

Human Rights Without Frontiers Int'l

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OSCE Human Dimension Implementation Meeting

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Working Session 11

Humanitarian issues and other commitments

Poland: Exploitation of North Korean Overseas Workers

Earlier this month, North Korea successfully tested a hydrogen bomb, the country's sixth-ever test of a nuclear weapon, a move that was unanimously condemned by all the countries in the region and beyond. This year, Pyongyang launched long-range ballistic missiles towards the Sea of Japan on several occasions, despite the increasing sanctions of the United Nations.

North Korea's military nuclear program would not exist as such without Pyongyang's access to hard currencies.

One of the sources used by Kim Jong-un to collect hard currencies abroad is to send North Korean workers abroad and to confiscate 80 - 90% of their salaries. It is estimated that over 50,000 North Koreans are working in approximately 20 countries. Poland is one of them as highlighted in an extensive report of the Asian Center of the University of Leiden published last year¹. It is estimated that between €1.2 – 2.3 bn are collected by the North Korean regime from the exploitation of their overseas workers in the world.

Since the fall of communism in Eastern Europe, Poland - a Member State of the European Union and a participating State of the OSCE - has been second only to Russia in enabling North Korea to obtain hard currencies by issuing work permits to thousands of North Korean workers. This practice that has lasted for close to three decades must immediately stop. No North Korean laborer should any more be allowed to work in Poland. Contributing to

¹ Slaves of the System : North Korean Forced Labour in the EU. See <http://leidenasiacentre.nl/publicaties/>

Pyongyang's collection of hard currencies is now more than a human rights issue; it is also an international security issue in Eastern Asia, on the borders of the OSCE space in Alaska and Eastern Siberia. Moreover, through this practice, human rights and international standards, which are at the core of the European Union, continue being disrespected, damaging the Union's moral standing and international prestige. The respect for human dignity must prevail.

In the last few weeks, the UN Security Council voted unanimously to impose strict new sanctions on Pyongyang. The new measures significantly step up restrictions on North Korea's international trade. The new sanctions take important steps to significantly reduce North Korea's efforts to earn hard currency and prohibit an increase in the number of overseas laborers.

Exploitation of North Korean workers in Poland

North Koreans who are sent to Polish shipyards and other worksites are subject, by their own political regime, to various forms of exploitation with the passive approval of the Polish authorities and the private companies hiring them. Examples of unlawful exploitation of these workers include:

- Work hours ranging between 12 and 16 hours a day, with only one or two days of rest a month;
- An average monthly wage of \$120-150 per month, which is only 10-20% of their actual labor value in the contracts. As they are not allowed to have a bank account or to receive this money in cash, they are given a small stipend for personal use and will only collect their accumulated wages upon return to North Korea;
- Upon arrival in Poland, workers' passports and visas are confiscated by a North Korean so-called 'supervisor';
- While in Poland, North Korean workers are denied freedom of movement. Every day they are transferred to and from their worksite and dormitories by bus, and are under constant surveillance by North Korean security agents; they may not have any contact with the local population, and are separated from non-North Korean workers in their workplaces.

The Polish authorities are fully aware of this situation and yet they have thus far refused to put an end to these systematic violations of the International Labour Organization standards.

Recommendations

Considering that the UN Security Council recently voted unanimously to impose strict new sanctions on North Korea in order to prevent Pyongyang from acquiring hard currencies, including through its overseas workers,

Human Rights Without Frontiers calls upon the Polish state

- to explain the contradiction between the findings of the Asian Center of the University of Leiden which gives evidence that Poland issued again 187 new work permits to North Korean workers in 2016 and the official statement of Poland's Delegation to the OSCE HDIM saying in 2016 that no work permit had been issued to North Koreans that year.
- to stop granting new work visas to North Korean workers;

Human Rights Without Frontiers calls upon the OSCE to collect data from its Participating States regarding the issuance of work visas to North Korean citizens and the status of their workplace conditions.

Human Rights Without Frontiers calls upon the European Commission to start a full investigation of the situation in Poland and then, if necessary, to move on to the next level and start an infringement procedure against Poland in line with the legal avenues at its disposal.

According to the official website of the Polish ministry in charge of the issuance of work permits 299 North Korean citizens applied for a work permit in 2016 and Poland granted one to 187 of them. These figures contradict the answer of Poland's Delegation to the OSCE who said among other things at the HDIM of last year that

“there are no more than 550 North Korean workers in Poland. Under the existing laws, all visa applications continue to be reviewed on a case by case basis. We would like to stress that in 2016 Poland has not issued any work visas for DPRK's nationals. In 2015 we issued only 129 such visas.”

In an electronic mail dated 19 May 2017, the Polish delegation to the OSCE wrote to HRWF that the number of North Korean workers in Poland was estimated at around 400 persons as of 1 January 2017 and no visa had been issued in 2016.

ANNEX 1

A number of Polish companies have been identified as employing North Korean laborers and subjecting them to these improper work conditions:

- Alson Sp. Z.o.o.
- Aramex Elektro Sp. Z.o.o.52
- Aramex Sp. Z.o.o.
- Borgwarner Poland Sp. Z.o.o.
- Fabryka Mebli „Ryś” Sp. Z.o.o.
- FLAIR POLAND Sp. Z o.o.

- Fms Kielce Sp. Z o.o. Mielec
- Fms Kielce Sp. Z.o.o. Ceramika Harasiuki – Harasiuki
- HSBC Service Delivery (Polska) Sp. Z.o.o.
- JP Construct Sp. Z.o.o.
- K&K Select Sp. Z.o.o.
- K&K Select Aviation Sp. Z.o.o.
- K&K Selekt Ltd. - Foreigners Recruitment
- Kobylnica
- Medif Prywatna Kasa Chorych Sa
- Monolit Sp. Z.o.o.
- Przedsiębiorstwo Produkcyjno – Handlowe „Postęp” S.A.
- Przedsiębiorstwo Usługowo – Handlowe Modern – Bud Sp. Z.o.o. Gospodarstwo Rolne Tomasz Kociszewski
- Puckie Centrum Medyczne Sp. Z.o.o. Sp. Komandytowa Zs. W Pucku,
- Redshield Sp. Z.o.o.
- Stalbud – Budownictwo Sp. Z.o.o.
- Stalbud – Konstrukcje Sp. Z.o.o.
- Uniwersytet Gdański (Gdańsk),
- Wonye Sp. Z.o.o.

Three North Korean state companies have provided Polish companies with North Korean workers:

- Korea Cholsan General Corporation
- Korea Rungrado General Trading Corporation
- Korea South – South Cooperation Corporation

An exceptional 32-minute investigation video report made by Polish journalists about the exploitation of North Korean workers in Poland is available online at the following web addresses:

<https://www.youtube.com/watch?v=JNVCdL908ko> (Sub-titles in English and French)

<http://www.vice.com/nl/video/cash-for-kim-de-noord-koreaanse-dwanganbeiders-die-zich-doodwerken-in-polen-293> (German)

More reports about North Korea's involvement can be found at the following web address: <http://www.vice.com/nl/tag/Noord-Korea> (Dutch)

ANNEX 2

De : Pogwizd Anna [mailto:anna.pogwizd@msz.gov.pl]

Envoyé : mercredi 28 septembre 2016 15:13

À : w.fautre@hrwf.net

Objet : RE: Your presentation - HDIM WS 7 "Humanitarian issues and other commitments"

Dear Director Fautre,

Following up on our conversation, please see below the reply delivered by the Polish representative at the HDIM WS 7 "Humanitarian issues and other commitments" with regard to the topic you raised, thank you,

Kind regards,

Anna Pogwizd

Second Secretary

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to the UN Office and the International Organizations in Vienna**

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- The Republic of Poland, just as any other country of the European Union does not have any bilateral agreement with the DPRK regarding the exchange of workers. The Polish government does not take an active part in the process of hiring said workers nor does it promote such practices. The existing cooperation is based on private companies' independent agreements.
- According to our estimations there not more than 550 North Korean workers in Poland. Under the existing laws, all visa applications continue to be reviewed on a case by case basis. We would like to stress that in 2016 Poland has not issued any work visas for DPRK's nationals. In 2015 we issued only 129 such visas.
- We wish to stress that government institutions, such as the National Labour Inspectorate and the Border Guard oversee their employment conditions and ensure the Polish laws are respected in their workplace. To that end, these institutions regularly inspect the companies where the DPRK nationals are employed.

ANNEX 3

Parliamentary Question of MEP Kati Piri and MEP Agnes Jongerius about the exploitation of North Korean Workers in Poland (25 May 2016)

On 25 May 2016, MEPs Kati Piri (S&D) and Agnes Jongerius (S&D) addressed the following written question to the European Commission:

“A recent study by the University of Leiden (Netherlands) on North Korean forced labour in Europe, as well as the documentary on the same topic broadcast on 21 May 2016 by the web magazine *Vice.com*, point to strong evidence that EU-level measures are needed to prevent this form of modern slavery taking place within Union territory. The study reveals that a total

of more than EUR 70 million in EU funds intended to support Polish regions and develop local work opportunities has ended up with companies that are deliberately hiring North Korean workers and are violating EC law on working time and health and safety at work. In addition, exploited North Koreans may be moving between Member States.

- Is the Commission aware that companies benefiting from EU funds are involved in the exploitation of North Korean workers and the bypassing of UN sanctions against North Korea?

In light of the recent evidence:

- Is the Commission planning to take action at EU level to identify the Member States and companies which are hiring North Korean workers?
- Is the Commission planning to set up a systematic control mechanism concerning the work contracts offered to North Korean workers and the implementation thereof, as well as their working conditions?"

Answer given by Ms Thyssen on behalf of the Commission (29 June)

The Commission is aware of reports on alleged violations of the human rights of citizens of the Democratic People's Republic of Korea (DPRK) working abroad.

The Commission condemns forced labour and recalls the EU Charter of Fundamental Rights, which prohibits slavery, forced labour and trafficking in human beings for all forms of exploitation. The Charter also sets out the right of workers to working conditions which respect their health, safety and dignity.

The EU has developed an ambitious legal and policy framework against trafficking in human beings for all forms of exploitation⁽¹⁾ for which the level of compliance will be assessed in 2016.

In the EU and irrespectively of the status of EU or third-country national, the rules on working conditions, health and safety at work as well as legislation against trafficking in human beings apply. It is the responsibility of the national authorities to ensure that the rules are enforced. The Commission may launch infringement procedures in case of breach of Union law.

The use of ERDF⁽²⁾ and ESF⁽³⁾ funds must be consistent with the activities, policies and priorities of the Union, including the Charter. The Commission is in contact with the Member States to check possible irregularities. In the event of infringement of EC law by an economic operator, the Commission can make financial corrections by cancelling all or parts of the financial contribution to the programme.

Finally, all EU Member States have ratified and are accountable for the implementation of the 8 fundamental Conventions of the International Labour Organisation (ILO) including Conventions 29

and 105 on the prohibition of forced labour. The Commission supports the ILO's work with its Member States to raise awareness on and eliminate forced labour.

Also see the HRWF Report presented at the European Parliament in 2014: *North Korean Overseas Workers - Human Rights Challenges and Opportunities*
<http://hrwf.eu/wp-content/uploads/2016/04/2014-North-Korea-Overseas-Workers.pdf>

Parliamentary Question of MEP Kati Piri and MEP Agnes Jongerius about North Korean workers in the EU (5 September 2016)

Parliamentary questions

5 September 2016

P-006692-16

**Question for written answer
to the Commission**

Rule 130

Kati Piri (S&D) , Agnes Jongerius (S&D)

▶ Subject: North Korean workers in the EU

 Answer(s)

Recent research⁽¹⁾ conducted by Leiden University on North Korean forced labour in Europe, taking Poland as a test case, proves that EU legislation is being systematically violated in Poland. The research reveals that several hundred North Koreans are working under conditions that breach EC law. Furthermore, EC law based on United Nations sanctions against North Korea is also being breached, since workers' earnings are being directly transferred to North Korea. Finally, the exploited North Koreans may be moving from one EU country to another.

In light of the overwhelming evidence:

1. Will the Commission start an infringement procedure against Poland based on these clear breaches of EU legislation?

Since the research only takes Poland as a test case and cannot rule out that this exploitation is not also occurring in other Member States:

2. Is the Commission planning to take action at EU level to identify the Member States and companies which are hiring North Korean workers?

3. Is it planning to set up a systematic mechanism to check the work contracts offered to North Korean workers and the implementation thereof, and to check the working conditions and method of payment?

(1) <http://www.leidenasiacentre.nl/events/conference-slaves-to-the-system-north-korean-forced-labour-in-the-eu>

Answer given by Ms Thyssen on behalf of the Commission (18 November 2016)

Parliamentary questions

18 November 2016

P-006692/2016

Answer given by Ms Thyssen on behalf of the Commission

On the alleged situation of forced labour concerning citizens of the Democratic People's Republic of Korea (DPRK) working abroad, the Commission refers the Honourable Members to its answer to written questions **P-004172/2016**⁽¹⁾ and **E-013290/2015**⁽²⁾.

1. As to the alleged breaches in Poland, the Commission has contacted the Polish authorities which are fully aware of the claims presented in the media. It is the responsibility of the national authorities, including the labour inspectorates, police and judicial authorities, to ensure that the prohibition of forced labour and the rules on working conditions are enforced. The Commission monitors this application and if breaches of Union law by Poland or other Member States are identified, the Commission will launch infringement procedures.

2. The Commission holds no records of companies hiring DPRK workers and does not have the power to establish such a record system.

3. The Commission has no power to check individual work contracts offered to DPRK workers and will not establish a systematic review mechanism.

With regard to sanctions, the EU's additional restrictive measures complement those measures adopted by the UN Security Council (SC) and also implemented in the EU through a Council Decision and Council Regulation. These include restrictive measures provided by the latest UN SC Resolution 2270 of March 2016, aiming at the DPRK's illegal nuclear, Weapons of Mass Destruction and ballistic missile programmes.

Under the current EU, restrictive regime transactions relating to personal remittances or transactions in connection with legitimate trade contracts are subject to prior authorisation by the national competent authorities.

(1) <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+P-2016-004172+0+DOC+XML+V0//EN>

(2) <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2015-013290+0+DOC+XML+V0//EN>

Parliamentary Question of MEP Kati Piri and MEP Agnes Jongerius about North Korean workers in the EU (28 November 2016)

Parliamentary questions

28 November 2016

P-008855-16

Question for written answer to the Commission

Rule 130

Kati Piri (S&D) , Agnes Jongerius (S&D)

► **Subject: Monitoring of the situation of North Koreans working in Poland**

 Answer(s)

On 18 November 2016, Members of the European Parliament, Kati Piri and Agnes Jongerius, received answers to Written Question **P-006692/2016** tabled on 5 September 2016. The answers require some clarification, and the Commission is therefore asked to answer the following questions.

In its answer, the Commission states that the Polish authorities have been contacted about the reports in the media and the miserable working conditions of North Korean workers. The authorities were aware of the reports. It is the responsibility of the Polish authorities to ensure that the prohibition of forced labour and the rules on working conditions are enforced. The Commission monitors this application and if breaches of Union law by Poland or other Member States are identified, the Commission will launch infringement procedures.

In connection with this monitoring:

1. How does the Commission perform monitoring, and how is it ascertained that the guarantees designed to enforce the prohibition of forced labour and to enforce the rules on working conditions are inadequate?
2. What means does the Commission have at its disposal for this, and do the methods used result in public reports which can be communicated to the European Parliament?
3. What would be a reasonable period during which to monitor this situation before the Commission can decide to launch infringement proceedings?

Answer given by Ms Thyssen on behalf of the Commission (2 February 2017)

Parliamentary questions

2 February 2017

P-008855/2016

Answer given by Ms Thyssen on behalf of the Commission

The Commission, as guardian of the Treaties, monitors the compliance of Member States legislation with EC law, discusses problems with Member States so as to remedy any possible breaches of the law and takes infringement action when appropriate. The purpose of the infringement procedures is to ensure that the Member States give proper effect to EC law, not to provide individual redress. Indeed, Member States have the primary responsibility for the correct transposition, application and implementation of EC law and they therefore have to provide remedies sufficient to ensure effective legal protection in the fields covered by Union law.

Yearly reports on the monitoring of the application of EC law are available online⁽¹⁾ and the adoption of decisions in the framework of infringement procedures is registered in a publically available database⁽²⁾.

(1) http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/annual-reports/index_en.htm

Conclusions

There are currently around 50,000 North Korean laborers working in sixteen countries, resulting in annual profits of USD 1.2 - 2.3 billion for the regime in Pyongyang. Most hosting countries thereby fail to implement the UN sanctions imposed on North Korea for its egregious and massive violations of human rights and crimes against humanity. According to the Asian Center of the University of Leiden, several EU member states are involved in this unethical trade with North Korea, including Poland, the Netherlands and Malta. In 2014, Austria issued 104 visas to North Korean citizens and 111 in 2015. Bulgaria, the Czech Republic and Romania all stopped their employment programs for North Korean workers as a matter of legal obligation.

The Democratic People's Republic of Korea (DPRK) and all EU countries, including Poland, are States Parties to the two core international human rights covenants: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). This means that the governments of these countries have gone through the formal process of signing and ratifying these international treaties, and are therefore responsible for actively accepting the legal obligations to uphold the rights and provisions of the treaties.