

socialplatform

The Platform of European Social NGOs

Annica Ryngbeck, 4 May 2017

About Social Platform

- We are **the largest civil society alliance**
- 47 pan-European networks of NGOs
- campaigning to ensure that EU policies are developed in partnership with the people they affect
- Member of the European Migration Forum Bureau, and part of the European NGO Platform on Asylum and Migration



Europe for Citizens

About Social Platform

- Recommendations to the EU and Member States on the **human rights of migrants** in relation to inclusion, employment, services and civil dialogue (2013)
- Campaigned to "**decriminalise solidarity**" - recommendations to revise the EU Facilitation Directive to enable humanitarian assistance throughout the EU (2016)
- Our current objective is to **improve the cultural and socio-economic rights of migrants**, and ethnic and religious minorities **in the most vulnerable situations** (2017-2020)

Europe for Citizens

European Commission fitness check
Civil society's contributions

- European Migration Forum workshops on:
  - low and medium-skilled migration (2016)
  - undeclared work and labour exploitation of migrants (2016)
  - EU legal migration framework (2017)
  - Family Reunification (2017)

Upcoming

- Commission's public consultation
- Roundtable with civil society organisations
- *European Economic and Social Committee: fact-finding visits, survey among 8 Member States and report*

European Migration Forum
workshop on legal migration

Overall recommendation

- **State of play:** Fragmentation of and hierarchy between different rights and protection according to workers skill level
- **Ideal**: a comprehensive legal framework for all migrant workers, granting equal rights and protection.
- **Realistic**: revisiting directive can mean a risk of regression and worsening policies in today's political climate
  - Proposed by the EC in 2001, rejected by Member States
- **In the meantime**: develop a strategy and narrative to argue for a comprehensive legal framework, and improve existing legislation…

European Migration Forum

workshop on legal migration

Overall recommendation

- **Exploitation:** better systems to assess and monitor exploitation, training, labour inspection and prosecution, and prevent secondary victimisation of migrants with irregular status
- **Regularisation:** an EU position to favour regularisation to tackle the issue of migrants becoming undocumented after having entered Europe legally
- **Access to services:** for undocumented migrants, including decriminalising those that provide such services
- **Family reunification:** expand the scope beyond the close family (husband, wife, small children), other family members should be able to reunite as well

European Migration Forum
workshop on family reunification

- Being reunited with one's family promotes integration and inclusion, both from outside and within the EU
- Obstacles to access Family reunification may force migrants to resort to irregular means

- **Access to information**: migrants have to rely on civil society and networks, Member States different standards add to lack of clarity
- **Submitting application and providing evidence**: lack of nearby competent embassy, high costs (visa, translation, DNA testing), long waiting time (up to 1 year), obstacles to provide documents after fleeing war.
  - Examples of solutions: allow sponsors to apply on behalf of family members, online platforms for submission

European Migration Forum
workshop on family reunification

- **Swift processing and safeguard**: restrictions of family reunifications to immediate family members (spouse, minor children)

- **Individual and justified decisions**: in some cases individual assessment is only carried out in case of appeal (requiring financial resources and legal aid), more stringent rules for beneficiaries of subsidiary protection compared to refugees (despite in comparable situation)

SaraJane's testimony

SaraJane is 17 years old and has been undocumented for 9 years. She was 8 years old when she left Mauritius with her teenage brother to join her parents in Ireland, who had left Mauritius nine months before their children to go to Ireland. Her parents had student visas which do not allow dependents, so they were **unable to apply for official family reunification** to be together.

SaraJane's father was unable to get a work permit after 7 years of studying and residing regularly in Ireland, and also became undocumented.

Hear Our Voice - Undocumented children and young people share their stories, PICUM publication

…Another day, another day of watching your friends tell you all about their new jobs and college plans when you know you can't do any of that

Another day, another day of feeling hopeless and helpless
How long must this continue?
With the emotions crushed into a ball
Everyday becomes a taller wall
A scar that is hidden deep
But why must I weep?
When I start to think that this is normal
A teenager that sees their future as tiny as a decimal point
Being told that I have barriers
Makes me more of a warrior
I continue to question the purpose
But there's only one thing deteriorating my focus
A piece of paper, a paper that will decide
Whether I rise or fall

Blue card and Seasonal workers directive

- **More rights** to highly-skilled workers (e.g. relating to access to long-term residence permits, family and unemployment benefits, labour market access, intra-EU mobility, family reunification etc.) than to low-skilled workers
- The migrant worker is **left vulnerable** if the employer fails to fulfil its obligations (e.g. tax, labour rights, working conditions) and the employee get its contract withdrawn
- Only third-country nationals **residing outside** the EU can apply to the Seasonal workers contract (third-country nationals that are/have become irregular cannot access the possibility to apply). *(With the Blue Card Member States may allow applicants from within the EU, also those without valid residence, excluding Seasonal workers).*

Chowdury and others v. Greece
Ruling in favour of the rights of all workers

The European Court of Human Rights ruling that Greece failed in its duty to protect migrant workers from labour exploitation, and to properly investigate their abuse and punish those responsible. Greece must pay each applicant participating in the Court proceedings up to 16,000 euros in compensation for the damage they suffered.

"We are very pleased that the Court has recognised the rights of all workers, and that governments have an obligation to prevent labour exploitation and provide justice to victims. Undocumented workers are exploited across Europe. They should be able to report abuse without fearing they will be arrested or deported, and be paid – at least – their due wages. A worker is a worker, regardless of residence status."

Michele LeVoy, Director of PICUM

Read PICUM's statement

European Migration Forum

workshop on low- and medium skilled migration

- **Low-skilled**: e.g. domestic workers, cleaners, agriculture, mining, manufacturing
- **Medium skilled**: e.g. clerks, service and sales workers, crafts, trade workers, construction

- **Not enough legal channels**, yet shortage of skills in those sectors
  - Post-hoc solutions: Regularisation of irregular migrants would improve their access to social benefits, and make integration easier
- Issue of high-skilled migrants taking up lower-skilled positions due to their irregular status
- Towards a framework that protect all
  - Ensuring access to services, engaging with employers, working with local communities to easy integration, strengthening relations with countries of origin to allow for pre-departure information

Gaps in legislation
low and medium skilled workers

- Majority of domestic workers and carers are (undocumented) **migrant women**
- Due to their status, they are at risk of **workplace exploitation**
  - underpay or no pay at all, long working hours, limited rest periods, poor working conditions, violence, physical, sexual and emotional harassment, no access to social protection and social security, etc.
- Due to their status, they are at **risk of arrest and deportation** if reporting labour violations to authorities, or access criminal justice
- Generally,
  - undocumented migrants are overrepresented in sectors of undeclared work to keep the labour costs low
  - migrants have difficulties finding work outside the field of undeclared work, which prevents them to regularise their status based on employment

Gaps in legislation
low and medium skilled workers

- Open up **legal channels** for low and medium skilled workers
- Find possibilities to **regulate the status** of low and medium skilled workers already in the EU
- Improve **data collection** on the prevalence of undocumented migrants working in the low and medium skilled sector
- Build **a firewall** between the enforcement of labour standards and the enforcement of immigration control in law, policy and practice
- Ensure **access to protection and redress** for migrant workers who have suffered exploitation, regardless of residence status

Additional recommendations

- 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.

Social Platform recommendations on migration and employment (2013)

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