

JOINT STATEMENT

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Employers' Sanctions Directive: Will migrant workers pay the price of their exploitation?

Ahead of the Justice and Home Affairs EU Council on 17-18 April, ENAR, PICUM, Solidar, and a number of other organisations¹ remind EU Ministers of the crucial need to follow a human rights-based approach in taking forward the proposed EU Directive providing for sanctions against employers of irregular third country nationals.

EU decision makers must ensure the directive does not undermine important work to tackle exploitation of vulnerable workers and to guarantee equal treatment for all. Immigration control must be carried out within the framework of fundamental rights and in accordance with the values of the European Union.

Identifying 'illegal' employment as a 'pull' factor for 'illegal' migration does not pay attention to the fact that the overwhelming majority of migrants would rather have regular employment contracts and contribute to the social security system than live outside the legal system, under a constant threat of deportation. On the other hand, undeclared work is a major factor in enabling exploitation and ensuing poor working conditions, health risks and insufficient social protection coverage.

The proposed directive contains a number of positive aspects, such as measures to enforce payment of any outstanding remuneration and ensuring the possibility to file a complaint through or with the support of a third party. But the proposal will also have a number of unintended effects that run counter to the EU's values and specific policies in the migration, integration and employment fields:

- Migration control as the proposal's primary goal will have the effect of increasing and entrenching undeclared work and will make it harder to effectively address the problems associated with irregular migration.
- The EU has promoted the employment of third country nationals as a priority, yet the proposal endangers these integration measures by stigmatising employment of third country nationals and migrants.
- Placing the duty on employers to control immigration is likely to lead to racial discrimination whereby not only every third country national but also every 'foreign' looking worker is placed under suspicion and subjected to scrutiny.

Our organisations believe a number of core principles should underpin any future measures towards undocumented workers and the irregular labour market:

- All human beings have human rights: any instrument aiming at reducing irregular migration must recognise and promote fundamental rights, including labour rights, regardless of legal status.
- Combating irregular employment means above all combating labour exploitation, and ensuring that those who benefit from the exploitation of migrants will have to pay.
- Penalties and sanctions must be designed in such a way that they do not negatively affect workers or penalise them instead of the employer. This means that migration control must be de-linked from labour inspection tasks.
- Enhancing the role of trade unions, NGOs and civil society at large is key.

¹ The European Women's Lobby (EWL), the International Catholic Migration Commission Europe (ICMC), European Migrant Women's Network, RESPECT, The People for Change Foundation, Monika-Naiset Litto Ry, the Immigrant Council of Ireland, Tiye International, Fatima Women's Network, Maisha eV Africa Women, AFRA (International Center for Black Women's Perspectives) and MRCI (Migrant Rights Centre Ireland).

The organisations' full position on the employers' sanctions directive is available at:
http://www.enar-eu.org/Page_Generale.asp?DocID=15288&langue=EN

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