



Submission by La Strada International to the Call for Evidence on the Evaluation of the Employers' Sanctions Directive – September 2026

Introduction

La Strada International is a European NGO platform against human trafficking, bringing together 32 members across 24 European countries. Working from a human rights perspective, the Platform supports victims and survivors of human trafficking and forced labour and works to prevent severe forms of labour exploitation while protecting and advancing workers' rights. We do so through access to assistance and support, advocacy and monitoring, capacity building, knowledge exchange and cooperation with relevant public authorities, social partners and civil society actors.

We welcome the European Commission's evaluation of the Employers' Sanctions Directive and the opportunity to provide evidence on its implementation and practical effectiveness. The Directive is an important component of the EU framework addressing undeclared work and labour exploitation, including its most severe forms. However, as also recognised in the Commission's May 2026 implementation report, significant gaps remain between the rights and safeguards established in law and their effective enjoyment in practice.

The evaluation should therefore assess not only whether Member States have transposed and applied the Directive, but whether it works for workers in practice. This means examining whether workers can safely report exploitation, access assistance and protection, recover unpaid wages and obtain effective remedies, and whether employers and other responsible actors are held accountable. Particular attention should be paid to workers in irregular situations, who may face additional barriers to accessing labour rights and justice.

The need for safe reporting and a firewall

For undocumented workers, contact with public authorities may involve perceived or actual risks linked to immigration status. A worker who fears detention, removal, loss of employment or retaliation may be unwilling to report abuse, cooperate with an inspection or pursue a wage claim. This creates a

structural enforcement problem: workers most exposed to severe exploitation may also be those least able to report it, this includes victims of severe forms of exploitation. The effective enforcement of labour rights can be seriously undermined where labour and immigration enforcement are closely linked. Undocumented workers who fear that approaching labour authorities could expose them to detention, removal or other immigration consequences may refrain from reporting exploitation or seeking remedies. This can leave some of the workers most vulnerable to severe exploitation without effective access to protection and justice, while also limiting authorities' ability to detect and address violations.

Effective implementation should therefore ensure a clear separation between labour-rights enforcement and immigration control. Workers who report exploitation or seek to enforce their labour rights should not be exposed to immigration consequences as a result of exercising rights guaranteed under EU and national law. This protection should extend throughout the entire process, from the initial complaint or labour inspection through investigation, judicial proceedings and enforcement of any decision or remedy. Ensuring such safeguards would strengthen rather than weaken enforcement: when workers can report violations without fear of immigration consequences, authorities are better placed to identify exploitation, hold abusive employers and other responsible actors accountable, and ensure that workers can access effective remedies.

Unpaid wages and back-payments

Ensuring that workers can actually recover unpaid wages should be a key focus of the evaluation. While the Directive requires employers to pay outstanding remuneration and provides a presumption where the agreed level of remuneration cannot be established, these provisions do not consistently translate into effective recovery in practice.

Evidence from our members, civil-society organisations, trade unions and fundamental-rights actors indicates that workers may be unable to pursue or complete wage claims because of financial and procedural barriers, lengthy proceedings, lack of legal representation, difficulties establishing the employment relationship, and obstacles to enforcing decisions. The evaluation should therefore assess the full wage-recovery process, from identifying violations and establishing the employment relationship to calculating amounts owed, obtaining a judicial or administrative decision and, most importantly, securing actual payment.

The rules on establishing and recovering unpaid wages should be strengthened to ensure that workers can effectively enforce their claims. The three-month presumption should clearly cover three months of full-time employment unless the employer can demonstrate otherwise. Workers should be able to use a wide range of evidence to establish the employment relationship and prove labour-rights violations, while employers should bear responsibility for demonstrating that workers have received at least the applicable minimum wage and all other legally required remuneration.

The system should also ensure that a successful claim results in actual payment. Workers should have simple and accessible mechanisms to recover wages, including prompt or state-backed payment where necessary, effective enforcement against employers, support from trusted organisations and the possibility to pursue claims after leaving the country. Access to basic banking services should also be guaranteed regardless of residence status, so that workers can receive and retain wages awarded to them. Where possible, financial sanctions paid by those responsible for the misconduct, should be used for back pay and compensation.

Temporary residence permits

Temporary residence permits can play an important protective and enforcement role. Available evidence indicates that relatively few permits have been issued in connection with exploitation during the reporting period, with substantial concentration in a small number of Member States. The Commission has also identified residence permits as an area where significant data gaps remain.

Where residence protection is strongly linked to cooperation in criminal investigations, workers may be reluctant to pursue wage claims or report labour violations that do not immediately result in a criminal investigation. Member States should therefore make fuller use of existing provisions on temporary residence permits as a protective mechanism.

Workers who have experienced serious exploitation should be able to remain safely available for investigations and proceedings where necessary, while pursuing labour and wage claims.

Subcontracting, recruitment and intermediaries

Complex employment structures are a major challenge for effective implementation of the Directive and for addressing severe forms of labour exploitation, including human trafficking and forced labour.

Long subcontracting chains may involve principal contractors, subcontractors, recruitment agencies, temporary-work agencies, labour intermediaries and online platforms. Cross-border situations involving posted third-country workers can add further complexity.

Such arrangements can make it difficult to identify responsible employers and other actors, establish liability for unpaid wages and sanctions, and determine which authorities are responsible for enforcement. The Employers' Sanctions Directive already recognises challenges related to subcontracting and provides for liability involving contractors in certain circumstances. The evaluation should nevertheless examine whether these provisions work effectively in practice and what further measures are needed to ensure accountability across complex employment structures.

Enforcement should not focus solely on the immediate employer. Where appropriate, recruiters, intermediaries, contractors and other actors who contribute to or benefit from abusive employment arrangements should also be subject to accountability. The Commission and Member States should provide clearer guidance on liability and enforcement in complex subcontracting structures and strengthen cross-border cooperation where responsibility is distributed across jurisdictions. Recruitment agencies and labour intermediaries can facilitate labour exploitation, including severe forms like human trafficking and forced labour. Deceptive recruitment, excessive recruitment fees, contract substitution, document retention and dependency on intermediaries can create or deepen workers' vulnerability. Complex recruitment and subcontracting chains can further obscure responsibility and hinder enforcement.

Effective implementation should therefore include stronger oversight of recruitment agencies and intermediaries, clear liability throughout subcontracting chains, and effective referral mechanisms where labour inspections identify indicators of human trafficking or other severe exploitation.

Enforcement, data and institutional cooperation

The increase in labour inspections and financial sanctions reported in the Commission's 2026 findings is important. However, enforcement activity alone does not demonstrate whether the Directive is effective. The evaluation should therefore assess outcomes and impact, not only the number of inspections or sanctions.

It should examine whether workers can safely report exploitation, access assistance and residence protection, recover unpaid wages and obtain effective remedies. It should also assess whether sanctions are enforced and collected, whether criminal cases result in prosecutions and convictions where appropriate, and whether labour inspections identify severe exploitative practices including human trafficking cases and ensure timely protection and referral. Persistent data gaps, particularly on complaints, criminal proceedings, residence permits and wage recovery, should be addressed.

Member States should establish systematic and disaggregated data collection covering inspections, detected violations, complaints, investigations, prosecutions, convictions, sanctions and actual remedies. Data should enable comparisons across sectors and geographical areas and help identify where enforcement resources are most needed.

Labour inspectorates should be adequately resourced and inspections targeted towards high-risk sectors and areas, including construction, agriculture, hospitality, transport, domestic work and care, alongside other sectors identified through national risk assessments.

The Commission should strengthen cooperation between labour inspectorates, immigration, tax and social-security authorities, police, prosecutors, with victim-support organisations and social partners, including through clear referral and coordination procedures that safeguard workers' rights.

EU funding and technical support should strengthen labour inspectorates, legal assistance, worker-support organisations, data systems and inter-agency cooperation, ensuring that rights under the Directive can be effectively exercised in practice.

Implementation before revision

The central recommendation of this submission is that priority should be given to the effective implementation and enforcement of the existing Employers' Sanctions Directive before considering legislative revision. There remains considerable scope to improve the practical application of existing provisions. Many of the weaknesses identified do not necessarily result from an absence of legal provisions. Rather, they concern whether existing provisions are being used effectively. Key challenges include weak access to remedies, uneven enforcement and protection, poor coordination and data, unclear responsibility within subcontracting chains, and workers' fear of immigration consequences.

There are also important reasons for caution about reopening the Directive at this stage. The current political environment places significant emphasis on irregular migration, border control and enforcement. In this context, there is a risk that a revision could move towards a more restrictive approach without strengthening protections for undocumented workers. This would be particularly concerning if amendments weakened access to complaints, remedies, residence protection or wage recovery, or further increased the risks associated with contact between undocumented workers and public authorities.

The objective should therefore be to strengthen the protective and enforcement dimensions of the existing framework rather than prematurely reopening the legislative balance. This does not preclude future legislative amendments. Rather, it ensures that any future revision is based on evidence demonstrating that implementation measures are insufficient and that specific legislative changes are necessary.

Recommendations

We recommend that the European Commission and Member States:

1. Prioritise effective implementation and enforcement of the existing Employers' Sanctions Directive before considering legislative revision.
2. Ensure safe reporting and a clear firewall between labour and immigration enforcement, so undocumented workers can report exploitation without fear of detention, removal or retaliation.
3. Strengthen access to information, legal assistance and support, including multilingual information, interpretation, cultural mediation and independent advice.
4. Improve access to protection and remedies, including broader use of temporary residence permits and effective mechanisms for recovering unpaid wages.
5. Ensure actual recovery of wages, including through advance payments, asset recovery, immediate payment mechanisms and the possibility to pursue claims after leaving the country.

6. Strengthen accountability across subcontracting and recruitment chains, ensuring that employers, contractors, recruiters, temporary-work agencies and other responsible actors can be held accountable.
7. Strengthen labour inspections and anti-trafficking cooperation, particularly in high-risk sectors, with clear procedures for identifying and referring potential trafficking cases.
8. Improve inter-agency cooperation and enforcement capacity between labour, immigration, police, tax, social-security and victim-support authorities, supported by EU agencies and networks.
9. Improve data collection and measure outcomes, focusing not only on inspections and sanctions but also on complaints, prosecutions, referrals, victim protection and access to justice, including actual recovery of wages.
10. Use EU funding, guidance and enforcement tools to strengthen implementation, while addressing structural drivers of irregular employment and only considering legislative revision where the evaluation demonstrates that implementation measures are insufficient.