A SOCIAL PLATFORM FACT SHEET

MIGRATION - EMPLOYMENT

Guarantee migrants access to quality and sustainable employment

This fact sheet outlines Social Platform's position on migration in relation to employment. It is based on Social Platform's position paper on migration, which includes the human rights concerns of regular and irregular migrants, asylum seekers and beneficiaries of international protection.

The Europe 2020 Strategy identifies labour migration as one of the policy instruments to respond to the priorities and needs of labour markets. It recognises however that migrants' potential is hindered and that improved integration and equality policies should enable them to take full advantage of their potential. The unemployment rate for migrants during 2012 reached more than double the rate for nationals and long-term unemployment is increasingly becoming more prevalent among them.

Many migrant workers face serious human rights violations and are exposed to substandard working conditions and to power imbalances in favour of the employer when a residence permit is directly linked to the work permit. Migrants also face a greater likelihood of unemployment and for a longer period of time than nationals, with certain groups being especially disadvantaged (undocumented workers, young people) and women. Lack of recognition of informal/formal education and qualifications and/or of professional and intercultural experience; lack of access to information and lack of language proficiency are key barriers for migrants to access the labour market. Migrants are often placed in positions that do not match their qualifications, which amplifies labour market segregation. Migrants also face stigmatisation and discrimination by employers when trying to access employment as well as while in employment. For these reasons, many fall into undeclared and irregular work with precarious working conditions (dirty, dangerous, demanding) and are as such also not acquiring social security rights or building up a pension. Many women are further concentrated in stereotypical female occupations (domestic work, care, restaurants and hotels etc.), in a position that does not match their qualifications, or fall into prostitution.

Labour migration cannot be separated from family migration, because the former generates the latter. It is therefore necessary to utilise and plan labour and family migration jointly.

POLICY RECOMMENDATIONS TO EU INSTITUTIONS

Legislative measures:

- Ensure that legal frameworks for labour migration guarantee protection against abuse, exploitation and other violations of labour rights, including in low wage sectors.
- Guarantee that the multiplication of statuses applicable to migrant workers in the EU respects the "equal status for equal work" principle and does not hinder the enforcement of labour rights.
- Ensure that the Seasonal Workers Directive (COM(2008)637) under discussion complies with the principle of equal treatment for seasonal migrant workers regarding work conditions, social rights and access to legal redress.
- Adopt the proposal for the revision of the Council Directive on the conditions of entry and residency of third country nationals (COM(2013)151) for the purpose of scientific research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing.
- Propose interpretative guidelines to the implementation of the Family Reunification Directive (2003/86/EC) that enable dependent spouses and family members to work. Current prohibitions have led to poverty traps and the deskilling of primarily migrant women.
- Make a migrant's residence permit status independent of their employer and enable labour market mobility for third country nationals. Residence rights linked to the employer can lead to exploitation and various forms of control and abuse of migrant workers.
- Amend EU law on work and residence permits to allow part-time possibilities in the employment of third country nationals, for reasons related to medical conditions, giving birth or caring for children or other family members. These circumstances should not lead to losing one's permit.

Non-legislative measures:

- Ensure adequate and accessible channels for different types of regular labour migration.
- Promote International Labour Standards as cornerstones of EU labour migration policy.
- Strengthen the use of the European Social Fund for better support and tailored guidance for third-country nationals and extend the scope of the ESF to include migrants, irrespective of their residence status. This is in order to improve the social inclusion of migrants, as well as access to the labour market, the quality and sustainability of employment, the working environment and health and safety at work, as well as education and training.

POLICY RECOMMENDATIONS TO MEMBER STATES

Legislative measures:

- Interpret and apply the Anti-Trafficking Directive (2011/36/EU) broadly to include full protection for migrant workers victims of economic exploitation.
- Ratify the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

- Ratify ILO Conventions to improve the working and living conditions of migrants in Europe, in particular on "Decent work for domestic workers" (C189) and related ILO Conventions (C97 and C142).
- Respect the Racial Equality Directive (2000/43/EC), the Employment Equality Framework Directive (2000/78/EC) and the Gender Equality Directive (2006/54/EC) and promote equal treatment at work to ensure fundamental rights, non-discrimination and gender equality. This is important as migrants are more vulnerable to multiple discrimination.
- Implement the Temporary Agency Work Directive (2008/104/EC), laying down the principle of non-discrimination, regarding the essential conditions of work and of employment, between temporary workers and workers who are recruited by the user company. The existing legislation must be enforced more effectively and extended to reflect all instances of agency work, this is important as migrant workers are very often employed under temporary working contracts.
- Ensure the implementation of the Council Directive on measures to improve safety and health at work (89/391/EEC) and adopt the European Parliament proposal for a revision of the Council Directive on Maternity Leave (COM(2008)637) to give all women equal rights; strengthen their legal protection against dismissal and working time arrangements on return to work, the right to entitlement to paid leave when changing country of work and full salary, including for domestic workers.
- Ensure through legislation decent working conditions by guaranteeing migrant workers and in particular in the sectors of care, health and domestic work, equal treatment comparable to EU citizens. This includes pay, working hours, leave, social security, access to education and training and rights at work, in addition to collective bargaining and unionisation. Ascertain the portability of the acquired rights of third country nationals when moving to another country.

Non-legislative measures:

- Establish effective mechanisms to allow migrant workers in an irregular situation to lodge complaints against abusive employers without the risk of arrest and deportation, by improving the Employers Sanctions Directive (2009/52/EC), which currently offers no such guarantees and is therefore not effective in addressing exploitation.
- Provide clear and efficient procedures to recognise, validate and document qualifications, including guidance for the steps that can be taken, such as e.g. adaptation and knowledge refreshment courses, in order to reach the full potential of the qualification obtained in third countries. Qualification recognitions can reduce the extent to which many migrant workers are driven towards undeclared work, especially in domestic work and the home care sector. It can also prevent deskilling which often affects migrant women, who have been prevented from entering the labour market due to specific family migration related prohibitions or due to a lack of qualification recognition avenues.
- Tackle discrimination both in access to employment, as well as on the job, by fostering adequate resources and training for public employment services, as well as ensuring follow-up after hiring.

For more information on our position and other fact sheets on migration (including Human Rights, Social Inclusion, Services of General Interest and Civil Dialogue) visit www.socialplatform.org/migration