



## **SEASONAL WORKERS DIRECTIVE: Improvements for Treatment of non-EU Workers, But Not Enough to Prevent Exploitation**

Brussels, 14 November 2013 - Today, the European Parliament LIBE Committee will vote on the directive on conditions of entry and residence of third-country nationals for the purpose of seasonal employment in EU Member States. The rules, under negotiations since 2010, were provisionally agreed upon by the European Parliament and the Council Presidency and backed by national governments on 29 October 2013. The directive will be put to a plenary vote in January 2014.

The European Network Against Racism (ENAR), the European Federation of National Organisations Working with Homeless People (FEANTSA), and the Platform for International Cooperation on Undocumented Migrants (PICUM) warmly welcome and strongly support measures agreed upon by the European Parliament and the Council that aim at creating better working and living conditions for third-country seasonal workers across the EU. However, some of the measures the civil society proposed regarding social rights and equal treatment of workers were not taken into account, which might jeopardise the effectiveness of the Directive by not sufficiently addressing exploitation risks.

### **Definition of seasonal work**

The definition of seasonal work remains vague, and is left to the discretion of Member States, which might easily lead to improper and different national definitions of the sectors covered by the Directive. Moreover, the role of the social partners in deciding which sectors will be included is very limited and not compulsory.

### **Conditions of admission**

On one hand, we strongly support the inclusion of essential aspects of the work contract – or binding job offer – as a condition for admission of workers, in order to allow for a proper enforcement of labour regulations. On the other hand, we believe there should have been greater effort to allow the introduction of applications of third-country nationals who are already residing in a Member State. While the new rules would simplify the admission procedures, States may refuse admission on criteria deemed subjective, such as the risk of irregular migration and possible threat to public security.

### **Sanctions and complaints**

We support the inclusion of sanctions for employers and subcontractors who have infringed the provisions. The use of 'may clauses' for sanctions against subcontractors (art. 12a.3) might lead to arbitrariness and spoils the good intents. We support the rules with regard to access to information and to the facilitation of complaints, although no mechanism to support victims was foreseen.

### **Duration of stay**

We support the provisions allowing seasonal workers to be employed by different employers and to stay – within the maximum period – to look for another employer. However, we regret the extension of the maximum duration of stay to 9 months in a 12-month period. As third-country seasonal workers would have a less favourable status than other workers, longer stays might empty the Directive from its 'seasonal' essence and increase the risk of social dumping.

### **Equal treatment**

We support the rules provided in order to guarantee the same rights for migrant seasonal workers as EU nationals with regard to working conditions, right to strike, back payments, access to social security and to public goods and services, access to advice services on seasonal work and tax benefits. We also welcome the inclusion of education and training opportunities for seasonal workers. However, we regret the opportunity for Member States to exclude seasonal workers from unemployment benefits and to restrict equal treatment only to education and training linked to the specific employment activity.

### **Accommodation**

We welcome the inclusion of the requirement whereby seasonal workers will benefit from accommodation that ensures adequate standard of living according to national legislation and the safeguards foreseen when accommodation is arranged by or through the employer.

### **Fees**

Although we recognise an effort not to let seasonal workers pay for administrative fees as well as for the cost of travel and sickness insurance, the Directive would leave it up to Member States to decide whether these fees will be covered by the employers or workers.

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