

OSCE HDIM – WARSAW, 2nd October 2007
ANTI-TRAFFICKING SESSION – Working Session 12

NGO Intervention : Former 'Solidar' Migration Officer

POINTS TO RAISE

- Main point: states focus almost exclusively on trafficking for sexual, not labour exploitation (which dealt with in terms of border control/cracking down on irregular employment).

- Good practices/legislation:

. **Draft EU directive on sanctions against employers of illegally staying third country nationals** (May 2007)

- 1) Good points --> a) non-criminalisation of civil society actors who help migrants report exploitation; b) employers barred from receiving subsidies (including EU ones) for up to 5 years and from public procurement contracts; c) migrants entitled to receive outstanding payment of wages and social security contributions before they are deported; d) short-term residence permit for migrants who initiate criminal proceedings for exploitation; e) burden of proof on employers and presumption of a minimum of six months' employment.
- 2) Problems --> a) 'particularly exploitative working conditions' not defined; b) short-term residence permit should be convertible to long-term permit/work permit; c) domestic work overlooked; d) employers are expected to check employees' residence permits – this could lead to discrimination against those who look/sound foreign; e) EU nationals excluded (because of legal basis of directive); f) link between immigration and labour legislation reinforced.

. **Italian bill on irregular migrants who face exploitation** (December 2006)

- 1) Good points --> a) irregular migrants who are exploited are to be granted the same kind of residence permit as victims of trafficking (i.e. the migrant need not be involved in criminal proceedings to access a permit and can work); b) defines 'exploitation' (i.e. if wages are less than 1/3 of the minimum wage, if there are serious breaches of health and safety regulations, if recruitment occurred through gangmasters).
- 2) Problems --> bill presented by government in December 2006; the Italian Senate has amended it by scrapping provisions on residence permits and only keeping those parts which cover employer sanctions. The bill is currently tabled in the Chamber of Deputies.

. **Regional law on irregular migrants who face exploitation** (Puglia, October 2006)

Sets up mechanism for defining annual indexes for agricultural products (i.e. how much tomatoes should cost if proper wages are being paid).

Main problems with all these proposals --> 1) enforcement is severely lacking (a July 2007 report by Italian weekly *L'Espresso*, which first exposed the tomato harvest scandal in Puglia last year, showed how migrant workers were still being heavily exploited); 2) no information and awareness-raising campaigns are envisaged. Migrants thus tend not identify themselves as victims and law enforcement officials tend to see the migrants exclusively as illegals.

Giulia Laganà