

(1) Submitting Organisation

The International Centre for Trade Union Rights (ICTUR) was founded in 1987 in order to defend, extend, and raise awareness of trade union rights and their violations worldwide. ICTUR was founded in response to ‘an attack on trade union rights by transnational employers’ and ‘to take up the struggle for liberation from neo-colonialist and transnational corporation exploitation’. ICTUR is a network of unions, lawyers and human rights organisations.

ICTUR has consultative (roster) status with the UN ECOSOC and it is accredited to the ILO Special List of INGOs, since 1993. ICTUR’s main activities include monitoring labour rights, letter writing, trial observations, research and publishing. ICTUR provides information to international human rights processes and assists trade unions in this work. ICTUR publishes: *International Union Rights* journal (since 1993, 4 editions per year); the *World Map of Freedom of Association* (6th edition, 2019); and the reference book *Trade Unions of the World* (7th edition, 2016).

(2) Our concerns

Our primary concerns with respect to trade union rights in Italy are focussed on the killing of two trade unionists since 2016:

- The violent killing on a picket line of striking worker **Abd Elsalam Ahmed Eldanf**.
- The murder of migrant worker and trade union organiser **Soumayla Sacko**.

We are specifically concerned with:

- The State’s failure properly to investigate anti-union motives in either of these cases

We are further, more generally, concerned by the overall condition of respect for migrant workers in Italy, their living and working conditions, and the protection of their participation in trade union activities.

Context

Italy reports Europe's largest labour movement by some margin. There has traditionally been a virtually unrestricted right to strike, and this has been freely exercised, with industrial disputes also pursued in the courts. During the 1990s, the level of collective industrial disputes fell sharply, but in recent years industrial disputes have been on the rise. Political tensions have increased with economic difficulties and the rise of right-wing nationalist politics and anti-immigrant violence. The living and working conditions of Italy's large migrant worker population have attracted concern from the UN Special Rapporteur on Contemporary Forms of Slavery, who has described "extreme levels of labour exploitation and coercion, and inhumane working and living conditions"¹.

Another critical factor is the history of political murders of trade unionists and labour law academics that have occurred in Italy over recent decades, and which place Italy in a very different context to much of Europe, where such acts are largely unknown. In 1985 Prof. Enzo Tarantelli, then director of the CISL Research Institute, in 1999 Massimo D'Antona, the head of the juridical council of CGIL and an adviser to the Minister of Labour, and in 2002 law professor Marco Biagi, were murdered by terrorist groups. These historic cases are worth recounting in the context of the two recent killings that our organisation wishes to raise before the present Review. In 2016 Abd Elsalam Ahmed Eldanf, an active member of the USB union, was violently killed on a picket line when a lorry drove through the picket line and struck him. In 2018 Soumayla Sacko, an organiser of migrant workers and an active member of the USB, was shot dead.

Italy has three large confederations: the Confederazione Generale Italiana del

¹ 'Embrace migrant workers as rights holders essential to Italy's agro-economy', press release, UN Special Rapporteur on Contemporary Forms of Slavery, 12 October 2018

Lavoro (CGIL, English: Italian General Confederation of Labour), the Confederazione Italiana Sindacati Lavoratori (CISL, English: Italian Confederation of Workers' Trade Unions) and the Unione Italiana del Lavoro (UIL, English: Italian Labour Union). These vast organisations are the largest within Italy's industrial relations system. They are powerful organisations, and their status and activities are on the whole well respected and protected by Italy's labour relations framework. But outside of the main centres there are also numerous independent unions, including the politically leftist 'base' unions, among these is the Unione Sindacale di Base (USB, English: Base Union), to which both trade victims referred to in this submission belonged. It is of profound concern that a single small base union – one which is well-known for working with migrant worker organising communities – has reported the violent killing of one member, and the murder of another, within the space of just two years.

(3) International Human Rights Obligations

The Universal Declaration of Human Rights makes it clear that “everyone has the right to form and to join trade unions for the protection of his interests” (Article 23(4)). Italy has additionally been an member of the International Labour Organization ("ILO") since 1919 (except for the period 1939 – 1945), and has ratified 113 international labour Conventions including (in 1958), ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise (1948), and ILO Convention No. 98 on the Right to Organise and Collective Bargaining (1949).

In 1978, Italy ratified both the International Covenant on Economic, Social and Cultural Rights ("CESCR") and the International Covenant on Civil and Political Rights ("CCPR"). The CESCR obliges State parties to ensure the right to form and join trade unions of their own choice, including at national and international level. It further states that trade unions have the right to function freely and to take strike action (Article 8). The CCPR stipulates that, “everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”.

(4) Previous UPR cycle

Within the previous UPR cycle, no serious problems were raised concerning freedom of association in Italy. The situation for migrant workers generally, however, was already attracting concern, and was a focus of several recommendations. There were calls for Italy to consider ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, raised by Egypt, Chile, Indonesia, Ghana, Sierra Leone, Uruguay, Peru, Iran, Senegal, Turkey, and Algeria². In response to these calls, the Minister observed that ‘the Italian legislative framework had already guaranteed the rights of regular and irregular migrants’, and that ‘following the ratification of ILO Conventions nos. 143 and 189, Italy had accepted to be periodically reviewed as to the implementation of these Conventions at the domestic level’³. There were also several calls for Italy to review its laws and take steps to protect the human rights of migrants (A-145.63, 145.64, A145.72, and A-145.66 – A145.68). Italy accepted these recommendations.

Other concerns were raised around human rights commitments and in-country implementation. Four countries (Montenegro, Spain, Portugal and Uruguay) urged Italy (A-145.15- A-145.17) to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR). Italy accepted these recommendations, and the country subsequently did ratify the Optional Protocol. Twenty-three countries urged (A-145.26 – A-145.48) Italy to establish an independent national human rights institution. The recommendations were accepted, but Italy has not yet established such an institution,

(5) Murder and violent killing of at least two trade unionists

The murder of trade unionists is a very rare or unknown occurrence in most countries of the

² Report of the Working Group on the Universal Periodic Review, Italy 10 December 2014, A/HRC/28/4 (N-145.1 – 145.6)

³ Report of the Human Rights Council on its twenty-eighth session, 8 July 2015, A/HRC/28/2

world, but it is not unknown in Italy, which has a history of serious anti-union violence, including killings, that is completely exceptional in the European context. In recent years two very serious incidents have been reported, resulting in the deaths of two trade unionists from the USB trade union, attracting concern internationally. Considering the repeated calls for Italy to improve the human rights situation of migrants made in the previous Review cycle, we believe it is significant to emphasise that: both victims were migrants; and that the union to which both victims belonged is noted for its work in support of migrant workers.

The cases are:

- The violent killing on a picket line of striking worker **Abd Elsalam Ahmed Eldanf**.
- The murder of migrant worker and trade union organiser **Soumayla Sacko**.

Abd Elsalam Ahmed Eldanf, an Egyptian migrant worker and a member of the USB, was killed on 14 September 2016 when he was struck by a lorry during a protest. Workers were picketing further to a dispute around job security of subcontracted workers. It is understood that a number of workers were picketing outside the Piacenza plant when a delivery driver drove into the picket line at high speed, hitting two workers. Ahmed later died from his injuries⁴. It seems to us that among the questions that ought to be addressed by a full investigation are: why did the truck drive through a picket line; and who, if anyone, instructed the driver to drive through the picket? However, no proper investigation was held, and no prosecution was initiated, as the Piacenza Prosecutor's office did not acknowledge that any strike or protest had taken place and is reported to have classified the incident as a 'traffic accident'. We understand that the driver was released, and that anti-union motives were simply not investigated at all.

⁴ 'Our comrade, our brother, was killed', USB, 15 September 2016, at: [https://internazionale.usb.it/index.php?id=20&tx_ttnews\[tt_news\]=90396&cHash=6ed8080e79&MP=63-1385](https://internazionale.usb.it/index.php?id=20&tx_ttnews[tt_news]=90396&cHash=6ed8080e79&MP=63-1385)

ICTUR understands that Soumayla Sacko, an active member of the USB, was shot dead on 2 June 2018 near to San Calogero⁵. A Malian migrant and agricultural worker, Sacko was murdered while collecting discarded materials for use in the construction in the "tendopoli", the tent city that is a substandard makeshift home to numerous migrant workers in Italy's southern region of Calabria. On 2 June 2018, he was with two co-workers collecting old metal sheets from an abandoned factory to put towards their barely-habitable homes when a local man drove up and shot the men four times with a rifle. Sacko was shot in the head and died shortly after arriving at the hospital. One of his friends was shot in the leg but later helped identify the suspect, who was detained by police. Disturbingly, newspaper reports indicated that prosecutors were already inclined to dismiss anti-union motives, without proper investigation, just two days after the shooting occurred⁶.

We are deeply concerned by the failure of either of these investigations to give adequate weight to the fact that those killed were trade unionists. In such cases, the possibility of anti-union motives is required to be fully investigated. We further note that these killings take place against a backdrop of high social tensions, and what the UN Special Rapporteur on Contemporary Forms of Slavery recently described as "extreme levels of labour exploitation and coercion, and inhumane working and living conditions"⁷. We further note an unconscionably high death rate among migrant workers in Italy's agricultural sector in particular, due to severe exploitation, lack of rights and protection at work, poor safety standards, sub-standard housing, and limited access to services. According to Equal Times newspaper 'more than 1500 people that have died while working in Italy's agricultural sector over the past six years'⁸. In these circumstances, we believe that full, open and independent judicial investigations should explicitly address possible anti-union motives in both cases.

⁵ 'With a death toll of thousands, Italy's agricultural sector resembles a warzone', Antonello Mangano, *Equal Times* (23 August 2018)

⁶ <http://www.liberainternational.eu/?p=2718>

⁷ 'Embrace migrant workers as rights holders essential to Italy's agro-economy', press release, UN Special Rapporteur on Contemporary Forms of Slavery, 12 October 2018

⁸ 'With a death toll of thousands, Italy's agricultural sector resembles a warzone', Antonello Mangano, *Equal Times* (23 August 2018)

(8) Context and analysis

ICTUR notes that the ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR) has for several years called on the Italian authorities to address the abusive conditions faced by migrant workers. Under Article 10 of the Migrant Workers (Supplementary Provisions) Convention No. 143 (1975), States undertake *inter alia* to pursue a national policy designed to promote and to guarantee the trade union rights of migrant workers. The Committee has specifically emphasised the prevalence of abusive conditions in Italy's agricultural sector (See Observations adopted by the CEACR in 2012 and 2018, 101st and 107th sessions of the ILC). In its 2018 Observation, the CEACR cited data provided both by national unions and the government, demonstrating that migrant workers are highly concentrated in the lowest income range and that "the remuneration gap between national and migrant workers has increased considerably in the past years". A May 2018 report by the Italian NGO, Medici per i Diritti Umani (MEDU, English: 'Doctors for Human Rights') characterised the agricultural sector in Calabria as "severely exploitative" and lacking in respect for the fundamental rights of workers, whose precarious employment and living conditions are "highly unstable and unsafe". MEDU note that policies designed to address the precarious, exploitative and unsafe conditions of migrant workers have not delivered⁹.

With regard to the State's obligation to properly investigate anti-union violence, the ILO's Committee on Freedom of Association (CFA) has set out clearly the State's duty to protect trade unionists from physical harm, and on the obligation of the State to ensure a robust response to the murder of trade unionists. The CFA has found that: 'the rights of workers can only be 'exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organizations, and it is for governments to ensure that this principle is respected' (Freedom of Association, para. 84). The Committee has further noted that an independent judicial inquiry should be instituted immediately to investigate assaults on the physical or moral integrity of individuals, in order to determine

⁹ The Wretched of the Earth (May 2018) Medici per i Diritti Umani

responsibility, punish those responsible and prevent repetition (Freedom of Association, para. 94). Failure to hold guilty parties to account creates a culture of impunity, ‘which reinforces the climate of violence and insecurity, and which is extremely damaging to the exercise of trade union rights’ (Freedom of Association, para. 106).

(10) Recommendations

The submitting organisation calls on Italy to:

Killing and suspicious deaths

- Establish prompt, effective, and independent investigations into the killing of Abd Elsalam Ahmed Eldanf and the murder of Soumayla Sacko
- Ensure that these investigations explicitly address possible anti-union motives
- Identify the perpetrators and other relevant persons found to have contributed to the circumstances of these deaths, and ensure that all guilty parties are brought to justice

Situation of migrant workers generally

- plan and implement appropriate social programmes and reforms in full consultation with all national trade union confederations in the development of policies to improve respect for trade union rights and the situation of migrant workers in Italy.