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Precarious and irregular work situations of migrant seasonal and domestic workers

Committee Opinion[1]
Committee on Social Affairs, Health and Sustainable Development
Rapporteur: Mr Pedro CEGONHO, Portugal, Socialists, Democrats and Greens Group

A. Conclusions of the committee

1. The Committee on Social Affairs, Health and Sustainable Development ("Committee on Social Affairs") welcomes the report prepared by Ms Diana Stoica (Romania, ALDE) for the Committee on Migration, Refugees and Displaced Persons ("Migration Committee"). It agrees with the main findings of the report and notes that Ms Stoica's report builds on the relevant work of the Committee on Social Affairs, notably as regards health and social protection of undocumented workers or those in an irregular situation, which has led to the adoption of Resolution 2504 (2023) and Recommendation 2255 (2023) by the Parliamentary Assembly in June 2023.

2. The Committee on Social Affairs wishes to draw attention to the lack of progress in improving the implementation of social rights enshrined in the (revised) European Social Charter (ETS No. 163). This affects particularly harshly the most vulnerable population such as migrant and undocumented workers. The committee is concerned with the lack of consensus among member States on expanding the reach of social rights under the Social Charter to all persons living on the territory of the States Parties and on adding new provisions for the enhanced protection of workers in atypical forms of employment. It believes that the decision to hold a high-level conference on the European Social Charter in July 2024 in Vilnius (Lithuania) is a very timely opportunity for member States to show greater ambition for social rights coverage in Europe, given the impetus from the Reykjavík Summit, the need to shield the most vulnerable households from major cost-of-living crises, to combat structural socio-economic inequalities and to accommodate the ongoing transformations in the world of work.

3. The Committee on Social Affairs supports the call on member States to translate their commitments under the international treaties into strong national laws and practice so as to ensure full enjoyment of fundamental rights by all persons *de facto* residing on their territory and to effectively eliminate forced labour, human trafficking for the purpose of labour exploitation and undeclared work. Unless social rights are extended to cover all workers in our member States and illegal practices are tackled properly, exploitation of the most vulnerable population in the world of work will continue. The *status quo* cannot be tolerated, and the change requires ambitious action. Accordingly, the Committee on Social Affairs proposes an amendment to further reinforce the text put forward by the Migration Committee.

1. Reference to committee: Doc. 15274, Reference 4586 of 28 May 2021. Reporting Committee: Committee on Migration, Refugees and Displaced Persons. See Doc. 15930. Opinion approved by the committee on 22 January 2024.

B. Proposed amendment to the draft resolution

Amendment A (to the draft resolution)

After paragraph 21, insert the following paragraph:

> *"The Assembly welcomes the determination of member States to strengthen social justice, democratic stability and commitment to the protection of social rights as reaffirmed in the Reykjavík Declaration. It notes that a High-Level Conference on the European Social Charter is being convened on 3-4 July 2024 in Vilnius (Lithuania), which is a unique opportunity for member States to step up their ambition on safeguarding and enhancing social rights. In this context, the Assembly calls on member States to join forces to achieve substantive improvements in the implementation of social rights, to add new provisions to the European Social Charter to enhance the protection of workers in atypical forms of employment, and to remove the limitation on the personal scope of application of the Charter."*

C. Explanatory memorandum by Mr Pedro Cegonho, rapporteur for opinion

1. In my capacity as rapporteur for opinion on the situation of migrant seasonal and domestic workers in Europe and as rapporteur on "Safeguarding human rights for future generations"[2], I would like to thank Ms Diana Stoica for the timely report she presented to the Migration Committee. Ms Stoica's report links up with the earlier work of the Parliamentary Assembly on related issues and builds some of its recommendations on the proposals endorsed by the Assembly with regard to undocumented workers based on the report by Ms Ada Marra (Switzerland, SOC).[3] I fully support this approach which provides continuity in our advocacy efforts to strengthen social rights for all who live and work in our member States.

2. The report by Ms Stoica draws our attention to the plight of a highly vulnerable category of workers. By crossing borders, these workers often lose the protection of their country of origin and are not granted full access to social rights in the host country. Households live separated for long periods of time, and children lose the caring proximity of their parents. In the worst cases, migrant seasonal and domestic workers are victims of human trafficking and forced labour and are exploited to such an extent that there are grave risks to their health and life. While Ms Stoica makes a long list of legal instruments under which our member States have obligations, it is clear that social protection on the ground is lagging behind for these workers.

3. There are some issues rooted in the legal instruments themselves and the way our member States are implementing them. To mention one major issue, I wish to highlight the limitations inherent in the European Social Charter and the manifest lack of political will to overcome them. Indeed, the Charter's coverage and impact are reduced by the fact that very few member States have ratified all the provisions and additional protocols. Moreover, certain clauses limit the application of the Charter to persons originating from other States Parties; this *de facto* excludes migrant seasonal and domestic workers of non-European origin and even many workers of European origin.

4. This reality has been acknowledged both by the European Committee of Social Rights and by the Committee of Ministers' *Ad hoc* Working Party on Improving the European Social Charter system (GT-CHARTE) and is viewed by many independent experts as "inconsistent with the nature of the Charter as a human rights treaty".[4] The problem is that there is a lack of consensus among States Parties to the Charter on the removal of this legal limitation.

5. I believe that as Committee on Social Affairs, we must reiterate the need to modernise the Charter on substantive aspects, notably as regards expanding the reach of social rights under the Charter to all persons living on the territory of the States Parties and on adding new provisions for the enhanced protection of workers in atypical forms of employment. The decision to hold a high-level conference on the European Social Charter in July 2024 in Vilnius (Lithuania) – under the Lithuanian presidency of the Committee of Ministers – is an excellent opportunity for member States to show greater ambition for social rights in Europe, in the wake of the Reykjavík Summit.

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2. See Doc. 15513.
3. See Doc. 15784.
4. See Doc. 15886 – Reply of the Committee of Ministers to Assembly Recommendation 2255 (2023) "Health and social protection of undocumented workers or those in an irregular situation".

6. Our determined action at national and European levels is highly needed to shield the most vulnerable households from major cost-of-living crises, to address structural socio-economic inequalities, and to accommodate the ongoing transformations in the world of work.[5] This is a matter of social justice and peace from the perspective of current and future generations. This is also a part of our solidarity efforts in progressing together towards achieving the Sustainable Development Goals.

5. Resolution 2393 (2021) and Recommendation 2210 (2021) "Socio-economic inequalities in Europe: time to restore social trust by strengthening social rights", (Doc. 15365); Resolution 2384 (2021) and Recommendation 2205 (2021) "Overcoming the socio-economic crisis sparked by the Covid-19 pandemic", (Doc. 15310 and addendum); and Resolution 2467 (2022) and Recommendation 2239 (2022) "The future of work is here: revisiting labour rights", (Doc. 15620).