p.A. to conduct meaningful human rights and environmental due diligence and to build trust between the company and the community to ensure that independently verifiable data is available to address legitimate concerns.

65. Furthermore, monitoring activities need to be carried out transparently by relevant institutions and relevant data relating to developments at the oil production facility need to be made widely accessible to the population. During its visit to Val d'Agri, the Working Group expressed its wish that the recommendations contained in the above-mentioned study of the Istituto Superiore di Sanità and the Institute of Clinical Physiology of the National Research Council be taken up and implemented through the involvement of all relevant stakeholders, including local authorities, health centres and local communities.

VI. Gender dimensions

66. The Working Group learned that women and LGBTI+ people in Italy continue to experience workplace discrimination and gender-based violence. During the course of its visit, it heard testimonies of women who faced sexual harassment, gender-based violence and other forms of discrimination, including online shaming, in the workplace.

67. According to official figures, in terms of women's participation in the labour market and segregation in different sectors, Italy ranks 28th worldwide and last in Europe. The employment rate for women is lower than that for men by over 20 per cent.[35] Occupational segregation in business sectors and the number of women in entrepreneurial activity are also a source of concern: 74 per cent of women are employed in education, health, and social work, whereas just over 22 per cent of businesses in Italy are owned by women.[36]

68. Data also show a significant pay gap, and that women are at higher risk of poverty.[37] The difference appears to be particularly striking in the private sector, with the gap widening as women's experience and skills increase. The gender pay gap in Italy is currently estimated at around 5 per cent, amounting to about €946 less in women's average annual salary. In the private sector, this pay gap rises to more than 20 per cent.[38] The Working Group also notes the disproportionate impact of COVID-19 on women, with recent data from the National Statistical Institute showing a decrease in female employment that is 2.5 times greater than

[33] See https://epiprev.it/interventi/gli-studi-in-val-dagri-apportano-conoscenza-e-partecipazione-e-richiedono-interventi-di-prevenzione (in Italian).
[34] Ibid., p. 14.
[35] National strategy for gender equality (2021–2026), p. 5.
[36] Ibid.
[37] Ibid.
[38] Ibid.

for men, tied to the number of women who work in sectors most affected by the pandemic. In December 2020, 98 per cent of the approximately 100,000 people who lost their jobs were women.[39]

69. The Working Group welcomes the steps taken by the Government to advance gender equality, including the ratification of International Labour Organization (ILO) Violence and Harassment Convention, 2019 (No. 190), and the adoption, in July 2021, of a five-year plan that is grounded in five strategic priorities and includes indicators and targets to monitor progress. Substantial progress has been made in the last decade, including through the introduction of Law No. 120/2011, which imposed gender quotas for boards of public companies, stock markets within the European Union and Italian State-owned enterprises. This led to an increase in the number of female board members of such companies from 7 per cent in 2010 to 33 per cent in 2017.[40] Through subsequent legislative interventions in 2019, from 2020 onwards women's representation increased to 38.8 per cent.[41] The Working Group welcomed the holding of the Group of 20 Conference on Women's Empowerment under the Presidency of Italy in August 2021and was pleased that gender equality was embedded as a cross-cutting issue in the Leaders' Declaration adopted at the summit of the Group of 20 in Rome in October 2021.[42]

70. The Working Group commends the work of the National Office against Racial Discrimination aimed at combating discrimination and promoting the inclusion of LGBTI+ persons, in the workplace. It is striking that, according to official figures, only 7.7 per cent of companies with more than 50 employees complied with Law No. 76/2016, recognizing the rights of workers in civil partnerships, including regarding leave entitlements and the right to collective bargaining.[43] For smaller enterprises, the percentages are much lower in all areas of inclusion and diversity, showing that most companies have yet to achieve progress on and benefit from diversity and inclusion.[44]

71. A cultural shift to break patriarchal power structures and gender serotypes is required. This should be assisted by the adoption of adequate legislative measures and policies, with the participation of the private sector, trade unions and civil society, in order to achieve substantive gender equality.

VII. Access to remedy and corporate accountability

72. The Working Group is concerned by the lack of robust judicial and non-judicial mechanisms to seek effective remedy for business-related human rights abuses, which means that businesses frequently act with impunity. Victims of abuses explained the various obstacles preventing them from seeking justice, such as lack of information about their rights and available remedies, lack of resources for free legal aid, lengthy criminal and civil judicial proceedings and a general lack of trust in approaching institutions. While some cases have reached successful resolution, many others remain before the courts, sometimes for years without a final determination. For example, under articles 18 and 22 of the 1998 Consolidated Act on Immigration,[45] a special residence permit "for humanitarian reasons" can be granted to third country nationals subject to abuse or serious exploitation, or to undocumented

[39] Ibid., p. 7.

[40] See https://www.weps.org/sites/default/files/2020-12/CaseStudy_ Italy_Final.pdf, p. 20.

[41] Amendment to Legislative Decree No. 160/2019, see https://www.consob.it/documents/46180/46181/20210308_Ossevatorio.pdf/7f31b28d-b53b-4cdb-9309-d30a7ddb7bcc, p. 7 (in Italian), https://www.consob.it/documents/46180/46181/20210308_Ossevatorio.pdf/7f31b28d-b53b-4cdb-9309-d30a7ddb7bcc (in Italian), and https://www.europarl.europa.eu/RegData/etudes/STUD/2021/698641/IPOL_STU(2021)698641_EN.pdf.

[42] See https://www.consilium.europa.eu/media/52730/g20-leaders-declaration-final.pdf.

[43] See https://www.istat.it/it/files//2020/11/Diversity-e-inclusion-management-nelle-imprese-in-Italia-2019.pdf (in Italian).

[44] Ibid.

[45] See https://ec.europa.eu/migrant-integration/library-document/legislative-decree-2571998-no-286-consolidated-act-provisions-concerning_en.

migrants who decide to cooperate with authorities in denouncing exploitative employers. However, these mechanisms are limited to specific victim profiles: those who do not possess a valid stay permit; and victims of severe conditions of exploitation with an incumbent threat for their own safety. According to the International Organization for Migration (IOM), 250 migrant workers supported by IOM used these avenues in the last two years, but there are thousands of migrant workers in labour exploitation conditions who do not fall into either of those categories and are therefore left with no legal or social protection.

73. Although the number of sentences issued by courts has significantly increased after Decree Law 199/2016 to combat illegal work and the *caporalato* system entered into force, the impact of the practice in terms of protecting workers from unlawful and unfair recruitment is yet to be fully evaluated. The Working Group was informed that the Government presented amendments to the above-mentioned articles 18 and 22 and proposed national guidelines on the identification, protection and assistance to victims of labour exploitation in agriculture, which include the promotion of a national referral mechanism to strengthen victims' protection and assistance.

National human rights institution

74. Italy is one of only a few European Union countries without a national human rights institution. This is a major gap that should be addressed urgently, in line with the State's international and regional human rights obligations.[46] Despite long and ongoing efforts to establish such an institution, progress has been stalled in Parliament. The Government should work together with Parliament to establish a robust and independent national human rights institution in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

75. As highlighted by the Working Group in a previous report,[47] national human rights institutions can play a crucial role in facilitating access to remedy in cases of business-related human rights abuses, including by developing synergies and working closely with the National Contact Points of the Organization for Economic Cooperation and Development (OECD) and the national human rights institutions of other countries. It will be critical that the proposed institution be independent, with an explicit mandate to deal with corporate human rights abuses and enough resources and powers, including to provide civil remedies, raise awareness and build capacity, and the ability to protect human rights defenders.

National Contact Point of the Organization for Economic Cooperation and Development

76. The National Contact Point of OECD, which is located within the Ministry of Economic Development, is an important non-judicial mechanism to address business-related human rights abuses. Although the Working Group notes that certain steps were taken after the 2016 peer review process to strengthen its institutional capacity and expertise, more work is needed to enhance its visibility and ability to provide remedial outcomes. It is also critical that the National Contact Point is not only independent but also perceived to be independent by all stakeholders.

77. In a period spanning 16 years (2004–2020), the National Contact Point has taken up 24 cases, some of which concern alleged abuses by Italian companies abroad. While the number of complaints increased after 2016, it remains very low considering the instances of abuses that the Working Group encountered during the visit. Most of the victims with whom the Working Group met were unaware of this mechanism. What really matters to affected individuals and communities is not theoretical access to remedial mechanisms, but the realization of their right to effective remedies.

[46] A/HRC/42/44/Add.1, para. 111 (l); CCPR/C/ITA/CO/6, para. 6; CERD/C/ITA/CO/19–20, para. 10; and https://search.coe.int/cm/pages/result_details.aspx?objectid=0900001680a1f4da.

[47] A/HRC/47/39/Add.3.

VIII. Mandatory human rights due diligence

78. The Working Group heard about challenges faced by businesses in conducting meaningful human rights due diligence beyond tier one in their supply and production chains in compliance with the Guiding Principles and in ensuring respect for human rights across business relationships, particularly for businesses with supply chains abroad. These challenges were exacerbated by the COVID-19 pandemic.

79. It is part of the Government's role to raise awareness, build capacity and offer incentives to businesses, including small and medium-sized enterprises to promote responsible business conduct.

80. While some companies, including State-owned enterprises, made progress in respecting human rights, including combating discrimination in the workplace, more efforts should be made to ensure respect for all human rights in all sectors and across supply chains. It appears that few Italian companies have established operational-level grievance mechanisms in line with the Guiding Principles. The Working Group learned that a cause of these challenges was a lack of awareness of the Guiding Principles and the corporate responsibility to respect human rights. Stakeholders agreed on the need for a mandatory human rights due diligence law as part of the "smart mix" of regulations provided by the State.

81. The Working Group encourages Italy to enact a mandatory human rights due diligence law and to actively engage with international processes to establish binding norms for businesses in order to create a global level playing field. The Government should begin discussions with all relevant stakeholders on the adoption of a national law on mandatory human rights due diligence with a strong corporate accountability component. Doing so would help Italy, as well as Italian companies, to stay ahead of the curve and to prepare for changes in the regulatory landscape.

IX. Policy coherence

82. The Working Group was pleased to hear from several Ministries about important efforts made by the Government to ensure policy coherence in its work across key Ministries and Departments. For example, the development of the second national action plan on business and human rights was conducted with a whole-of-government approach, in regard to which the coordinating role played by the Interministerial Committee for Human Rights was praiseworthy. Moreover, the establishment of interministerial committees to deal with cross-cutting issues, such as ensuring a smooth ecological transition or dismantling the *caporalato* system, is positive.

83. The Government of Italy has established a national forum for sustainable development to promote a wider multi-stakeholder dialogue for the implementation of the national strategy on sustainable development, as well as a project on "Policy coherence for sustainable development: mainstreaming the SDGs [Sustainable Development Goals] in Italian decision-making process", which involves a number of actors. However, the Working Group would like to see business and human rights issues explicitly embedded inside these cohesive policy approaches and in all relevant policy frameworks aimed at bringing about a positive change in practice for people and the planet.

X. Conclusions and recommendations

A. Conclusions

84. **The Working Group welcomes the efforts of the Government of Italy to advance responsible business conduct and address remaining gaps in its regulatory framework, including the serious abuses suffered by workers, particularly migrant workers, in the agricultural and other sectors. The existing legal framework, which criminalizes the *caporalato* system, the elaboration of institutional and policy responses at the regional**

and national level and the adoption of the second national action plan on business and human rights are just a few of the many positive initiatives in this regard. The Working Group shares the assessment of many stakeholders that some of the most severe forms of abuse can be ended through the effective implementation of existing legal and policy measures.

85. **At the same time, the Working Group remains concerned about insufficient efforts to address the root causes of the abuse of workers' rights, including labour exploitation and the unsafe working conditions of migrant workers across supply chains. The absence of a coordinated and holistic approach to break the vicious cycle of abuse by ensuring that workers have access to all human rights and that businesses are systematically held accountable for any harm caused is also concerning. The implementation of the second national action plan represents a key opportunity to ensure the full integration of the "Protect, Respect and Remedy" framework of the Guiding Principles on Business and Human Rights in Government actions.**

86. **The Working Group took note of efforts by the Government to find a balanced approach towards industrial-economic development priorities and to the discharge of its duty to protect human rights and the environment. However, protecting the right to meaningful participation of affected communities in environmental issues remains a challenge. The Working Group stresses that measures to ensure an inclusive transition to a green economy and sustainable business practices, including social and environmental accountability, require the meaningful participation of all relevant stakeholders.**

B. Recommendations

87. **The Working Group recommends that the Government:**

(a) **Implement the second national action plan effectively, including through indicators that are specific, measurable, achievable and time-bound and the allocation of adequate resources, and ensure that relevant Ministries and agencies can deliver on their responsibility under the national action plan and may be held accountable;**

(b) **Connect the national action plan with other policy frameworks, such as the national recovery and resilience plan and the sustainable development plan, to ensure policy coherence;**

(c) **Take more proactive action to implement the Guiding Principles, including by strengthening oversight, setting clear expectations for companies to respect human rights through effective human rights due diligence processes in all sectors and holding companies accountable for human rights abuses;**

(d) **Consider enacting legislation imposing binding human rights due diligence requirements for businesses of all sizes, in all sectors and covering negative impacts on all internationally recognized human rights and the environment throughout supply chains (including subsidiaries and contractual partners and suppliers); such legislation should provide for corporate liability, as well as access to and effective remedies for victims of corporate human rights abuses abroad; consultations on the content and scope of such legislation should start straight away with all relevant stakeholders;**

(e) **Integrate human rights and environmental due diligence and access to remedy into trade and investment promotion activities, including when attracting investment, negotiating trade and investment agreements and promoting Italian businesses abroad;**

(f) **Raise awareness of the Guiding Principles and the national action plan among all actors in society and among civil servants, the judiciary and lawmakers in order to build their capacity to deliver on their respective obligations to prevent, investigate, punish and redress business-related human rights abuses;**

(g) **Adopt a comprehensive approach to address the root causes of the *caporalato* system, including:**

(i) **Understanding and addressing the interconnected nature of abuses of the rights of migrant workers through a coordinated, comprehensive and holistic approach that recognizes migrants as rights holders and ensures access to housing, transportation and decent working conditions regardless of migration status;**

(ii) **Designing measures with the inclusion of all local, regional and national State institutions that have a role in addressing the whole spectrum of human rights abuses described in the present report, with the meaningful participation of workers and representatives of civil society and trade unions, who often put their lives at risk in order to defend the human rights of migrant workers; this includes adequately resourcing and institutionalizing cultural mediators who work in informal settlements to provide services to residents independent of the *caporalato* system and ensuring that these mediators are present in all localities;**

(iii) **Expanding channels for the regularization of migrant workers;**

(iv) **Creating an effective mechanism for matching labour supply and demand;**

(v) **Promoting and support ethical employment practices;**

(vi) **Implementing the relevant recommendations by a previous Special Rapporteur on contemporary forms of slavery, including its causes and consequences in the report on her visit to Italy in 2018;**[48]

(h) **Ensure that existing labour rights and occupational health and safety regulations in all sectors and for all workers are effectively monitored and implemented, including in relation to working hours, weekly rest, night work, payment of overtime hours and work on public holidays: in this regard, the Government should consider the extension of the same regulatory and economic measures provided in national collective agreements to all suppliers and subcontractors to their own suppliers and subcontractors in the value chain;**

(i) **Adopt urgent actions to strengthen the inspection regime and the imposition of effective sanctions throughout the country in order to carry out more coordinated, effective and homogeneous inspections;**

(j) **Ensure that labour inspectorates have the necessary resources commensurate to the challenges described in the present report, including ensuring that they are adequately staffed and that inspectors receive the necessary training and resources to inspect all human rights pertaining to the workplace as well as safety and working conditions in all sectors, with an emphasis on prevention;**

(k) **Ensure that offices of public prosecutors are provided with adequate resources to investigate abuses by businesses and hold them accountable; the Government should consider increasing the number of skilled staff to investigate and enforce relevant legislation related to corporate crimes; offices of public prosecutors should also collaborate more closely with their counterparts in other jurisdictions to ensure that companies are held accountable for human rights abuses overseas;**[49] **and fines and other administrative or criminal sanctions imposed on businesses should be proportionate to deter criminal activities;**

(l) **Ensure that State-owned enterprises lead by example**[50] **in respecting human rights and that the Government consider the inclusion of human rights criteria, including on occupation health and safety in public procurement, economic diplomacy,**

[48] A/HRC/42/44/Add.1.
[49] See A/HRC/35/33.
[50] A/HRC/32/45.

export credits and trade support for Italian companies as a means of promoting business respect for human rights;

(m) **Ensure that the international investment agreements to which Italy is a party or intends to become a party allow it to maintain adequate policy space to meet its human rights obligations in conformity with Guiding Principle 9:**[51] **the drafting of international investment agreements should be negotiated in a transparent manner and consider the inputs of multiple stakeholders, including non-governmental organizations, specialized academics and other relevant stakeholders;**

(n) **Adopt measures to combat all discriminatory practices in the private sector and to address challenges in integrating and retaining individuals who face particular discrimination because of their sexual orientation and/or gender identity;**

(o) **Strengthen measures to implement the principle of equal pay for work of equal value to close the gender wage gap and take decisive measures to ensure equal representation of women in leadership positions in businesses;**

(p) **Strengthen measures to combat sexual harassment and gender-based violence in the workplace, in society generally and online;**[52]

(q) **Implement training programmes to empower workers, especially those in vulnerable situations, such as migrant workers, to exercise their rights, including the right to create and join trade unions and to collective bargaining, and take steps to address power imbalances between the workers and their employers;**

(r) **Ensure prompt and impartial investigation of cases involving threats, intimidation, harassment and violence against individuals and trade unions defending workers' rights;**

(s) **Adopt a more holistic approach to environmental impact assessments and strengthen independent and transparent monitoring approaches that consider cumulative social, environmental, economic and energetic impacts, with the meaningful participation of affected communities;**

(t) **Arrange for the prompt remediation of polluted sites referred to in the present report, including the presence and clean-up of asbestos in specific locations, and in other sites that may exist, in consultation with affected communities;**

(u) **In relation to Taranto:**

(i) **Take urgent measures to safeguard the health and the right to education of children living in Taranto, including the immediate closure of the "hot working area";**

(ii) **Require the allocation of financial resources by the company to comply with the principle of "best available technology" to avoid further pollution from production and the provision of effective remedy, including monetary compensation, for the affected population;**

(iii) **Establish a multi-stakeholder mechanism, inclusive of relevant actors, with a mandate to discuss, plan and implement a human rights-based and environmentally friendly economic system for Taranto that is capable of achieving inclusive environmental transition in line with the 2030 Agenda for Sustainable Development and other relevant State international climate targets;**

(v) **Improve access to judicial and non-judicial remedies by removing the barriers outlined in the present report in order to provide effective protection and assistance for all victims of corporate abuses in all sectors, including by:**

(i) **Establishing, without further delay, a national human rights institution with an explicit mandate regarding corporate-related human rights abuses and**

[51] A/76/238.
[52] A/HRC/41/43.

appropriate powers, in line with the recommendations of the Working Group in its 2021 report;[53]

(ii) **Strengthening awareness, greater access and use of the OECD National Contact Point, including by raising awareness about its mandate, including in languages spoken by migrant workers: the National Contact Point should also try to address power imbalances while carrying out conciliation efforts and should explore avenues to ensure that Italian businesses implement its recommendations.**

88. **The Working Group recommends that businesses and industry associations:**

(a) **Play a more robust role in disseminating the Guiding Principles and in promoting their implementation, including through the development of suitable tools to support the efforts of their members (particularly small and medium-sized enterprises) to carry out effective human rights due diligence;**

(b) **Strengthen awareness among businesses of their independent responsibility to respect human rights, including under the regime of occupational health and safety to protect workers' life and health: this should be complemented by training programmes and information for workers to prevent the risk of accidents;**

(c) **Adopt a gender perspective when conducting impact assessments and designing operational-level grievance mechanisms based on the recommendations contained in the 2021 report of the Working Group on the gender dimensions of the Guiding Principles;**[54]

(d) **Establish effective grievance mechanisms to provide remedies to affected individuals and communities in line with the Guiding Principles: such mechanisms should not preclude access to judicial remedies;**

(e) **Ensure compliance with the ban on the practice of double bidding for goods and take collective steps to ensure that all workers in their supply chains are paid a minimum living wage.**

89. **The Working Group recommends that civil society actors continue to:**

(a) **Raise awareness about the respective duties and responsibilities of the State and businesses under the Guiding Principles;**

(b) **Document cases of human rights abuses, in particular those committed against individuals and communities in vulnerable situations, and assist in facilitating access to judicial and non-judicial remedial mechanisms, including operational-level grievance mechanisms;**

(c) **Contribute to and engage in ongoing or future initiatives aimed at strengthening existing legal and policy frameworks on business and human rights and facilitate the equal participation of all stakeholders in these initiatives: lawyers and large law firms should provide strategic advice on business and human rights issues, supporting clients to formally embed environmental, social and corporate justice factors, including human rights, within their business models and governance.**

[53] A/HRC/47/39/Add.3.

[54] Ibid.