

## Joint Paper on Migration from third country nationals to Europe

### Introduction

EFBWW and BWI defend a rights based approach towards migration and uphold an open Europe, with fair and safe opportunities for migrants to enter and work in a regulated manner in the EU. In that regard, both federations undersign and support the Global Compact for Safe, Orderly and Regular Migration (GCM). This agreement aims to encompass all aspects of international migration in a holistic and comprehensive manner. Both organizations underline the benefits that regular migration brings to society and the economy.

In history, people have always decided to move to other places in search for safety, dignity, protection and/or social and economic progress for themselves and their families.

In many EU member states migrant workers, including those who are undocumented and undeclared, make up an important part of the workforce in forestry, construction and allied industries. More recently, an important increase is noted of migrant (3<sup>rd</sup> country) workers who enter the EU via one of its members states and are subsequently posted to another EU member state. EU rules, and realities, on intra-EU mobility and labour migration from third countries are increasingly intertwined. This demands particular attention.

A 2019 report<sup>1</sup> by the Fundamental Rights Agency, as well as the experiences of our affiliates, highlight cases of severe labour exploitation of migrant workers in construction, forestry and other sectors. This includes being paid as little as €5-a-day, being forced to pay debts to traffickers before earning a cent and to sleep in shipping containers with no water or electricity. It was observed that undocumented workers are amongst the most vulnerable workers.

In that context, BWI and EFBWW strongly denounce the role of labour recruiters (often disguised as Temporary Work Agencies) who recruit vulnerable workers and transfer these workers either to other intermediaries or to user-companies. Their sole objective is to earn money, using workers as a tradable commodity. A well-documented fraudulent practice of these “traders” is to ask exorbitant fees to the workers, with a fake prospect of a well-paid job in the EU.



1 <https://fra.europa.eu/en/news/2019/severe-labour-exploitation-migrant-workers-fra-report-calls-zero-tolerance-severe-labour>

Equal treatment, the right to organize, social inclusion and respect for the international labour and human rights standards are fundamental. The working conditions of migrant workers, regardless of their status, must respect the applicable EU and national laws and regulations and sectoral collective bargaining agreements of the country and sector in which they are employed. This includes the applicable rules and legislation related to taxation, social security, registration, etc. These rules should be applied in favour of all workers, regardless of their immigration status, ensuring transitions from irregular to regular employment. Efficient and effective enforcement mechanisms must be put in place to provide protection and to fight abusive practices of social dumping and social fraud. Sectoral trade unions play a key role in this matter. Allowing those practices of social dumping and social fraud to persist, leads to deteriorating working conditions for all workers and will undermine the trust and credibility of the European project.

EFBWW and BWI strongly believe that there is no place for exploitation, fraud and/or abuse of migrant workers in Europe.

### **Towards a fair EU Regular migration system**

The European Commission has announced its ambition towards a new migration and asylum policy. BWI and EFBWW have strong concerns that the EU will continue to implement an “EU fortress-approach” with a selective admission of migrants and asylum seekers in the EU that would fill the needs of the employers rather than meet the international and humanitarian obligations.

We strongly regret that the EU migration and asylum policies continue to put a strong focus on border control, deterrence, detention and return, while leaving very little room for proposals in the area of regular migration.

Although, EFBWW and BWI acknowledge that a border screening mechanism is/might be needed for security reasons and to combat contraband, the monitoring process must always respect fundamental human rights. EFBWW and BWI strongly condemn the increasing pushbacks and fundamental rights’ violations at the external borders. The mechanism should be guaranteed by a solid monitoring process by independent organizations or the EU Fundamental Rights Agency. EFBWW and BWI will continue to follow and influence this debate via the ETUC and ITUC respectively.

BWI and EFBWW believe that countries in the European Union should strictly regulate the role of intermediaries, such as Temporary Work Agencies, placement companies, and recruitment agencies to end fraudulent and abusive practices. Charging workers with recruitment fees should be banned. In that context, particular attention should be given to protect migrant workers from the risks of becoming trapped in forced labour situations.

### **Towards an inclusive society**

Migration unlocks many opportunities for individuals and countries. In order to unlock these opportunities, the EU and all Member States need to develop and implement a robust inclusion policy for all migrant workers. For this, the European construction and wood labour market must offer all migrant workers the same opportunities, social protection and working conditions, access to education and training...

In order to guarantee that migrant workers have access to regular employment, an EU framework needs to be developed that ensures that all countries set up mechanisms for the recognition of qualifications and provide access to training to acquire the needed professional skills and qualifications, access to adequate accommodation/housing and a trajectory towards decent work.

Migrant workers and their family members must have access to all rights available to all (domestic) workers (education, job guidance,...). Learning the local languages, the cultural norms/values and rules and obligations are also an essential part of a successful inclusion policy. In order to create mutual confidence and as a preventive element to combat exploitation, the EFBWW and BWI consider that all migrant workers should receive a mandatory training course on their social and labour rights and obligations as well as on the role of trade unions and public institutions. The trade unions need to be actively involved in this training course.

### Concrete cooperation commitments of the EFBWW and BWI

- Jointly push for fair and equal rights-based treatment for all third-country workers;
- Promote adequate/proper enforcement of existing EU and national legislation and regulations, especially in the areas of employment of third-country nationals, i.e. working and living conditions, including occupational health and safety, and social security coordination, in order to protect all third country national mobile workers adequately;
- Jointly lobby for EU member states' support and promotion of the Global Compact for Safe, Orderly and Regular Migration (GCM);
- Push for cooperation and the exchange of information between public administrations, labour inspectorates and trade unions to promote equal treatment, and to assist third-country nationals benefiting from the right to equal treatment under the respective directives (e.g. Single Permit Directive 2011/98/EU or Seasonal Workers Directive 2014/36/EU);
- Together explore and develop proposals, based on European and International labour standards, to secure migrant workers' rights to social protection and insure that social protection systems cover all workers, including migrant workers, in all situations;
- Act together to ensure full respect of the migrant workers' right to organize in accordance with international labour standards;
- Support and develop organizing initiatives of migrant workers;
- Facilitate bilateral and multilateral networks and agreements between unions of migrant workers' countries of origin and destination;
- Propose actions to prohibit unfair recruitment practices, including recruitment fees imposed on workers by private employment and/or migration agencies in their home countries;
- Lobby for decent work and equal treatment of all workers (including outside the EU) in the upcoming Directive on due diligence in the supply chain;
- Extend the number of non-EU languages in the EFBWW information website for posted workers ([www.constructionworkers.eu](http://www.constructionworkers.eu)) and better promote a deeper understanding about workers' rights in the EU;
- Involve a BWI representative in the EFBWW European project (together with the European employers' Federation for the construction industry - FIEC) on "Better Functioning of the European construction labour Market – FELM" (to be approved).

The European Federation of Building and Woodworkers (EFBWW) and the Building and Woodworkers' International (BWI) are trade union federations defending and advocating a rights based approach to migration and defending the rights of all workers in the construction, wood related and building materials sectors.

The EFBWW is the European Workers' Industry Federation for the following sectors: building, woodworking, forestry and allied industries and trades. The EFBWW has 76 affiliated unions in 34 countries and represents a total of 2,000,000 members. The EFBWW is a member organization of the European Trade Union Confederation (ETUC). The EFBWW works in close cooperation with the Building and Woodworkers' International (BWI).

The Federation's main task is to represent its affiliates in Europe and help them defend the rights and interests of the workers in the industries it covers. Since the virtual completion of the European Market, and especially since the conclusion of the Amsterdam Treaty, strong representation in Brussels has become all the more important. The European Union has become a legislative entity in its own right, but in our view, it still has some catching up to do in terms of developing its social dimension. The EFBWW also provides a framework for union cooperation and the coordination of actions taken in the industries it represents.

BWI is the Global Union Federation grouping free and democratic unions with members in the Building, Building Materials, Wood, Forestry and Allied sectors. BWI brings together around 334 trade unions representing around 12 million members in over 130 countries. The Headquarters is in Geneva, Switzerland while the Regional Offices are in Panama, Malaysia, and South Africa.

BWI's mission is to defend and advance workers' rights, and to improve working and living conditions in BWI sectors. BWI believes that trade union rights are human rights, based on equality, solidarity and democracy, and that trade unions are indispensable to good governance. BWI goals include: 1) to promote and defend human and trade union rights; 2) to increase trade union strength; 3) to promote a stable and high level of employment in our sectors; and 4) to influence policy and strengthen the capacity of institutions and tripartite structures in our sectors.

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