



RESOLUTION “IRREGULAR MIGRANTS HAVE RIGHTS”

Presented at the Solidar Annual General Assembly, 6th June 2007

1. Irregular, not illegal

As both from a juridical and an ethical point of view, no human being can be considered illegal, Solidar rejects the usage of the term ‘illegal’ to define third-country nationals who lack residence papers issued by an EU member state. The Parliamentary Assembly of the Council of Europe refers to ‘irregular migrants’ to avoid the stigma associated with the term ‘illegal’ and because this is the definition which, in the PACE’s words, ‘is increasingly favoured by international organisations working on migration issues’¹.

Solidar member organisations, who are engaged in upholding human rights worldwide:

- urge the European institutions to refrain from referring to irregular migrants as ‘illegal immigrants’.
- call on the European media, from local papers to large media conglomerates, to use ‘irregular’ or ‘undocumented’ to refer to people who lack the papers to reside in a specific country.

2. Basic social rights

All individuals, regardless of their legal status, possess a set of universal rights, which include access to healthcare and to education. European countries are increasingly restricting irregular migrants’ ability to benefit from free healthcare and their children’s access to state-run education.

Solidar and its member organisations:

- call on European governments to guarantee irregular migrants’ right to, at a minimum, emergency healthcare.
- urge European governments to ensure migrant children have access to free education up to the minimum age set by states for those who choose to leave school.

3. Why irregularity is created

EU documents and member states’ legislation, which focus on fighting irregular migration through tougher border control measures, fail to address the main underlying cause of irregular migration, namely the virtual lack of legal channels for

¹ PACE Resolution 1509 (2006), ‘Human rights of irregular migrants’

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entry into the EU for citizens of developing countries. Migration legislation varies enormously across the European Union, as do visa requirements and admissions systems, but restrictions on the entry of unskilled workers are commonplace in all member states. Where quota systems are in place, employers routinely lament a massive mismatch between their requests for workers and the annual numbers allocated by the government.

The demand for migrant workers, both skilled and unskilled, is booming across the EU. Migrants are contributing to the growth in the construction and services industries and are taking up jobs in the agricultural sector which EU citizens refuse to carry out. If legal channels are virtually inexistent, or limited, employers will turn to the pool of irregular migrants to fill labour shortages.

Solidar and its member organisations:

- Urge European governments and the EU institutions to broaden legal channels for entry, the most effective means of combating irregular migration and ensuring that migrant workers are not blackmailed and exploited.

4. Combating illegal employment

The European Commission and a number of EU member states which have faced scandals due to the exploitation of irregular migrants are currently engaged in a drive to tackle undeclared work, with irregular employment being seen as a 'pull factor' for irregular migrants. BEPA (Bureau of European Policy Advisers), the EC in-house think tank, has pointed out², however, that irregular migration is demand-, rather than supply-driven, with European entrepreneurs actively seeking to recruit undocumented migrants.

Measures envisaged by the EU and national governments to combat irregular employment usually include a series of penalties for employers, ranging from exclusion from public procurement contracts to criminal sanctions.

Solidar welcomes efforts to combat illegal work and to secure labour rights for all, be they migrants or EU citizens, but stresses how member states' labour laws already include a number of harsh provisions on irregular employment – what is really missing is enforcement.

Solidar and its member organisations:

- urge the European Commission and national governments to ensure harsh sanctions are in place as regards the disbursement of EC, national and local subsidies. Withholding CAP, or Common Agricultural Policy, funds when breaches of labour rights on the part of farm owners are reported and confirmed in member states would be an extremely effective response to the exploitation of migrants working in Europe's agricultural sector.
- Call on national governments to extend the benefits currently granted to the victims of trafficking to those who fall prey to labour exploitation. Ensuring migrants who report exploitation are given temporary residence permits

² BEPA, 'Migration and public perception', 4th October 2006

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would allow them to seek redress and not to bear the brunt of any crackdown on irregular employment.