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EMN European Migration Network

ILLEGAL EMPLOYMENT OF THIRD-COUNTRY NATIONALS: 2017- 2022 SITUATION ANALYSIS

EMN FLASH #1 – 2025

Background

Preventing illegal employment is a policy objective and priority for the EU and its Member States, as the possibility of working in the EU without the required legal status is considered one of the key drivers of irregular migration into the Union.[1] For the purposes of this study, in the EU context, illegal employment[2] covers both the illegal employment of third-country nationals irregularly staying on the territory of an EU Member State and legally staying third-country nationals who are working undeclared or outside the conditions of their residence permit and/or work permit.

Key trends and findings

- Preventing and tackling the illegal employment of third-country nationals remains a **high political priority** across European Migration Network (EMN) Member Countries. Most have introduced significant legislative reforms since 2017, primarily focusing on sanctions for employers. In the area of prevention, however, most EMN Member Countries maintain the same or similar measures and incentives for employers as in 2017.
- The illegal employment of third-country nationals continues to **spark national debates** across EMN Member Countries, particularly on its societal impact and the need for protection and regularisation of workers. These discussions have intensified due to the **effects of the COVID-19 pandemic and Russia's war of aggression against Ukraine**, bringing greater focus to issues of equality, workers' rights, and vulnerabilities.
- **Notable developments in labour inspection activities** aim to identify the illegal employment of third-country nationals. Six EMN Member Countries have increased their annual general labour inspections, while others report identifying more infringements and expanding their inspection workforce. Four EMN Member Countries specifically monitor instances of illegal employment of third-country nationals identified during inspections.
- **Small to medium-sized enterprises** (SMEs) in sectors such as construction, accommodation, food services, manufacturing, agriculture, forestry, and fishing continue to be the most prevalent employers in the illegal employment of third-country nationals. Emerging sectors at risk include beauty and wellness, delivery services, security services, event management, and demolition work.
- EMN Member Countries have **enhanced domestic and international cooperation** to tackle illegal employment of third-country nationals. Since 2017, many countries have introduced or enhanced existing schemes to improve collaboration between various agencies involved in prevention and enforcement efforts. Most EMN Member Countries increasingly engage in cross-border cooperation, using new initiatives (e.g. the European Labour Authority (ELA) and its European Platform tackling undeclared work since 2016) and existing initiatives (e.g. through the International Labour Organization (ILO)).
- **Outcomes for third-country nationals** detected working illegally vary depending on their residence status and whether they have or ever had a work permit. Outcomes range from withdrawal and rejection of renewal of residence permits, return decisions and fines. However, if the individual is found to be a victim of exploitation or trafficking in human beings, most EMN Member States activate specific procedures with different outcomes, such as temporary residence permits.

1 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A renewed EU action plan against migrant smuggling (2021-2025), 2021, p. 20, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021DC0591, last accessed on 14 April 2023.

2 European Migration Network (EMN), 'EMN Glossary, Version 9', n.d., https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/illegal-employment_en, last accessed on 8 March 2023.

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