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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND  
THE COUNCIL**

**on the application of Directive 2009/52/EC of 18 June 2009 providing for minimum  
standards on sanctions and measures against employers of illegally staying third-  
country nationals**

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## on the application of Directive 2009/52/EC of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals

### 1. Introduction

The Employers Sanctions Directive<sup>1</sup> (the Directive) sets out minimum standards for Member States to detect and sanction employers of irregular migrant workers<sup>2</sup>, implement inspections in sectors with a high risk of illegal employment, and provide safeguards for those workers, including complaint mechanisms and back-payments. In line with the scope of the Directive, this report focuses on the illegal employment of third-country nationals, who do not have the right to stay in the EU.

The Directive contributes to the EU's comprehensive approach to managing migration, by preventing and deterring the employment in the EU of third-country national workers without the required legal status, one of the key drivers of illegal migration, hence reducing the attractiveness of illegal migration to the Union. The European Asylum and Migration Management Strategy adopted in January 2020<sup>3</sup> stresses the importance of promoting labour mobility and stepping up the fight against illegal employment and abuse of third-country national workers in the EU, particularly in the sectors more exposed to those risks. Several Member States have outlined measures in their national asylum and migration management strategies to combat exploitation and reduce illegal employment in accordance with the Directive<sup>4</sup>.

Illegal employment also damages the EU economy causing losses in public finances, unduly depressing wages, worsening working conditions, creating unfair competition among economic actors and businesses, and significantly increasing the risks of exploitation of workers. The Directive helps boost the competitiveness of the EU economy and ensure a level playing field for employers and workers on the European labour market, enforcing collection

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<sup>1</sup> Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, OJ L 168, 30.6.2009, p. 24.

<sup>2</sup> The Directive prohibits the employment of 'illegally staying third-country national workers'. Moreover, the Directive defines 'illegal employment' as the employment of an illegally staying third-country national (Article 2(d)). Therefore, the wording 'illegal employment' will be used with this connotation throughout the document, but for reasons of brevity and clarity, the text will refer to 'irregular migrant workers'.

<sup>3</sup> [European Asylum and Migration Management Strategy - Migration and Home Affairs](#).

<sup>4</sup> 14 Member States, who have submitted their national asylum and migration strategies to the Commission, have detailed their measures to counter illegal employment and step up enforcement of the Directive (Bulgaria, Cyprus, Croatia, Czechia, France, Germany, Italy, Lithuania, Latvia, Luxembourg, Netherlands, Slovenia, Sweden, Slovakia). Another five Member States (Greece, Poland, Portugal, Romania, Spain) have referred in their national strategies to their plans to counter labour exploitation, particularly in relation to trafficking in human beings for labour exploitation purposes.

of legitimate tax revenues and social contributions, back payment of wages owed and fair working conditions. The Directive also contributes to combatting trafficking in human beings and the Quality Jobs Roadmap<sup>5</sup> by improving detection and prevention of labour exploitation, particularly for non-EU workers.

Although it remains difficult to quantify the extent of illegal employment of irregular migrant workers in the EU<sup>6</sup>, Eurostat data gives some indications on its scale. The number of irregular migrant workers detected in the EU rose from 679 730 in 2021 to 1 265 350 in 2023, with provisional estimates of 918 925 in 2024.

The previous implementation report on the Directive was adopted in 2021<sup>7</sup> and called for more effective application of the key provisions on inspections, penalties and protective measures, and laid the ground for addressing data gaps. Since then, the Commission has stepped up its efforts on implementation and enforcement of the Directive, notably promoting mutual learning and exchange of best practices within the Irregular Migration Expert Group, including on inspection methodologies, annual national targets for inspections, maximising successful risk management strategies in inspections, financial sanctions deterrence, and strategic prioritisation of enforcement in sectors at particular risk of illegal employment. Within the Expert Group and the Labour Migration Platform<sup>8</sup>, the Commission has also further facilitated cooperation with national labour and immigration authorities, social partners, civil society and international organisations, also to improve effective access to rights for third-country national workers.

In 2022 the Commission set up a dedicated IT tool and database under the European Migration Network's information exchange system, to streamline and facilitate reporting by Member States, and delivered dedicated training. This has contributed to significant improvements, such as a more timely, better and harmonised data collection, and a new data repository.

The Commission has promoted cooperation with the European multidisciplinary platform against criminal threats, in particular for actions against labour exploitation, including trafficking in human beings. Multidisciplinary and multi-agency cooperation approaches to addressing labour exploitation have been applied in some Member States, building up on collaboration among labour inspectors, police, tax authorities, non-governmental organisations (NGOs), and trade unions.

The Commission has supported Member States, including through EU funding, in carrying out information campaigns, specifically targeting employers active in the sectors most at risk of illegal employment and workers in a situation of illegal stay. In addition, the European Labour Authority (ELA) carried out EU-wide information campaigns for the hospitality, construction, and transport sectors, and seasonal work.

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<sup>5</sup> COM(2025) 944 final.

<sup>6</sup> Kierans, D. & Kraler, A. (eds.). Handbook on Irregular Migration Data. Concepts, Methods and Practices. Krems: University of Krems Press, 2025. <https://doi.org/10.48341/g31s-vq79>.

<sup>7</sup> COM(2021) 592 final.

<sup>8</sup> See [Labour Migration Platform - Migration and Home Affairs](#). The Expert Group has been meeting twice a year since 2021.

This report, which covers the 2021-2024 period<sup>9</sup>, is based on the Commission's duty to periodically report to the European Parliament and the Council on the implementation of the Directive and, where appropriate, propose amendments. The report is being presented in parallel with the report on the implementation of the Seasonal Workers Directive<sup>10</sup> and will also feed into the upcoming Strategy on Combatting Trafficking in Human Beings in 2026.

The report examines how inspections have been planned and carried out, their results, the financial and criminal sanctions and other administrative measures taken against non-compliant employers since 2021, as well as the implementation of the measures to protect irregular migrant workers. It then presents concrete follow-up measures to address the main issues identified.

## **2. How the Directive is applied across the concerned 25 Member States<sup>11</sup>**

### **2.1 Inspections**

Inspections are the primary tool for detecting employers hiring irregular migrant workers and uncovering exploitation and trafficking in human beings. They enable authorities to hold employers accountable and apply sanctions, and to provide protection for workers facing particularly exploitative working conditions.

#### **a. Risk management**

Under Article 14(2) of the Directive, Member States must regularly identify, based on risk assessments, sectors with a high incidence of illegal employment, and report related inspection figures and results to the Commission.

In line with this, all Member States have developed risk assessment methods. Some Member States<sup>12</sup> incorporate research, socio-economic indicators, and migration trends into their inspection planning. Cross-referencing of databases, including those held by tax authorities, national statistical offices, the police and immigration services, is also widely used<sup>13</sup>. Complaints by individuals, co-workers, trade unions, and third-country nationals are taken into account in risk analyses in many Member States<sup>14</sup>. All these elements are regarded as contributing to more effective risk management strategies.

Inter-agency cooperation is increasingly embedded in broader inspection strategies. Some Member States<sup>15</sup> conduct joint inspections involving labour inspectorates, law enforcement bodies, tax authorities and immigration services, while others<sup>16</sup> apply regional risk models tailored to local economic conditions and past compliance trends.

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<sup>9</sup> 2025 data will only be available after mid-2026.

<sup>10</sup> COM(2026)261.

<sup>11</sup> Denmark and Ireland opted out.

<sup>12</sup> For example, Latvia, Netherlands and Sweden.

<sup>13</sup> For example, Belgium, Hungary and Slovenia.

<sup>14</sup> For example, Belgium, Bulgaria, Croatia, Greece, Netherlands and Sweden.

<sup>15</sup> Belgium, Bulgaria, Finland, Romania and Slovenia.

<sup>16</sup> Hungary, Sweden.

Member States have different approaches to devising their strategies to better target sectors for inspections. A few<sup>17</sup> carry out broad, sector-wide inspections. By contrast, others<sup>18</sup> prioritise sectors with a high incidence of undeclared work and employment of third-country nationals, especially (i) agriculture, (ii) construction, (iii) transport, (iv) wholesale and retail trade, (v) accommodation and food services, and (vi) manufacturing. Some Member States apply flexible approaches<sup>19</sup> focused on seasonal, labour-intensive sectors where exploitation risks are highest.

A large majority of Member States require inspectors to report detections to law enforcement and migration authorities<sup>20</sup>. In almost all Member States<sup>21</sup>, immigration and law enforcement authorities systematically participate in inspections. To a lesser but still significant extent, tax and revenue authorities are also regularly involved, while other bodies, including social security and anti-fraud authorities<sup>22</sup>, customs administrations<sup>23</sup> and social insurance institutions<sup>24</sup> may also participate.

Member States also reported on joint inspections<sup>25</sup>, unannounced inspections<sup>26</sup> and regional coordination<sup>27</sup>. These developments are part of a broader trend towards more integrated, intelligence-led, and data-driven enforcement.

#### **b. Inspections carried out in 2021-2024**

Over the 2021–2024 period, Member States steadily increased labour inspections under the Directive, reaching almost 600 000 in 2024 (see graph 1 in annex). However, significant disparities remain between Member States.

Most Member States focused inspections on a limited number of sectors, characterised by low-skilled, labour-intensive jobs that tend to be occupied by the highest proportion of third-country nationals. All Member States carried out inspections in construction and accommodation and food service. 18 Member States prioritised agriculture, 16 prioritised transport, 12 wholesale and retail trade activities and 11 manufacturing. This reflects an increasing prioritisation of the sectors most at risk of illegal employment.

These trends are confirmed by the findings of the 2025 Fundamental Rights Agency survey of civil society and trade unions<sup>28</sup>, which identified (i) construction, (ii) manufacturing, (iii) accommodation and food service, and (iv) transportation and storage, as the sectors with most violations of labour rights of third-country nationals, regardless of their immigration status.

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<sup>17</sup> For example, Austria.

<sup>18</sup> Croatia, Malta, Romania, Slovakia.

<sup>19</sup> Belgium, Bulgaria, Greece.

<sup>20</sup> All Member States bound by the Directive except France, Greece, Luxembourg, Netherlands and Sweden.

<sup>21</sup> 21 Member States out of 25 concerned by the Directive. The exceptions are France, Greece, Luxembourg and Sweden.

<sup>22</sup> Respectively Czechia and France.

<sup>23</sup> Czechia, France, Italy, Portugal.

<sup>24</sup> Austria.

<sup>25</sup> For example, Bulgaria, Finland and Slovenia.

<sup>26</sup> Belgium, Greece, Luxembourg, Slovenia.

<sup>27</sup> Hungary, Sweden.

<sup>28</sup> Facilitation of complaints and back-payment of third-country workers in an irregular situation – Fundamental Rights Agency small-scale survey with trade unions civil society – main results, 5 June 2025.

The survey also pointed to additional sectors at risk, such as cleaning, the meat industry, childcare, domestic work and agriculture.

### **c. Results of inspections: detections**

The percentage of inspections leading to the detection of irregular migrant workers also grew over the 2021-2024 period. The absolute number of inspections leading to detection increased significantly, from 17 100 in 2019<sup>29</sup> to over 28 000 in 2023 and 2024<sup>30</sup>. The number of detections during inspections rose by over 70% between 2021 and 2024 (see graph 2 in annex).

Some Member States consistently reported the highest detection rates, both in absolute terms and relative to the number of employees in key sectors<sup>31</sup>. These trends underscore the increased volume of inspections and better targeting of enforcement activities in labour-intensive sectors, such as construction, accommodation and food services, and retail.

Data for 2021-2024 indicate an upward trend in proceedings<sup>32</sup> opened as a result of inspections, from 30 660 in 2021 to 40 661 in 2024, however with only a few Member States<sup>33</sup> accounting for much of the increase (see graph 3 in annex).

## **2.2 Financial sanctions**

Between 2021 and 2024, 14 Member States<sup>34</sup> made legislative changes relevant to the Directive, either increasing the minimum and/or maximum level of financial sanctions or revising upwards their amount. This indicates a trend towards more dissuasive sanctions<sup>35</sup>, although significant differences in the levels of fines persist across Member States.

Member States base their financial sanctions on minimum or hourly wages<sup>36</sup>, base price<sup>37</sup>, or set fixed amounts<sup>38</sup>, or use a graduated scale based on proportionality, employer circumstances and the option of not issuing a sanction<sup>39</sup>.

All Member States take into account the number of irregular migrant workers employed and most increase fines for repeated infringements. Around half<sup>40</sup> take the seriousness of the infringement into account (e.g. number of workers concerned, presence of minor workers). Seven Member States<sup>41</sup> reported that the financial sanction is reduced where the employer is a natural person and where no particularly exploitative working conditions are involved.

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<sup>29</sup> 2019 is taken as a point of comparison in the previous reporting period, as 2020 was exceptionally affected by the COVID-19 pandemic.

<sup>30</sup> 18 700 in 2021, 22 800 in 2022, 28 800 in 2023 and 28 406 in 2024.

<sup>31</sup> Austria, Germany, France, Italy, Netherlands, Spain.

<sup>32</sup> Proceedings means any action taken by Member State authorities following an inspection, leading to an administrative or criminal sanction.

<sup>33</sup> Austria, Spain, followed by Belgium, Germany, France, Italy, Netherlands.

<sup>34</sup> Belgium, Bulgaria, Croatia, Estonia, Finland, France, Hungary, Lithuania, Luxembourg, Netherlands, Poland, Slovakia, Slovenia, Spain, Sweden.

<sup>35</sup> The partial exceptions are Slovakia, which lowered the penalty rate but continues to have amongst the highest maximum financial penalties, and Portugal, which left the amount of financial sanctions unchanged.

<sup>36</sup> Estonia, France, Hungary, Lithuania, Poland, Portugal.

<sup>37</sup> Sweden.

<sup>38</sup> Luxembourg.

<sup>39</sup> For example, Estonia.

<sup>40</sup> Belgium, Bulgaria, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Netherlands, Poland, Slovakia.

<sup>41</sup> As provided for by Article 5(3): Cyprus, Czechia, Finland, Hungary, Lithuania, Netherlands and Slovenia.

In terms of fines imposed on employers per irregular migrant employed, the minimum sanctions range from below EUR 500<sup>42</sup> to EUR 1 000 -2 000<sup>43</sup> and as high as EUR 5 000 and 10 000<sup>44</sup>. By contrast, some Member States do not provide for a minimum sanction<sup>45</sup>. The maximum sanctions range from EUR 3 000<sup>46</sup> to EUR 25 000-90 000<sup>47</sup> and up to EUR 200 000-500 000<sup>48</sup>. In one case<sup>49</sup>, the financial sanction is EUR 5 000 plus imprisonment.

The overall amount of financial sanctions actually imposed on employers across the EU in the reporting period rose from EUR 126.2 million in 2021 to over EUR 170.4 million in 2022 and well over EUR 200 million in 2023-2024 (EUR 220.8 million in 2023 and almost EUR 212 million in 2024; see graph 4 in annex).

Most fines were imposed on employers in Member States with higher levels of financial sanctions set out in national legislation, matched by a large number of proceedings opened<sup>50</sup>. In parallel, several Member States reported few fines imposed. This was sometimes explained by relatively low levels of undeclared work and illegal employment of third-country nationals, and thus fewer detections and fewer proceedings opened after inspections<sup>51</sup>.

Some Member States reported not having applied financial sanctions or detected any significant number of irregular migrant workers<sup>52</sup>, while others prioritised criminal prosecutions and penalties. Three Member States reported sanctions following criminal proceedings without providing details of the administrative fines imposed<sup>53</sup>.

Overall, the majority of Member States<sup>54</sup> increased both the number and amount of sanctions against non-compliant employers.

### **2.3. Criminal sanctions**

According to Article 9 of the Directive, criminal sanctions are applied in cases of: (i) illegal employment with repeated and persistent violations, (ii) a significant number of irregular

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<sup>42</sup> EUR 210 in Latvia, EUR 234 in Poland and around EUR 384 for natural persons in Bulgaria.

<sup>43</sup> Austria EUR 1 000, Belgium EUR 2 400, Cyprus EUR 1 500, Finland EUR 1 250, Czechia EUR 2 000 (for legal persons), Hungary twice of the minimum wage for natural persons and 10 times that amount for legal persons, Portugal EUR 2 000, Romania EUR 1 981.

<sup>44</sup> France, Luxembourg, Slovenia.

<sup>45</sup> Czechia for natural persons, Estonia, Germany.

<sup>46</sup> Belgium, Cyprus and Hungary.

<sup>47</sup> EUR 26 000 (Slovenia), EUR 28 000 (Belgium), EUR 30 000 per employee for natural person employers (France), EUR 37 530 (Finland) and EUR 90 000 (Portugal).

<sup>48</sup> EUR 200 000 (France, Slovakia) and EUR 500 000 (Germany).

<sup>49</sup> Italy.

<sup>50</sup> The main examples are Austria, France, Romania and Spain, followed by Belgium, Germany, Luxembourg, Netherlands, and then by Greece, Hungary, Latvia, Portugal, Slovenia, and Sweden. Italy did not provide data on the actual financial sanctions applied. The Italian National Labour Inspectorate applies an administrative monetary fine for undeclared work, which is increased by 20% also in cases involving the irregular employment of non-EU nationals without a residence permit in accordance with Article 3 of Decree-Law No 12 of 22 February 2002.

<sup>51</sup> For example, Estonia, Finland, Lithuania and Latvia.

<sup>52</sup> Finland, Malta and Slovakia.

<sup>53</sup> Cyprus, Italy, Malta.

<sup>54</sup> Austria, Belgium, Croatia, Estonia, France, Greece, Hungary, Latvia, Lithuania, Luxembourg, Netherlands, Romania, Slovenia, Spain, Sweden.

migrants, (iii) particularly exploitative working conditions, (iv) knowingly employing victims of trafficking in human beings and (v) employing minors.

Since 2021, some Member States have informed the Commission of legislative changes increasing or decreasing prison time and/or criminal fines in the circumstances mentioned above.

In France, the employment – including through an intermediary – of any third-country national not authorised to work is a criminal offence. This includes knowingly using, directly or indirectly, the services of an employer of a foreign national not authorised to work. In addition to a prison penalty of five years, a 2024 law increased criminal fines from EUR 15 000 to EUR 30 000 per employee for natural persons employers. In the context of organised crime, the penalty goes up to 10 years imprisonment and the criminal fine is increased from EUR 100 000 to EUR 200 000.

In 2024, Latvia also increased penalties for infringing provisions set out in criminal law<sup>55</sup>, increasing the maximum prison term to up to three years, while the existing alternative sanctions – temporary detention, probationary supervision, community service and a fine – remain applicable.

By a 2023 amendment to the Labour Code, Luxembourg increased the prison term from eight days to up to one year, in addition to or as an alternative to fines ranging from EUR 2 501 to EUR 125 000 per irregular migrant worker.

In Slovakia, a 2024 Criminal Code amendment reduced criminal sanctions from imprisonment of up to two years to one year for simple cases of illegal employment. For the circumstances provided in Article 9, it reduced criminal sanctions from imprisonment of between three months and three years to imprisonment of up to two years.

Considerable differences however remain between Member States in the severity of criminal sanctions in terms of length of imprisonment levels. These range from no fixed minimum and a maximum of one year in cases of illegal employment without aggravating circumstances to five years imprisonment (10 years for circumstances under Article 9)<sup>56</sup>, in addition to criminal fines<sup>57</sup>. The amount of criminal fines also varies widely, ranging from EUR 2 500 to EUR 200 000 and EUR 500 000, depending on the circumstances.

In addition, significant data gaps remain in the number of criminal proceedings and the actual fines or prison terms imposed. Most Member States nonetheless reported either exact data or best estimates of criminal sanctions for aggravated cases of illegal employment listed under Article 9<sup>58</sup>.

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<sup>55</sup> Employment of a person, who is not entitled to remain in the Republic of Latvia, if the infringement is committed by the employer and if a minor is employed, more than five persons are employed, or if a person is employed in particularly exploitative working conditions, or a victim of human trafficking has knowingly been employed.

<sup>56</sup> Germany. In Slovenia, Article 199 of the Criminal Code provides for a fine or imprisonment for up to one year. The same article also sets out two more qualified forms of criminal offence.

<sup>57</sup> France. In Slovenia, a fine or imprisonment of up to one year is laid down for natural persons, while a fine of between EUR 10 000 and EUR 1 million is laid down for legal persons.

<sup>58</sup> Information gaps partly result from the absence of a disaggregated data collection system that distinguishes prosecutions and convictions specifically relating to the circumstances listed in Article 9 of the Directive from criminal prosecutions initiated for all cases of illegal employment or other violations of labour law, and from proceedings on trafficking in human beings for the purpose of labour exploitation. The lack of a common information sharing platform or established information channels between Ministries of Labour, Labour Inspectorates and Prosecutors and Ministries of Justice, Ministries of Interior and police has also had an impact. The lack of a specific annual reporting duty for criminal sanctions in the Directive also contributes to the data gap.

In particular, in 2021-2024, a total of 14 798 criminal proceedings were opened, leading to 5 951 rulings. Two Member States reported having initiated more than 1 000 criminal proceedings per year<sup>59</sup>, one more than 500 per year<sup>60</sup> and three recorded a total number of criminal proceedings ranging from 236 to 457<sup>61</sup>.

Most criminal cases were initiated for repeated offences and offences aggravated by a significant number of irregular migrant workers, whereas prosecutions for employment of minors appear to be extremely rare. Three Member States informed that no criminal sanctions have been applied<sup>62</sup> and three<sup>63</sup> that no information was available.

Most financial (administrative and criminal) sanctions, criminal prosecutions and convictions in the past four years were concentrated in less than half of Member States<sup>64</sup>.

#### **2.4. Other administrative measures**

19 Member States<sup>65</sup> confirmed that in 2021-2024 they had applied other measures, such as total or partial exclusion from public benefits, aid or subsidies, or the recovery of such funding for up to 12 months preceding the detection of illegal employment<sup>66</sup>. Other Member States also excluded employers from participation in public tenders and contracts<sup>67</sup>, temporarily or permanently closed their establishments<sup>68</sup>, or imposed additional measures such as: (i) revoking agency approvals<sup>69</sup>, (ii) exclusion from work permits or employment programs<sup>70</sup>, (iii) applying additional fines for illegally hiring third-country nationals in public construction projects<sup>71</sup>, (iv) exclusion from labour market admission procedures for up to five years<sup>72</sup>, (v) a ban on hiring third-country nationals for up to five years<sup>73</sup>, and (vi) prohibition from exercising for up to three years the professional or social activity, which served directly or indirectly to commit the offence<sup>74</sup>.

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<sup>59</sup> Belgium initiated 4 422 criminal proceedings (1 444 in 2021, 1 423 in 2022 and 1 555 in 2023) and France 3 684 criminal proceedings for the employment of a third-country national without a work permit, i.e. beyond merely foreign workers in an irregular situation (1 302 in 2021, 1 250 in 2022 and 1 132 in 2023).

<sup>60</sup> Italy initiated in the period 3 135 criminal proceedings for illegal employment of a third-country national without a residence permit (522 in 2021, 609 in 2022, 870 in 2023 and 1 134 in 2024).

<sup>61</sup> Cyprus reported 457 criminal proceedings for illegal employment in general (149 in 2023 and 308 in 2024), Germany a total of 236 criminal proceedings in cases under Article 9 of the Directive (of which 50% for cases involving a significant number of employed irregular migrants), and Sweden 397 criminal prosecutions, without differentiating between prosecutions according to the circumstances listed in Article 9.

<sup>62</sup> Estonia, Latvia, Poland.

<sup>63</sup> Lithuania, Luxembourg, Portugal.

<sup>64</sup> In particular, Belgium, Cyprus, France, Italy, Luxembourg, Netherlands, Sweden. To a lesser degree by Czechia, Romania, Slovenia and Spain.

<sup>65</sup> Austria, Belgium, Bulgaria, Cyprus, Czechia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Portugal, Slovakia, Slovenia.

<sup>66</sup> Austria, Czechia, Finland, France, Germany, Hungary, Latvia, Lithuania, Netherlands.

<sup>67</sup> Austria, Bulgaria, Finland, Hungary, Lithuania, Netherlands, Slovakia, Slovenia.

<sup>68</sup> Austria, Croatia, Germany, Greece, Finland, France, Hungary, Italy, Luxembourg, Poland, Portugal, Netherlands. France and Italy reported fewer than 100 occurrences of these measures per year.

<sup>69</sup> Belgium.

<sup>70</sup> Bulgaria, Slovenia. In the latter, a hiring ban can be imposed following the application of fines and rulings.

<sup>71</sup> Cyprus.

<sup>72</sup> Germany.

<sup>73</sup> Netherlands, Slovenia.

<sup>74</sup> Luxembourg.

In Croatia, employers employing irregular migrants for the third and each subsequent time within a period of six months, may immediately be banned from carrying out activities on the premises concerned. The decision is revoked within three days of the date of payment of a fine after 30 days have elapsed. In addition, employers who illegally hire third-country nationals are listed publicly.

In Germany, where there is evidence that employers are unreliable, they may be excluded from the Federal Employment Agency's labour market admission procedure for up to five years. A trade ban and withdrawal of permits can also be applied to employers, who have illegally employed third-country nationals.

However, bearing in mind significant data gaps in most Member States, available indications point overall to relatively infrequent application of other measures<sup>75</sup>.

## **2.5. Subcontracting – intermediaries**

Irregular migrant workers can in some cases be employed under employment relationships involving sub-contracting arrangements, and through intermediaries, recruiters, temporary work agencies, and increasingly via online platforms. This makes it more difficult to identify employers and hold them liable, as confirmed by trade unions, employers' representatives and civil society organisations<sup>76</sup>.

Article 8 of the Directive extends liability to any intermediary employer, where the main contractor or direct subcontractor knew that the sub-contracting employer had hired irregular migrant workers<sup>77</sup>. Since 2021, some Member States have introduced new legislation strengthening the protection of workers employed by subcontractors in public works contracts. These measures include: (i) extending liability for financial sanctions applied in subcontracting chains<sup>78</sup>, (ii) detailing joint and several liability for unpaid salaries<sup>79</sup>. (iii) issuing administrative warnings for financial claims holding contractors and subcontractors jointly and severally liable<sup>80</sup>, (iv) and clarifying the legal provisions on joint and several liability of direct subcontractors<sup>81</sup>.

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<sup>75</sup> The highest annual number of applications of these measures is 81 (Croatia).

<sup>76</sup> The challenges to enforcement linked to the complexity and length of subcontracting chains, as well as the often problematic role of intermediaries were consistently raised by Member States, social partners and civil society organisations in a number of consultations held by the Commission. These include, non-exhaustively, the Labour Migration Platform on 15 October 2025, the 10th European Migration Forum on 27–28 November 2025 (Roundtable 2: Protecting migrant workers whilst fighting against their illegal employment), the Virtual ad hoc sector meeting with social partners on the implementation of the Employers Sanctions Directive and the Seasonal Workers Directive on 2 December 2025, as well as the Expert Group on the Employers Sanctions Directive meeting on 5 December 2025.

<sup>77</sup> The liability is subject to certain limitations in Article 8, as the contractor that has undertaken due diligence obligations as defined by national law is not liable. Member States may also provide for more stringent liability rules under national law.

<sup>78</sup> Czechia.

<sup>79</sup> Croatia, Slovenia.

<sup>80</sup> Italy.

<sup>81</sup> Luxembourg, Article L. 572-2, 572-3 (4) and 572-10 of the Labour Code.

Belgium has introduced a legal provision that frees the contractor from liability for the employment of irregular migrant workers by its direct subcontractor<sup>82</sup>. The new provisions stipulate that the contractor must also verify that certain documents are held by its subcontractor, if the latter belongs to one of the high-risk sectors<sup>83</sup>.

Other Member States said that they had not introduced new sub-contracting measures<sup>84</sup>, but outlined existing provisions enforcing the Directive's rules on subcontracting<sup>85</sup>. One Member State<sup>86</sup> reported that information on subcontractor liabilities is disseminated via employers' organisations.

Several Member States indicated in several consultations that extensive subcontracting chains, including in cross-border contexts and those involving posting of third-country national workers, make it difficult to effectively determine liability for illegal employment.

Trade unions and civil society also indicated that the role of recruitment agencies and intermediaries as conduits to irregular employment is not properly addressed, and long subcontracting chains in sectors such as construction hinder enforcement, especially of Article 8.

## 2.6 Protective measures

### a. Access to justice and information

In 2021-2024, more than half of Member States reported having implemented measures to raise awareness and inform employers of their legal obligations<sup>87</sup>. Around a third carried out broader information campaigns on financial and criminal sanctions and other measures envisaged in the Directive - primarily targeting employers, labour inspectors, and law enforcement authorities<sup>88</sup>.

Most Member States also reported that they provide information to irregular migrant workers about their right to lodge complaints, typically through institutional websites. Information may also be shared by labour inspectors or other state officials at local offices, by phone, or during workplace inspections. In some cases, this is done by the police or border authorities during their interactions with third-country nationals<sup>89</sup>. Several Member States have set up dedicated services, such as help lines, information hubs or legal consultation to inform irregular workers of their rights<sup>90</sup>. In some Member States, information is disseminated by third parties<sup>91</sup>. Few

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<sup>82</sup> These provisions apply only in the Flemish region, in line with Belgium's division of powers. The provisions are set out in Article 12/4 of the Act of 30 April 1999 on the employment of foreign workers and will enter into force on a date to be set by the Flemish Government, and at the latest on 1 January 2026. Brussels-Capital and Wallonia regions have not adopted similar rules introducing this strengthened verification duty.

<sup>83</sup> These legal provisions, to enter into force by 1 January 2026, will apply only in the Flemish region.

<sup>84</sup> Germany, Malta.

<sup>85</sup> Austria, Bulgaria, France, Hungary.

<sup>86</sup> Cyprus.

<sup>87</sup> Austria, Belgium, Bulgaria, Czechia, Estonia, Finland, France, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Romania.

<sup>88</sup> Austria, Belgium, Czechia, Italy, Lithuania, Netherlands.

<sup>89</sup> Information provision via institutional websites: Bulgaria, Croatia, Cyprus, Czechia, Estonia, Finland, France, Greece, Hungary, Lithuania, Luxembourg, Netherlands, Poland, Romania, Slovenia, Spain; in person, by phone or, during inspections: Austria, Belgium, Czechia, Estonia, France, Greece, Italy, Lithuania, Luxembourg, Portugal, Romania, Slovakia, Slovenia; by police or border guards: Croatia, Latvia, Portugal, Sweden.

<sup>90</sup> Belgium, France, Greece, Slovenia.

<sup>91</sup> Austria, Belgium, Germany, Luxembourg, Netherlands, Portugal, Sweden.

Member States conduct information campaigns targeting irregular migrant workers specifically<sup>92</sup>, but several offer multilingual services<sup>93</sup>.

Half of Member States reported having set up a specific procedure to ensure that irregular migrant workers are systematically and objectively informed about their rights (on back payments and complaints) before the enforcement of any return decision<sup>94</sup>. However, in most cases, this information is not provided as part of the return procedure<sup>95</sup>. The remaining Member States either have no such procedure to inform irregular migrant workers about their rights or did not report it<sup>96</sup>, though over half allow for information to be provided independently of the return procedure<sup>97</sup>.

According to the European Trade Union Confederation (ETUC) and civil society, irregular migrant workers tend not to be adequately informed about their labour rights by Member State authorities and, if they are, information is usually provided by third parties, such as trade unions and NGOs<sup>98</sup>.

### **b. Lodging complaints**

A key requirement under Article 13 of the Directive is creating specific mechanisms to make it easier to file complaints with the competent State authority or through third parties (such as trade unions, workers' associations, or NGOs), including when the worker is no longer present in the Member State.

Generally, complaint mechanisms are available to all workers in all Member States, but they are not specifically tailored to those who are staying illegally. Ten Member States have introduced new measures to improve access to complaint mechanisms<sup>99</sup>. Five also reported new safe-reporting measures, enabling irregular migrant workers to engage with law enforcement without their migration status affecting the exercise of their rights<sup>100</sup>.

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<sup>92</sup> Lithuania, Netherlands, Romania.

<sup>93</sup> Bulgaria, Czechia, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Romania, Slovenia, Spain.

<sup>94</sup> Austria, Croatia, Estonia, France, Italy, Latvia, Lithuania, Luxembourg, Poland, Portugal, Romania, Slovakia, Sweden.

<sup>95</sup> Austria, France, Italy, Lithuania, Luxembourg, Portugal, Romania, Slovakia.

<sup>96</sup> Belgium, Bulgaria, Cyprus, Czechia, Finland, Germany, Greece, Hungary, Netherlands.

<sup>97</sup> Information is provided independently of the return procedure:

- during inspections: Austria, Belgium, France, Italy, Lithuania, Luxembourg, Portugal, Slovakia.
- by labour or social inspectorates: Belgium, Czechia, Estonia, Greece, Italy, Lithuania.
- by NGOs, trade unions and worker representation bodies: Austria, Belgium, Luxembourg, Portugal, Sweden.
- via information hubs: Slovenia.
- through information campaigns: Lithuania, Netherlands, Romania.
- by the police: Portugal.

In Latvia, information is reportedly provided only within the context of the return procedure.

<sup>98</sup> ETUC reports that these services have faced significant funding cuts in recent years, particularly following the COVID-19 pandemic (ETUC contribution to the Employers Sanctions' Directive implementation report in June 2025). Similar views were also expressed in several consultations held by the Commission, including at the Labour Migration Platform meeting on 15 October 2025 ([Labour Migration Platform - Migration and Home Affairs](#)), as well as in the findings of the "Facilitation of complaints and back-payment of third-country workers in an irregular situation – Fundamental Rights Agency small-scale survey with trade unions civil society – main results".

<sup>99</sup> Belgium, Czechia, Hungary, Italy, France, Germany, Greece, Lithuania, Netherlands, Poland.

<sup>100</sup> Austria, Finland, France, Hungary, Italy.

Despite progress in several Member States on informing these workers of their rights, FRA, ETUC and civil society noted that workers were still discouraged from filing complaints against their employers in the reporting period. This is reportedly because of fears of income loss, detention, return orders, and retaliation, including employers reporting their irregular status to avoid paying wages.

In more than half of Member States, complaints can be lodged through both state entities and third parties<sup>101</sup>; in one exclusively through third parties<sup>102</sup> and in the rest solely through state entities<sup>103</sup>.

A majority of Member States allow trade unions to file complaints on behalf of irregular migrant workers<sup>104</sup>, and more than half allow other associations with a legitimate interest to do so<sup>105</sup>. All Member States allow workers to claim unpaid wages, even when they are no longer residing in the EU, in line with Article 6 of the Directive.

Most Member States offer online complaint options<sup>106</sup>, accept written complaints<sup>107</sup> and allow in-person submissions<sup>108</sup>. Almost a third accept complaints in foreign languages<sup>109</sup>.

In most Member States, in-person complaints can be submitted at labour inspectorates, social services or related authorities<sup>110</sup>. Some Member States allow submissions at:

- police or border immigration services<sup>111</sup>;
- courts or the prosecutor's office<sup>112</sup>;
- customs offices<sup>113</sup>;
- occupational health and safety authorities<sup>114</sup>;
- enforcement authorities<sup>115</sup>;
- the company's works council<sup>116</sup>; or

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<sup>101</sup> Belgium, Bulgaria, Cyprus, Estonia, Greece, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovenia, Spain.

<sup>102</sup> Germany.

<sup>103</sup> Croatia, Czechia, Finland, France, Hungary, Romania, Slovakia, Sweden; no information for Austria.

<sup>104</sup> Austria, Belgium, Bulgaria, Cyprus, Croatia, Czechia, Estonia, Finland, France, Greece, Hungary, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden.

<sup>105</sup> Austria, Belgium, Bulgaria, Finland, France, Hungary, Latvia, Luxembourg, Netherlands, Romania, Slovenia, Spain, Sweden.

<sup>106</sup> Belgium, Bulgaria, Croatia, Cyprus, Czechia, Germany, Estonia, Finland, Greece, Hungary, Latvia, Lithuania, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden.

<sup>107</sup> Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Estonia, Germany, Finland, France, Greece, Hungary, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden.

<sup>108</sup> Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Estonia, Germany, Finland, France, Greece, Hungary, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Slovakia, Slovenia, Spain.

<sup>109</sup> Belgium, Bulgaria, Czechia, Estonia, Greece, Netherlands, Portugal, Slovakia.

<sup>110</sup> Belgium, Bulgaria, Croatia, Cyprus, Czechia, Estonia, Greece, Hungary, Lithuania, Luxembourg, Netherlands, Poland, Romania, Slovakia, Slovenia, Spain.

<sup>111</sup> France, Luxembourg, Netherlands, Poland, Portugal.

<sup>112</sup> Austria, Belgium, Estonia, France, Latvia, Lithuania, Poland, Sweden.

<sup>113</sup> Luxembourg, Slovenia.

<sup>114</sup> Finland.

<sup>115</sup> Sweden.

<sup>116</sup> Germany.

- human resources departments<sup>117</sup>.

One Member State allows complaints to be lodged at any state institution<sup>118</sup>.

Nearly all Member States reported providing training to labour inspectors on the rights of irregular migrant workers under the Directive, and on identifying cases of labour exploitation and trafficking in human beings<sup>119</sup>.

Most Member States apply a statute of limitation for making back-payment claims, ranging from four months<sup>120</sup> to two to six years<sup>121</sup>. A few reported no limitation period<sup>122</sup>. Approximately half of Member States allow anonymous complaints, though some impose restrictions on this option – for instance, permitting anonymity only for health and safety concerns, not for labour disputes<sup>123</sup>.

At the same time, the vast majority of Member States could not provide disaggregated data on complaints lodged specifically by irregular migrant workers<sup>124</sup>. Some reported only overall complaint statistics for the entire population<sup>125</sup>. Three Member States provided disaggregated data specifically covering such workers<sup>126</sup>.

Indicative figures for 2021-2024 range from over 50 and 100 cases, respectively, in two Member States<sup>127</sup>, to between 20 and 50 complaints in three<sup>128</sup>, and fewer than 20 or 10 per year in others<sup>129</sup>. Only three Member States reported monitoring the exact number of complaints submitted by these workers<sup>130</sup>, while around half provided information on the follow-up actions taken<sup>131</sup>.

For 2021-2024, 13 Member States reported measures allowing irregular migrant workers to receive legal counselling from state entities<sup>132</sup>, with an exemption from, or reduction of court

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<sup>117</sup> Germany.

<sup>118</sup> Croatia.

<sup>119</sup> All Member States except Malta.

<sup>120</sup> Lithuania.

<sup>121</sup> Austria, Belgium, Bulgaria, Estonia, Finland, France, Greece, Italy, Latvia, Lithuania, Hungary, Netherlands, Poland, Romania, Slovakia, Slovenia.

<sup>122</sup> Germany, Cyprus, Czechia, Luxembourg, Portugal, Sweden.

<sup>123</sup> Bulgaria, Croatia, Cyprus, Czechia, Estonia, Finland, Greece, Hungary, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovakia, Slovenia, Sweden.

<sup>124</sup> Austria, Bulgaria, Croatia, Cyprus, Germany, Greece, Estonia, Finland, France, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Portugal, Romania, Spain, Sweden.

<sup>125</sup> Czechia, Netherlands, Poland.

<sup>126</sup> Belgium: 377 complaints submitted to the federal inspection service and 903 reports to the contact point for fair competition; Czechia: 1931 complaints related to illegal employment, 26 of which filed by third-country nationals; Slovakia: 85 complaints.

<sup>127</sup> Malta, Belgium.

<sup>128</sup> Croatia, Lithuania, Slovakia.

<sup>129</sup> Bulgaria, Cyprus, Estonia, Finland, Portugal, Romania.

<sup>130</sup> Luxembourg (89 in 2024), Slovakia, Slovenia.

<sup>131</sup> Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Estonia, Greece, Hungary, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Romania, Spain.

<sup>132</sup> Austria, Belgium, Bulgaria, Croatia, Czechia, Estonia, Finland, Hungary, Italy, Latvia, Malta, Poland, Portugal.

costs or state fees<sup>133</sup>. Around half<sup>134</sup> offer free legal representation and free interpretation services.

France grants irregular migrant workers legal assistance under certain conditions, for example habitual residence in France subject to means-testing. Legal aid applications can be submitted online. Victims of criminal offences, regardless of their nationality or residence status, are entitled to free, personalised, and multidisciplinary support, including legal, psychological, and social assistance, from victim support organisations. This includes information on legal proceedings' and help with formalities.

13 Member States reported that irregular migrant workers can access legal or social assistance through NGOs or trade unions<sup>135</sup>. 10 supported third parties in providing information, legal assistance, and other services to them<sup>136</sup>.

According to the Platform for International Cooperation on Undocumented Migrants (PICUM) and other civil society organisations, access to justice for irregular migrant workers is reportedly still limited in many Member States, particularly for court proceedings. This is due, for instance, to high legal fees or complex procedures. The FRA survey's findings claim that there are structural barriers to irregular migrant workers submitting complaints, such as insufficient recognition of evidence or the absence of safeguards against return<sup>137</sup>.

### **c. Access to remuneration: back payments of wages owed**

Under the Directive, Member States must ensure that irregular migrant workers can recover unpaid wages (Article 6) and that third parties with a legitimate interest, such as NGOs and trade unions, can support or represent workers in related proceedings (Article 13(2)). Article 6(3) also sets out a **presumption of at least three months of employment** unless, among others, the employer or the employee can prove otherwise.

In 2021–2024, no Member State reported systematic data on procedures launched by irregular migrant workers to recover unpaid wages. Very few Member States reported data on recovery procedures initiated after the third-country national had been returned, confirming very few cases<sup>138</sup> and even fewer successful outcomes<sup>139</sup>.

The FRA survey confirms the scarcity of data collected by organisations supporting third-country national workers in claiming back-payments. Very few organisations<sup>140</sup> collect statistics on complaints, and even fewer report specifically on complaints from irregular migrants or actual back-payments<sup>141</sup>. While back-payment requests are relatively rare, even among regularly staying third-country national workers, they are even more rare for those with

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<sup>133</sup> Belgium, Czechia, Estonia, Finland, France, Hungary, Latvia, Lithuania, Poland, Romania.

<sup>134</sup> Austria, Belgium, Croatia, Czechia, Finland, Greece, Hungary, Italy, Luxembourg, Poland, Slovakia, Sweden.

<sup>135</sup> Austria, Belgium, Croatia, Czechia, Estonia, Germany, Greece, Finland, France, Lithuania, Netherlands, Portugal, Sweden.

<sup>136</sup> Austria, Cyprus, Czechia, Italy, Finland, Germany, Lithuania, Netherlands, Poland, Slovenia.

<sup>137</sup> Facilitation of complaints and back-payment of third-country workers in an irregular situation – Fundamental Rights Agency small-scale survey with trade unions civil society – main results, 5 June 2025. PICUM input into ESD Implementation Report 2025.

<sup>138</sup> Bulgaria (<10), Lithuania (<50), Romania (<10).

<sup>139</sup> Bulgaria, Cyprus, Romania (each <10 successful cases).

<sup>140</sup> 6 out of the 27 organisations who responded to the FRA survey.

<sup>141</sup> 4 and 3 organisations, respectively.

an irregular status, with complaints ranging from 236 and 229<sup>142</sup> to as few as 12 and 7 respectively in the same Member States<sup>143</sup>.

Most Member States calculate back payments based on unpaid wages<sup>144</sup>, including taxes and social security contributions<sup>145</sup>. Over half of Member States factor in the costs of transferring the back payments to the country, where the third-country national has returned or been returned<sup>146</sup>.

Where the employee cannot prove the employment duration, most Member States apply the presumption of at least three months' employment, with pay based on the statutory minimum wage, collective agreements or equivalent practices.

In most Member States, the courts, and in particular civil courts, have jurisdiction to adjudicate and award back payments<sup>147</sup>. Labour inspectorates perform this role in roughly one third of Member States<sup>148</sup>, and a few Member States rely on specialised bodies<sup>149</sup>.

In 19 out of 25 Member States, irregular migrant workers can be represented during these proceedings mainly by (i) trade unions, NGOs or lawyers<sup>150</sup>, (ii) the Chamber of Labour<sup>151</sup>, (iii) the Federal Migration Centre<sup>152</sup>, (iv) public-interest bodies, (v) family members<sup>153</sup> or (vi) the Equality Ombudsman<sup>154</sup>.

To facilitate back payments, 10 Member States allow irregular migrant workers to request recovery without lodging a formal claim<sup>155</sup> and in over half temporary residence permits can be granted or extended until back payments are received or proceedings concluded<sup>156</sup>. Around half of Member States also enable back payments to be sent abroad, through (i) deposit

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<sup>142</sup> Netherlands (236), Belgium (229).

<sup>143</sup> Germany (7), Slovenia (12).

<sup>144</sup> Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Finland, France, Greece, Hungary, Italy, Latvia, Luxembourg, Netherlands, Poland, Slovakia, Slovenia, Sweden.

<sup>145</sup> Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Germany, Finland, France, Greece, Hungary, Italy, Latvia, Luxembourg, Poland, Portugal, Slovakia, Slovenia, Sweden.

<sup>146</sup> Austria, Belgium, Bulgaria, Cyprus, Germany, Finland, Greece, Hungary, Latvia, Lithuania, Luxembourg, Poland, Slovakia, Sweden.

<sup>147</sup> Austria, Belgium, Bulgaria, Germany, Cyprus, Czechia, Estonia, Finland, France, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden.

<sup>148</sup> Belgium, Bulgaria, Croatia, Greece, Italy, Lithuania, Luxembourg, Hungary, Poland, Portugal, Slovakia.

<sup>149</sup> France – French Office for Immigration and Integration; Hungary – National Tax and Customs Office; Sweden – Enforcement Authority.

<sup>150</sup> Austria, Belgium, Croatia, Czechia, Estonia, Greece, Finland, France, Germany, Greece, Hungary, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Romania, Slovakia, Slovenia, Sweden.

<sup>151</sup> Austria.

<sup>152</sup> Belgium.

<sup>153</sup> Poland.

<sup>154</sup> Sweden.

<sup>155</sup> Bulgaria, Croatia, France, Greece, Hungary, Italy, Luxembourg, Poland, Slovakia, Slovenia.

<sup>156</sup> Bulgaria, Croatia, Cyprus, Czechia, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Netherlands, Poland, Romania, Slovakia, Slovenia, Sweden.

funds<sup>157</sup>, (ii) state-managed transfers<sup>158</sup>, (iii) remote proceedings<sup>159</sup>, (iv) monitoring by authorities<sup>160</sup> or (v) legal representation<sup>161</sup>.

Additionally, 11 Member States have adopted various measures to discourage withholding of wages and improve access to back payments, including:

- restrictions on the employers hiring new staff;
- asset freezes;
- state compensation mechanisms;
- state-initiated recovery procedures;
- public lists of non-compliant employers;
- refusing residence and work permit applications;
- joint and several liability; exclusion from public procurement, public contracts and public funds;
- bans on employment of foreign nationals;
- disqualification from company management roles;
- limits on fulfilment of other obligations; and
- transferring wage-payment responsibilities to another entity<sup>162</sup>.

Despite Member State measures to facilitate back payments, FRA, ETUC, PICUM and other organisations report limited capacity, high legal costs, and barriers to representing workers in court in many Member States. According to indications from ETUC, the presumption of three months' employment is not consistently applied across Member States and gathering evidence is reportedly challenging in several Member States, particularly where multiple subcontractors are involved<sup>163</sup>.

Counselling centres further report that pursuing wage claims from outside the EU is hindered by language barriers, lack of access to information, and limited legal support<sup>164</sup>.

Even when a back payment decision is granted, enforcement shortcomings remain. According to FRA, PICUM, and ETUC, employers often avoid payment through insolvency, asset transfers, or letterbox companies. Many workers also give up on their claims due to: (i) lengthy procedures, (ii) high costs, (iii) lack of representation, (iv) unawareness of state compensation mechanisms or (v) inability to open bank accounts.

#### **d. Granting of temporary residence permits**

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<sup>157</sup> Belgium, Croatia, Greece.

<sup>158</sup> France.

<sup>159</sup> Bulgaria, Estonia, Lithuania.

<sup>160</sup> Luxembourg, Sweden.

<sup>161</sup> Austria, Netherlands.

<sup>162</sup> These were reported in the ad hoc survey launched by the Commission and aimed at Member States, carried out between February and April 2025, published at [EUSurvey - Overview](#).

<sup>163</sup> Aforementioned ETUC contribution of June 2025; FRA small-scale survey with trade unions civil society of 5 June 2025; PICUM input of June 2025.

<sup>164</sup> Aforementioned ETUC contribution, June 2025.

Article 13(4) of the Directive requires Member States to define in national law the conditions under which they may grant to third-country nationals, on a case-by-case basis, permits of limited duration linked to the length of the relevant national proceedings. Such permits can be extended until back payments of wages are received, in accordance with Article 6(5) of the Directive.

Most Member States make no systematic distinction between temporary residence permits granted to third-country nationals in the context of particularly exploitative working conditions and the illegal employment of minors under Article 13(4) of the Directive, and those granted to victims of human trafficking under Council Directive 2004/81/EC. This complicates data collection and monitoring.

In some Member States, victims of particularly exploitative working conditions and victims of trafficking in human beings can obtain residence permits under the same legal provision, without a separate procedure or distinction<sup>165</sup>. In others, protection for victims of trafficking may also cover labour exploitation but permits issued under the Directive are not clearly distinguished<sup>166</sup>.

The absence of a specific legal basis in several Member States means that cases of exploitative working conditions are handled under broader migration frameworks or systems often designed primarily for trafficking victims<sup>167</sup>.

In 2024, Italy adopted legislation to strengthen protection for third-country nationals, who are victims of labour exploitation, including enhanced safeguards and a specific residence permit for foreign workers, who are victims of violence, abuse, or labour exploitation. The permit, issued by the police at the request of the courts, is granted for one year, is renewable for up to one year or more, and can later be converted into a work or study permit. Confirmation of exploitation and the worker's cooperation are required for eligibility. The Labour Inspectorate identifies cases, refers them, and provides an opinion on the issuing of the permit.

In 2021-2024, 13 Member States<sup>168</sup> reported having granted temporary permits under Article 13(4) of the Directive, reflecting a gradual increase in the use of this protective measure. 11 Member States<sup>169</sup> said that they had not granted any of these permits during the reporting period. Across the EU, a total of approximately 5 000 permits were granted in 2021-2024, mostly concentrated in five Member States<sup>170</sup>. Several Member States granted fewer than 10 permits per year<sup>171</sup>.

According to the FRA survey, only 3 of the 76 organisations consulted indicated that residence permits were often or very often issued to irregular migrant workers, who were victims of

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<sup>165</sup> For example, France.

<sup>166</sup> For example, Belgium.

<sup>167</sup> For example, Malta and Portugal.

<sup>168</sup> Bulgaria, Czechia, Estonia, Finland, France, Germany, Greece, Lithuania, Netherlands, Poland, Romania, Spain, Sweden. The majority are concentrated in France, Greece Italy, Netherlands, Spain and Cyprus.

<sup>169</sup> Belgium, Cyprus, Hungary, Italy, Latvia, Luxembourg, Malta, Portugal, Romania, Slovakia, Slovenia.

<sup>170</sup> France accounted for the largest share, granting 2 352 permits overall, including 782 in 2024. Italy granted 678, Greece 540, Spain 466 and the Netherlands an estimated 300, including 230 in 2024.

<sup>171</sup> Bulgaria, Czechia, Finland, Germany, Lithuania, Poland, Sweden.

particularly exploitative labour conditions<sup>172</sup>. ETUC member organisations reported that residence permits are rarely granted for the purpose of claiming unpaid wages through labour courts. In practice, these permits are generally issued when the worker cooperates in criminal proceedings and obtains certification from the prosecution; a requirement that can discourage workers from lodging a claim<sup>173</sup>.

### 3. Main findings and next steps

Overall, progress has been made in implementing the Directive since the last report in 2021. In comparison with previous reporting periods, Member States have strengthened risk assessment methodologies in inspections' planning, albeit to varying degrees. This has led to more targeted inspections in high-risk sectors and increased the number of proceedings opened against infringing employers and the financial sanctions issued against them. Data quality and availability have also generally improved compared to the previous reporting period.

However, key shortcomings remain. There are wide discrepancies in how the legislation is applied across the 25 Member States, including regarding administrative and criminal sanctions. On inspections, the information available on the coverage of key higher-risk sectors does not enable us to determine whether there is a sufficient level of enforcement of the Directive across Member States.

Most importantly, it is not certain whether the various inspections and sanctions applied across Member States effectively deter the hiring of irregular migrant workers. In this regard, significant data gaps persist in: (i) criminal sanctions, (ii) the number of claims introduced by migrant workers, (iii) the issuance of temporary residence and (iv) the number of actual back payments obtained. Vulnerable irregular migrants are often insufficiently informed of their rights, while effective access to and use of complaint mechanisms remains limited. The Directive's effectiveness in reducing the overall incentives of employers to hire irregular migrant workers therefore requires further analysis and assessment, also based on better data.

Following up on these findings, **the Commission will launch an evaluation of the Directive in 2026**. This will enable a wider in-depth, evidence-based assessment to determine whether the Directive remains fit for purpose and what lessons can be learned to improve its effectiveness. This includes the question of whether it may be necessary to review or clarify the existing rules to overcome specific legal, policy and implementation gaps. The evaluation will also address the Commission's simplification efforts by analysing the efficiency and effectiveness of the Directive, and stress-testing it to ensure that it remains relevant and fit for purpose. The evaluation will look into further aspects, such as exchange of information and cooperation among Member States, and cross-border aspects in enforcement and sanctions

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<sup>172</sup> The remaining organisations who responded to the FRA survey, reported that they either did not have the information or that residence permits were granted rarely or never.

<sup>173</sup> The conditionality of granting a residence permit linked to cooperation with the criminal investigation - not explicitly required by the Directive - appears in many Member States to be due to the application of Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, and who cooperate with the competent authorities.

application, including in relation to document fraud. Based on the results of the evaluation, the Commission will consider whether there is a need to amend the current legal framework.

In the meantime, the **Commission will work with Member States to better apply the legal standards and requirements set by the Directive** in order to:

- 1) **Enhance prevention and detection of illegal employment** by (i) stepping up awareness-raising for employers, (ii) improving migrant workers' access to information and justice and (iii) strengthening targeted inspections in high-risk sectors and geographical areas, supported by effective multi-agency cooperation and, as appropriate, the coordination and support of the ELA.
- 2) **Strengthen governance, coordination and oversight of implementation** of the Directive by, among others, (i) strengthening interinstitutional cooperation, (ii) improving reporting and monitoring mechanisms and (iii) ensuring more systematic and disaggregated data collection.

In parallel, the Commission will **support Member States with targeted actions to:**

- 3) **Systematically promote cooperation, data exchange and mutual learning among Member States**, including through the Irregular Migration Expert Group, the European platform tackling undeclared work and other relevant EU fora. Cooperation between the ELA and FRA will further contribute to an effective implementation of the Directive including by systematising and disseminating good practices. The Commission will aim to address data gaps through targeted technical and financial support, including through Asylum, Migration and Integration Fund (AMIF) support, mentioned under point 6 below.
- 4) **Enhance awareness-raising and enforcement**, building on the ongoing work of the ELA, including, as feasible and appropriate, promoting easier access to information for workers and employers, guidance, capacity building and training, and promoting the use of the training manual for labour inspectorates developed by FRA in 2024. A particular focus is planned on higher-risk sectors, cross-border situations, subcontracting chains and, where relevant, posted third-country national workers, in cooperation with Europol's actions to combat labour exploitation. As part of the revision of the mandate of the ELA, the Commission will assess how the authority could better address the challenges related to abuses of working conditions of third-country nationals, including on how the Authority could better support the labour-related provisions of the Directive.
- 5) **Support Member States in strengthening enforcement** and applying the Directive more effectively also to protect the rights of migrant workers through funding and technical support and a reinforced mandate of the ELA. Where appropriate, the Commission will also consider launching infringement procedures.
- 6) **Leverage EU funding to strengthen compliance and accountability of employers and strengthen multistakeholder partnerships** in order to enhance information

provision and complaint mechanisms for third-country national workers. A call for proposal under the AMIF will be launched in 2026 to support Member States in protecting third-country workers' rights, while fighting against the illegal employment of illegally staying third-country nationals. Where appropriate, the Commission will incentivise Member States to design national and regional partnership plans to address relevant challenges under the post-2027 multi annual financial framework<sup>174</sup>.

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<sup>174</sup> Proposal for a Council Regulation laying down the multiannual financial framework for the years 2028 to 2034, COM/2025/571 final.  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52025PC0571&qid=1753801194712>.