

ETUC resolution on avenues of work for the ETUC in migration and asylum fields (2019-2023)

Adopted at the Executive Committee Meeting of 17-18 December 2019

Defining the scope of the resolution

This resolution refers to conditions of entry, stay and work of third-country nationals in Europe. A migrant is defined as a person who lives in Europe but holds citizenship of a third country.

Europe includes countries covered by the ETUC membership.

The Resolution is based on an extensive quantitative and qualitative analysis of arrivals from non-European countries. It does not cover people exercising free movement according to EU rules, as applied to EU and non-EU countries. However, intra-EU movements can be considered to better understand characteristics of migration in Europe. An in-depth analysis was carried out to learn more about living and working conditions of third-country nationals in Europe.

Second and third generations, when naturalised or having obtained citizenship of the country they live in, are not covered by this resolution. Whereas certain situations may relate to their ethnic origins, and certain forms of exclusion may be the result of flawed integration measures that have affected their parents, specific problems of second and third generations will be addressed in a separate document.

Summary

Immigration is a normal and regular phenomenon linked to human development, which climate change is exacerbating (it is estimated that 150 million people leave their countries for reasons linked to climate change). At this point in time, member states should understand the historical importance of being open to people seeking international protection. ETUC rejects any kind of populist, alarmist and even racist discourse and, on the contrary, defends a common European framework for the integration of immigrants which includes common rules when necessary. The trade union movement cannot waive its pedagogical and informative responsibility and more effort should be made to explain the normality of migratory movements. Evidence shows that well-managed migration delivers positive results for society and the economy as a whole. The trade union movement in particular must reaffirm its commitment to the rights of people and especially to foreign workers who are especially vulnerable due to their status as migrants.

With this resolution, ETUC takes a stand for full respect for all migrants' rights, whatever their status. There should be no ambiguity on where trade unions stand: ETUC and its members call on the EU to guarantee the rights of all migrants, including asylum-seekers, refugees and undocumented migrants. ETUC fights for the enforcement of EU fundamental values, such as respect for human rights, solidarity, democracy and tolerance. ETUC denounces acts of violence on migrants reported at the borders of member states or in third-countries as consequences of unlawful practices of refoulement.

The EU and all its member states should be better prepared to steer migration in its internal and external dimensions. Demography, an ageing population, labour market shortages and skills mismatches are trends that are common to all member states. Some of them are once more opening legal channels for economic migration and improving

their integration policies. Protection-seekers represent and will represent a higher share of migration flows due to political instability at EU borders and effects of climate change, especially in Africa.

Unfortunately, having a migrant background is still a source of discrimination at work. It creates a further segmentation of the EU labour market. Collective bargaining and social dialogue can actually reduce the risks of downgrading working conditions of migrants. Country-based analysis and recommendations within the economic governance of the EU have already pointed out underperformances of people with a migrant background in local labour markets. Such gaps have to be removed and local workers should stand together with migrant workers and secure collective agreements with employers that guarantee fair and equal treatment for all.

The Global Compact for Safe, Orderly and Regular Migration is key to ensuring a global governance of migration. Member states are called on to uphold their obligations under the 1951 UN convention and 1967 protocol [1] and the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families of 1990; and ILO Convention 143 on Migrant Workers; ILO Convention 97 on Migration for Employment; and step up the ratification of these conventions. Human rights, international law and rule of law should be respected in every state of the Union. It is not always the case today. For instance, observers denounce the infringement of human rights in hotspots established in Italy and Greece, as recently reported by the EU Agency for Fundamental Rights. Cooperation with third countries is key to reinforcing the EU position in the worldwide protection of migrant workers especially in the Mediterranean area, East Neighbourhoods and Sub-Saharan countries.

The refugee issue is a humanitarian emergency and a geo-political challenge. Foes of the EU see, in the management of displaced people, a way to destabilise the EU. The EU and its member states should stand together to defend common values of solidarity and humanitarianism, remain faithful to fundamental values and unite against those who want to play off European countries against each other. Today, it is evident that Turkey and Libya are not reliable partners any longer and new international solutions are needed for the 3 million people who settled in Turkey and the thousands who are stuck in or returned to Libyan detention centres, disregarding human rights.

Today more than ever the solution rests in a European policy in which member states would join their forces under and within the EU institutions. We have to denounce the inability of the EU to politically achieve an effective migration policy. We also have to distinguish between the role of the Council, which opposed progress, and the European Commission attempts to improve coordination and cooperation between member states. An extraordinary plan has to be established to provide immediate solutions to current challenges and prepare the EU to cope with future challenges and emergencies in the asylum and migration fields.

The EU and member states need to put in place a policy that is more consistent with our values and principles, increasing cooperation and partnership with African countries and African democratic and progressive movements, based on human rights and the Agenda 2030.

ON ASYLUM

The vast majority of those coming to the EU from the Middle East and North Africa are asylum-seekers. ETUC calls on member states to uphold their obligations under the 1951 UN convention and 1967 protocol [1] to provide legal protection to asylum-seekers and not to return asylum-seekers or refugees to a country where they face serious threats to their life or freedom, having serious consideration and taking actions to remove any form of violence exercised on migrants at EU or national borders.

The ETUC condemns member states that mistakenly define asylum-seekers as 'economic migrants' and fail to fulfil their international legal obligations to offer them protection. Asylum-seekers and refugees must have the right to work and be protected by collective agreements and be part of trade unions so as to claim rights at work. Children and minors should have the right to education without discrimination and be supported while closing linguistic or educational gaps.

The political instability and wars just beyond EU borders are a direct consequence of predatory policies, absence of freedom and violations of universal human rights, for which the EU and member states also bear some responsibility and are a source of concern for the EU population. Companies from EU countries, meanwhile, have contributed to carbon emissions in countries of the Global South, which has led to an increase in climate refugees seeking protection in Europe. The EU has provided shelter to about 2 million newcomers, but this is inadequate for the circumstances we are all living in, furthermore asylum policies are often mismanaged. A widespread sense of responsibility and solidarity among the EU population co-exists together with the fear that there is no end in sight to an emergency situation that is bringing an increasing number of protection seekers to the EU's borders. People need a political answer based on a truth-based narrative of facts and reliable solutions for border control, security, reception and integration of asylum-seekers.

Tragically, in 2019, more than 1,000 people died in the Mediterranean Sea. This is a disgrace. Protection of people at the EU borders remains a humanitarian emergency. Rescue at sea is a moral and legal obligation according to the International Convention on Maritime Search and Rescue. Closing harbours to asylum seekers is an illegal practice.

Member states decided to act alone, and they failed. The institutional framework of the EU failed, and individual action by states proved to be insufficient when failing to respect fundamental rights and international laws. The EU has been rescued by the efforts of organised civil society –NGOs, trade unions and other organisations – which have acted with respect for EU principles and values, and the voluntary commitment of thousands of men and women who have helped and welcomed people who were and still are looking for protection in the EU. Trade unions urge member states to make better use of the EU institutions for common asylum and migration policy.

Our priorities

ETUC calls on the EU to ensure trade policies that promote the Sustainable Development Goals and the development of democratic structures. ETUC has outlined the key components of a fair-trade policy in its 2017 position¹. ETUC calls on the EU to ensure companies act within the framework of the Paris Agreement and reduce carbon emissions.

New safe and regular channels for protection seekers. Safe legal channels have to be increased beyond the 36,000 people resettled so far, achieving a number of resettlements per year that is proportionate to the greater EU absorption capacity, and **proportionate to the EU population** resettlement scheme which obliges all member states to ensure a sufficient number of legal and safe entries to the EU. This would discourage protection-seekers from falling back onto smugglers. Countries that protect higher number of migrants should receive more resources from the EU Budget.

Asylum-seekers must be granted the right to work in all member states. Immigration status concerns asylum-seekers while employment rights is about the dignity of the worker– no one should be denied rights at work because of irregular status. The same applies to children of asylum-seekers and minors seeking international protection. Their

¹ <http://www.etuc.org/en/document/etuc-resolution-eu-progressive-trade-and-investment-policy>

status cannot be a reason to deprive them of the right to attend school or have access to quality education.

An **EU common asylum policy** would be beneficial for all European citizens. The existing legislative proposals issued in 2015 and 2016 are now under the political scrutiny of the new Commission. The EU should be recognised as a single territory, according to international law, for the purpose of protection and distribution of asylum seekers. It requires a reinforced legislation framework that supports disembarkation and settlement of asylum seekers; standards of decent conditions in reception centres or dwellings; reinforced rights concerning access to work (after six months upon the submission of asylum requests); and equal treatment at work. A European agency can either intervene to support member states in case of significant numbers of asylum requests, or redirect the applications to the concerned member state, according to predefined rules. It should go along with a reinforced identification database that provides legal certainty to the position of asylum-seekers on EU territory, by respecting their right to protection of data and by making sure it does not lead to any security misuse. This would also be a condition for reinforcing the fight against irregular migration; the first objective of repatriation policies being the protection of the dignity of the person and the respect of fundamental rights of the EU and international laws. An EU legislative package is currently at an advanced stage of analysis. Its adoption would be an improvement that will equip the EU to cope with new emergencies and will reassure European citizens vis-à-vis the capacity of their European and national institutions to match humanitarian duties with security reasons.

Revision of the Dublin rules would make EU asylum policy effective and sustainable; harmonise protection standards for asylum-seekers in all member states; and establish clear and mandatory mechanisms to relocate asylum-seekers and refugees. A comprehensive migration and asylum agenda for Europe that commits all member states is needed, based on solidarity, responsibility and full respect for human rights, including measures for socio-economic inclusion of asylum-seekers and refugees. The revision of the asylum rules should also introduce protection for those who already have a job or have participated in integration programmes and whose human dignity would be destroyed if they were deported or forced into irregularity.

Border control cannot be surrendered to non-EU authorities. It is ineffective and dangerous. We have to take action so as to stop pushbacks (refoulements) **and forced returns of asylum-seekers (refoulements)**. It's contrary to international law. This happens in places like Libya, where torture is systematically perpetrated on migrants or people are deliberately killed by the coastguards at sea, as reported by several NGOs. It exposes the EU and its member states to despicable blackmail, as it happened when the Turkish government dodged EU sanctions in response to the military invasion of Syria. It is therefore urgent to assess transparently and democratically the control of the EU FRONTEX agency.

We have to **fight false myths** about migration. The most common concern is for illegal entries via sea. 90% of newly arrived asylum-seekers present themselves to national authorities, seeking protection. It is then a discretionary decision of the authorities to let them stay undocumented or push them into irregularity, because of administrative choice or ineffective legislation. Each migrant arriving in Europe should have the right to documents during the time he or she is allowed to stay, regardless of the protection measures he or she is entitled to.

Support to workers in public and private services assisting migrants, refugees and asylum-seekers. The ETUC expresses solidarity with, and respect for, the staff employed in reception and integration facilities of public and private operators. They take on a delicate and important role giving dignity to people in difficulty; but they are often understaffed, underpaid and even reviled by public opinion. ETUC asks for public services to be properly financed, and for people employed in services managing asylum and migration facilities to be well remunerated and protected. Furthermore, staff working

with migrants in other fields, such as education and training, health, social protection, etc. require sustainable and appropriate professional training and support in managing the cultural diversity and specific needs of migrants.

The economic and social partners and the Commission signed a **Partnership for Integration** of Refugees in December 2017, laying down key principles and commitments to support and strengthen opportunities for migrants to integrate into the European labour market. Signatories are committed to converting the partnership into concrete actions at national level, ensuring that its scope of application covers recently arrived migrants such as asylum-seekers, refugees, people holding permits for subsidiary or humanitarian protection. The LABOUR-INT action is the framework in which the ETUC calls on all its members to get engaged. Actions are already taking place in regions or cities such as Athens, Liège, Tyrol, Slovenia, Naples.

Our actions

ETUC will continue to advocate for an EU asylum policy built on solidarity and responsibility (including a reform of the Dublin regulation), and based on the Global Compact on Migration, on the Geneva Convention, the principle of non-refoulement and human rights. It will advocate for the swift adoption of EU legislative initiatives that help the implementation of this resolution.

Nobody should die at sea or in the desert as a consequence of the process that we call “externalisation of European borders”. The ETUC will advocate for an EU search-and-rescue programme designed together with the Commission and deployed by national authorities. This should include the legitimate and direct involvement of NGOs to make the overall asylum system more effective, transparent and accountable.

ETUC will pursue the continuation and implementation of the Partnership for Integration of refugees and asylum-seekers at national level, giving continuity to LABOUR-INT projects. In the past two years, ETUC has demonstrated that the socio-economic inclusion of asylum-seekers and refugees is possible. Access to employment is an effective vehicle of integration. The European Partnership for Integration and the LABOUR-INT projects show the way ahead and must be further supported. It includes a clear statement in favour of migrants’ access to education and vocational training, recognition of skills and competences, and workplace experience in order to give people better opportunities to get a job and optimise resources allocated to integration measures for asylum-seekers and refugees. Both the Partnership on Integration and the LABOUR-INT approaches require a stronger investment in people who work with asylum-seekers and refugees. This remains a political demand of ETUC and a focal point of its strategy for integration.

ETUC and its member organisations will support asylum-seekers and refugees having the right to work, to be protected by collective agreements and part of trade unions to claim rights at work.

ETUC will act together with its members, civil society organisations and any other relevant actor to oppose the criminalisation of solidarity, calling on the EU and its member states to put an end to the criminalisation of people and organisations supporting those in need. On this point, the current legislation is ambiguous. ETUC will work towards removing any form of direct and indirect bias against trade unions, civil society organisations and citizen’s initiatives for solidarity, that could exist in national and EU laws.

ON ECONOMIC MIGRATION

Movement of people is an increasing phenomenon driven by many factors including political instability, poverty, lack of democracy, climate change, impossibility of living a dignified life in countries with very weak institutions. The EU is a popular destination

among migrants, but deep regional differences exist in the EU in terms of countries of destination. Among the largest countries, the extent of immigration is greater in Germany and the UK than in Italy, France or Spain. Other countries such as Switzerland, Belgium, Netherlands, Denmark and Sweden also contribute more than other countries. Eastern countries often record negative net migration balances, and this shows up in negative demographic trends and lower socio-economic performances. The ETUC's analysis shows that the EU is experiencing labour shortages and skill mismatches everywhere. Beside the inefficiencies of member states' current migration policies, bad management of migration appears among the reasons for higher socio-economic segmentation of the EU population. Countries like Portugal have developed legal frameworks for migration and integration that have proved effective for both local populations and migrants. Many other examples can be found in the EU and convergence toward the best practices is possible.

The EU should pursue the improvement of working and living conditions of all workers and their family members regardless of their migration status. The European Pillar of Social Rights has to apply to everyone in work. In a common effort to raise working and living standards of European workers, migrants (about 10% of the workforce) cannot be left aside. Especially when exposed to exploitation and irregular employment, their rights as workers should lead to regularisation of their employment position and ensure continuity of income and dignity of life.

Our priorities

More opportunity for regular migration. The ETUC upholds an **open Europe**, with opportunities for economic migrants to enter and work in the EU. Member states should be free to decide about flows; however, EU law can still bind national legislations to respect minimum rights, decent working standards and the equal treatment principle in favour of all workers regardless of their migration status, including minimum rights ensuring transitions from irregular to regular employment.

It is necessary to provide forms of permanent regularisation for migrant citizens present on European territory without a residence permit. At the same time, all the laws and regulations regarding security and discriminatory immigration practices so far adopted by different Member states must be repealed, putting in place new and effective policies on immigration aimed at ensuring true inclusion and acceptance, and greater social cohesion.

Fight against discrimination and segmentation of the labour market. Often migrant workers are in the most discriminating forms of employment. This reflects structural discrimination and racism in the labour market. Discrimination in the labour market is detrimental to all workers whose working conditions risk being eroded by bad employers, by inefficient labour market institutions, declining of collective bargaining or by laws that allow it. Evidence shows that third country nationals suffer discrimination on the basis of nationality. The European labour market looks like a three-layer cake: the local workers on top, the EU migrants in the middle, and the bottom layer occupied by third-country nationals. Gaps are visible in employment rates, employment conditions and access to social protection. At the same time, the European labour market records shortages that are slowing down economic growth in many EU countries. In particular, this is true in countries with strong demographic decline or rapid ageing of the population and in countries with inefficient migration policies.

Improved EU migration policy and an appropriate and flexible legal framework. The configuration of a unique framework for the EU that sets the legal statute of non-EU persons in the EU as well as the rights and obligations of foreign non-EU workers would be desirable. The European directives (such as Blue Card, ICT, and Seasonal employment) that were created to open legal channels are poorly used. Only the Single Permit Directive seems to cover a relevant number of permits released every year in Europe. EU legislation should ensure decent jobs with full respect of the principle of

equal treatment and access to employment rights. Immigration status and employment rights should be separated to ensure all workers can claim their rights at work. It is crucial that trade unions organise migrant workers to ensure then they have the power to claim these rights at work. Joining a union remains key for the successful integration of migrants in hosting communities.

Migrant women in the EU still face a wide range of challenges and discrimination linked to their migratory status, ethnic background and gender: Second EU Minorities and Discrimination Survey of the Fundamental Rights Agency shows that a high number of young migrant women (aged 16-24) are not in work, education or any kind of training. In many countries, this is caused by the lack or inaccessibility of care facilities preventing migrant women from getting a job or attending lessons to learn the language of the host country. Therefore, ETUC demands that governments, as well as regional and local authorities, should provide more social and economic support for all families regardless of their background.

Preventing abuses, exploitation and trafficking. Migrants should have the same rights, opportunities and wages as the local workforce. Equality of treatment must be the rule to protect vulnerable workers and the 2014 ILO protocol on forced labour should be applied and enforced without delay. Trafficking of human beings, in which women trafficked for sexual exploitation are the main victims, has to be stopped, using all available tools.

Undocumented migrants must be able to claim rights at work – in many member states undocumented workers are not able to claim employment rights as the law ties employment rights to immigration status. Bad employers are taking advantage of this and forcing undocumented workers to accept exploitative conditions as they are not able to report abuse to the authorities without risk of imprisonment or deportation. It is crucial that all member states separate immigration status and employment rights to prevent such exploitation. Given the large numbers present in Europe, the exploitative conditions to which they are often subjected, and the great difficulty in repatriating them, a political solution must be found at EU level. In particular, non-EU migrants need to be protected against unlawful or irregular forms of employment and to benefit from a case-by-case regularisation of their positions. The European Pillar of Social Rights should be interpreted in a way that fully protects all third-country nationals “who are at work in legal activities” or with legal residence.

UnionMigrantNet is the trade union network of assistance for the integration of migrants. It has proved to be a visibility factor for the trade union movement at EU level and an effective instrument to build on best practices. As an overarching trade union network, UnionMigrantNet had the attention of European institutions and showed added value to reinforce cooperation that trade unions build in Europe or with third countries. From January 2020, the ETUC will involve all its members in a process of further consolidation of the network, also developing a new web portal that could finally become a reference point for all immigrants in Europe. UnionMigrantNet can also be reinforced to respond to the ETUC priority to better involve migrants and other marginalised minority groups in trade union life and decision-making processes.

Our actions

The ETUC will advocate for a comprehensive EU migration agenda, based on EU values and principles of human rights, equal treatment, solidarity, integration and inclusiveness for the benefit of all. We will also demand the urgent establishment of new safe and regular channels for migration and link working conditions of migrants to the European Pillar of Social Rights.

The ETUC will continue to raise awareness of the importance of migrant workers leading campaigns to improve conditions for all workers and as members of our communities,

playing key roles in industry and public services. The ETUC will promote a structured dialogue with the Commission and the social partners to elaborate common views and policy proposals, including collective bargaining, for better management of skills, recognition of qualifications, access to jobs and the labour market for workers with a migrant background.

Undocumented migrant workers continue to be victims of severe forms of labour exploitation. ETUC calls for immigration status and employment rights to be separated to enable undocumented workers to claim their rights. ETUC will also ask for structured dialogue with the European Commission and employers to identify avenues for the improvement of the Employers' Sanctions Directive, including providing residence permits for workers reporting exploitation and reinforcing labour inspectorates; and activating the European Labour Authority to promote rights for irregular workers to transition from irregular to regular employment. Furthermore, it is necessary to monitor full implementation by member countries, as well as the relative effectiveness of European directive 52/2009. In general, the ETUC promotes and monitors the application of European Directives that protect the rights of immigrants and asylum-seekers.

The current EU legal framework governing regular migration channels (family reunification, long-term residency, seasonal workers, Single Permit Directive) should be improved to ensure uniform rights at work, higher protection in the labour market and adequate enforcement measures for the EU acquis. In both existing legislation and new initiatives, ETUC will promote an exchange between legal experts and practitioners in order to identify all shortcomings in the Directives and promote a more effective legal framework for entry and work in the EU.

ETUC will continue to coordinate and support the work of UnionMigrantNet and seek funding opportunities to enhance the network's activities, fostering its service component. UnionMigrantNet is the European trade union "network of networks" which helps with integration of migrants. It is the framework in which transnational trade union cooperation among unions can thrive in the interest of all workers. The RSMMS network, involving European and African unions can be an opportunity to increase the action of UnionMigrantNet in countries with which the EU is building mobility partnerships and tools for a shared management of migration flows. It will also improve Europe-Africa exchanges to build trade union capacities to support migrants either in the south-north direction or south-south movements.

Existing forms of cooperation between national trade union organisations must also be valued in the context of bilateral or multilateral arrangements. These arrangements can support migrant workers, promote awareness-raising and training on legislation, regulation and labour rights, through which it is also possible to encourage union membership among immigrants, allowing them social integration, entry into the world of work and to become active citizens.

ETUC will continue to put the principle of **equal treatment** for migrant workers at the forefront of any advocacy or technical work, and contribute to transnational projects aimed at promoting tolerance, equal rights and opportunities. Furthermore, ETUC will encourage all its affiliates to carry out awareness raising campaigns and actions in order to contribute to changing the general public's negative and ill-founded views about immigration. Special attention shall be paid to the situation of women and children in a vulnerable position. The trade union movement has the responsibility to identify, denounce and end situations that expose women and children with a migration background to detrimental living and working conditions, in particular within the diasporas.

ETUC will oppose any attempt to use discriminatory or racist arguments at all levels. It will take action to spread a narrative that removes prejudices and promotes unity of interests between local and migrant workers. ETUC will support members' activities **to organise migrant workers, including undocumented ones**; and collectively bargain

to ensure all workers, no matter their immigration status or nationality, are treated equally and have their rights respected. ETUC will work together with key civil society stakeholders such as PICUM on long-term joint strategies.

Forced labour and exploitation are still widespread in many economic sectors, such as tourism, agriculture and construction, and more should be done to prevent and fight discrimination and abuses.

ETUC is explicitly engaged in the fight against any form of racist or xenophobic speech and cultural attitude that indulges on discriminating arguments. It opposes any political organisation that decides to promote discrimination, violence and division among people. ETUC will work with MEPs in the new parliament to stand against xenophobia and discriminatory policies and promote trade union principles on migrants and asylum-seekers.