



EUROPEAN COMMISSION - PRESS RELEASE

Sanctioning employers of irregular migrants: Commission urges Lithuania and Poland to act

Brussels, 26 April 2012 – Some Member States are still failing to apply EU rules on sanctions and measures against employers who exploit irregular migrants. Today, the Commission decided to advance infringement proceedings and issue reasoned opinions requesting Lithuania and Poland bring their laws into line with the Employer Sanctions Directive ([Directive 2009/52/EC](#)), which should have been implemented by 20 July 2011. The Directive targets employers who take advantage of irregular migrants' precarious position and employ them for what are usually low-paid jobs with poor working conditions. It also strengthens the rights of the individual migrant by requiring employers to pay outstanding wages.

The Directive is a key element in EU efforts against irregular migration. It prohibits the employment of irregular migrants from outside the EU, by punishing employers through fines or even criminal sanctions in the most serious cases. As many irregularly-staying migrants work in private households, the Directive also applies to private individuals as employers. All Member States, except Denmark, Ireland and the UK, are bound by the Directive.

Letters of formal notice (the first step of the infringement procedure) were sent to Lithuania and Poland on 30 September 2011. However, both countries have still not taken the measures necessary to fully transpose EU legislation. The Commission therefore decided to issue reasoned opinions (Article 258 TFEU), formally requesting those two Member States to comply with EU law.

At the same time the Commission decided today to end the proceedings against Bulgaria, the Czech Republic, Greece and Romania. These countries were late in implementing the Employer Sanctions Directive, leading the Commission to start legal proceedings against them, but they have now brought into force the national legislation necessary to apply the Directive.

Meanwhile, infringement proceedings against Belgium, Sweden and Luxembourg are ongoing, after reasoned opinions were sent to the three countries on 23 February 2012 ([IP/12/166](#)). All three have been given 2 months from the date of reception of the reasoned opinion to reply.

Background

Many irregularly-staying third country nationals are working across the EU, in sectors such as construction, agriculture, cleaning and hotel/catering. Knowing that such work is available in the EU is a major pull factor for people who come or stay in the EU under irregular conditions. Employers take advantage of irregular migrants' precarious position, and employ them for what are usually low-skilled and low-paid jobs. Due to their status, these employees are very unlikely to complain about working conditions or pay. This puts them in an extremely vulnerable position.

The Directive helps put an end to this situation. It establishes minimum standards across the EU on sanctions and measures against employers of irregularly-staying third-country nationals.

Under the Directive, before recruiting a third-country national, employers are required to check that they are authorised to stay, and to notify the relevant national authority if they are not. Employers who can show that they have complied with these obligations and have acted in good faith are not liable to sanctions. Employers who have not carried out such checks, and are found to be employing irregular migrants will be liable for financial penalties, including the costs of returning irregularly staying third-country nationals to their home countries. They have to repay outstanding wages, taxes as well as social security contributions. And in the most serious cases, such as repeated infringements, the illegal employment of children, or the employment of significant numbers of irregularly-staying migrants, employers are liable to criminal penalties.

The Directive helps protect migrants, by ensuring that they get any outstanding remuneration from the employer, and by providing access to support from third parties, for example trade unions or NGOs.

The Directive puts a particular emphasis on the enforcement of the rules. Many Member States already have employer sanctions and preventive measures in place, however, in practice, both their scope, as well as their enforcement, varies greatly across the EU.

For more information

[MEMO/12/279](#)

Homepage of Cecilia Malmström, Commissioner for Home Affairs

http://ec.europa.eu/commission_2010-2014/malmstrom/welcome/default_en.htm

Homepage DG Home Affairs:

http://ec.europa.eu/dgs/home-affairs/index_en.htm

EU Immigration portal:

<http://ec.europa.eu/immigration/>

Contacts :

[Michele Cercone](#) (+32 2 298 09 63)

[Tove Ernst](#) (+32 2 298 67 64)