

The Chair
Committee on Petitions

Brussels,
AD/mjd[IPOL-COM-PETI D (2018)48461]

D 300233 10.01.2019

Mr Georgios Mavrikos
Zan Moreas 40
11745 Athens
GRÈCE

Subject: Petition No. 0075/2018 (reference to be quoted in all correspondence)

Dear Mr Mavrikos,

Further to my letter of 22 August 2018, I would like to inform you that the Committee on Petitions continued its examination of your petition at its meeting of 21 November 2018, taking due account of the oral information provided by the European Commission. I am enclosing, for your information, a copy of the Commission's written reply, dated 30 November.

At the above-mentioned meeting, the Committee on Petitions decided to send a letter to the Italian authorities to express its concern in relation to the state of neglect and exploitation of migrant workers in the area of Foggia, Puglia. The Committee of Petitions calls for the improvement of the conditions of these migrant workers, in particular with regard to accommodation, access to water, sanitation, social security and transport.

The Committee on Petitions will proceed with the consideration of these issues, as soon as it receives the requested information. In the meantime, your petition remains open. I will keep you of course informed, as soon as possible, of the developments concerning this matter.

Yours sincerely,



Cecilia Wikström
Chair
Committee on Petitions

Annex: Commission reply (CM 1170973) dated 30 November 2018

Petition 0374/2018 declared admissible on 29 August 2018.
Information requested from Commission under Rule 216(6).

3. Commission reply, received on 30 November 2018

Petition 0075/2018 and 0374/2018

Fighting illegal employment and labour exploitation, including of foreign workers, is a policy objective and a priority for the Commission and the EU as a whole.

According to the information available to the Commission, some of the migrant workers employed in the agriculture sector in the Foggia province are residing there legally and working, while others are in a situation of irregular stay and possibly victims of exploitative working conditions, or even victims of trafficking in human beings.

As regards those third-country workers who are holders of a residence and work permit (seasonal or temporary), the EU legal migration Directives¹ provide that they should be treated equally with national workers with regard to working conditions, including pay, dismissal and health and safety at the workplace. Seasonal workers should also benefit from accommodation that ensures them an adequate standard of living, and they should be provided with effective mechanisms to lodge complaints against their employers. It is mainly up to the Member States' authorities to ensure proper enforcement of such provisions.

As regards irregularly staying third-country nationals, the Employer Sanctions Directive² prohibits their employment and provides for minimum standards to prevent, detect and sanction infringements to this prohibition. It notably obliges Member States to provide for criminal penalties to sanction the employment of third country nationals in an irregular situation who are subject to "particularly exploitative working conditions"³. It also criminalises infringements committed by an employer who, while not having been charged with or convicted of an offence established pursuant to Framework Decision 2002/629/JHA, uses work or services exacted from an irregularly staying third-country national with the knowledge that he or she is a victim of trafficking in human beings⁴.

The Directive also protects irregular migrants' rights by setting up mechanisms through which they can claim back payments and lodge complaints against their employers, either directly or through designated third parties such as trade unions or NGOs. Irregular migrants should also be informed of their rights and can be granted permits to stay for a limited duration pending proceedings against the employers.

As an example of the implementation of the Directive in Italy, the Ministries of Interior and Labour/Social Policies have adopted on 10 February 2017 a ministerial decree determining the modalities of informing third country nationals of their rights deriving from the Employers Sanctions Directive. After defining in detail the back-payment of salaries and

¹ Notably The Seasonal Workers Directive (2014/36/EU) or the Single Permit Directive (2011/98/EU).

² 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[2009]OJ L168/24.

³ Article 9(c).

⁴ Article 9(d).

taxes that the employer owes to the irregular migrant, the decree establishes a form (attached to the decree) on irregular migrant's rights that is handed out to them.

Member States are also obliged to issue a return decision to any third-country national staying irregularly in their territory, unless an express derogation is foreseen by Union law. Member States are not allowed to tolerate in practice the presence of irregularly staying third-country nationals on their territory without either launching a return procedure or granting them a right to stay. This obligation on Member States to either initiate return procedures or to grant a right to stay aims at reducing "grey areas", to prevent exploitation of irregularly staying persons and to improve legal certainty for all involved.

In addition, the Commission is also supporting the national and local authorities in Italy and other EU Member States in developing comprehensive responses to the labour exploitation of migrants in the agricultural sector. In the specific case of Italy, the law n. 199 on the fight against labour exploitation in the agricultural sector, adopted in 2016, contains provisions on both prevention and repression of labour exploitation, which is now in the process of being implemented by all competent authorities, with good progress already made notably in the province of Foggia. The Commission is supporting the Italian authorities in this endeavour, including through relevant EU financial support under structural and regional funds as well as the Asylum, Migration and Integration Fund (AMIF).

Several EU funds already provide support to address labour exploitation and promote labour integration of migrants. For instance, the Commission presented a legislative proposal aiming to create a European Labour Authority (ELA), which will support fair labour mobility within the EU, allowing citizens, workers and businesses to seize the opportunities offered by the Single Market, while at the same time preventing and tackling fraud and abuse. The Authority will assist Member States and the Commission in matters relating to cross-border labour mobility and the coordination of social security systems within the Union, supporting an effective and efficient enforcement of these EU rules. The Commission's draft proposal is now under discussion in the European Parliament and the Council. ELA is a high priority for the Commission and the Regulation is expected to be adopted by the co-legislators (European Parliament and Council) before the European Parliament elections of 2019, so as to start setting up ELA already during 2019.

The Commission also supports the integration of third country nationals in rural areas. Member States can use the possibilities offered by the European Agricultural Fund for Rural Development (EAFRD). Several Italian Rural Development Programmes have implemented such actions since the beginning of the programming period 2014-2020.

Conclusion

The Commission will continue to monitor the implementation in Italy of the legal migration Directives and the Employer Sanctions Directive.

Moreover, the Commission will continue providing policy and financial support to the efforts of EU Member States in addressing, through a comprehensive approach, the challenges of labour exploitation in the agricultural sector.