

JOINT STATEMENT

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A bad [international] day for migrants as EU discusses employers' sanctions Directive ?

As the world celebrates the 60th anniversary of the Universal Declaration of Human Rights and International Migrants' Day¹, ENAR, EWL, PICUM and Solidar urge MEPs and EU member states to follow a human rights-based approach in taking forward the proposed Directive providing for sanctions against employers of irregular third country nationals. This seems like a very opportune time for EU decision makers to show their commitment to human rights for all, including irregular migrant workers.

The proposed directive contains some positive aspects towards undocumented workers, which if the directive is to be adopted, must be retained. These include measures to enforce payment of any outstanding remuneration, the presumption of a 6-month working relationship and ensuring the possibility to file a complaint through or with the support of a third party.

Nevertheless, the directive 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:

- In most countries which have a system of status-based sanctions, there is a sizeable presence of undocumented migrants who continue to find work. For many employers, the profits that can be made by hiring flexible and cheap undocumented workers outweigh by far the risk of being sanctioned. It is therefore to be questioned whether status-based employers' sanctions reduce irregular employment in a significant way.
- If employers continue to hire undocumented workers, enhancing migration control efforts in the workplace will keep these workers even further away from authorities, and will encourage employers to adopt more strategies to escape their responsibilities towards their workers. This will make it harder to effectively address the problems associated with irregular migration, such as exploitation and social fraud.
- The EU has promoted the employment of third country nationals as a priority, yet the proposal endangers these integration measures by stigmatising the employment of third country nationals.
- Placing the duty on employers to control immigration is likely to lead to open or hidden 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 rights-based approach should underpin any measures towards undocumented workers and the irregular labour market. Such an approach acknowledges that undocumented workers have labour rights, and, in line with the approach taken by the European Commission on undeclared work by EU citizens, that the priority concern must be ensuring such rights are enforced. This will be beneficial for the general labour market, as unfair competition with regular labour will be reduced.

If MEPs adopt the directive, it is essential that the aspects upholding the rights of undocumented workers remain and that a strong message is sent that its transposition and implementation will be monitored closely.

¹ On 18 December 1990, the United Nations General Assembly approved the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and in 2000 this day was officially designated as International Migrants' Day. Since then, only 40 countries have ratified the UN Convention, none of them from EU member states.

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