

Launch Seminar of the Med edition of the Handbook on Establishing Effective Labour Migration Policies

Rabat 12-12-07

International Legal Framework for the protection of Migrant Workers.

The need for a legal framework!

Dear colleagues,

Coming from a small island in the middle of the med., which is densely populated and has the highest number of migrant per capita in all of Europe, migration is very high on the agenda.

I am a National secretary for my Union representing migrant workers, but I still work in the Labour field on daily basis, going from factory floors to services departments on to construction sites.

A brief look at the handbook during lunch I note that there are various examples of **good Practice**, the number of examples is on the increase, but I can assure you that the number of bad practices we encounter by far supersedes the good ones.

Lately I read a quote which said:

- ❖ **Yesterday is History**
- ❖ **Today is a Gift**
- ❖ **Tomorrow is a Mystery**

Whilst I fully agree with the first two, I tend to differ on the last one.

This as from history we learn.

Today is surly a gift that we can sit and discuss in such a beautiful venue.

But as for tomorrows' mystery, no is what we make to be, the way we act today will mould all our tomorrows.

If we do not act today all our tomorrows will be a mystery. (Modern Slavery) will still be present, be it Indian Construction worker in Malta or be Mexican Tomato picker in USA.

Based on history and what we learned from it:

The Unions and as such the ETUC in the coming days (18/19 Dec) will be presenting the EU Commission with our position as trade Unions on Migration.

The ETUC is always proactive in migration issues.

Way back in 2004 the EU council of ministers adopted the so called 'Hague Programme' and asked the commission to present a policy plan.

The initiative was broadly supported by the E.U Parliament and the ETUC as well by all civil society. But it failed to get support from the member states and was eventually withdrawn by the commission.

Following that, the commission in May 2007 presented 4 draft directives:

- ❖ **EMPLOYERS' SANCUTIONS DIRECTIVE**
- ❖ **COMMUNICATION ON CIRCULAR MIGRATION**
- ❖ **BLUE CARD DIRECTIVE**
- ❖ **RIGHTS DIRECTIVE**

All ETUC affiliates have responded to these draft directives through the Migration & Inclusion working group, of which I am a member. Reference to this committee is made to this committee in page 210.

We as trade unions are committed through the action plan as adopted by ETUC during the Seville Congress last May.

We are demanding a more proactive policy on economic migration & more investment in inclusion.

Here I will give you a Summary of conclusions by all affiliates on these draft directives

With regard to the Employers' sanctions Directive:

Irregular migration is a complex phenomenon, and employment one of many pull factors. An adequate response requires a wide range of measures and policies, addressing undeclared work and precarious work and the need to open up more channels for legal migration.

The ETUC has some strong concerns about the draft Directive, especially when put in place in the current context in which very limited legal channels for migration of TCN's in low skilled and low paid jobs exist in MS's, and little or no emphasis is placed on combating exploitative Labour conditions. Taking into account that employers' organizations have especially complained about all the elements of the proposal that might allow it to have some real effect in practice, there is a great risk that especially those elements will be weakened or deleted in the course of the legislative process. This may have the effect of the Directive becoming a toothless instrument that will mostly drive the undocumented workers further underground. The ETUC calls on MS's and the EP to prevent this happening at all costs.

With regard to the Circular Migration Communication:

In ETUC's view, the idea of circular migration must be carefully explored, and should certainly not replace more comprehensive policies in which more permanent legal channels for economic migration are also made available.

However, in the context of such broader policies, measures that allow migrants more flexibility to move between their country of origin and country of residence without losing their immigration status and rights can be a positive incentive for migrants to explore the opportunities in their country of origin, and may thereby make a positive (although modest) contribution to alleviating the brain drain.

With regard to the Rights Directive:

This proposal is certainly the most important one in the package, and is as such highly valued by ETUC. We welcome the fact that the Commission clearly understands the need for a clear and unambiguous legal framework offering equal treatment to migrant workers, as has been demanded on many occasions by ETUC.

The ETUC agrees with the European Parliament¹ that this Directive should be submitted (and adopted) in advance of the specific Directives that will regulate the access of specific groups of migrants, and that different sets of rights and double standards for different groups of workers should be avoided.

With regard to the Blue Card Directive:

This Directive is the first one in a series of announced proposals that would harmonise conditions for admission to the EU. The Commission has chosen a group of migrant workers that according to most MS's is very welcome to fill their high skilled labour market shortages. While the proposal has several weaknesses, it provides a starting place for discussion and debate on how to develop more legal channels for migration. The ETUC will therefore carefully study the Commission's proposals, and work closely with the European Institutions to improve them where necessary. We will also discuss these questions with European employers' organizations.

ETUC's commitment

In its Action plan adopted at the Seville Congress of May 2007, the ETUC demanded a more proactive policy on economic migration and more investment in integration

Summarized:

- a) There is an urgent need for policies with regard to migration and integration at EU level, based on the recognition of fundamental social rights of current citizens as well as newcomers and embedded in strong employment and development policies, both in countries of origin and in countries of destination. This in line

¹ Report on the Policy Plan on Legal Migration, rapporteur Lilli Gruber, 17.9.2007, Final A6-0322/2007

with UN Convention on the Human right for Protection of Migrants and their families of 1990, which I may add not only did Malta not sign but also several other country in EU. A common framework of EU rules on admission for employment is urgently needed. However, this framework should not be aimed unilaterally at the demand for temporary migration, as this would favour precarious jobs and hinder sustainable integration.

- b) The EU must develop a more proactive migration policy, geared towards 'managing' and not preventing mobility and migration for employment, that combines strong integration efforts with making employers and public authorities respect and enforce Labour standards. This should offer old and new groups of migrant and ethnic minorities equal rights and opportunities in our societies, while promoting social cohesion.
- c) This policy must be based on a clear framework of rights as established by international UN and ILO conventions and Council of Europe instruments, and be developed in close consultation with social partners at all relevant levels.
- d) Labour market shortages should be primarily addressed by investing in the capacities and qualifications of unemployed and underemployed EU citizens (including those from a migrant or ethnic minority background) as well as long term resident third country nationals and refugees.
- e) In addition, possibilities should be created for the admission of economic migrants, by providing for a common EU framework for the conditions of entry and residence, based on a clear consensus between public authorities and social partners about real labour market needs, preventing a two-tier migration policy that favours and facilitates migration of the highly skilled while denying access and rights to semi- and lower skilled workers.
- f) Such policy should prevent the increasingly negative effects of the global competition for skilled labour: the potential devastating effects of the brain drain and youth drain on countries of origin, as well as the potential "brain waste" in terms of the underutilisation of skills and qualifications of migrants in the countries of destination.
- g) More proactive policies should also be developed to combat labour exploitation, especially of irregular migrants, demanding recognition and respect of their trade union and other human rights, and providing them with bridges out of irregularity. While there is a need to be tough on employers using exploitative

employment conditions, more effective policies should be developed to prevent and remedy such exploitative situations.

- h) This must be linked to external (trade, development) policies that promote raising living standards and opportunities in sending countries, which would offer (potential) migrant workers and their families proper job opportunities at home. Cooperation and partnership with third countries, in particular developing countries and the European neighbourhood countries, should be strengthened.
- i) ETUC and affiliates will address employers and their organisations at national and EU level to explore ways to deal with economic migration and integration in social dialogue at all appropriate levels, recognizing the strong employment and labour market dimension of these issues.
- j) ETUC and its affiliates will develop policies and strategies to organise migrant workers, defend and promote their trade union rights and other human rights (whatever their legal status), develop strategies to incorporate the situation and demands of migrant workers into trade union work and integrate them in the structures of trade union organisations, prevent and combat exploitation, and improve their living and working conditions. ETUC and affiliates should also strengthen their cooperation with trade unions in sending countries.

Based on this programme of action, the ETUC Congress adopted the following action points:

- Work towards a more proactive Europe migration policy geared towards managing not preventing migration, combined with strong integration efforts and the enforcement of human rights, labour standards to combat the exploitation, especially of irregular migrants.
- Intensify actions and campaigns both at European and at national level in favour of ratification and application of all conventions and important instruments of the ILO, UN and Council of Europe conventions on the protection of the rights of all migrant workers and their families.
- Support policies that recognize the fundamental social rights of all workers and which favour social cohesion by preventing the

creation of two-speed migration channels and the exploitation of workers in irregular administrative situations and the recruitment of migrants in precarious working and social protection conditions.

- Combat all forms of human trafficking.

ETUC's response to the various recent initiatives of the Commission in the area of migration is based on the commitment and programme of action as adopted by its Congress.

Furthermore, we trade unions from the Mediterranean region closely follow what the ILO, the IMO and OSCE in regards the Migration and inclusion and here we want to congratulate all on this mile stone and promise our full support for all initiatives in the future.

Thank you all

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