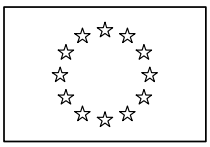

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.5.2007
SEC(2007) 603

COMMISSION STAFF WORKING DOCUMENT

Accompanying document to the

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

providing for sanctions against employers of illegally staying third-country nationals

Impact assessment

{COM(2007) 249 final}
{SEC(2007) 596}
{SEC(2007) 604}

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Lead DG: Justice, Freedom and Security

1. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

One of the factors encouraging illegal immigration into the EU is the possibility of finding work. This impact assessment report examines policy options for reducing that pull factor by targeting the employment of third-country nationals who are illegally resident in the EU. The Commission suggested such measures in its July 2006 Communication on Policy priorities in the fight against illegal immigration[1]. The European Council endorsed this suggestion in December 2006, inviting the Commission to present proposals. This initiative responds to that request.

In **Commission Legislative and Work Programme 2007** states that "an important tenet of the EU strategy in the field of migration will be a proposal on minimum sanctions for employers of illegally staying third-country nationals, in order to reduce both illegal immigration and the exploitation of such workers" and therefore envisaged the preparation of the proposal for a Directive on minimum sanctions for employers of illegally resident third-country nationals[2]. A road map was prepared for this strategic initiative[3].

This report is based on consultations with Member States and other stakeholders. The data were collected from the consultations set out below as well as from case studies and literature reviews. The data-gathering and a large part of the consultations were undertaken through an **external study**[4] (hereinafter "the external study") ordered by the Commission in December 2006. The external study constitutes the main support for this report. The problem, objectives and policy options assessed were based on the draft final report from the contractor prepared in close consultation with the Commission and on the basis of a desk analysis of appropriate analytical methods and applicable legal documents.

The external study and this report have been drafted with input from numerous contacts between the Directorate-General for Justice, Freedom and Security and the contractor (starting from a kick-off meeting before the beginning of the study) as well as meetings of an inter-service steering group at which participated representatives of the Commission's Secretariat-General, Legal Service of the Commission and Directorates-General for Enterprise and Industry, for Employment, Social Affairs and Equal Opportunities, for Research and for Internal market and Services[5].

The Commission's Impact Assessment Board (IAB) was consulted on the draft final report of the external study, an earlier stage in the process than is normal. The IAB's

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1 COM(2006) 402.

2 CLWP reference No : 2007/JLS/014

3 http://ec.europa.eu/atwork/programmes/index_en.htm

4 Impact Assessment on a Community instrument laying down sanctions for employers of third-country nationals with no or limited rights to work that are exceeded, GHK Consulting Ltd (Specific Contract No JLS/2006/B4/05). The external study will be published at: http://ec.europa.eu/dgs/justice_home/evaluation/dg_coordination_evaluation_annexe_en.htm

5 Meetings of the inter-service steering group took place on 1 February 2007 and 6 March 2007.

(first) opinion was taken into account in this report notably as regards (i) clarifying the links between the general problem/objective of illegal immigration and the specific problems/objectives relating to illegal employment, (ii) widening the assessment of social and economic impacts, and (iii) examining the links between the policy options and the specific problem of inadequate enforcement. The IAB issued an updated opinion on 18 April 2007 (which will be made public) which has also been reflected in this report (notably by providing cross-references to more detailed assessments and descriptions in the external study), except for the IAB's recommendation to divide the "harmonised sanctions" policy option into two separate policy options which has not been followed[6]. This option has been given due consideration, but because of time constraints, it was not possible to incorporate it in the report. However in the current sanctions option the criminal sanction element was further differentiated.

Although time constraints meant that the Commission's minimum standards for consultation were not fully met, meetings were held with the ETUC and UNICE/Business Europe. Member States were consulted in the framework of the Commission's Committee on Immigration and Asylum. The work also benefited from seminars and workshops bringing together representatives of the social partners and other NGOs[7]. Through the external study, further consultation of Member States (including their enforcement bodies), trade unions and employer organisations, and NGOs was undertaken using questionnaires and interviews[8]. Account has also been taken of comments made in reaction to the Commission's July 2006 Communication on Policy priorities in the fight against illegal immigration[9].

2. PROBLEM DEFINITION

2.1. The scope of the problem

Tackling illegal immigration is one part of the EU's effort to develop a comprehensive migration policy. In September 2007 the Commission will present a first proposal on legal migration in accordance with its December 2005 Policy Plan. This report however is concerned with the fight against illegal immigration.

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6 This recommendation concerned an issue raised during further scrutiny of the draft IA report and had, therefore, not been addressed in the Board's first opinion.

7 In particular a workshop organised by the European Policy Centre in cooperation with the King Baudoin Foundation on 16 February 2007.

8 Questionnaires were circulated to 24 Member States (3 Member States were subject to case study visits). 16 Member states completed questionnaires. Interviews with enforcement bodies in 12 MS were carried out. Representatives of employer organisations and trade unions in three sectors have been consulted: construction, agriculture and catering. Interviews were undertaken with three other stakeholders: a researcher, a representative from Solidar and a representative of PICUM). Further details are given in annex 2 of the external study.

9 COM(2006) 402.

2.1.1. The general problem: illegal immigration

Illegal immigration is driven by a range of push and pull factors, which are by no means only economic in nature. Decisions to migrate are based on push factors such as unemployment or permanently low wage levels and natural disasters or ecological devastation, and of pull factors such as informal employment with higher wage levels, political stability, maintenance of the rule of law and effective protection of human rights. Illegal migrants make their decisions despite various deterrents, such as high costs for the services of smugglers and the risk of interception and prosecution by border authorities[10].

The present initiative needs to be viewed as part of the EU's comprehensive approach to reducing illegal immigration, as an instrument focussed on reducing the employment pull factor will not on its own eliminate the problem of illegal immigration to the EU.

2.1.2. The specific problem: employment as a key pull factor for illegal immigration

The legislative proposal aims to reduce a key pull factor for illegal immigration: the employment of third-country nationals who are staying illegally in the EU. These include those who entered the EU illegally and 'overstayers' who entered the EU legally, but whose rights to stay have expired.

The legislative proposal does not cover the employment of third-country nationals who are staying legally in a Member State but who have no or limited rights to work, and the limited rights are being exceeded. These include students, researchers, tourists and legally present family members of third-country nationals who do not have the right to work or only have the right to work a specified number of hours per week. Although practical terms tackling such situations is also important for significantly reducing the employment pull factor, the legal basis for the legislative proposal (Article 63(3)(3)(b) of the EC Treaty) could not also permit measures in relation to this second category of third-country nationals.

The remainder of this report refers only to illegally staying third-country nationals, whilst a separate Commission Staff Working Paper identifies other measures to prevent and reduce the employment of both categories of third-country national: those who are illegally staying and those who are working in breach of their residence status.

The policy options considered here would not affect EU citizens from the EU-10 and the two new Member States Bulgaria and Romania who under transitional arrangements have restricted rights to work in some Member States of the EU.

2.2. The size of the problem

Determining the size of the problem is necessarily difficult. Apart from the difficulties of measuring undocumented persons and undocumented work, where data or estimates do exist, it is in many cases difficult to identify whether they include EU citizens subject to

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[10] COM (2004) 412.

work restrictions under transitional arrangements and if so, to separate out the figures for third country nationals. Even though precise estimates are unavailable, on the basis of data identified it is evident that there are high numbers of illegally staying third-country nationals across the EU and that numbers have grown in recent years.

Total numbers of illegal immigrants in the Member States

Different methods have been used to estimate the numbers of illegal migrants in the EU; these are described in Annex 1. The results, given in Table A2.1 in Annex 2, vary considerably. Most estimates that are available relate to the period prior to 2004 and the accession of the EU-10 and include nationals from these countries and Bulgaria and Romania as third country nationals. This makes it difficult to present a clear overview of the situation in the EU and in individual Member States.

The estimates of the total number of illegal migrants in the EU include: two to three million (Global Migration Perspectives 2005); four and a half million (IOM 2000); and, seven to eight million (United Nations' Trends in Total Migrant Stock: The 2003 Revision)[11].

Annual inflow and outflow of illegal immigrants in Member States

The number of illegal immigrants in the EU was estimated to increase by 500,000 per annum by Wiener Zeitung (2005), and by 350,000 according to Global Migration Perspectives 2005. However, if the available estimates for the individual 21 Member States are aggregated this calculation suggests that there is an annual inflow of illegal migrants to the EU of between 893,000 and 923,300. Annex 2 shows those estimates for individual Member States and, where possible, indicates trends.

Although reliable figures are not available it is reasonable to assume that significant numbers of illegal migrants either leave the EU voluntarily, are regularised or are returned to their country of origin. Thus the net flow of illegal migrants is much less than the total inflow. Many illegal migrants enter the EU with the intention of staying and working for a limited period sufficient to repay their 'investment' and then to return to their country of origin.

Some Member States have undertaken large-scale regularisation programmes in recent years, which will have also (at least initially) reduced the numbers of illegally staying third-country nationals. However, such programmes may themselves constitute a pull factor for more illegal migration to the EU. In order to address the lack of sound evidence and up-to-date information, the Commission will in 2007 launch a study on regularisation measures.

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[11] As a comparison, with an estimated 10 million illegal immigrants, the USA is likely to host around the same number of illegal immigrants as all other developed countries together. Based on this assessment, illegal immigrants makes up 26% of the total USA immigration population, 5% of the workforce and 3% of the general population. Papademetrios, G., O'Neil, K. and Jachimowicz, M.: *Observations on Regularization and the Labour Market – Performance of Unauthorized and Regularized Immigrants* (Migration Research Group, July 2004).

2.3. The employment of illegally staying third-country nationals: nature and effects

A strong motivation for coming to the EU is the perception that comparatively well paid work is available. In practice this is less the case. Work that is accessible is mainly low paid jobs in the informal unregulated economy, although some jobs are 'close' to the formal sectors. This is possible because most countries have large informal sectors (quite how large is not clear as estimates vary significantly), within which nationals also work. However, the low salaries and bad working conditions that illegally staying third-country nationals are forced to accept make them sought after employees.

Available information suggests that the employment of illegally staying third-country nationals does not necessarily crowd out locals from jobs. Instead, there are signs that whole industries are already dependent on illegally staying third-country nationals, as the kind of jobs they take would not be done by nationals at a wage level that would still maintain the international competitiveness of the sector concerned (e.g. horticulture). In terms of effects on product/service markets, making use of undeclared work is widespread particularly in certain sectors, but not limited to third-country nationals.

Effects on the product/service market may be positive in purely economic terms. Illegally staying third country nationals can bring substantial economic benefits to their host countries in their capacity as workers. Their low wages bring down the costs of goods and services, making firms and sometimes entire industries more competitive, and often have important ripple ("up-" and "down-stream") economic benefits also for associated firms and industries[12], in the form of lower output prices, or increased purchases.

Data have been obtained for twelve Member States (BE, DK, FI, FR, EL, HU, IT, LV, NL, PT, ES, UK) on **the sectors in which illegal migrants work** and is presented in Annex 3. Construction, agriculture and horticulture, house work / cleaning, catering and other hospitality services are repeatedly identified as the sectors most prone to undocumented work, in general, and that of illegal migrants, in particular. This reflects in part the nature of the work that is required in these sectors (e.g. seasonal and flexible) and in part the variations in the presence of sectors in Member States.

In Finland, France, Hungary and Portugal the highest concentrations of illegal migrants in work are found in construction. In Greece and Spain, illegal migrants in work are predominantly found in the house work / cleaning sector, whereas in Denmark, the employment of illegal migrants is particularly high in agriculture. In the Netherlands, catering and other hospitality services are a focus of recruitment of illegal migrants.

The economic weight of these 'sensitive sectors' in the total employment in each Member State also differs significantly, ranging from 10.8% in Sweden to 38.8% in Romania in

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[12] Papademetrios, G., O'Neil, K. and Jachimowicz, M.: *Observations on Regularization and the Labour Market – Performance of Unauthorized and Regularized Immigrants* (Migration Research Group, July 2004).

2005[13]. Annex 8 gives an overview of this and other factors that indicate a country's vulnerability to undeclared work in general, and that undertaken by illegally staying third country nationals in particular. It goes on to examine which countries may experience potentially adverse or beneficial effects from such employment.

As concerns effects on competition and the single internal market, in countries where the informal economy[14] is less strong, employers of illegal migrants pose unfair competition to others within certain sectors. In other countries, the custom of making use of undeclared work in general, and also illegal third country nationals, is so wide-spread, that all companies within the sectors concerned have adapted to this situation, and employ illegally themselves or cope with unfair competition by other means.

Illegal migrants contribute positively economically to both the host economies (by making companies or even sectors more competitive due to low salaries) and the countries of origin. Migrant sending countries benefit significantly from labour outflows as these offer relief from unemployment, boost the participation of female workers and produce a flow of remittances. For many third countries the dependency on these remittances, as a source of foreign exchange and as a percentage of the GDP, has increased over the years. However, there are significant costs that offset these benefits, e.g. lack of payment of social security contributions, exploitation of many illegal migrants, and the distortion of the labour market by downward pressure on wages and conditions[15].

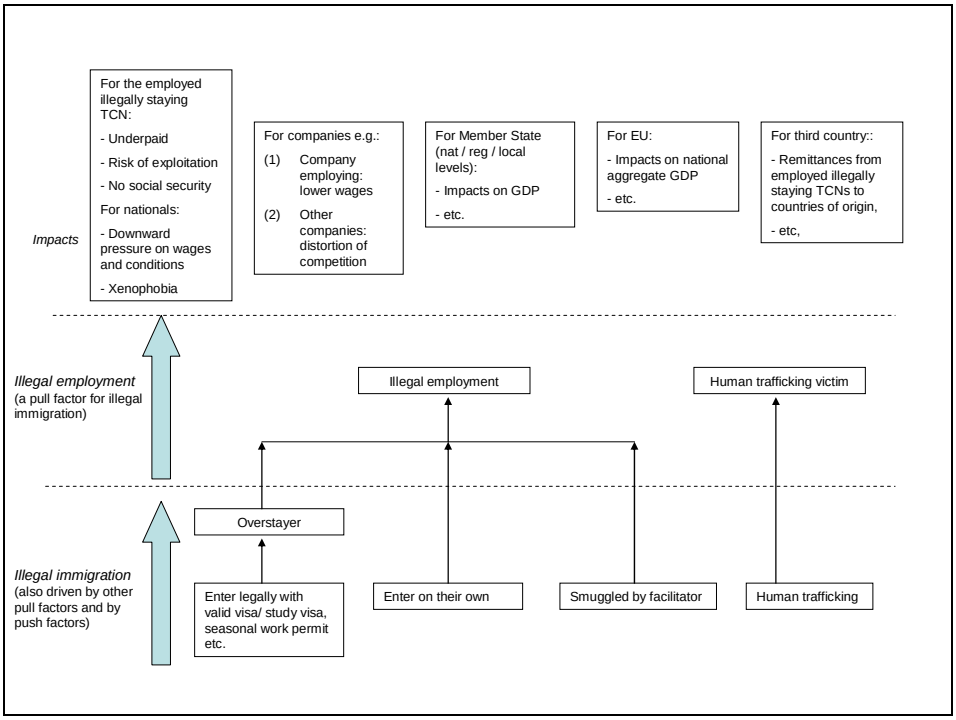
The problem tree below summarises the links between the problems and impacts in relation to the employment of illegally staying third country.

Problem tree

[13] These figures are based on the data collected by Eurostat for the following three sectors: agriculture, hunting and forestry; construction; and hotels and restaurants.

[14] The term "informal economy" refers to the economic activities of workers and businesses that are not covered or insufficiently covered by formal arrangements.

[15] The external study further assesses impacts on third countries (pp. 35-46), and on the illegally staying third-country nationals who work (pp. 46-50).



2.4. Existing national measures targeting employers

At least 26 of the 27 EU Member States already have employer sanctions and preventive measures in place to deal with employment of illegally staying third-country nationals. The legislation of 19 Member States provide for criminal sanctions. Annexes 4, 5 and 6 provide more details on the national measures[16]. However, not only does the content of these measures vary greatly, but also the combinations of measures implemented. The effectiveness of measures currently in place seems to be highly dependent on efforts and resources put in place for enforcement. Across the EU, it seems that units or agencies responsible for enforcement often struggle with scarce financial and human resources and that enforcement in general needs to be improved. The low numbers of prosecutions suggest that many employers that break the law avoid detection or prosecution.

Most Member States have high numbers of illegally staying third-country nationals in work despite having employer sanctions in place and this does not seem to be linked with types and levels of employer sanctions, but rather geographical location and possibilities to find work in certain sectors. This leads to the conclusion that the fact that Member States have adopted certain sanctions or other means to combat illegal employment of third-country nationals does not mean they are effective. Many stakeholders (Member State authorities, employer organisations, trade unions and enforcement bodies) instead point out that enforcement of the sanctions is key for an effective instrument.

16 The external study further describes the national measures (pp. 50-61), and includes more detailed case studies of Finland, Germany and Spain (pp. 66-68).

Notwithstanding the creation of new enforcement bodes by Member States, information gathered indicates that there are a number of challenges that EU Member States face in enforcing their policies in relation to undeclared work. These include:

– Lack of coordination and cooperation between the actors responsible for combating illegal work at the local level and between the local, regional and national levels;

– Absence of a structural and/or legislative framework that governs such coordination and cooperation;

– Insufficient human resources allocated to the bodies or units that are expected to deter, detect and penalise undeclared work;

– Inadequate financial resources at the disposal of the competent bodies or units to undertake monitoring and act upon violations observed;

– Obstacles to field operations (e.g. legislation that allows employers to deny access to inspectors if they regard conditions on the site as unsafe);

– Lack of information to undertake effective controls (e.g. few risk analyses, limited access to information from tax authorities and banks on companies under suspicion, employees reluctant to testify against those who exploit them);

– Lack of data to assess the outcome of inspections; and,

– Insufficient international cooperation.

The inadequacy of enforcement is thus not just about the level of financial and human resources in the Member States. But nor can it be excluded that more such resources would be needed to achieve effective enforcement.

Member States have worked towards addressing some of these problems through new, or amendments to existing, legislation, through increasing the human and financial capacity of enforcement bodies, and pursuing the more active involvement of all stakeholders. Stakeholders, such as enforcement bodies, employer organisations and trade unions, underscore the importance of such steps in enhancing the effectiveness of planned and on-the-spot inspections. However, the competitive and financial advantages of informal employment, whether done by illegally staying third-country nationals or by EU citizens, is often still perceived as dwarfing the risk of being caught violating regulations.

Alongside the problem of enforcement, the variety of existing national measures is also a problem. First, the diversity in particular of preventive measures is negative for the creation of a level playing field for employers across the Union. Although a large proportion of Member States now require employers to declare and verify the status of new employees, interviews with stakeholders have highlighted significant problems with such measures. The procedures that employers are to follow are often experienced as complex, long and hampering rapid responses to changes in the (labour) market.

Secondly, the great variety of e.g. fines for employers of illegally staying third-country nationals, which range from a maximum amount of €700 in one Member State to an unlimited amount in another, does not provide the picture that it is an EU common goal to fight the employment of illegally staying third-country nationals. An important part of the fight against illegal immigration is attacking the problem at the root, i.e. reducing the impetus for third country nationals to leave their home countries for an illegal job in the EU or preventing them from obtaining such a job once in the EU. It is likely that a message to third countries that measures against illegal work by third-country nationals have been stepped up across the EU would have more impact than an individual or group of Member States revising their sanctions. In that sense, the current variation of measures can indeed be considered a problem.

2.5. Does the EU have the right to act?

The legitimacy for EU interventions in this field derives from the following: the common EU borders; the single market and policies to ensure fair competition between employers within the EU; and, commitments at the EU level to the free movement of persons within Europe.

The legal base for EU level action is Article 63(3) of the EC Treaty that establishes that the Council is to adopt "measures on immigration policy within the following areas: (b) illegal immigration and illegal residence, including repatriation of illegal residents". As from 1 January 2005, decisions in this field are taken by qualified majority-voting in Council, in co-decision with the European Parliament.

If Member States act alone there is a risk of significantly different levels of sanctions and enforcement in different Member States. This could lead to distortions of competition within the single market and to secondary movements of illegally staying third-country nationals to Member States with lower levels of sanction and enforcement.

In an area without internal borders, action against illegal immigration needs to be undertaken on a common basis. This is the case not only at the common borders but also with regard to action to reduce pull factors. Community action will be more effective in reducing the employment pull factor. A common minimum level of sanctions (with effective enforcement) on employers will ensure (1) that all Member States have sufficiently high sanctions to have deterrent value, (2) that sanctions are not so different as to give rise to secondary movements of illegally staying third-country nationals, and (3) that there is across the EU a level-playing field for businesses.

3. OBJECTIVES

3.1. The objectives of this exercise

Whilst the overall objective is to contribute to reducing illegal immigration, the specific focus of this initiative is to tackle the pull factor for illegal immigration that is the employment of illegally staying third-country nationals.

In terms of general objectives:

- **To contribute to reducing illegal immigration.**

In terms of specific objectives:

- **To reduce employment of illegally staying third-country nationals**
- **To create a level playing field for EU employers.**
- **To contribute to reduced exploitation of illegally staying third-country nationals.**

Although the last of those specific objectives (to contribute to reduced exploitation) does not fall within the scope of the relevant legal base, Article 63(3)(b) EC, it is appropriate to include it in view of the exploitative conditions which often exist in this area. The Conclusions of the 1999 Tampere European Council stipulate that in tackling the root causes of illegal migration it has to combat "*those who engage in trafficking in human beings and economic exploitation of migrants.*" The EU has adopted legislation, such as Framework Decision 2002/629/JHA on combating human trafficking[17] and Council Directive 2004/81/EC on issuing residence permits for victims of human trafficking[18]. This objective is however secondary: while the policy options should be assessed as to the extent to which they contribute to reduced exploitation, the primary aim of this initiative is not to fight exploitation.

3.2. Fundamental rights

Positive and negative impacts on relevant fundamental rights have also been considered. The following fundamental rights of the Charter of Fundamental Rights are relevant:

- Respect for private and family life (Art. 7)
- Protection of personal data (Art. 8)
- Equality before the law (Art. 20)
- Non-discrimination (Art. 21)
- Fair and just working conditions (Art. 31)
- Right to an effective remedy and fair trial (Art. 47)
- Principles of legality and proportionality of criminal offences and penalties (Art. 49)

The impacts on some of these rights are inter-related. For example, if personal data (Art. 8) are not protected, there will be negative impacts on the respect for private and family

[17] OJ L 203, 1.8.2002, p. 1.
[18] OJ L 261, 6.8.2004, p. 19.

life (Art. 7). These two fundamental rights are therefore considered together when the impacts of policy options are assessed. Similarly, equality before the law (Art. 20) is considered together with the right to an effective remedy and trial (Art. 47). Fair and just working conditions (Art. 31) are included in the policy objective and related assessment criterion 'to reduce exploitation of illegally staying third-country nationals'.

4. POLICY OPTIONS

The option of regularising illegally staying third-country nationals was considered at an early stage of the project, but has been left out due to a lack of data on current practices and effects of regularisation measures. In its July 2006 Communication on Policy priorities in the fight against illegal immigration of third-country nationals[19], the Commission identified the need to address regularisations given that recent large-scale regularisation programmes in some Member States have given rise to expressions of concern and interest in other Member States. Given the current lack of sound evidence and up-to-date information a study to be launched in 2007 on current practices, effects and impacts of regularisation measures will constitute the basis for future discussion. Regularisation was therefore not considered as a policy option for this exercise. Moreover, regularisation is argued by many to be a pull factor for illegal immigration and therefore unhelpful in this exercise.

4.1. Policy Option 1 – Status quo

No changes are made to the current situation, i.e. the following EU level measures (legislative instruments, funding, and general measures) are maintained:

- **Council Recommendation of 22 December 1995** on harmonising means of combating illegal immigration and illegal employment[20] recommends that employers wanting to recruit foreign nationals should be encouraged to verify their residence or employment situations and that an employer of a foreign national without authorisation should be made subject to penalties. **Council Recommendation of 27 September 1996** on combating the illegal employment of third-country nationals[21] recommends in particular that employment of third-country nationals who do not possess the necessary authorisation should be prohibited and should give rise to criminal and/or administrative penalties.

- **Directive 2002/90/EC and Framework Decision 2002/946/JHA**. This Directive and Framework Decision define the facilitation of unauthorised entry, transit and residence and sets out a penal framework to prevent these phenomena. The Directive[22] stipulates (Art. 1) that Member States are to adopt sanctions on "any person who, for financial gain, intentionally assists a person who is not a national of a Member State, to reside

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19 COM(2006) 402.
20 OJ C 5, 10.1.1996, p. 1.
21 OJ C 304, 14.10.1996, p. 1.
22 Directive 2002/90/EC defining the facilitation of unauthorised entry, transit and residence.

within the territory of a Member State in breach of the laws of the State concerned on the residence of aliens". The Framework Decision provides for criminal penalties.

- **Framework Decision 2002/629/JHA** of 19 July 2002 on combating trafficking in human beings. This provides that Member States are to incriminate any form of recruitment, transportation, transfer or harbouring and any other treatment of a person for the purposes of labour exploitation, and provides for penalties[23].

- In 2007 the **Framework programme Solidarity and Management of Migration Flows** will be launched. This programme encompasses four new funds related to: refugees; external borders; the integration of third-country nationals; and, return.

- **General measures against undeclared work in the framework of the EU's economic and social policy**. For example the European Employment Strategy and the Employment Guidelines call for action to "foster regular employment". National measures and strategies to combat undeclared work in general, including illegal employment of third-country nationals, have been developed in this context.

The following instruments were included in the Council Conclusions of 14 and 15 December 2006[24] and are in preparation. Even though the content has not yet been decided, the adoption of such instruments nevertheless needs to be taken into consideration in the status quo option:

- **The creation of an entry-exit system**: The proposal would lead to the creation of a generalised and automated entry-exit system, complementing databases like VIS and SIS. It includes biometric technology.

- **Improved management of the European Union's external borders** on the basis of the integrated border management strategy adopted by the Council in 2006.

- Improved coordination and cooperation between country of origin and country of transit.

- **Commission proposals within the framework of the Policy Plan on Legal Migration of December 2005,** including the facilitation of immigration of highly skilled individuals, seasonal workers and rights of migrants.

Measures are also available at national level. At least 26 of the 27 EU Member States[25] have employer sanctions in place in terms of administrative and/or penal sanctions. In

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23 Even though employers of trafficking victims are not specifically targeted by sanctions on employers of third-country nationals, they are covered to the extent they commit punishable acts in the sense of Article 1 of the Framework Decision 2002/629 JHA, for example, deceptive or fraudulent recruitment. This type of employment is, however, likely to only be minor compared to other types of illegal employment of third-country nationals when they enter the country either on their own or with the assistance of smugglers or facilitators.

24 See: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/92202.pdf

25 Information is not available for Cyprus

several Member States, sanctions have been increased in recent years. All Member States already have preventive measure(s) in place, including measures placing the responsibility on the employer to declare new employees and verify their status, measures encouraging employment of documented workers, and, partnership agreements for cooperation and initiatives to prevent illegal work (between (1) Member States, and, (2) Ministries and Social Partners). Enforcement is undertaken with varying degrees and effectiveness.

4.2. Policy Option 2 – Harmonised sanctions for employers of illegally staying third-country nationals across the EU, with an enforcement obligation on Member States

In this option, which requires EU level regulatory action, harmonised sanctions for employers of illegally staying third-country nationals would be established across the EU[26]. The infringement would be the employment of an illegally staying third-country national through the present employment. Fines, other penalties and criminal sanctions would be put in place.

Except for serious cases, sanctions would consist of a fine and/or other penalties. The fine would amount to a sum per employee . The level of penalty would be proportionate to the offence and likely to represent more than the 'savings' that the employer would have made through not employing legally. Thus the fine should be viewed as both fair and as a deterrent. No maximum amount would be established. A 'menu' of penalties would be put in place, including, for example, temporary ineligibility for public contracts and subsidies, temporary suspension of activity, temporary withdrawal of trading licence and/or confiscation of equipment. One or several penalties could be imposed. Small scale offences would be considered 'administrative'.

The exact amount of fine and/or what penalty/ies would be at the discretion of relevant body[27] in the Member States. The level of the fine / penalties would be based on the following criteria:

- Intention / knowledgeable act: whether the employer deliberately and knowingly hired (an) illegally staying third country national(s);
- Repeat offence;
- Other circumstances (e.g. economic situation)

In serious cases employers could also be subject to criminal sanctions, based on the following alternative criteria:

- Repeat offence (e.g. second or third time / within a certain time period);

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[26] The proposed sanctions are based on available evidence of effectiveness of various employer sanctions already in place in the Member States and information on necessary contextual circumstances and supporting measures for their success. Supporting material is provided in Annex 5.

[27] What national body would be competent is dependent on the national structure.

- Employment of a significant number of third-country nationals; and/or
- Particularly exploitive working conditions.

Under this option, the sanctions would cover all employers, i.e. both the employer and any intermediaries / subcontractors who themselves act as employers of (an) illegally staying third-country national(s).

In view of the importance of enforcement, Member States would be required to undertake a certain number of controls on company premises (expressed as a % of number of registered companies) and on the basis of risk assessment.

4.3. Policy Option 3 – Harmonised preventive measures: common requirements across the EU for employers to copy the relevant documentation (residence permit) and to notify the competent national bodies

This option would involve legislative action at Community level to require common measures to prevent the employment of third-country nationals across the EU. The policy option would involve actions by the employer and competent national authorities[28].

The employer would be required to ask the prospective employee for the following documents concerning residence rights in the Member State, and copy and forward them to the appropriate public authorities: residence permit or other authorisation to stay valid for the period of employment in question.

The employer would be obliged to retain a copy and ensure the safe-keeping and confidentiality of these documents.

The relevant national authority would be responsible for checking whether the documents are valid / not forged, and the status of the migrant and informing the employer if the employee cannot be legally employed.

The employer would not have to wait for the response from the authority to hire the new employee, but would need to lay off the person in case of a negative reply from the authorities.

This obligation would not be restricted to collection of documentation 'upon suspicion', but the employer would always be required to submit this type of information in order that the authorities responsible for issuing residence permits can verify whether the prospective employee is allowed to stay in the country.

Employers failing to submit copies of relevant documentation to the competent authority would not necessarily be subject to a penalty, but employers who could show that they had carried out those checks would not be considered to have infringed the prohibition and thus not liable to sanctions if the worker were subsequently found to have been an illegally

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[28] The content of the policy option has been elaborated on the basis of available information concerning preventive measures in the Member States, see Annex 6.

staying third-country national. This could be the case for example if the competent national body later finds that the document presented by an employee had in fact been forged or misused.

4.4. Policy Option 4 – Harmonised employer sanctions and preventive measures

This regulatory option, which would imply EU level legislative action, consists of a combination of options 2 and 3 above.

4.5. Policy Option 5 – EU awareness raising campaign on consequences of hiring an illegally staying third-country national

This non-regulatory option would consist of the organisation of an EU awareness raising campaign. It would seek to make employers aware of their legal obligations and negative consequences of hiring illegally staying third-country nationals in terms of:

– unfair competition at sectoral, regional, national and/or EU levels;

– negative impact on tax income and social security payments;

– depression of wage levels for labourers in formal employment at sectoral, regional, or national level;

– general lowering of employment conditions for those working in informal and formal markets (rights of worker, minimum wage, working hours, etc.).

The campaign could address social consequences such as:

– increased (risk of) exploitation and slavery-like conditions for illegally staying third-country nationals;

– preventing such employees from benefiting from social welfare provisions that employees in the formal sector have access to;

– poor housing and living circumstances; and

– increased (risk of) violation of the human rights of these workers.

Social partners and other relevant actors could be involved in the elaboration of the content of such a campaign.

4.6. Policy Option 6 – Identification and exchange between Member States of good practices on the implementation of employer sanctions

This option would involve the identification and exchanges of good practices and information between Member States on different subjects (e.g. enforcement mechanisms, legislative means, identification and seizure of facilitators, etc.) taking place in a structured form, e.g. peer learning, with assistance from the Commission in issuing

guidelines, identifying national contact points and arranging meetings. Good practice guidance and hand-books for training staff could be elaborated.

5. ANALYSIS OF IMPACTS

5.1. Assessment criteria

A multi-criteria analysis has been used to assess and compare impacts: each policy option has been assessed against a set of criteria which derive from the problems in the current situation, policy objectives and the Charter of Fundamental Rights. In view of limits of the data available, no attempt has been made to quantify the impacts of each option.

For each policy option, the anticipated impact has been assessed on an 'intuitive' scale of positive impact from one to five (five being the best score). Negative impact is highlighted by **–** , whilst **0** means that there would be no effect. A brief explanation of rating and aspects of the policy options necessary to achieve impacts is also provided in the grids.

5.2. Identifying and assessing measurable impacts of each of the policy options

The assessments of policy options are presented in Tables 5.1 to 5.6 below.

Table 5.1 – Policy Option 1: Status Quo

Objective to be achieved/ problem addressed	*Rating of impact (from – to √√√√)*	*Explanation of rating and aspects of the policy option necessary to achieve impact*
To reduce employment of illegally staying third-country nationals	0 or √	No effect or small decrease due to existing and forthcoming measures, such as the proposed entry-exit system and measures to tackle undeclared work. While most MS have employer sanctions and preventive measures in place, necessary enforcement is poor.
To reduce illegal immigration to the EU	√	Existing and forthcoming measures, are likely to reduce the inflow and stock of illegal migrants to some extent.
To create a level playing field for employers	0 or –	Fails or situation would deteriorate, because the differences between MS in terms of legislation, enforcement and work opportunities would remain or even increase.
To contribute to reduced exploitation of illegally staying third-country nationals	0 or –	No effect or worsening situation for such workers. Push factors for labour migration are gaining force, and many are pressed to accept clandestine jobs with low wages and poor working conditions.
To develop common rules which are likely to be complied with in practice and enforced	0	No effect, as there would be no common rules.
To complement and reinforce existing (and forthcoming) acquis	N/A	N/A
To reduce human trafficking, organised crime and smuggling	0 or –	Push factors for labour migration are gaining force, resulting in fiercer competition to secure passage to the EU and jobs upon arrival.
Fundamental rights		
▪ Protection of personal data (Art. 8)	0	No effect.
▪ Right to an effective remedy and fair trial (Art. 47)	0	No effect.
▪ Non-discrimination (Art. 21)	0	No effect.
▪ Principles of legality and proportionality of criminal offences and penalties (Art. 49)	0	No effect.

Objective to be achieved/ problem addressed	*Rating of impact (from – to √√√√)*	*Explanation of rating and aspects of the policy option necessary to achieve impact*
Benefits and advantages of option		MS are not required to adopt new measures. No costs. Existing and forthcoming measures are likely to contribute to the reduction of such employment.
Disadvantages and risks of policy option *(*including negative economic and social costs in EU and third countries*)*		No clear message to employers and third countries. Marked variations between MS in opportunities to escape sanctions continue. Some deterioration in the position of those at risk of exploitation.
Essential accompanying measures		N/A.
Economic effects on EU level		Minor economic effects. Due to Member States acting on own initiative, as well as better monitoring through the proposed entry-exit system, some reduction in positive economic effects might be anticipated. EU companies, especially those in the most affected sectors, will continue to have to cope with unfair competition.
Effects on EU labour markets		Pressures on wages for low-skilled work (whether by EU citizens or legally resident and working TCNs) will remain particularly in the most affected sectors.
Effects on consumers		For some goods and services in the affected sectors (e.g. horticultural products), consumers continue to benefit from lower prices resulting from employers use of (low paid) illegally employed TCNs.
Financial cost		Zero.
Effects on third countries		Minor or no economic effects. Numbers of illegal TCN workers may decrease slowly, but their earnings and remittances would remain stable or increase slightly (due to rising labour costs, better networks, improved skills, and decreasing taxation).
Issues raised in stakeholder consultations		Many employer organisations and trade unions have highlighted that even though legal means exist today at national level which have the aim to combat employment of illegally staying third-country nationals , poor enforcement undermines their effectiveness.
Issues raised by Member States		The Council Conclusions of 14 and 15 December 2006 invited the Commission to present a proposal on measures against employers of illegal immigrants. However, in a survey by the Commission a majority of MS considered their current legislative framework to be effective. Some Member States have pointed to the need to reinforce preventive measures and effective enforcement.

Table 5.2 – Policy Option 2: Harmonised sanctions for employers of illegally staying third-country nationals, with an enforcement obligation on Member States

Objective to be achieved/ problem addressed	Rating of impact (rated from – to √√√√√)	*Explanation of rating and aspects of the policy option necessary to achieve impact*
To reduce employment of illegally staying third-country nationals	√√	Small reduction of such employment, because the minimum level of sanctions is significantly raised in several MS, and criminal sanctions introduced in those MS that currently do not have them. This could discourage employers, but would require (more) effective enforcement in many MS.
To reduce illegal immigration to the EU	√√	Compared with the status quo the stock of illegal migrants could be reduced through improved detection, and the flow of illegal immigration could be reduced through a clear message being transmitted to third countries and prospective illegal economic migrants. The impact would however depend upon the success of implementation and enforcement.
To create a level playing field for employers	√√√	Establishes common sanctions in MS, including as regards criminal sanctions. However, even with the enforcement obligation, variation among MS capacity of enforcement would remain.
To contribute to reduced exploitation of illegally staying third-country nationals	0 or -	Some researchers, as well as NGOs, argue that stricter sanctions against employers are accompanied by increased exploitation of illegally staying third-country nationals, because such workers are pushed further underground and have a weaker bargaining position. However, such possible effects would be counterbalanced by the deterrent effect of especially the proposed criminal sanctions in cases of particularly exploitative working conditions.
To develop common rules which are likely to be complied with in practice and enforced	√	The instrument consists of sanctions which have been evidenced as effective in MS. However, compliance is still highly dependent on the enforcement of the sanctions which is the responsibility of the MS.
To complement and reinforce existing (and forthcoming) acquis	√√	The policy option complements existing acquis. It is unclear if it will complement forthcoming measures.
To reduce human trafficking, organised crime and smuggling	0 or –	No discernible effect on human trafficking and smuggling. Situation might deteriorate. Unclear effect on organised crime. If sanctions are effectively imposed on employers, organised crime may be uncovered and tackled.
Fundamental rights		
▪ Protection of personal data (Art. 8)	0	No effect.
▪ Right to an effective remedy and fair trial (Art. 47)	0	No effect.
▪ Non-discrimination (Art. 21)	0	Although there would be different treatment between the irregular employment of illegally staying third-country nationals and that of by EU citizens, such difference is justified by their objectively different statuses and thus cannot be considered discriminatory.
▪ Principles of legality and proportionality of criminal offences and penalties (Art. 49)	√	Crime has to be defined across the EU and same sanction is imposed on those who commit this crime.
Benefits and advantages of option	Reduces variation in legislation and its enforcement. Fosters level playing field. Clear communication to employers and third countries.	
Disadvantages and risks of policy option *(*including negative economic and social costs in EU and third countries*)*	Some negative effects on economy.	
Essential accompanying measures	Simplification of bureaucratic procedures for recruiting third-country nationals legally and hereby reducing waiting period.	
	Awareness raising campaigns targeted at the employers and employees.	
	Protective measures for workers, including back payment of wages, burden of proof of payment on employer, and complaint procedures that are safe.	
	Enforcement of sanctions by administrative units with sufficient capacity.	
Economic effects on EU level	Some reduction of illegal employment and tax revenues foregone may occur in those MS where sanctions will increase. Not likely to have significant impact on those MS with a	

Objective to be achieved/ problem addressed	Rating of impact (rated from – to √√√√√)	*Explanation of rating and aspects of the policy option necessary to achieve impact*
		developed informal economy. Employers may circumvent long-lasting sanctions by setting up new companies. Companies in the most affected sectors will be less exposed to unfair competition.
Effects on EU labour markets		Wages and conditions of workers (whether EU citizens or legally resident and working third-country nationals) in certain low-skilled jobs may incrementally benefit from the tighter supply of labour resulting from reduced employment of illegally staying third-country nationals. Services with a stable domestic demand, i.e. catering and construction, are likely to benefit most. Sectors facing more international competition, e.g. the textile industry and parts of agriculture and horticulture, reliant on low-paid workers, may lose jobs and economic output.
Effects on consumers		For goods and services in countries and the affected sectors where the employment of (low paid) illegally employed third-country nationals will significantly decrease, consumers may have to pay more. This may affect catering services and construction, the textile industry and certain seasonal horticultural goods with high labour intensity and less foreign competition (due to Protected Designation of Origin, its perishable nature and/or high relative transportation costs). Other goods will face a loss of price competitiveness and increasingly be replaced by substitute products. Altogether, no significant effects are expected.
Financial cost		Additional burden for at least some MS for enforcement, but many MS have already such measures and administrative and criminal sanctions in place. There will also be additional costs for supporting measures.
Effects on third countries		Clear message to third countries. As more stringent regulation will be introduced in some of the most popular target countries, it may reduce labour migration and, as a result, have small economic effects in the countries of origin concerned.
Issues raised in stakeholder consultations	Employer organisations generally prefer administrative sanctions. Criminalisation of individuals – and not of companies – is considered legitimate if an employer is found to engage in criminal activities. Employer organisations and trade unions agree that fines have to be determined according to the severity of the offence. They also share a preference for a fine per illegally staying third-country national employed and that offsets the economic advantage of such employment. Difference of opinion regarding the need for additional administrative measures, such as withdrawing trading licence, suspension of activity, and closure of company. Employer organisations stress the negative impact of such measures on local economies (e.g. loss of jobs). Trade unions emphasise that a discussion about the nature of sanctions is only meaningful if tied to a 'serious' discussion about the enforcement of these sanctions. Some enforcement bodies indicated a preference for administrative sanctions. In the case of criminal sanctions, inter-regional variance in the level of sanctions imposed on employers has been observed. The discretion given to judges were considered too great and ineffective in discouraging employers.	
Issues raised by Member States	Most Member States are of the view that EU legislation should contain both administrative and criminal sanctions. One Member States is of the view that administrative sanctions should be given preference.	

Table 5.3 – Policy Option 3: Harmonised preventive measures: common requirements across the EU for employers to copy the relevant documentation and to notify the competent national bodies

Objective to be achieved/ problem addressed	*Rating of impact (from – to √√√√)*	*Explanation of rating and aspects of the policy option necessary to achieve impact*
To reduce employment of illegally staying third-country nationals	√	Reduces, because the administrative procedure allows the employer to determine if a potential employee is allowed to work at an early stage of employment. Limited effect, because it requires effective enforcement and additional sanctions for those who recruit such individuals anyway.
To reduce illegal immigration to the EU	√√	Compared with the status quo the stock of illegal migrants could be reduced through improved detection and the flow of illegal immigration could be reduced through a clear message being transmitted to third countries and prospective illegal economic migrants. The impact would however depend upon the success of implementation and enforcement.
To create a level playing field for employers	√√√	Promotes a level playing field, because the instrument requires employers across the EU to follow the same procedures.
To contribute to reduced exploitation of illegally staying third-country nationals	0	No effect.
To develop common rules which are likely to be complied with in practice and enforced	√√	The instrument consists of preventive measures evidenced as effective in MS. Straightforward procedures, which are easy to understand and comply with. Compliance still requires monitoring and enforcement.
To complement and reinforce existing (and forthcoming) acquis	√√	Complements existing acquis. It is unclear if it will complement forthcoming measures.
To reduce human trafficking, organised crime and smuggling	0 or –	No discernible, positive effect on human trafficking and smuggling. Possible negative effect on organised crime, as it may increase the problem of identity fraud and the forgery of documents.
Fundamental rights		
▪ Protection of personal data (Art. 8)	–	Negative effects if data not appropriately handled. Depends on the type of information about the employee that employer is obliged to collect and submit to the public authorities.
▪ Right to an effective remedy and fair trial (Art. 47)	0	No effect.
▪ Non-discrimination (Art. 21)	0	No effect.
▪ Principles of legality and proportionality of criminal offences and penalties (Art. 49)	√	Improves.
Benefits and advantages of option		Places minimum burden on employers. Straightforward procedures, which can be easily complied with. Creates level playing field as obligations are imposed on all employers across EU. Small reduction of illegal employment.
Disadvantages and risks of policy option *(*including negative economic and social costs in EU and third countries*)*		Some, albeit limited, effects on prevention and reduction of such employment. May increase organised crime due to increased demand for forged documents.
Essential accompanying measures		Measures safeguarding protection of personal data.
		Identify competent authorities to collect and process data.
		Develop procedures to be followed by employers as documents to be submitted will depend on national legislation (residence permit or other authorisation for stay).
		Awareness raising campaigns targeted at employers and employees.
		Policies on issuing of work permits reflecting labour market needs.
Economic effects on EU level		Limited, due to limited effect on prevention and reduction of such employment. Illegal employment of TCNs is usually intentional, and is, as undeclared work, combined with tax evasion in the sectors primarily associated with this kind of work. It is not likely to effect reductions on labour market pressures and reduce unfair competition. Companies in the most affected sectors will continue to be exposed to unfair competition.
Effects on EU labour markets		Workers (whether EU citizens or legally resident and working third-country nationals) in certain low-skilled jobs may incrementally benefit from the tighter supply of labour resulting from reduced employment of illegally staying third-country nationals. Services with a stable domestic demand, i.e. catering and construction, are likely to benefit most. Sectors facing

Objective to be achieved/ problem addressed	*Rating of impact (from – to √√√√)*	*Explanation of rating and aspects of the policy option necessary to achieve impact*
		more international competition, e.g. the textile industry and parts of agriculture and horticulture, reliant on low-paid workers, may lose jobs and economic output. The effects are however not considered significant.
Effects on consumers		For goods and services in countries and the affected sectors, where the employment of (low paid) illegally employed third-country nationals will significantly decrease, consumers may have to pay more. This may affect catering services and construction, the textile industry and certain seasonal horticultural goods with high labour intensity and less foreign competition (due to Protected Designation of Origin, its perishable nature and/or high relative transportation costs). Other goods will face a loss of price competitiveness and increasingly replaced by substitute products. Altogether, no significant effects are expected.
Financial cost		Small, because many countries have already such preventive measures and administrative sanctions in place, but there will be additional costs for supporting measures.
Effects on third countries		Does not send a particularly clear message to third countries. Only limited economic effects. The number of TCNs working illegally in the EU may be only slightly reduced.
Issues raised in stakeholder consultations	Consensus among employer organisations and trade unions that procedures to declare and verify the status of the third-country national should be simplified and modernised. In addition to dealing with the complicated nature of current procedures, waiting period for obtaining work and/or residence permits should be significantly reduced to allow a more flexible and immediate response to labour shortages. Many employer organisations emphasised the need for additional support with fulfilling obligations through, for example, awareness raising and identification of information points. Trade unions argued for a credible system, which does not ignore the local or national labour force in analyses of labour shortages. Some stakeholders suggested that analyses of labour shortages in regions or sectors which are agreed by stakeholders and are regularly updates might secure widespread support and speed up applications.	
Issues raised by Member States		

Table 5.4 – Policy Option 4: Harmonised employer sanctions and preventive measures (i.e. Options 2 and 3 combined)

Objective to be achieved/ problem addressed	*Rating of impact (from – to √√√√√)*	*Explanation of rating and aspects of the policy option necessary to achieve impact*
To reduce employment of illegally staying third-country nationals	√√√	Loopholes in the system of employing TCN are reduced. The state provides the employer with tools and information to verify the status of employees at the stage of recruitment. High sanctions (including criminal sanctions) seek to persuade the employer of the need for compliance. Effectiveness still depends significantly on enforcement.
To reduce illegal immigration to the EU	√√√	Compared with the status quo and either policy option 2 or 3 the stock of illegal migrants could be further reduced through improved detection and the flow of illegal immigration could be further reduced through a clear message being transmitted to third countries and prospective illegal economic migrants. The sustained impact would however depend upon the success of implementation and enforcement.
To create a level playing field for employers	√√√√	The combination of simplified procedures and potential sanctions increases the likelihood of a level playing field. The effectiveness still depends on the MS capacity to enforce the common regulations.
To contribute to reduced exploitation of illegally staying third-country nationals	0 or -	Possible negative effect from such workers being pushed further underground and having a weaker bargaining position would be counterbalanced by the deterrent effect of especially the proposed criminal sanctions in cases of particularly exploitative working conditions.
To develop common rules which are likely to be complied with in practice and enforced	√√	The instrument takes on board employer sanctions and preventive measures which have been evidenced as effective in MS. Compliance, however, is easier with preventive measures than with sanctions; the need for enforcement is particularly high in relation to the latter.
To complement and reinforce existing (and forthcoming) acquis	√√√	Complements existing acquis. It is unclear if it will complement forthcoming measures.
To reduce human trafficking, organised crime and smuggling	–	No discernible, positive effect on human trafficking and smuggling. Possible negative effect on organised crime, as preventive measure may increase the problem of identity fraud and the forgery of documents.
Fundamental rights		
▪ Protection of personal data (Art. 8)	–	Negative effects if date is not appropriately handled. Depends on the type of information about the employee that employer is obliged to collect and submit to the public authorities.
▪ Right to an effective remedy and fair trial (Art. 47)	0	No effect.
▪ Non-discrimination (Art. 21)	0	Although there would be different treatment between the irregular employment of illegally staying third-country nationals and that of by EU citizens, such difference is justified by their objectively different statuses and thus cannot be considered discriminatory.
▪ Principles of legality and proportionality of criminal offences and penalties (Art. 49)	√	Crime has to be defined across the EU and same sanction is imposed on those who commit this crime.
Benefits and advantages of option	Straightforward verification procedures, which can be easily complied with. Creates level playing field as obligations are imposed on all employers across EU. Some reduction of such illegal migration and employment. Clear communication to employers and third countries.	
Disadvantages and risks of policy option *(*including negative economic and social costs in EU and third countries*)*	Limited reduction and prevention of such employment. If measures effectively cut cheap supply of labour for low-skill jobs, the competitiveness of certain horticultural activities and firms may be impaired.	
Essential accompanying measures	Identify competent authorities to collect and process data of employee. Develop procedures to be followed by employers as documents to be submitted will depend on national legislation (e.g. residence permit or other authorisation for stay). Simplification of bureaucratic procedures for recruiting third-country nationals legally and hereby reducing waiting period. Awareness raising campaigns targeted at employers and employees. Enforcement of sanctions by administrative units with sufficient capacity.	

Objective to be achieved/ problem addressed	*Rating of impact (from – to √√√√)*	*Explanation of rating and aspects of the policy option necessary to achieve impact*
		Protective measures for workers, including back payment of wages, burden of proof of payment on employer, and complaint procedures that are safe.
		Measures safeguarding protection of personal data.
Economic effects on EU level		Positive effects in terms of some reduction in illegal employment of TCNs, and resulting expansion of tax revenues might be expected in Member States where the stricter sanctions will be introduced. Wage pressure on the labour market may only slightly be reduced, as this is regarded as less sensitive to the actual number of illegal workers. If measures effectively cut cheap supply of low-skilled labour, the competitiveness of certain horticultural activities and firms may be highly impaired. Labour shortages in certain MSS may worsen. However, companies in the most affected sectors will be less exposed to unfair competition.
Effects on EU labour markets		Wages and conditions of workers (whether EU citizens or legally resident and working third-country nationals) in certain low-skilled jobs may incrementally benefit from the tighter supply of labour resulting from reduced employment of illegally staying third-country nationals. Services with a stable domestic demand, i.e. catering and construction, are likely to benefit most. Sectors facing more international competition, e.g. the textile industry and parts of agriculture and horticulture, reliant on low-paid workers, may lose jobs and economic output.
Effects on consumers		For goods and services in countries and sectors where the employment of (low paid) illegally employed third-country nationals will significantly decrease, consumers may have to pay more. This may affect catering services and construction, the textile industry and certain seasonal horticultural goods with high labour intensity and less foreign competition (due to Protected Designation of Origin, its perishable nature and/or high relative transportation costs). Other goods will face a loss of price competitiveness and increasingly replaced by substitute products. Altogether, no significant effects are expected.
Financial cost		Additional burden for at least some MS for enforcement, because many countries have already such preventive measures and administrative and criminal sanctions in place, but there will be additional costs for supporting measures.
Effects on third countries		Conveys clear message. May reduce labour migration and, as a result, may have small economic effects.
Issues raised in stakeholder consultations	See comments in relation to policy options 2 and 3.	
Issues raised by Member States	See comments in relation to policy options 2 and 3.	

Table 5.5 – Policy Option 5: EU awareness raising campaign on consequences of hiring an illegally staying third-country national

Objective to be achieved/ problem addressed	*Rating of impact (from – to √√√√√)*	*Explanation of rating and aspects of the policy option necessary to achieve impact*
To reduce employment of illegally staying third-country nationals	0	No effect, because employers, employer organisations and trade unions are already well aware of the negative consequences of such employment.
To reduce illegal immigration to the EU	0	No effect as the pull factor of EU wage rates would not be reduced.
To create a level playing field for employers	0	No effect.
To contribute to reduced exploitation of illegally staying third-country nationals	0	No effect, as stakeholders are well aware of the negative economic and social consequences of such employment.
To develop common rules which are likely to be complied with in practice and enforced	0	No common rules are developed.
To complement and reinforce existing (and forthcoming) acquis	√	Complements existing and forthcoming acquis, but will not add significant value.
To reduce human trafficking, organised crime and smuggling	0	No discernible effect on human trafficking, smuggling and organised crime.
Fundamental rights		
▪ Protection of personal data (Art. 8)	0	No effect.
▪ Right to an effective remedy and fair trial (Art. 47)	0	No effect.
▪ Non-discrimination (Art. 21)	0	No effect.
▪ Principles of legality and proportionality of criminal offences and penalties (Art. 49)	0	No effect.
Benefits ***a**nd* advantages ***of*** option	Requires minimal human and financial resources for its organisation. May have a temporary, positive contribution to compliance.	
Disadvantages and risks of policy option ***(***including negative economic and social costs in EU and third countries***)***	No medium- or long-term reduction and prevention of such employment.	
Essential accompanying measures	None	
Economic effects on EU level	No effect. Companies in the most affected sectors will continue to be exposed to unfair competition.	
Effects on EU labour markets	No effect. Pressures on wages for low-skilled work (whether by EU citizens or legally resident and working TCNs) will remain particularly in the most affected sectors.	
Effects on consumers	No effect. For goods and services in the affected sectors (e.g. horticultural products), consumers continue to benefit from lower prices resulting from employers use of (low paid) illegally employed TCNs.	
Financial cost	Requires minimal human and financial resources for its organisation.	
Effects on third countries	No effect.	
Issues raised in stakeholder consultations	Employers, employer organisations and trade unions are already well aware of the negative economic and social consequences of such employment.	
Issues raised by Member States	All Member States that replied to the survey undertaken in this assignment have recently organised awareness raising campaigns.	

Table 5.6 – Policy Option 6: Identification and exchange between Member States of good practices on the implementation of employer sanctions

Objective to be achieved/ problem addressed	*Rating of impact (from – to √√√√√)*	*Explanation of rating and aspects of the policy option necessary to achieve impact*
To reduce employment of illegally staying third-country nationals	√	Better methods for enforcement may improve the identification and sanctioning of employers hiring such workers. However, the level of sanctions will continue to vary and may not offset the economic advantage in some countries.
To reduce illegal immigration to the EU	√√	Compared with the status quo exchange of experience and good practice and capacity building of enforcement bodies is likely to lead to more effective enforcement. The policy option is, however, only likely to increase the effectiveness to some extent, as numbers of inspectors will still be dependent on resources set aside by Member States.
To create a level playing field for employers	√	Limited contribution, because variation in sanctions and preventive measures remains and may increase depending on MS actions. However, greater enforcement could ensure that existing regulations and sanctions are actually imposed.
To contribute to reduced exploitation of illegally staying third-country nationals	√√	Reduce exploitation as a result of exchange of good practices on how to protect victims of such exploitation. Share info on how to mitigate negative effects for those who collaborate with law enforcement.
To develop common rules which are likely to be complied with in practice and enforced	√	No common rules would be developed. However, stricter and better enforcement is likely to increase compliance.
To complement and reinforce existing (and forthcoming) acquis	√√√	The option is likely to reinforce national policy and legislation as well as EU level acquis. Exchange of information and good practice increases the capacity of law enforcement bodies, which in turn strengthens the monitoring of the implementation of regulations.
To reduce human trafficking, organised crime and smuggling	√√	Reduce, because as MS exchange info and good practices on how to encourage such workers to report violations the chances of catching employers systematically engaged in criminal activities increases.
Fundamental rights		
▪ Protection of personal data (Art. 8)	0	No effect.
▪ Right to an effective remedy and fair trial (Art. 47)	0	No effect.
▪ Non-discrimination (Art. 21)	0 or √	No effect or positive effect, because the detection and sanctioning of undeclared work in general would also benefit from a greater capacity in law enforcement.
▪ Principles of legality and proportionality of criminal offences and penalties (Art. 49)	0 or √	No effect on the definition of the crime. However, enhancing the capacity of law enforcement makes it more likely that all those who violate the regulations are identified and adequately sanctioned.
Benefits and advantages of option	EU added value. Complements existing acquis and national measures adopted in the fight against such employment. Addresses the problem of lack of enforcement capacity and of knowledge of effective approaches. Potentially sends clear message to third countries that EU MS are actively cooperating. Reduces such illegal employment. Contributes to the reduction of exploitation and organised crime.	
Disadvantages and risks of policy option *(*including negative economic and social costs ***in*** EU and third countries*)*	Does not address the variation in sanctions and preventive measures in MS.	
Essential accompanying measures	None.	
Economic effects on EU level	Better regulation, newly introduced preventive and punitive measures may result in reduced illegal employment of TCNs. Improved effectiveness and efficiency of enforcement bodies could positively influence the number of offences uncovered. This will in return reduce tax evasion. Companies in the most affected sectors may become less exposed to unfair competition.	
Effects on EU labour markets	Wages and conditions of workers (whether EU citizens or legally resident and working third-country nationals) in certain low-skilled jobs may incrementally benefit from the tighter supply of labour resulting from reduced employment of illegally staying third-country nationals. Services with a stable domestic demand, i.e. catering and construction, are likely to	

Objective to be achieved/ problem addressed	*Rating of impact (from – to √√√√)*	*Explanation of rating and aspects of the policy option necessary to achieve impact*
		benefit most. Sectors facing more international competition, e.g. the textile industry and parts of agriculture and horticulture, reliant on low-paid workers, may lose jobs and economic output.
Effects on consumers		For goods and services in countries and sectors where the employment of (low paid) illegally employed TCNs will significantly decrease, consumers may have to pay more. This may affect catering services and construction, the textile industry and certain seasonal horticultural goods with high labour intensity and less foreign competition (due to Protected Designation of Origin, its perishable nature and/or high relative transportation costs). Other goods will face a loss of price competitiveness and increasingly replaced by substitute products. Altogether, no significant effects are expected.
Financial cost		Some limited resources needed to undertake the identification and exchange activities.
Effects on third countries		If combined with Policy options 2 and 3, conveys clear message to third countries. May reduce (illegal) labour migration and, as a result, have economic effects.
Issues raised in stakeholder consultations	Trade unions emphasise that a discussion about the nature of sanctions is only meaningful if tied to a 'serious' discussion about the enforcement of these sanctions. Employer organisations and especially trade unions claimed that the number of inspections in the country or in their sector was insufficient to deter employers to employ illegally staying third-country nationals. Greater enforcement was deemed necessary to persuade employers that the risk of being uncovered and sanctioned is high. Enforcement operations often go hand in hand with media reports, in which the illegal employment practices of particular companies or employers are unveiled and offenders are confronted with their potential fate.	
Issues raised by Member States	Poor enforcement has been highlighted as the main problem in the current situation by many Member States.	

5.3. Compliance costs for public authorities and business under the policy options

The table below summarises the estimated relative compliance costs of the six policy options. These include enforcement costs and administrative costs[29] of the six policy options. Policy option 1 would not require additional resources.

The enforcement obligation on Member States that is part of option 2 may require additional resources at Member State level. They would be created by the need to carry out additional on-the-spot checks in companies. Considerable differences exist among Member States as regards the frequency of checks. Data is only available for some Member States[30]. This evidence suggests that some Member States carry out significantly more checks than others[31]. Italy and Spain alone conduct per year checks on a number of companies representing more than 1% of European companies. Available evidence suggests that other countries conduct a significantly lower amount of checks. Comparing these figures with the number of companies in the EU (22 million in 2005)[32], an estimate would be to assume that across Europe, 2% of companies are being checked yearly.

The proposal foresees 10% of registered companies to be checked. An additional 8% of companies to be checked would amount to 1.76 million checks, costing an estimated €1.14 billion of enforcement costs across the EU to Member States authorities[33].

Administrative costs for employers would only be incurred as regards the increased number of checks. A limited number of inspections can be estimated to be conducted in the Member States, as mentioned above. The introduction of an obligation to check 10% of registered company per year would lead to an estimated 8% of companies being

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29 Commission guidelines on assessment of administrative costs: http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0518en01.pdf and Impact Assessment Guidelines have been taken into consideration.

30 See annex A7.3 and A7.4 for available statistics per Member State.

31 For example, in 2005 the number of inspections was already 79,481 in Spain and 163,013 in Italy, compared to e.g. 18,272 and 9,933 in Austria and Czech Republic, respectively.

32 http://ec.europa.eu/enterprise/smes/facts_figures_en.htm.

33 This figure is based on an estimated 1.76 million additional checks to be carried out and the average hourly employment costs in the EU increased by overheads of 50% (€18 + 50% = €27). Contacts with enforcement bodies suggest an average 3 person days per check, split over the tasks of: preparation including risk assessment (30% of time), the on-site inspection (40%), follow up with the company, internal processing including filing (10%). This time allocation takes account of the diversity of monitoring and enforcement approaches adopted by Member States, which was revealed in the consultation of national authorities and enforcement bodies. For example, whereas some Member States opt for a more selective approach, investing a significant part of their human and financial resources in risk assessments, others, such as Italy and Spain, undertake large numbers of inspections. See attached enforcement costs reporting sheet in annex 10 for more details.

checked in addition. Associated costs of €190 million would have to be borne by companies per year[34].

Additional costs stemming from prosecutions of employers are not included in this estimate but it is reasonable to assume that these would be offset by fines paid. In practice these enforcement costs would not necessarily be additional because most countries have existing sanctions and enforcement regimes, and the inspections could be used to also check compliance with other employment legislation.

Apart from the enforcement aspect, options 2 and 3 would require low levels of administrative resources at the EU and Member State levels in order to draft, transpose and implement the legislation. The costs of option 4 in this respect are only marginally greater than policy option 2 but greater than option 3. Option 5 would require a budget of a minimum of €2 million and funding at the EU level. Some 'matching' resources would also be required at Member State level to ensure that the campaign communicated the key messages effectively. It is envisaged that option 6 would require the commitment of time and resources at the Member State level.

Beyond the costs for additional checks, other options would not impose significant additional costs on employers that were acting legally because the procedures envisaged would only impose 'light' obligations on them. Moreover, it has to be noted that the preventive measures currently in place in most Member States impose significantly higher obligations on employers than those proposed in option 3 and 4 (e.g. 20 Member States require employers to verify the status of the migrant worker)[35].The costs on third country governments would be low but in so far as they contributed to communication to prospective illegal migrants the nature of the new regime, and hence its potential deterrent effect, then some costs would be incurred.

The evidence cited in this report that there are very large number of third country nationals working in the EU that do not have the right to do so does raise questions over whether current methods of enforcement of existing sanctions are cost effective. Available data from enforcement bodies in three Member States show that the number of inspectors (Full Time Equivalent) has been increased in two of the three Member States from 2003 to 2005: In Spain from 1,526 to 1,632; and in Latvia from 98 to 116. In Italy from 2,215 numbers decreased from 2,215 to 1,949. However, these figures cover inspections in general and not only of illegal employment of third-country nationals. No figures on costs for running the body are available for any of the three Member States.

A number of limitations of the enforcement cost and administrative cost calculations need to be stressed: the calculations provided in annex rely on a number of assumptions as regards the duration of checks, their number, and the hourly employment costs involved.

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[34] 4 hours estimated by company necessary to cooperate with the checking authorities, 27 EUR of hourly wage and overhead costs, applied to 1.76 million checks. See administrative cost calculation details in annex 9.

[35] 17 Member States already demand employers to immediately declare new employees to the appropriate (local, regional or national) authorities and many have set up new registers or databases to facilitate the implementation of such preventive measures.

The preferred option does for example not decide on the duration of checks, whilst this is a crucial parameter to calculate the costs. Also, the current level of checks in Member States was only available for selected Member States.

Table 6.7 – Summary of the relative financial and administrative costs of the policy options

Types of costs	Policy Options					
	PO1 Status Quo	**PO2 Harmonised employer sanctions**	**PO3 Harmonised preventive measures**	**PO4 Combination of PO2 and 3**	**PO5 EU level awareness campaign**	**PO6 Identification and exchange of good practices**
EU staff resources	No additional resources	3 months FTE for preparation and channelling of legislation	3 months FTE for preparation and channelling of legislation	4 months FTE for preparation and channelling of legislation	€2.0 million	1 month FTE annually for support activities
Member State Governments	No additional resources	Transposition of legislation 2 months FTE per Member State Transposition, implementation report. 4 months per 2 years Additional resources for meeting enforcement obligation and for supporting measures (see enforcement costs calculation in annex 10)	Transposition of legislation 2 months FTE per Member State Transposition, implementation report. 4 months per 2 years Additional resources for effective enforcement and supporting measures (no estimates made but costs not a direct result of PO)	Transposition of legislation 3 months FTE per Member State Transposition, implementation report. 5 months per 2 years Additional resources for meeting enforcement obligation and for supporting measures (see enforcement costs calculation in annex 10)	Say €2.0 million to implement and convey messages of awareness campaign	Costs of time of participants in the activities. Notional costs of time of participants, say 0,5 month FTE per Member State
Employers (acting legally)	No additional resources	Possible additional costs for undergoing checks (see administrative costs calculation in annex 9)	Possible reductions in processing costs	Possible reductions in processing costs; possible additional costs for undergoing checks (see administrative costs calculation in annex 9)	No additional costs	No additional costs
Third Country Governments	No additional resources	Potential costs if they become involved in communicating new regime to TCN	Potential costs if they become involved in communicating new regime to TCN	Potential costs if they become involved in communicating new regime to TCN	No additional costs	No additional costs

6. COMPARING THE OPTIONS

6.1. Comparison of policy options

Table 6.1 compares the 'ratings' of the six policy options elaborated in Section 5.

Table 6.1 – Assessment of Policy Options – comparison

Objective to be achieved/ problem addressed	*Policy Options (Anticipated impacts rated from – to √√√√)*					
	Option 1	**Option 2**	**Option 3**	**Option 4**	**Option 5**	**Option 6**
To reduce employment of illegally staying third-country nationals	0 or √	√√	√	√√√	0	√
To reduce illegal immigration to the EU	√	√√	√√	√√√	0	√√
To create a level playing field for employers	0 or –	√√√	√√√	√√√√	0	√
To contribute to reduced exploitation of illegally staying third-country nationals	0 or –	0 or -	0	0 or -	0	√√
To develop common rules which are likely to be complied with in practice and enforced	0	√	√√	√√	0	√
To complement and reinforce existing (and forthcoming) acquis	N/A	√√	√√	√√√	√	√√√
To reduce human trafficking, organised crime and smuggling	0 or –	0 or –	0 or –	–	0	√√
Fundamental rights						
▪ Protection of personal data (Art. 8)	0	0	–	–	0	0
▪ Right to an effective remedy and fair trial (Art. 47)	0	0	0	0	0	0
▪ Non-discrimination (Art. 21)	0	0	0	0	0	0 or √
▪ Principles of legality and proportionality of criminal offences and penalties (Art. 49)	0	√	√	√	0	0 or √
Costs relative to status quo						
+ Higher cost than status quo; 0 Unchanged costs; – Lower costs than status quo	0	+	+	+	+	+

6.2. The preferred option

On the basis of the comparison of the options and their impacts on meeting policy objectives and contributing to and respecting fundamental rights, and in the light of Member States' and stakeholder views, and practicality and costs, the preferred option is a combination of:

- Option 4: Harmonised sanctions for employers of illegally staying third-country nationals, with an enforcement obligation on Member States, and harmonised preventive measures:

common requirements across the EU for employers to copy the relevant documentation and to notify the competent national bodies; and,

- Option 6: Identification and exchange between Member States of good practices.

Harmonised sanctions for employers who employ illegaly staying third-country nationals would increase clarity over the nature of the offence within the EU. Universal presence and minimum levels of sanctions across the Union would increase their deterrent effect. There would be rapid progress towards a level playing field for companies across the EU and employers could be confident that the principles of sanctions would be applied in a consistent manner. The preventive measures would impose a universal but 'light' burden to request and keep documentation on prospective employees but the onus on checking the bona fide nature of these documents would rest with competent authorities. This would allow employers to proceed in good faith to engage workers who had provided documentation that appeared to meet requirements.

As illustrated in the assessment of option 4, beneficial impacts on the main policy objectives would result from the combination of sanctions and preventive measures. However, the impact and effectiveness of option 4 is heavily dependent upon whether the legislation envisaged is transposed and enforced in practice. For this reason option 4 includes a requirement for Member States to undertake a particular level of enforcement activity, and it is proposed to complement the legislative measures within option 4 with the proposal in option 6 for the identification and exchange of good practice on implementation and enforcement.

Requiring Member States to inspect 10% of registered companies, as foreseen in the legislative proposal, would be a significant step towards improving the enforcement of harmonised sanctions across the EU. Such a level of enforcement would send a clear message to employers that the threat of being caught in case of violation is real or increased. Employer organisations would be more reassured that unfair competition stemming from the recruitment of illegally staying third-country nationals is taken seriously by national governments and is being dealt with across the EU.

Option 6 has been described above as a mechanism for fostering cooperation and exchange of experience of current national policies and practices. However, in the preferred option the exchange of experience would in particular aim to ensure that the new legislation in terms of harmonised sanctions and preventive measures is effective. In this new context it is envisaged that the identification and communication of good practice could cover activities such as: systems of employer inspections; the training of employers; methods for regularising/ removing third country nationals identified as working illegally; the application of sanctions; the detection of systematic and large scale illegal employment; the links between employment of illegally staying third country nationals and the wider informal economy. The methods used in this exchange of experience could include research, evaluation and peer learning activities. In order to provide a framework for the exchanges, a network of national contact points could be established.

This combination of policy options would contribute EU added value and complement existing and forthcoming acquis by targeting the employment pull factor. The preferred option would achieve a better result than any of the options alone, or any other combinations of options. However, the positive effects of adopting the preferred option would be limited

and none of the objectives would be fully achieved nor the problems fully eliminated. Common employer sanctions and preventive measures across the EU, supported by identification and exchange of good practices would, however, reduce both the problems due to the variation of types and levels of employer sanctions between the Member States and the current lack of enforcement, which was highlighted by stakeholders across the EU as the key challenge in the present situation.

Because enforcement is the main problem in the current situation it could be argued that there would be merit in adopting Option 6 in the first instance. However, exchange of experience would be more effective where the applicable legislation was harmonised rather than varied as at present between Member States. Also, prevention within countries of origin is of key importance. If harmonised measures are effective in reducing employment and this message is conveyed to third countries, it is likely to lead to a decreased impetus to enter or stay in the EU illegally and thereby result in decreases in illegal immigration. A clear message from across the EU of the commitment to fighting employment of illegal third country nationals is likely to be stronger and have greater impacts than mere signals that it is difficult to find work in one or a few Member States. The message is likely to be even stronger if harmonised sanctions and improved enforcement mechanisms are adopted at the same time.

The main benefits of the preferred option

The preferred option would have positive impacts on the reduction of illegal employment of third-country nationals. The preventive notification procedures employers would be obliged to follow would be straightforward and easy to comply with. Minimum sanctions would help to persuade the employer of the need for compliance and the employer would know what sanction s/he faces if s/he employed an illegaly staying third-country national. More resources and better methods of enforcement may improve the identification and sanctioning of employers hiring illegally staying third-country nationals. There would also be positive impacts on the creation of a level playing field at sectoral level as employers across the EU would be subject to the same sanctions. This would be particularly relevant for those employers who do not hire illegally staying third-country nationals, as salaries of the latter are in general lower. Furthermore, in some countries where verification of status of workers is required from employers, there would be a slightly decreased administrative burden on employers as the new requirements to copy and forward documentation would require less work than current obligations.

The preferred option takes account of employer sanctions and preventive measures which have been evidenced as effective in Member States. Exchange of information and good practice world increase the capacity of law enforcement bodies, which in turn would strengthen the monitoring of the implementation of regulations. The enforcement obligation would ensure stricter and better enforcement, and thus increased compliance.

As concerns fundamental rights, overall it can be expected that exploitation would be reduced as a result of exchange of good practices on how to protect victims of such exploitation and sharing of information on how to mitigate negative effects for those who collaborate with law enforcement. Positive impacts are also likely on the principles of legality and proportionality of criminal offences and penalties as the crime would be defined across the EU.

The preferred option is also likely to have a positive impact on the reduction of human trafficking, organised crime and smuggling, because as Member States exchange information

and good practices on how to encourage such workers to report violations the chances of catching employers systematically engaged in criminal activities would increase.

The main disadvantages of the preferred option

Illegal employment of third country nationals would not be eliminated. Effectiveness in this respect depends largely on enforcement, which is the responsibility of the Member States. Even with the enforcement obligation and the the sharing of good practices, the effectiveness of inspections would still be dependent on the Member States.

Also, in terms of reduction of illegal immigration to the EU, as only one pull factor (employment) is affected by the preferred option, impacts are likely to be limited. The extent to which illegal immigration is reduced is dependent on (1) the effectiveness of the measures introduced; (2) the effectiveness of enforcement thereof; and, (3) communication of this to third countries (so as to reduce the impetus for third-country nationals to try to find employment in the EU illegally).

For employers, disadvantages include that more employers would be criminalised. In some countries where verification of status of workers is currently not required, there would be a slight additional administrative burden on employers due to the new requirements to copy (and ensure the safe-keeping of) and forward documentation.

In purely economic terms, sensitive sectors (mainly construction, agriculture, housework/cleaning, catering and other hospitality services), are likely to be negatively affected with respect to international competition, as they to some extent rely on the flexible and relatively cheap labour of illegaly staying third-country nationals provide. As a result, certain Member States, where these sensitive sectors are particularly important, may see a negative economic impact on their national economies.

Concerning fundamental rights, there is a risk that exploitation of some illegally staying third-country nationals may increase as higher employer sanctions may lead those who still employ them to seek greater control over the movements and activities of their employees. However, that risk should be counterbalanced in particular by the proposed criminal sanctions in cases of particularly exploitative working conditions. There are also possible negative effects on protection of personal data. To what extent this would occur depends on what measures are taken by employers and authorities to ensure the confidentiality thereof.

The preferred option may have a small negative effect on organised crime, if the preventive measures lead to increased identity fraud and the forgery of documents.

Third (sending) countries would also experience negative impacts if illegal employment of their nationals in the EU decreased, as the level of remittances would be likely to decrease.*Support measures for the preferred option*

In order to maximise the positive benefits and mitigate or minimise disadvantages / risks, it is proposed that this preferred policy option would be accompanied by the following supporting measures at Member State level:

- Each Member State would **identify the competent authorities** to which employers are to submit relevant documentation.

- Protective measures would be introduced in order to deal with the threat to privacy and **data protection** that such data exchange / collection entails.

- Member States would need to ensure **compliance** with the requirement to submit relevant documentation.

- **Establishment of protective measures for illegally employed third-country nationals in case of sanctions for the employer**, e.g. back payment of (minimum) wages; burden of proof on the employer to show that s/he has paid the employee; safe channels for employees to report illegal practices (confidentiality secured, ombudsman or responsibility for trade unions); and, payment of return of the illegal worker.

- Support in the form of **awareness raising campaigns**[36] targeted at the employers (in particular SMEs) and employees.

6.3. Assessment and considerations of proportionality and EU added value

Proportionality

The preferred option would constitute a relatively minor change from the status quo in terms of both the weight of legislation and the burden on legitimate employers. Most Member States have both sanctions and employer obligations in place similar to those envisaged in the preferred option. Member States may have increased burdens resulting from the need to enforce the rules, but these are justified in relation to the objectives.

The preferred option should be seen as just one contributory measure in the management of migration in the EU and in achieving the objectives of reducing illegal immigration and reducing employment of illegaly staying third country nationals.

European added value

The preferred option has the potential to generate the following European added value:

A more level playing field: every EU employer would be aware that their peers and competitors were subject to the same minimum sanctions should they employ illegally staying third-country nationals, and minimum obligation to request provide and keep documentation. Were employers also confident that levels of enforcement were consistent there would be increased European added value.

The identification and transfer of good practice: the challenges of achieving effective enforcement and the mitigation of negative consequences are great. The exchange of experience component of the preferred option would bring significant EU added value.

Key messages to third countries and prospective illegal migrants: The following circumstances are relevant: there are large numbers of illegally staying third country nationals

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[36] The organisation of an awareness raising campaign as a supportive measure would be different from the awareness raising campaign described and assessed as Policy Option 5 as it would focus on the positive aspects of the new interventions.

who are working; there are many employers acting illegally; it is apparently 'easier' to find illegal employment in some national/sectoral contexts than others; it is possible to move relatively freely within the EU; and, the likelihood of existing sanctions being imposed is low and varies between countries/regions. Given those circumstances, the adoption of the preferred option would provide a signal that these problems are being addressed and that the risks to illegal migrants have increased. Such a message emanating from the EU level would have a value distinct from and potentially greater than that stemming from the national level. The value would be enhanced were the likelihood of enforcement strong and were the preferred option seen as part of a range of measures to improve the management of migration and the possibilities for legal migration and to reduce the marked economic disparities between the EU and countries of origin of illegal migrants.

7. MONITORING AND EVALUATION

Table 7.1 includes some suggestions for indicators that could be developed to assess the progress and effectiveness of the preferred option in achieving the main policy objectives.

Table 7.1 – Potential monitoring and evaluation indicators of the preferred option

Main Policy Objectives	Potential indicators	Sources of information
To reduce the employment of illegally staying third-country nationals	Number of illegally staying third-country nationals detected through inspections.	Implementation agencies Member State statistics to be collected under forthcoming Regulation on Community statistics on migration and international protection[37].
	Estimates of the numbers of illegally employed third country nationals.	Sources as used by the external study in characterisation of problem.
To reduce illegal immigration to the EU	Numbers of illegal migrants apprehended at EU borders.	Member State statistics to be collected under forthcoming Regulation on Community statistics.
	Number of overstayers. Estimates of flows of illegal migrants. Estimates of the stocks of illegal migrants.	Sources as used by the external study in the characterisation of problem.
To create a level playing field for employers	Transposition of legislation Actual sanctions and obligations imposed	Member State monitoring reports Implementation agencies
To contribute to reduced exploitation of third-country nationals no or limited rights to work that are exceeded	Conditions of work of illegally employed third country nationals detected through inspections	Implementation agencies
To develop common rules which are likely to be complied with in practice and enforced	Resources available for implementation Numbers of successful administrative proceedings and criminal prosecutions Numbers of administrative proceedings and criminal prosecutions relative to estimates of scale of the problem	Member States
To complement and reinforce existing (and forthcoming) acquis	Progress with respect to other measures	EU level monitoring
To reduce human trafficking, organised crime and smuggling	Number of successful prosecutions originally detected through inspections	
Impacts on fundamental rights		
▪ Protection of personal data (Art. 8)	Measures put in place to protect personal data	
Impacts of identification and exchange of good practices and experience		
	Instances of validated good practice	
	Products developed (e.g. training products)	

[37] The indicator covered by the Regulation is "third-country nationals found to be illegally present". The additional disaggregation by "grounds for the apprehension" that would be required for the suggested indicator "illegally staying third-country nationals detected through inspections" could be adopted by the Commission under the implementing rules provided for the by the Regulation; discussions would need to be initiated not later than two years after the entry into force of the Regulation.

Main Policy Objectives	Potential indicators	Sources of information
	Application of products	
	Activities undertaken	

ANNEX 1 – METHODS FOR ASSESSING NUMBERS OF ILLEGALLY STAYING THIRD-COUNTRY NATIONALS

By the very nature of the phenomenon "illegal migration", the extent thereof is difficult to establish, since illegal immigrants do not identify themselves to the authorities. To study these 'undocumented and unobservable' events, Jandl (2004:142) argues that 'it follows that any description of the nature and extent of the phenomenon has to rely on certain indirect methods, which in turn depend on the availability of alternative statistical indicators in a given country'. In order to estimate the extent of annual inflows of illegally staying third-country nationals, Member States use a range of indicators linked to the phenomenon, such as the numbers of refused entries and removals, apprehensions of illegal migrants at the border or in the country, rejected applications for asylum or other forms of international protection, or applications for national regularisation procedures. Normally, to these numbers the considerable number of those who do not apply for any form of international protection (either because they entered legally or the "overstay") must be added. In order to infer the size of the irregular population, indirect methods are often used such as comparing different population censuses and registers, including data on births and deaths.

There are two central features to consider when estimating irregular migration: the stock and the flow of irregular immigrants. The former represent the total irregular population residing in the country and the latter comprise the movement of irregular migrants across borders.

Jandl (2004) has recently reviewed available methodologies for estimating the irregular migration stock, annual inflows, and those in employment. He starts with discussing methods for estimating the total amount of third-country nationals with no or limited rights to work that are exceeded in a country. In the USA, the stock of undocumented immigrants is calculated at regular intervals using the "residual" estimation techniques (Jandl 2004:143). This technique consists of comparing the census data with other registries of immigrants and identifying any differences. According to Jandl, this type of indirect method is rarely used in EU Member States as the censures are deemed to 'be seriously undercounting irregular migrants in Europe'. The only Member State, in which the "residual" estimation technique could be applied is Spain, where incentives (e.g. free health care) for registering in municipal population registers are far greater than the drawbacks (Jandl 2004:144). The data collected in these registers are not used to remove illegal residents from the country. In the UK, the Home Office recently published its first estimate of the 'illegal' migrant stock based upon the indirect residual method.

Jandl (2006:144) presents the "multiplier" estimation technique as producing better estimates of undocumented migrants.[38] In relation to the stock of third-country nationals with no or limited rights to work that are exceeded, demographic methods, such as comparing age structures, birth and death rates of illegal residents with those of legally resident foreigners have been used in migration studies (e.g. Wanner 2002), but few were conducted in relation to the situation in EU countries. Another method would be to survey experts on the subject and using their estimations to come up with an appropriate multiplier. But this survey method has

[38] This method is based on the assumption that there is a stable relation between the unknown variable, which is the subject of enquiry, and a variable that can be measured. If the "right" multiplier is found, the problem of estimation can be addressed.

also rarely been used to estimate the number of third-country nationals with no or limited rights to work that are exceeded in European countries. "Evidence based on regularisation data" can also be used for estimations of immigrant stocks in the country and, to some extent, the extent to which they are working in various sectors (Jandl 2004:146).[39]

In order to gather data on the number of illegal migrants that are employed, analyses are made on the basis of, for example, regularisation programmes (e.g. Greece), of the employment rate of legal immigrants (e.g. United Kingdom) and of surveys conducted by national employment or unemployment agencies (e.g. Poland). While for a number of countries no data have been obtained, for others data are available on the number of violations observed or reported by the Labour Inspectorates (e.g. the Czech Republic, Denmark, France, Latvia, and Spain). Estimates of the extent of irregular foreign employment often draw upon the figures of the national Inspectorates of Labour, which undertake controls at worksites and other types of enforcement actions. These data include the number of violations recorded and of illegal foreign workers apprehended. The problem with using these data as an indicator of the number of third-country nationals who work (and reside) illegally is, as Jandl (2004:148) explains, 'that these routine control checks do not constitute a random sample of all workplaces but – due to resource restrictions and low staffing levels – concentrate on "suspicious" workplaces only.'

Nevertheless, this method for estimating illegal foreign employment can give an indication of the sectors in which the phenomenon is more widespread, of the trends in numbers over time, and of (changing) demographic characteristics of those apprehended. The number of illegal foreign workers apprehended is sometimes extrapolated to estimate the total amount of illegal foreigners residing on the national territory. The Central Agency for Statistics of the Netherlands, for example, used this method in the 1990s and concluded that there was a rising trend of illegal migrant stocks: between 3,000 and 55,000 in 1994 and between 50,000 and 100,000 in 1999. The assumptions that '2/3 of the illegal workers stayed illegally in the country and 10% of total illegal residents had no work at all' underpinned this calculation (Jandl 2004:149).

According to Jandl (2004:149), the only method that is currently used to estimate the annual flows of illegal migrants to European countries is the "projection of border apprehensions". He continues that there are a number of problems with this method. For one thing, 'much of the statistical data collected by border enforcement agencies is kept secrete and only few countries in Europe regularly publish their apprehension data' (Jandl 2004:150). As a result, informal channels have to be drawn upon to obtain data. Furthermore, even in those cases where enforcement agencies publish or share their statistics, the validity of the estimation depends on identifying the "correct" multiplier. A multiplier has to be designed that reflects the likelihood for being caught when attempting to cross the border illegally.

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[39] Especially in southern European countries, where governments have opted for regularisation programmes on more or less regular intervals, this method is often used to calculate the national stock of illegal migrants. This method has been used in Spain and Greece. To ascertain the extent to which the number of applications for regularisation programmes constitutes a valuable indicator for this phenomenon, a number of issues have to be taken into consideration. While the number of illegal migrants who cannot or will not register for such programmes underestimates the stock, those foreigners who travel from neighbouring countries to benefit from the amnesty overestimate it. The latter phenomenon has been observed for Italy, where 'a large presence of foreigners living in France, Switzerland and Austria' cross the border at the time of the regularisation programme (Sciortino 2003 in Jandl 2004:147).

ANNEX 2 – TOTAL NUMBER OF ILLEGAL IMMIGRANTS BY MEMBER STATE AND NUMBER IN WORK

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated
EU		2,000,000-3,000,000	The irregular foreign population would correspond to 10-15% of the size of the officially recorded resident foreign population, which was around 20 million in 1997[40]	
		In EU 15 (incomplete): 286,000		Estimates on the basis of the total border apprehensions of illegal migrants in 2001[41]
		In the EU 25 (incomplete): 373,000		
		3,000,000	IOM (World Migration Report 2000) estimates that the upper limit of unauthorised migrants in Europe at 3 million in 1998, as compared to less than 2 million in 1991. Dependent on the calculation methods used, illegal migrants are thought to represent between 10 and 15% of migrants already present and between 20 and 30% of inflow [42]	

40 GLOBAL MIGRATION PERSPECTIVES, No. 53, October 2005, Crisis in countries of origin and illegal immigration into Europe via Italy, http://www.gcim.org/mm/File/GMP%2053.pdf

41 International Centre for Migration Policy Development, Estimates on the number of illegal and smuggled immigrants in Europe, http://www.icmpd.org/uploadimg/Metropolis%20Presentation%2D9%2D2003%2DMJ%2D1.pdf

42 (Committee on Migration, Refugees and Demography "Conference on the situation of illegal migrants in Council of Europe member states, Paris 13 December 2001). http://www.ecre.org/factfile/realfacts.shtml#illeg

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated
			The nine largest former EU15 Member States would have between 4.4 and 5.5 million illegal migrants. Transposing these figures to the EU25 would give an estimate of between 6 to 8 million undocumented migrants. Another way to estimate the number of illegal migrants is through the number of migrants included in regularisation programmes, particularly in Southern Europe and in France and Belgium. Since the 1970s, the EU Member States regularised 3.5 Million persons, most of them in recent years.[43]	
		4,500,000	In the European Union (EU), unauthorized or "irregular" immigrants are estimated to be at least one percent of the population of the EU 25 (about 4.5 million persons) and are growing at annual rates that are into the mid-hundreds of thousands(2005).[44]	
Austria	8,102,200	38,530 (2004)	The total numbers of illegally entering and/or illegally resident persons can only be estimated. For this purpose, a variety of diverse methods and techniques have been developed. Only few estimates following these techniques have been published in Austria. Of these few estimates, each refers to a particular group of illegally resident immigrants and not to the phenomenon as a whole, e.g. illegally resident pupils or illegally employed foreigners.	Data sources include data on apprehensions of illegally entering or resident immigrants recorded by the MoI/Criminal Intelligence Services or client data of NGOs and welfare institutions working in the field of migration and asylum.

[43] Who is going where? Migration trends in the EU context SIPTU National Women's Forum, http://www.eurofound.eu.int/docs/areas/populationandsociety/krieger050422.pdf

[44] The "Regularization" Option in Managing Illegal Migration More Effectively: A Comparative Perspective, September 2005 No. 4, http://www.migrationpolicy.org/pubs/PolicyBrief_No4_Sept05.pdf

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated
			Looking at apprehension data (such as smuggled persons or illegally entering and/or residing persons), the number has been declining since 2003. In 2004, 38,530 persons were apprehended, a fall of over 14% from the previous year. [45]	
		100,000 (high estimate)	Low and high estimates of stocks of illegal migrants (source Jandl 2003)[46]	
Belgium	10,355,800	The number of illegal persons is estimated to be several tens of thousands.[47]		Estimated on basis of regularisation.[48]
		The number of illegal persons is estimated to be several tens of thousands.	Countries each time involved in interceptions these last years – who may partially be considered as countries of origin of aliens without legal residence – are Yugoslavia, the future member states Romania and Bulgaria, the Maghrib countries, Polish moonlighters, Iran, other countries around the Black Sea, "population giants" China and India, Albania, Afghanistan and Iraq (surely for the last two countries identity hiding is a phenomenon to reckon with). Nevertheless, extended research has shown that in the case of certain nationalities the number of illegal migrants is (was) by all means (much) higher than the population of the legal community (e.g. Poland, Colombia).	There is no sound information on the number of aliens in Belgium – we do not know how many tens of thousands are involved. During the last 15 years, some few estimates have been circulating based on different techniques (mostly the Delphi method), but they should be interpreted with much caution, as is the case with the number of intercepted illegal migrants.

45 The most important countries of origin among smuggled persons are the Russian Federation, India, Moldova and Georgia; the main countries of origin among illegally entering and/or residing persons are Romania, Bulgaria, Moldova and Serbia and Montenegro.

46 International Centre for Migration Policy Development, Estimates on the number of illegal and smuggled immigrants in Europe, http://www.icmpd.org/uploadimg/Metropolis%20Presentation%2D9%2D2003%2DMJ%2D1.pdf

47 DAEM, G. (2006) Repression towards illegal persons and undeclared work of undocumented workers in Belgium, PROGRESS Lawyers Network Belgium, http://www.progresslaw.net/eng/text/Slovenie_GD_0506.pdf

48 DAEM, G. (2006) Repression towards illegal persons and undeclared work of undocumented workers in Belgium, PROGRESS Lawyers Network Belgium, http://www.progresslaw.net/eng/text/Slovenie_GD_0506.pdf

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated
			There is also evidence that the illegal transit migration has diminished in 2004 by comparison with previous years.	
		55,000[49]		
		90,000-150,000	Low and high estimates of stocks of illegal migrants (source Jandl 2003)[50]	
		30,000-40,000	There were an estimated 30,000 to 40,000 illegal migrants in Belgium in 1999[51]	
Czech Republic	10,203,300	13,206 (apprehensions at the border) 21,350 (without residence permit)	The Czech Republic is no longer considered a transit country by illegal migrants. Statistics released by the Czech Foreign Police earlier this week, suggest that the number of people attempting to cross the borders into Germany and Austria illegally has decreased, while the number of foreigners staying in the country without residence permits is on the rise. In 2003, some 13,206 illegal migrants were caught on the borders with Germany and Austria; 535 less than the year before. The number of foreigners caught without a residence permit reached 21,350 in 2003; some 2,000 more than the year before.	Estimates on the basis of apprehensions of illegal migrants
		295,000-335,000	The number of illegal/irregular migrants can only be estimated and stands between 295,000 and 335,000 (at the end of 2000). Of these people, 165,000 could be irregular migrants active on	

[49] Loobuyck, P. (2003), 'Vlaanderen, Belgie en Europa als "immigratiesamenlevingen": Enkele consequenties, http://www.flwi.ugent.be/cie/CIE/loobuyck4.htm

[50] International Centre for Migration Policy Development, Estimates on the number of illegal and smuggled immigrants in Europe, http://www.icmpd.org/uploadimg/Metropolis%20Presentation%2D9%2D2003%2DMJ%2D1.pdf

[51] Northern Europe, Migration News Vol. 6 No. 4, October 1999, http://migration.ucdavis.edu/mn/more.php?id=1935_0_4_0

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated
			the Czech labor market, 30,000 their dependants and 100,000 – 140,000 transit migrants (their number is declining).[52]	
Cyprus	715,100	40,000	The number of illegal immigrants is estimated to correspond to just more than 10% of the gainfully employed. [53]	
Denmark	5,383,300			
Estonia	1,356,000	5,000-10,000	According to official estimates, there were at least 5,000-10,000 illegal aliens in Estonia as of the end of April 2004. [54]	
Finland	5,206,300			
France	59,635,000	300,000[55]		
		300,000-500,000	Low and high estimates of stocks of illegal migrants (source Jandl 2003)[56]	
		300,000-400,000[57]		

52 Migration online, http://www.migrationonline.cz/101.shtml

53 Czech Republic no longer considered transit country by illegal migrants, http://www.radio.cz/en/article/49771

54 Extract from the IHF report, Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 (Events of 2004), Estonia. www.ihf-hr.org/viewbinary/viewdocument.php?doc_id=6330

55 Boswell, C. and Straubhaar, T. (2004) *The Illegal Employment of Foreigners in Europe*, http://www.migration-research.org/dokumente/articles/ie0401-forum.pdf

56 International Centre for Migration Policy Development, Estimates on the number of illegal and smuggled immigrants in Europe, http://www.icmpd.org/uploadimg/Metropolis%20Presentation%2D9%2D2003%2DMJ%2D1.pdf

57 Who is going where? Migration trends in the EU context SIPTU National Women's Forum, http://www.eurofound.eu.int/docs/areas/populationandsociety/krieger050422.pdf

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated
Germany	82,536,700	100,000-1,000,000	It can be assumed, as a minimum level, that the number amounts to 100,000 people. As for the upper limit, some authors estimate as much as 1 million illegally resident migrants. After the number of illegally resident migrants had continuously increased in the 1990s, the tendency is now that numbers remain stable or even decrease. This is, among other reasons, due to the fact that since the EU enlargement on May 1, 2004, citizens of the new Member States can no longer be counted as illegally resident migrants.	Even a thorough analysis of available data sources (statistics of the Federal Border Police, Police Crime Statistics, Statistics of the Federal Labour Agency) cannot provide reliable data on the size and composition of the illegally resident population in Germany. The so-called principle of multiplication cannot be used for projections of the total number of illegally resident migrants as it is based on estimates.
		500,000[58]		
		500,000-1,500,000	Low and high estimates of stocks of illegal migrants (source Jandl 2003)[59]	
Geece	11,006,400	150,000-200,000	In 2004 it was estimated that immigrants accounted for at least 10% of the total population and for about 15% of the total working-age population. The evolution of illegal immigration since 2002 is not easy to document. Trade union representatives and officials from the Ministry of Public Order estimate the current stock of illegal immigrants to around 400,000. However, such a number should be considered as an overestimation. It should be pointed out that the number of those who received a temporary residence permit was 361,110 in the second regularisation. Thus, after the first stages of the second regularisation	The main and sole collector of statistical information related to illegal immigration in Greece is the Ministry of Public Order. However data related in general with migration can be useful when trying to measure illegal migration. The Ministry of Interior, the UNHCR, the National Statistical Service of Greece and the Employment Manpower Organisation are the main collectors of such data.

[58] Boswell, C. and Straubhaar, T. (2004) *The Illegal Employment of Foreigners in Europe*, http://www.migration-research.org/dokumente/articles/ie0401-forum.pdf

[59] International Centre for Migration Policy Development, Estimates on the number of illegal and smuggled immigrants in Europe, http://www.icmpd.org/uploadimg/Metropolis%20Presentation%2D9%2D2003%2DMJ%2D1.pdf

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated
			programme the number of those lapsed into illegality is actually relatively small and the number of those who remained illegal (taking into account asylum rejections) should be around to 150,000 persons. Moreover, because of the new arrivals of illegal immigrants it seems that the total number of illegal immigrants currently could be approximately estimated up to 200,000.	
		400,000	The number of illegal immigrants is so high that it is hard to measure except through regularisation programmes.	
			In 2001 there were 219,598 apprehensions of illegal immigrants, of which 167,168 from border guards and 6,864 from the coast guard.	Estimated on the basis of apprehensions at the borders[60]
		351,110		Estimate based on regularisation programmes (2001)[61]
		250,000-1,000,000	Low and high estimates of stocks of illegal migrants (source Jandl 2003)[62]	
		1,000,000[63]		
Hungary	10,142,400		Since 1990, the border guards have recorded 152,000 cases of foreigners attempting to enter illegally, and 80,000 efforts to leave Hungary illegally.[64]	

60 Boswell, C. and Straubhaar, T. (2004) *The Illegal Employment of Foreigners in Europe*, http://www.migration-research.org/dokumente/articles/ie0401-forum.pdf.

61 Boswell, C. and Straubhaar, T. (2004) *The Illegal Employment of Foreigners in Europe*, http://www.migration-research.org/dokumente/articles/ie0401-forum.pdf.

62 Boswell, C. and Straubhaar, T. (2004) *The Illegal Employment of Foreigners in Europe*, http://www.migration-research.org/dokumente/articles/ie0401-forum.pdf.

63 Who is going where? Migration trends in the EU context SIPTU National Women's Forum, http://www.eurofound.eu.int/docs/areas/populationandsociety/krieger050422.pdf

64 Hungary: Transit Country Between East and West, http://www.migrationinformation.org/Profiles/display.cfm?ID=181

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated
Ireland	3,963,700	8,902 in 2004	Almost no statistics exist on stocks of illegally resident immigrants beyond the number of outstanding deportation orders (8,902). Data on the number of persons refused leave to land (4,477 in 2004) may be indicative of flows of illegal immigrants to Ireland, however it should be noted that permission to enter Ireland may be refused for a range of reasons. The Immigrant Council of Ireland's records give some indication of the proportion of migrants who entered illegally to undocumented migrants. Of 231 cases of undocumented migrants accessing the services of the Immigrant Council 179 cases, or 77 per cent had entered Ireland legally and later became undocumented. A further 52 cases or 23 per cent had entered illegally (Immigrant Council of Ireland, 2005).	The Garda National Immigration Bureau provides some statistics on illegal immigration. NGOs such as the Immigrant Council of Ireland hold some data on illegally resident immigrants who use their support services (see below). No official source has estimated the number of illegally resident immigrants. Data regarding apprehended and removed aliens supplied by the Department of Justice, Equality and Law Reform to Eurostat is supplied in Table 3 below. The information was produced for the Annual Report on Statistics on Migration, Asylum and Return 2002. Table 3: Annual Totals of Apprehended Non Nationals Illegally Present and Removed Aliens 1999-2002 99 00 01 02 Number of apprehended aliens 24 25 52 115 Number of removed aliens 6 186 364 521 *Source: Hughes (2005).*
		20,0000	Low and high estimates of stocks of illegal migrants (source Jandl 2003)[65]	
Italy	57,321,100	800,000		Estimate made by the three largest Italian labour unions CGIL, CISL and UIL in 2006[66]
		- 200,000 - 600,000 - 800,000	The number of illegal immigrants living today in Italy is not known, and, currently, there is no way to fill in this information gap. By way of example, we can report the greatly varying estimates of illegal immigrant numbers provided by organisations that work in the sector.	

65 International Centre for Migration Policy Development, Estimates on the number of illegal and smuggled immigrants in Europe, http://www.icmpd.org/uploadimg/Metropolis%20Presentation%2D9%2D2003%2DMJ%2D1.pdf

66 Workpermit.com (2006) 'Italy offers citizenship to illegal migrants after 5 years', http://www.workpermit.com/news/2006_07_06/eu/italian_citizenship.htm

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated
			They are as follows: - 200,000 according to the ISMU Foundation (Multi-ethnic Initiatives and Studies), an organisation with offices in Milan that has been publishing an annual immigration report since 1995. - 600,000 according to the three largest Italian trade unions (CGIL, CISL and UIL). - 800,000 according to Eurispes, a research institute that publishes an annual report on the situation in the country. These large differences make it possible to say that no plausible, unambiguous measurements of the phenomenon exist. Trends as recorded through number of applications for regularisation during the different regularisation programmes: 2002: 702,156 1998: 250,747 1995: 258,761 The first 15 countries of origin (in terms of quantitative importance) of illegal immigration into Italy between 1990 and 2000: the home country with the highest number of illegal immigrants is Albania, which has an annual average value of 11,800 units, followed by Morocco (6,600), Yugoslavia and Romania (3,600) and Tunisia (2,400). The highest average number of legal immigrants comes from Morocco (73,500), followed by Albania (44,200), Tunisia (36,500) and Yugoslavia	

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated
			(31,000).[67]	
			The total number of expulsion orders issued to illegal immigrants in Italy increased markedly	Estimates based on expulsions.
			between 1990 and 1994 (from 10,000 to 57,000), stabilized in 1995, fell in 1996-97 (to	
			35,000 and 49,000), almost doubled in 1998 (91,000), and then rose sharply again, reaching a	
			peak of 131,000 in 2000.[68]	
		700,000		Estimate based on regularisation programmes (2002-2003)
		200,000-1,000,000	Low and high estimates of stocks of illegal migrants (source Jandl 2003)[69]	
		300,000-400,000[70]		
Latvia	2,331,500	"Very few"	In Latvia and some other transition countries labour codes are not so cumbersome and not as strictly enforced as in Western Europe [EU 15] and there are very few illegal migrants.	
Lithuania	3,462,600			

67 GLOBAL MIGRATION PERSPECTIVES, No. 53, October 2005, Crisis in countries of origin and illegal immigration into Europe via Italy, http://www.gcim.org/mm/File/GMP%2053.pdf

68 Ibid.

69 International Centre for Migration Policy Development, Estimates on the number of illegal and smuggled immigrants in Europe, http://www.icmpd.org/uploadimg/Metropolis%20Presentation%2D9%2D2003%2DMJ%2D1.pdf

70 Who is going where? Migration trends in the EU context SIPTU National Women's Forum, http://www.eurofound.eu.int/docs/areas/populationandsociety/krieger050422.pdf

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated
Luxembourg	448,300			
Malta	397,300			
Netherlands	16,192,600	70-150,000		There are no exact figures on illegal employment in the Netherlands. The estimation is that about 70-150,000 people reside illegally in the Netherlands.
		125,000 to 225,000	The estimated combined figure that includes both non-Western and European illegal aliens comes to between 125,000 and 225,000 illegal aliens annually.. As far as the country of origin of illegal aliens is concerned, the picture is a very diverse one. The number of individuals from the so-called asylum countries is not rising quickly, but is rising nevertheless.	No institution in the Netherlands is specifically engaged in collecting statistical data in relation to illegal immigration, as this information is simply not available. Information obtained from the police however (the number of people stopped and questioned in connection with illegal residence) is regarded as the best indication to be used in research into the nature and extent of this phenomenon.
		60,000	Estimates of illegal migrants: 7.3% of 545.000 legally staying foreigners. There are 40,000 illegally staying foreigners in four cities (Amsterdam, Rotterdam, Den Haag and Utrecht). The projection to the whole of the Netherlands is 60,000. (1998)	Analysis of police apprehension figures of foreigners[71]
		112,000-163,000		Analysis of data from 25 police districts (1997-2000)[72]
		60,000-160,000	Low and high estimates of stocks of illegal migrants (source Jandl 2003)[73]	
Poland	38,218,500		Whereas the total number of seizures was showing signs of being decreasing, or at least stabilising, before 2002,	

[71] International Centre for Migration Policy Development, Estimates on the number of illegal and smuggled immigrants in Europe, http://www.icmpd.org/uploadimg/Metropolis%20Presentation%2D9%2D2003%2DMJ%2D1.pdf

[72] Ibid.

[73] Ibid.

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated
			observers noted an increase in seizures of illegal immigrants and those transiting in 2003 and 2004.[74]	
		45,000-50,000	The 2003 Aliens Act marks Poland's first regularization program for unauthorized immigrants. The Office of Repatriation and Foreigners estimated just the number of illegal Vietnamese in Poland in 2003 at 30,000 and the total undocumented population at around 45,000 to 50,000.[75] However, according to the authorities responsible for the program, the regularization has been a failure. No formal information about the program was written, and the information that was provided did not reach the majority of illegal immigrants. In total, only 3,508 persons — 1,626 Armenians and 1,341 Vietnamese — submitted applications. As of November 2004, 2,413 applications (69 percent) had been approved, with 1,052 Armenians and 1,001 Vietnamese receiving legal status.	
Portugal	10,407,500			The communication from the European Commission on undeclared work (1998) states that, in Portugal, the great majority of undeclared workers are illegal immigrants, women, and unregistered workers. Women are employed in less autonomous jobs, earn less and tend to have informal jobs out of economic necessity, rather than to earn extra cash on the side as men do (European Commission, 2004).

[74] Migration Research Group (2005), Focus Migration: Country Profile: Poland, http://www.migration-research.org/dokumente/focus-migration/CP03_-_Poland.pdf

[75] EU Membership Highlights Poland's Migration Challenges, By Krystyna Iglicka, Center for International Relations, Warsaw http://www.migrationinformation.org/Feature/display.cfm?id=302

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated
		90,000		Estimate based on regularisation programmes (2001)[76]
		30,000-200,000	Low and high estimates of stocks of illegal migrants (source Jandl 2003)[77]	
		35,000[78]		
Slovakia	5,379,200			
Slovenia	1,995,000			
Spain	41,550,600	700,000	Dramatic increase since 1993 (200,000 to 300,000 according to Cornelius and Tsuda 2004).	Current estimate based on 2005 regularisation scheme.[79]
			The work of foreign nationals has been subject to 'special legalisation'. This has attempted to deal with illegal situations outside the mechanisms established by the general system or the quota system. Since the passing of Law 7/1985 on foreign persons, there have been five sets of special legalisation measures. The last two were established by Law 4/2000 (offering over 160,000 authorisations to work) and its reform at the end of the same year (offering over 240,000 authorisations). However, this did not put an end to the existence of illegal immigrants.[80]	Estimate based on regularisation programmes

76 International Centre for Migration Policy Development, Estimates on the number of illegal and smuggled immigrants in Europe, http://www.icmpd.org/uploadimg/Metropolis%20Presentation%2D9%2D2003%2DMJ%2D1.pdf

77 Ibid.

78 Spain, Italy, Bosnia, Turkey, Migration News Vol. 8 No. 4, February 2001, http://migration.ucdavis.edu/MN/more.php?id=2305_0_4_0

79 IPPR (2006) *Irregular migration in the UK*, April 2006, www.ippr.org

80 European industrial relations observatory on-line, CES examines immigration and the labour market, Spain, http://www.eiro.eurofound.eu.int/2004/10/feature/es0410203f.html

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated
		614,377 applications		Estimate based on regularisation programmes (2001)[81]
		150,000-500,000	Low and high estimates of stocks of illegal migrants (source Jandl 2003)[82]	
		600,000	An amnesty in Spain in 2005 gave legal status to 600,000 clandestine entrants.[83]	Estimate based on regularisation programmes
		20,000	Spain has about 940,000 foreigners (2001); they are 2.5 percent of Spanish residents, and they include an estimated 200,000 unauthorized foreigners. About 11,000 migrants were caught after crossing the Straits of Gibraltar in 2000, double the number apprehended in 1999.[84]	
Sweden	8,940,800			
United Kingdom	59,328,900	430,000		The Home Office indicated that its best estimate is 430,000 but the number could be between 310,000 and 570,000.[85]
		1,000,000	Low and high estimates of stocks of illegal migrants (source Jandl 2003)[86]	

81 International Centre for Migration Policy Development, Estimates on the number of illegal and smuggled immigrants in Europe, http://www.icmpd.org/uploadimg/Metropolis%20Presentation%2D9%2D2003%2DMJ%2D1.pdf

82 International Centre for Migration Policy Development, Estimates on the number of illegal and smuggled immigrants in Europe, http://www.icmpd.org/uploadimg/Metropolis%20Presentation%2D9%2D2003%2DMJ%2D1.pdf.

83 Financial Times, EU to crack down on illegal migrant work, Published: November 30 2006, http://www.ft.com/cms/s/daaa22e0-80ab-11db-9096-0000779e2340.html

84 Spain, Italy, Bosnia, Turkey, Migration News Vol. 8 No. 4, February 2001,http://migration.ucdavis.edu/MN/more.php?id=2305_0_4_0

85 BBC (2005), 'Illegal immigrant figure revealed,' 30 June 2005, http://news.bbc.co.uk/1/hi/uk_politics/4637273.stm. See also: http://www.migrationwatchuk.org/overview.asp#5

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated

Table A2.2 – Total number of illegal immigrants working (by Member State)

Member State	Total population	Total no. of illegal immigrants in work	Comments on estimates of total numbers including trends (increasing / decreasing numbers)	Indications that most foreigners origin from a specific country(ies) including trends (increasing / decreasing numbers)	Brief description of how numbers were calculated
Austria	8,102,200	114,000 (2004)	From 1995 to 2004, the number of foreigners employed illegally (in black economy activities) increased from 75,000 to around 114,000. This corresponds to approximately one fifth of working foreigners in Austria. This percentage increased continuously until 2000 since when it has fallen slightly.	Major source countries of growth in cross-border labour supply: Turkey, Bosnia Herzegovina, Croatia, Serbia as well as its eastern neighbours and Poland Until 2002, the majority of illegally working immigrants came from the central European countries (e.g. Poland, Slovakia) and the successor states of the former Yugoslavia. Since mid-2002, data on the nationality of illegal foreign workers are not available. It is therefore usually not possible to determine whether there is a dominance of certain ethnic or national groups in particular niches, or the conditions under which they work.	

86 International Centre for Migration Policy Development, Estimates on the number of illegal and smuggled immigrants in Europe, http://www.icmpd.org/uploadimg/Metropolis%20Presentation%2D9%2D2003%2DMJ%2D1.pdf

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated	
		Between 80,000 and 90,000	Estimations refer to the early nineties.[87]		Figures based on statistics form the Inspectorate of Labour from a sample of illegally employed foreigners found to be present at worksites during routine controls.
Belgium	10,355,800				
Czech Republic	10,203,300	Large numbers.[88]		Illegal employment of foreigners: mainly from Ukraine.	
		1,037 (2005)	On the basis of the law enforcement statistics made available by the Labour Offices, it seems that while there was an increase in the number of foreigners (3-rd country nationals, EU/EEA/Swiss) who were found to be illegally employed over the last three years (2002: 1,396; 2003: 1,429; 2004: 1,617), 2005 observed a decrease (1,037). [89]	In 2005, the majority of illegally employed foreigners came from Ukraine, Slovenia, Bulgaria, Vietnam, Taiwan, Moldavia and Romania. [90]	Of the 4,410 persons checked (3-rd country nationals, EU/EEA/Swiss), 1,037 were found to be illegally employed. This data is to be found in the law enforcement statistics made available by the Labour Offices. [91]
Cyprus	715,100			Undeclared work is thought mostly to affect specific categories of workers who are	

87 International Centre for Migration Policy Development, Estimates of illegal migration in Europe, http://www.icmpd.org/uploadimg/Estimation%20of%20illegal%20migration%20in%20Europe%2Dfinal.pdf

88 The issue of granting an amnesty for illegal / irregular migrants who have been working in the country for some time is very controversial in the Czech Republic. Despite the large numbers (see estimates in Drbohlav 2003b), a regularization campaign is not on the agenda. Drbohlav, D., Janska, E., and Horakova, M. (2005) 'Czech Republic', in Jan Niessen, Yongmi Schibel and Cressida Thompson (eds.) (2005) Current Immigration Debates in Europe: A Publication of the European Migration Dialogue, http://www.migpolgroup.com/multiattachments/2961/DocumentName/EMD_Czech_2005.pdf

89 CIA questionnaire.

90 CIA questionnaire.

91 CIA questionnaire.

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated
			more vulnerable generally, particularly foreign workers and Turkish Cypriots[92]	
Denmark	5,383,300		The number is uncertain, however, it is extremely difficult to exist as an 'illegal worker' due to the highly regulated nature of labour market and welfare system.[93]	
		(a) 62 (2006) (b) 93 (2006)	(a) decline as compared to 121 in 2005 (b) decline as compared to 138 in 2005	(a) complaints against companies for using foreign labour without having necessary valid documents (b) complaints against illegal employees[94]
Estonia	1,356,000			
Finland	5,206,300		Currently, there are no estimates of the overall involvement of legal or illegal immigration in undeclared work in Finland. In the construction industry, the Finnish Construction Trade Union suspects that only half of the estimated 9,000-10,000 foreign workers are working legally. The estimate of the Confederation of Finnish Construction Industries is, however, lower even as regards the legally working foreigners and the employers do not want to give an estimate of the amount of illegal workers.	Finnish Construction Trade Union estimates

92 European industrial relations observatory on-line, Cyprus, Thematic feature - industrial relations and undeclared work, http://www.eiro.eurofound.eu.int/2004/06/tfeature/cy0406104t.html

93 Stenum, H. (2005) 'Denmark', in Jan Niessen, Yongmi Schibel and Cressida Thompson (eds.) (2005) *Current Immigration Debates in Europe: A Publication of the European Migration Dialogue,* http://www.migpolgroup.com/multiattachments/2965/DocumentName/EMD_Denmark_2005.pdf

94 CIA questionnaire

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated	
France	59,635,000			1997-1998: Algeria (increasing), Morocco (decreasing), China (new), Dem. Rep. of Congo (new), Tunisia (declining)[95]	
		(a) 188 (2004)			(a) Figures from Ministry of Justice.
		(b) 444 (2004)			(b) Figures from ILO.[96]
Germany	82,536,700				
Greece	11,006,400	375,000 (1)		1997-1998: Albania, Egypt, Bulgaria, Pakistan, Romania[97]	(1) This is the number of applications for the first regularisation programme of 1998, most concern employed persons.[98]
		470,000 (2)			(2) Estimate by Lianos et al (1996).[99]
Hungary	10,142,400	200,000	Most analysts believe that illegally employed foreign workers greatly outnumber – and in the high season are twice as much as - those foreigners with work permits [>100,000].[100]	Many migrant workers leave their countries of origin because the conditions for their daily subsistence are not fulfilled. In the Eastern European transition countries, a large part of the population is suffering from the recent changes. Large numbers of Romanian and Ukrainian nationals come to	

95 OECD (2000), Combating the Illegal Employment of Foreign Workers, Paris: OECD.
96 CIA questionnaire.
97 OECD (2000), Combating the Illegal Employment of Foreign Workers, Paris: OECD.
98 OECD (2000), Combating the Illegal Employment of Foreign Workers, Paris: OECD.
99 Woodbridge, J. (2005) *Sizing the unauthorised (illegal) migrant population in the United Kingdom in 2001,* Home Office Report, 29/05 http://www.homeoffice.gov.uk/rds/pdfs05/rdsolr2905.pdf
100 Juhasz, J. (2003), 'Hungary: Transit Country Between East and West', http://www.migrationinformation.org/Feature/display.cfm?id=181.

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated	
				Hungary to escape low wages and unemployment.[101]	
			A two-day central inspection campaign by the Labour Inspectorate in 2003 found that about 20% of the inspected agricultural enterprises employed people in violation of the relevant legal regulations. A two-day inspection campaign in restaurants and bars found that 50% of inspected undertakings employed people in violation of legal regulations, although only 5% of the undertakings employed people without an employment contract. The use of various forms of undeclared work is especially widespread among small and medium-sized enterprises. [102]	The inspections highlighted the widespread illegal employment of migrant workers from neighbouring countries, such as Romania. There is a significant level of illegal employment of people from the Roma community, who participate very little in the formal labour market	Inspection campaign
		120 (2006)	2005: 121 2004: 65 2003: 54		Estimates on the bases of number of fines imposed by the migration authority (OIN). [103]
Ireland	3,963,700		There is no evidence to suggest a crackdown on illegal working. Although no official figures are available, the number of employers fined for illegally employing migrant workers since the introduction of employer sanctions in April 2003		

101 INTERNATIONAL MIGRATION PAPERS, Illegal labour migration and employment in Hungary, http://www.ilo.org/public/english/protection/migrant/download/imp/imp30.pdf

102 European industrial relations observatory on-line, Hungary, Thematic feature - industrial relations and undeclared work, http://www.eiro.eurofound.eu.int/2004/06/tfeature/hu0406103t.html

103 CIA questionnaire.

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)		Brief description of how numbers were calculated
			is thought to be very low[104].		
			The total number of work permits issued to non-EU nationals increased from 5,750 in 1999 to 40,504 in 2002, which is equivalent to an increase of more than 600 percent (Table 2). The number of work permits issued in 2003 is expected to significantly exceed that in 2002; during January-September 2003, 36,682 permits (including 18,463 renewals) were issued already. As work permits are valid for a maximum of one year, the number of total work permits issued in any given year also gives a good indication of the stock of legally employed non-EU workers in Ireland.[105]		
Italy	57,321,100	(a) 560,000		1996: Morocco (decreasing), Albania (increasing), Philippines (increasing), China (new), Senegal (decreasing), Tunisia (decreasing)[106]	(a) According to Djaii (2001) 70% of illegal migrants are expected to work illegally[107] [2006 figure of 800,000]
		(b) 460,000			(b) estimates by Reyneri 2003[108]

104 Ireland: A Crash Course in Immigration Policy, By Martin Ruhs, Centre on Migration, Policy and Society (COMPAS) Oxford University, http://www.migrationinformation.org/Profiles/display.cfm?id=260

105 Emerging Trends and Patterns in the Immigration and Employment of Non-EU Nationals in Ireland: What the Data Reveal, Martin Ruhs, Trinity College Dublinhttp://www.policyinstitute.tcd.ie/working_papers/PIWP06%20-%20Martin_Ruhs.pdf

106 OECD (2000), Combating the Illegal Employment of Foreign Workers, Paris: OECD.

107 S. Djaji (2001) 'Illegal Immigration Trends, Policies and Economic Effects', in: S. Djaji (ed.): *International Migration: Trends, Policies and Economic Impact*, London and New York 2001, Routledge, pp. 137-161.

108 In: OECD Employment Outlook 2004. Chapter 5: Informal Employment and Promoting the Transition to a Salaried Economy (http://www.oecd.org/dataoecd/8/25/34846912.pdf)

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated
		(c) 700,000		(c) According to the EEO review in 2004[109] foreign workers lacking work permits accounted, in 2001, for roughly one sixth of the total number of irregular workers. It is thought, that the last immigration amnesty ("sanatoria") that occurred in 2002, enabled roughly 700,000 immigrants without work permits to regularise their situation.
		700,000	According to Istat, there are 516,000 irregular immigrant workers in the agricultural and construction sectors alone. In total, more than 700,000 foreign workers - of whom 360,000 are in subordinate employment and 340,000 in domestic work - applied for stay permits following recent new legal provisions on regularising illegal work According to Caritas (the agency of the catholic church which assists immigrants) there are about 1 million illegal immigrants in Italy. Their position means that some of these people may be perceived as being engaged in criminal activities such as drug-pushing, prostitution and petty crime.[110]	On the basis of stay permit applications
Latvia	2,331,500	153 (2005)	2004: 179	Estimate based on aggregated number of persons punished for employing third country nationals without valid work permit or for providing opportunity to reside illegally in the

109 European Employment Observatory; Review autumn 2004. Chapter on "Thematic Overview: Fighting the immeasurable? Addressing the phenomenon of undeclared work in the European Union".

110 http://www.eiro.eurofound.ie/2002/09/feature/it0209103f.html

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated
				country.[111]
				The relationship between undeclared work and migration has not been studied in Latvia. Legal migration in Latvia is insignificant (95% of total migratory movements are within the country), so there are grounds for believing that it has no impact on undeclared work. It has been observed that undeclared work is more connected with illegal immigration, the extent of which is unknown[112]
Lithuania	3,462,600			
Luxembourg	448,300			
Malta	397,300			
Netherlands	16,192,600	Two thirds of the total number of illegal immigrants work without a work permit or permit of residence (FNV, 2003b). +- 80,000		

111 CIA questionnaire.

112 European industrial relations observatory on-line, Italy, New legislation regulates immigration, http://www.eiro.eurofound.eu.int/2004/06/tfeature/lv0406103t.html

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants		Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated
				The number of illegal aliens seems to fluctuate, depending upon the season and upon the clandestine employment market. In major cities in which many Turkish people run temporary employment agencies, Bulgarian males appear to be recruited into seasonal labour. The reception of Moroccans and immigrants from Africa and Eastern Europe is said to be somewhat less well organised however. Illegal aliens of Moroccan or Somalian origin in particular appear to be unemployed. Many female illegal aliens from Bulgaria are employed in prostitution. 90% of illegal agricultural workers come from Poland.	
Poland	38,218,500	100,000 150,000	to	Countries of the former Soviet Union, Sri Lanka, and Afghanistan, although an increasingly larger number are coming from Southeast Asia, particularly Vietnam.113 According to the same survey, three quarters of the domestic workers held Ukrainian citizenship, every eighth had Belorussian citizenship, and every tenth was Russian; only one household worker in 30 hailed from a different country. Thus, Polish households usually hire help from the countries immediately to the east.	Estimate by the National Unemployment Office. Other estimates range from 250,000 to 1.5 million persons.114

113 US Department of State (2002) *Country reports on Human Rights Practices in 2001: Poland,* http://www.state.gov/g/drl/rls/hrrpt/2001/eur/8321.htm

114 US Department of State (2002) *Country reports on Human Rights Practices in 2001: Poland,* http://www.state.gov/g/drl/rls/hrrpt/2001/eur/8321.htm

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated	
		150,000-200,000	The Ministry of Labour and Social Affairs estimated, for instance, in 1999, that there were 150,000 to 200,000 migrants working illegally (Lentowicz, 1999).[115]	It is difficult to estimate the number of Vietnamese in Poland due to their high spatial mobility and their status. Many migrants come to Poland as "tourists", but remain there and work illegally. According to representatives of the Polish government the number of Vietnamese immigrants is estimated to be a maximum of 50,000, whereas the leaders of the community claim that in Poland there are no more than 20,000 – 30,000 Vietnamese.	
Portugal	10,407,500		In Portugal, in spite of the lack of data, the available statistics point to a significant number of undeclared workers. A large proportion of these workers are illegal immigrants.	1996: Angola, Guinnea-Bissau, Cape Verde, Brazil, Sao Tome and Principe, Senegal116	
		742 (2006)	2005: 577 2004: 284 2003:340		Estimates based on the number of trials started resulting from a complaint of violating Art. 144 of the Law regarding Foreigners.[117]
		40,000[118]	Clandestine immigration has increased dramatically. According to unofficial data, there may be as many as 40,000 illegal workers in the	These immigrants come primarily from Africa, especially from Portugal's former colonies, such as Guinea-Bissau, and from	

115 Sussex Migration Working Paper no. 8, The Formation of Ethnic Representations: The Vietnamese in Poland, http://www.sussex.ac.uk/migration/documents/mwp8.pdf

116 OECD (2000), Combating the Illegal Employment of Foreign Workers, Paris: OECD.

117 CIA questionnaire.

118 European industrial relations observatory on-line, PORTUGAL, New measures seek to ensure decent working conditions for immigrant workers, http://www.eiro.eurofound.eu.int/2000/06/feature/pt0006199f.html

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated
		country.	central and eastern European countries. In the latter case, the workers concerned are considered skilled and have rapidly become highly productive from the standpoint of the Portuguese economy, but they are at the same time more vulnerable because they often do not speak Portuguese and there are no established central and eastern European communities in Portugal.	
Slovakia	5,379,200		Levels of legal immigration are relatively low and legal immigrants usually do not participate in undeclared work. Some undeclared work is performed by foreign workers employed without work permits and without long-term residential permits allowing employment.[119]	
Slovenia	1,995,000			
Spain	41,550,600		1996: Morocco (decreasing), Peru (decreasing), China (decreasing), Argentina (new), Poland (decreasing), Dominican Republic (decreasing)[120]	
		7,296 (2006)		Figure based on the number of violations uncovered by the Labour Inspectorate in 2006.[121]
Sweden	8,940,800			

[119] European industrial relations observatory on-line, SLOVAK.REPUBLIC, Thematic feature - industrial relations and undeclared work, http://www.eiro.eurofound.eu.int/2004/06/tfeature/sk0406105t.html

[120] OECD (2000), Combating the Illegal Employment of Foreign Workers, Paris: OECD.

[121] CIA questionnaire.

Table A2.1 – Total number of illegal immigrants in the EU and Member States

Member State	Total population	Total no. of illegal immigrants	Comments on estimates of total no. including trends (increasing / decreasing numbers by year if possible)	Brief description of how numbers were calculated
United Kingdom	59,328,900	216,850		Calculated on the assumption that irregular migrants have the same age characteristics and employment rate of recently-arrived immigrants. Kyambi (2005) uses aggregated Labour Force Survey data for 2000-04 to show that, in 2004, some 82 per cent of immigrants in the UK since 1990 were of working age (aged 16-64) and had an employment rate of 61.5 per cent.[122]
		9,227 (2005-2006)	2004-05: 3,854 2003-04: 2,304 2002-03: 1,099	Number of 'immigration offenders' detected and removed by the authorities. [123]

122 IPPR (2006) *Irregular migration in the UK*, April 2006, www.ippr.org

123 CIA questionnaire.

ANNEX 3 – TOTAL NUMBER OF ILLEGAL IMMIGRANTS IN WORK BY MEMBER STATE AND SECTOR

Table A3.1 – Total number of illegal immigrants in work by Member State and sector

Member State	**Total number of illegal immigrants (in work)**		**Construction**		**Agriculture**		**Catering**		**House work / Cleaning**		**Other (please specify sector)**	
	No.	**%**	**No.**	**%**	**No.**	**%**	**No.**	**%**	**No.**	**%**	**No.**	**%**
Austria	114,000											
Belgium			**x**		**x**		**x**				cleaning services	
Czech Republic												
Cyprus												
Denmark			**x**		3,000[124] **(1)**						Hospitality-tourism business sector	
Estonia												
Finland			4,500[125] **(1)**				**2**		**x**		Transport, and shipyard industry.	
France			**1**		**2**						High levels in garment industry[126]	40% of citations in 1992
												20% of

[124] Estimate by trade union '3F' mentioned in Stenum, H. (2005) 'Denmark', in Jan Niessen, Yongmi Schibel and Cressida Thompson (eds.) (2005) *Current Immigration Debates in Europe: A Publication of the European Migration Dialogue,* http://www.migpolgroup.com/multiattachments/2965/DocumentName/EMD_Denmark_2005.pdf

[125] The Finnish Construction Trade Union (Rakennusliitto) suspects that only half of the sector's estimated 9,000-10,000 foreign workers are working legally. http://www.eiro.eurofound.eu.int/2004/06/tfeature/fi0406204t.html

Table A3.1 – Total number of illegal immigrants in work by Member State and sector

Member State	**Total number of illegal immigrants (in work)**		**Construction**		**Agriculture**		**Catering**		**House work / Cleaning**		**Other (please specify sector)**	
	No.	**%**	**No.**	**%**	**No.**	**%**	**No.**	**%**	**No.**	**%**	**No.**	**%**
											Transport	citations in 1997
Germany												
Greece	375,000 to 470,000		**2**		**3**		**4**		**1**		Hospitality business and retail trade	
Hungary	200,000		**1**		**x**		**x**				Entertainment, clothing and textiles sectors	
Ireland												
Italy	460,000 to 560,000		**x**		20,400 of the 147,900 regularised in 1996[127]				59,200 of the 147,900 regularised in 1996[128]		Sizeable and increasing proportion in manufacturing[129] Industry: 31,500 of the 147,900 regularised in	

126 OECD Employment Outlook 2004. Chapter 5: Informal Employment and Promoting the Transition to a Salaried Economy (http://www.oecd.org/dataoecd/8/25/34846912.pdf). Also reiterated in the 2000 OECD report.

127 OECD (2000), Combating the Illegal Employment of Foreign Workers, Paris: OECD.

128 OECD (2000), Combating the Illegal Employment of Foreign Workers, Paris: OECD.

129 OECD Employment Outlook 2004. Chapter 5: Informal Employment and Promoting the Transition to a Salaried Economy (http://www.oecd.org/dataoecd/8/25/34846912.pdf)

130 OECD (2000), Combating the Illegal Employment of Foreign Workers, Paris: OECD.

Table A3.1 – Total number of illegal immigrants in work by Member State and sector

Member State	**Total number of illegal immigrants (in work)**		**Construction**		**Agriculture**		**Catering**		**House work / Cleaning**		**Other (please specify sector)**	
	No.	**%**	**No.**	**%**	**No.**	**%**	**No.**	**%**	**No.**	**%**	**No.**	**%**
											1996[130]	
Latvia			**x**		**x**						The forestry, and industrial sectors[131]	
Lithuania												
Luxembourg												
Malta												
Netherlands	70,000 to 150,000		**3**		**2**		**1**					
Poland												
Portugal	40,000		**1**				**2**		**2**		hotels and metalworking industries[132]	
Slovakia												
Slovenia												
Spain			2187 of the 13,076	16.8% of …	1,839 of the 13,076	14.1%	Hotels: 2,231 of the	17.2% of…	2,814 of the 13,076	21.6% of …	Care of persons, hotels, textile	

131 European industrial relations observatory on-line, LATVIA, Thematic feature - industrial relations and undeclared work, http://www.eiro.eurofound.eu.int/2004/06/tfeature/lv0406103t.html

132 European industrial relations observatory on-line, PORTUGAL, New measures seek to ensure decent working conditions for immigrant workers, http://www.eiro.eurofound.eu.int/2000/06/feature/pt0006199f.html

Table A3.1 – Total number of illegal immigrants in work by Member State and sector

Member State	**Total number of illegal immigrants (in work)**		**Construction**		**Agriculture**		**Catering**		**House work / Cleaning**		**Other (please specify sector)**	
	No.	**%**	**No.**	**%**	**No.**	**%**	**No.**	**%**	**No.**	**%**	**No.**	**%**
			regularised in 1996[133]		regularised in 1996		13,076 regularised in 1996		regularised in 1996		manufacturing , workshops and CD copying.[134]	
Sweden												
United Kingdom	216,815		**x**		**x**		**x**		**x**			

133 OECD (2000), Combating the Illegal Employment of Foreign Workers, Paris: OECD.

134 European industrial relations observatory on-line, SPAIN, Thematic feature - industrial relations and undeclared workhttp://www.eiro.eurofound.eu.int/2004/06/tfeature/es0406209t.html

ANNEX 4 – OVERVIEW OF LEGISLATION IN THE MEMBER STATES

Table A4.1 – Relevant legislation

Member State	Relevant legislation	Date of legislation and reforms
Specific legislation regarding employment of illegal third-country nationals (in addition to legislation regarding undocumented work)		
Austria	Ausländerbeschäftigungsgesetz, BGBl. Nr. 218/1975 i.d.g.F., das Arbeitsvertragsrechts-Anpassungsgesetz, BGBl. Nr. 459/1993 i.d.g.F., das Allgemeines Sozialversicherungsgesetz, BGBl. Nr. 189/1955 i.d.gF., das Arbeitslosenversicherungsgesetz 1977, BGBl. Nr. 609/1977 i.d.g.F., die Gewerbeordnung, BGBl. Nr. 194/1994 und das Einkommensteuergesetz 1988, BGBl. Nr. 400/1988 i.d.g.F.	
Belgium	See transposition data: *Art. 7 §8 of the Law of 15 December concerning aliens?*	
Denmark	Aliens Act[139]	
Estonia	Aliens Act[135]	
Finland	Aliens Act[139] Note: Criminal sanctions laid down in Penal Code	2005: Under the Posted Workers Act, a foreign company which does not have a business location in Finland must have a representative in Finland who has in his or her possession the information on the employment and employees. 2006: Under the proposed Act concerning the consumer's obligation to obtain information before employment starts, the consumer must, for example, find out if the person who performs the work is liable to pay advance tax. Sanction: administrative fine.
Germany	Foreigners Act – 1990 Schwarzarbeitsbekämpfungsgesetz (Law on black work) – 2004 Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet[136] Immigration Act – 2005 German tax code	Reform in 1994, 1997, 2005 Measures have been in place since 1970, and subsequent reforms of foreign-resident law have imposed harder sentences for illegal entry, residency and human smuggling. In 2003 the federal government decided on accompanying measures to reforms concerning black work in terms of a far-reaching measures and legislation package involving e.g. increased control measures, with start from 2004. The 2005 Immigration Act replaced the Foreigners Act (e.g.

135 No further information given in CIA questionnaire.

136 http://www.bundesrecht.juris.de/aufenthg_2004/

Table A4.1 – Relevant legislation

Member State	Relevant legislation	Date of legislation and reforms
		introducing additional offences for smuggling of foreign nationals and extended the maximum prison sentence to ten years). The illegal employment of third country nationals usually coincides with tax fraud, therefore German tax law is also applicable.
Greece	Legislation regarding the employment of migrants from third countries deals with undeclared – illegal work[137]	
Hungary	Act XXXIX of 2001 on the Entry and Stay of Foreigners Note: Criminal sanctions laid down in Penal Code	2001
Italy	Legislation on foreigners	
The Netherlands	Employment of Aliens Act: admin. and penal sanctions	Since 2005 2007: employers will be obliged to assist the Labour Inspectorate in verifying the identity of employees during on site inspections. If not, employer can be fined with the same penalties as for employing illegal aliens.
Poland	Ordinance of the Minister of Labour and Social Policy of 19 December 2001 on the performance of work by foreign persons with no need to obtain work permit Ordinance of the Minister of Labour and Social Policy of 21 July 2006 on the mode and conditions of issuing work permit for a foreign person Acts of 13 June 2003 on aliens	2001 ? 2003, 2006 : modifications
Portugal	Foreigners legal framework (artº 144º of Decree-law nº 244/98, of August 8, changed by the Dec.-law 34/2003, of February 25)	1998 2003: modification
Spain	Article 36 and 50 of Ley Orgánica 4/2000, of 11 January about the rights and liberties of foreigners in Spain and about social integration	2000, modification of the 1995 legislation: Ley Orgánica 10/1995, of 23 November
United Kingdom	Immigration Act 1971 Nationality, Immigration and Asylum Act 1996 Asylum and Immigration Act 2002 Asylum and Immigration Act 2006	1971, 1996, 2002, 2006 (will come into force by 2008) The Asylum and Immigration Act 1996 introduced direct penalties on employers. Previously they were liable to prosecution only for assisting an illegal worker's entry or residence. It is now a criminal offence to employ any person subject to immigration controls who is not authorised to reside or work in the UK. [138]

137 Further details will be requested, including year.

138 Thematic feature: industrial relations and undocumented work: United Kingdom. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/uk0406104t.html

Table A4.1 – Relevant legislation

Member State	Relevant legislation	Date of legislation and reforms
Legislation regarding undocumented / illegal work in general		
Czech Republic	Act on Employment: Section 5 e) (definition of the term illegal employment), Section 139 Art. 1 c), Section 139 Art. 3, Section 139 Art. 4 (natural persons), Section 140 Art. 1 d) (corporate bodies) Act No. 435/2004 Coll. on employment, Section 89 on obligation for employer to employ only a foreigner with a valid work permit as well as a valid visa/residence permit.	2004
France	Employment legislation	1974: Creation of MILUTMO (dispositif institutionnel interministériel pour lutter contre les trafics de main-d'œuvre étrangère) : originally created in the context of the interministerial mission to fight against foreign labour, but mission evolved to include all forms of employment and irregular employment independent of the nationality of those responsible of fraud and of the victims. 1997 : MILUTMO was replaced by DILTI (Délégation interministérielle à la lutte contre le travail illégal) 2004-2005 : National Action Plan is launched to convey the message that the fight against illegal work is a priority for the government Law of 24 July 2006 on immigration and integration : emphasises the obligations imposed on the employer to verify the status of the future employee (and already established in previous employment legislation)
Latvia	Labour Law[139] Criminal Law[139] Note: Art. 6 Cabinet Regulations No.44, 20 January 2004: 'Regulations Regarding Work Permits for Aliens'	2004: 'Regulations Regarding Work Permits for Aliens' 2005[139]: Policy paper 'National Lisbon Programme of Latvia for the period 2005-2008': here the reduction of illegal employment is discussed as one of the primary measures to improve the flexibility of national labour market.
Slovakia	Employment legislation	2000, modifications in 2005 and 2006: Sanctions against illegal employment have also been governed by the Act No. 95/2000 Coll. on Labour Inspection and on amendment of certain acts which was with effect from July 1, 2006 replaced by the Act No. 125/2006 Coll. on Labour Inspection and as amended by the Act No. 82/2005 Coll. on Illegal Work and Illegal Employment and on amendment of certain acts.

[139] [Year to be verified].

ANNEX 5 – EMPLOYER SANCTIONS BY MEMBER STATE (SUPPORTING MATERIAL FOR OPTIONS 2 AND 4)

Table A5.1 – Administrative sanctions by Member State		
Minimum and Maximum amounts of fines /	***Description***	***Evaluation of / comments on effectiveness of the measure and planned changes***
a) Fine imposed per illegally hired employee		
Austria		
min 1,000 euro max 50.000 euro	Administrative fine for each employee without working permission; the amount depends on the number of workers and previous conviction Gemäß § 28 Abs. 1 Z. 1 AuslBG begeht eine Verwaltungsübertretung, wer einen Ausländer beschäftigt der …weder eine Zulassung als Schlüsselkraft (§ 12)…oder über eine Niederlassungsbewilligung - unbeschränkt (§ 8) oder einen Aufenthaltstitel Daueraufenthalt EG (§ 45) oder einen Niederlassungsnachweis (§ 24 FrG) verfügt. Die Strafen reichen, je nach Wiederholung und Erschwernisgrund von 1.000,-- E bis 50.000,-- €.	to enforce prevention the amounts were raised in 2005
Belgium		
(1) (2) 3,750 per worker	(1) Employers who do not properly report employees' information to the social security administration can be administratively fined. (2) Employers can be subject to civil fines for hiring workers without residence and work permits,	

Table A5.1 – Administrative sanctions by Member State		
Minimum and Maximum amounts of fines /	***Description***	***Evaluation of / comments on effectiveness of the measure and planned changes***
	i.e. unauthorised foreign workers.	
Bulgaria		
500-5,000 for individuals BGN 20 000 for legal entities Recommitment: BGN 1,000 – BGN 10,000 for individuals 40,000 BGN for legal entities	Fines at the amount of BGN 500-5,000 for individuals (included illegally hired foreigner) and sanctions at the amount of BGN 20 000 for legal entities. In case of recommitment - BGN 1,000 – BGN 10,000 for individuals and 40,000 BGN for legal entities respectively. *(rate euro / BGN: 1,955800 BGN, February 2006, Inforeuro, DG BUDG)*	Comments: the measure is generally effective; problems exists with ascertainment and collection
Greece		
3,000 to 15,000 euro per worker	It is forbidden to engage and employ TCNs without valid residence permit or a certification that they have applied the necessary supporting documentation for the issue or the renewal of it. Additionally, employers have to inform immediately the competent authority of the Region in the case of engagement of a foreign worker or when they change his employment contract (dismissal, resignation etc.). If employers violate the above provisions, the General Secretary of the Region levies on them a fine (see left).	
Hungary		

Table A5.1 – Administrative sanctions by Member State		
Minimum and Maximum amounts of fines /	***Description***	***Evaluation of / comments on effectiveness of the measure and planned changes***
(1) Max: 500,000 forints (approx. 1,940 euro) per TCN (2) Fine: 100,000 (approx. 390 euro)	(1) Act on Foreigners: Fine if employer fails to check their foreign employees before entering into employment in order to ensure that the foreigners have valid visa or residence permit issued for employment purposes. In accordance with Article 40, paragraph (6)-(7) of the Act, the costs of expulsion shall be borne by the employer, provided the residence of the residence or employment of the foreigner is illegal. (2) The employers are also obliged to report the failure of the permitted employment of the foreigner or the termination of his/her employment within the period of validity of the work permit to the competent labour authority within five working days. Failing these obligations (under the Decree of the Minister of Labour No. 3/1996. (IV. 5.) MüM on administrative fines), the employer will be subject to an administrative fine up to 100,000 forints (390 €).[140]	
Italy (*to verify whether admin and/or penal*)		
5,000 euro per TCN	Fines.	

[140] CIA questionnaire

Table A5.1 – Administrative sanctions by Member State		
Minimum and Maximum amounts of fines /	***Description***	***Evaluation of / comments on effectiveness of the measure and planned changes***
Lithuania		
Fines per TCN: First time offence: Min: 870 euro Max: 2,900 euro, Repeat offence: Min 2,900 euro Max 5,800 euro	The Code of Administrative Violations of Law (2004) contains a specific article on Illegal Work (Article 41(3)) as follows: "Illegal work – Brings a penalty on employers or their authorised persons from three thousand to ten thousand litas (870-2,900 euro) per illegally employed person. The same acts taken by a person with a history of previous penalties for the violations set forth in the first paragraph of this Article – Brings a penalty on employers or their authorised persons from ten thousand to twenty thousand litas (2,900-5,800 euro) per illegally employed person."	All statistics concerning illegal work in the Republic of Lithuania include all cases of illegal work. Until 2006 illegal work of third-country nationals were not separated from the absolute number of illegal work. In 2006 7 third-country nationals were detected working illegally.
Netherlands		
Fine for each illegally employed alien: For employers acting as natural persons: 4,000 euro For employers acting as a legal entity (enterprise): 8,000 euro.	Since 1 January 2005, the Employment of Aliens Act has included the possibility of an administrative penalty.	

Table A5.1 – Administrative sanctions by Member State		
Minimum and Maximum amounts of fines /	***Description***	***Evaluation of / comments on effectiveness of the measure and planned changes***
Portugal		
Fine: 2,000 to 27,500 euro for each foreign citizen in an irregular situation.	Fines. The owner who doesn't obtain from the other contracting party (employer) a declaration of the fulfilment of obligations laid down by the law relative to immigrant workers possibly hired is also liable. If the owner is the Public Administration the person responsible for not requiring the declaration mentioned in the preceding paragraph is liable of disciplinary procedure. Infractions pursued with mere negligence are punishable and in this case the amount of the fines is reduced to half. The attempt is not punishable.[141]	
Romania		
*Government Emergency Ordinance **no.194/2002** on the regime of aliens in Romania*, with further amendments and	But, there are a lot of provisions which establish administrative or criminal sanctions in this field: ➢ For aliens, whose access on the labour market is stipulated by	So far, the Romanian Authority for Aliens did not uncover or sanction criminal acts like those mentioned, and there are no statistics as regards the contravention sanctions applied to employers, the sanctions being applied by employees of the Territorial Labour

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Table A5.1 – Administrative sanctions by Member State		
Minimum and Maximum amounts of fines /	***Description***	***Evaluation of / comments on effectiveness of the measure and planned changes***
completions, does not include special sanctions against employers of illegal workers (those who have illegal stay)	Bilateral Agreements between Romania and other states, the employers shall be bound to inform in writing the Romanian Authority for Aliens with territorial competence, within 5 days from the entry of that aliens in Romania, on certain situation of those persons (article 57 paragraph 2 corroborated with article 124 point 7 and article 125 point c of Romanian GEO no. 194/2002 on the regime of aliens in Romania, with further amendments and completions); not complying of these obligations shall be sanctioned by fine; ➢ Also, facilitating, by any means (even by hiring the alien without legal forms), the illegal stay of aliens in Romania shall be considered minor offence and shall be sanctioned with fine (article 124 point 14 corroborated with article 125 point c of Romanian GEO no. 194/2002 on the regime of aliens in Romania, with further amendments and completions); Another legal provision, with character of complementary penalty, for the employer of an alien with illegal stay is that provided under article 132 paragraph 2 of Romanian GEO no. 194/2002, which stipulates that the employer, individual or legal entity, shall be bound to bear the expenses for the removal of the alien whom he employed illegally or whose stay permit is no longer valid. All these sanctions shall be applied to any employer even if he/she is private or commercial employer. There is not any fine for the foreign employee, only for the employer.	Inspectorates during their joint activities with territorial units of Authority for Aliens, according to the agreements concluded between these two institutions. Both institutions have drafted a common methodology of inspection (control), in order to counter-fight illegal work on the black market labour and illegal stay of aliens.

Table A5.1 – Administrative sanctions by Member State		
Minimum and Maximum amounts of fines /	***Description***	***Evaluation of / comments on effectiveness of the measure and planned changes***
According to paragraph 1 letter e) of Article 276 of Romanian Law no. 53/2003 – the Labour Code, amended by Romanian Government Emergency Ordinance no.55/2006, "accepting for work of a person, without concluding an individual labour contract, according to article 16 paragraph (1), is sanctioned with fine from 1,500 to 2,000 RON for each identified person, without exceeding the		According to Article 6^1 of Romanian Law no. 203/1999 on work permits, republished with amendments and completions, within 30 days from the starting date of their activity in Romania, the aliens, who are working in Romania without work permit (exceptions provided by law), have to register themselves to the Romanian Office for Labour Force Migration (OLFM). The Romanian Law no. 203/1999 does not yet provide sanctions for the aliens, in such cases of intentional avoidance of complying with the obligations set in these provisions. Thus, one of proposals, advanced by Romanian Ministry of Labour, Social Security and Family, on amending Romanian Law no. 203/1999 is the one regarding the sanctions which will be applied in cases of infringement of provisions of Article 6^1.

Table A5.1 – Administrative sanctions by Member State		
Minimum and Maximum amounts of fines /	***Description***	***Evaluation of / comments on effectiveness of the measure and planned changes***
cumulated value of 100 000 RON" (cir. 440-590 Euro, max: 29,410 Euro) *(rate euro / RON: 3,409000 RON, February 2006, Inforeuro, DG BUDG)* Also, according to paragraph 1 of article 11 of Romanian Law no. 203/1999 on work permits, republished with amendments and completions, "the employment without a work permit or maintaining in employment of an alien, who has not a valid work permit, by a natural or legal person in Romania, except of the cases established in article 6 of Romanian Law no. 203/1999, republished, represents contravention and it is sanctioned with		

Table A5.1 – Administrative sanctions by Member State		
Minimum and Maximum amounts of fines /	***Description***	***Evaluation of / comments on effectiveness of the measure and planned changes***
fine from 5,000 RON to 10,000 RON." (cir. 1470-2,940 Euro) The sanctions shall apply to the employer, not to the alien. This situation is applicable in the cases where the alien concluded an individual labour contract in written form, without first obtaining a work permit.		
Spain		
Minimum: 6001 euro Maximum: 60,000 euro per illegally employed person	"La contratación de trabajadores extranjeros sin haber obtenido con _dministr previo el correspondiente autorización de trabajo, incurriéndose en una infracción por cada uno de los trabajadores extranjeros ocupados" es una infracción _dministrative del tipo referido, sancionable con multa de 6.001 a 60.000 euros (por cada trabajador) según el artículo 55.1.c) de la misma Ley Orgánica."	There has not been an evaluation and there is a feeling that the fines are effective. However, there are many companies that continue to get fined year after year for using illegal TCNs. There are even some companies that continue to get fined year after year and can become insolvent, but these are usually small companies.
United Kingdom		
There are currently no administrative sanctions in place.	N/A	Following evaluation of the current legislation on the prevention of illegal migrant working (section 8 of the Asylum and Immigration Act 1996), it was decided that changes should be made to the law in this area. New measures, contained in the Immigration Asylum and Nationality Act ("the 2006 Act") are due to come into force in late 2007. The 2006 Act introduces a two-pronged approach to tackling illegal migrant working; administrative sanctions (civil penalties) for negligent employers, as well as a

Table A5.1 – Administrative sanctions by Member State		
Minimum and Maximum amounts of fines /	***Description***	***Evaluation of / comments on effectiveness of the measure and planned changes***
		tough new criminal offence for those found to be knowingly and deliberately employing illegal migrant workers. An employer convicted for the new "knowing offence" could face imprisonment for up to two years and/or an unlimited fine. The 2006 Act provides for a civil penalty (maximum amount to be decided following public consultation and Parliamentary debate) per employee working illegally. If employers wish to avail themselves of a statutory excuse from liability to a civil penalty they are advised to undertake pre-employment checks (by checking, copying and retaining a copy of specified documents which demonstrate a job applicant's right to work in the UK). The employer may be served with a civil penalty if they are found to be employing an illegal migrant worker and either have not availed themselves of the statutory excuse, or were negligent in undertaking the recommended document checks. Individual circumstances will be taken into consideration when deciding on the level of the penalty to be administered. These measures are due to be implemented late 2007, following public consultation in Spring 2007.
b) Single fine for the offence		
Czech Republic		

Table A5.1 – Administrative sanctions by Member State		
Minimum and Maximum amounts of fines /	***Description***	***Evaluation of / comments on effectiveness of the measure and planned changes***
0 – 2 millions CZK	For an employer in case of employment of illegally staying or working third-country nationals; sanctions are also for illegal employees (0 – 10 000,- CZK) *(rate euro / CZK: 28,300000 CZK, February 2006, Inforeuro, DG BUDG)*	Increased sanctions were issued in 2004, they seem to be enough effective, the amount is quite high in consideration of the situation in the CR.
Estonia		
Private employers: Up to 18,000 kroons Enterprises: Up to 50,000 kroons.	The amount of the fine differs for enterprises and private employers.[142]	Since the fines are quite low at the moment, it is under consideration to change the regulation – raise the max amount and add non-financial sanctions.
Finland		
Min 1,500 Max 15,000	In December 2006, Parliament passed an **Act on customer liability** and this has come into force in January 2007. This Act regulates the customer company's responsibilities and liability to gather information when using external labour force. It establishes that a customer company has a liability to establish if the company is entered in the Withholding Tax, Employer, and VAT Registers. This liability also includes an extract from the Trade Register, certificate of payment of taxes, tax liability certificate or a report of having prepared a payment plan of tax liabilities. This liability would also cover information on pension insurance and on collective agreement or central employment conditions applicable to the work. (PIELAMI report) An administrative fee Code may be imposed on an employer who neglects his or her duty to obtain information. It may amount from EUR 1,500 to	

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Table A5.1 – Administrative sanctions by Member State		
Minimum and Maximum amounts of fines /	***Description***	***Evaluation of / comments on effectiveness of the measure and planned changes***
	15,000 and its amount would be determined by the seriousness of the offence. The decision on the penalty would be made by the Occupational Safety and Health Office of the Occupational Safety and Health Inspectorate, which is to supervise compliance with the act. **Aliens Act,** section 186: violations of the Aliens Act by employers are sanctioned with a fine. Aliens Act outlines, among other things (sections 70, 73), the requirement on the part of the employer to declare and verify the status of new employee. Act does not stipulate min. or max. fine. The payment of a wage below the collective agreements or a violation of other working conditions constitutes a breach of the collective agreements. Violation of the collective agreements is sanctioned by the **Collective Agreements Act** by a fine.	
France		

Table A5.1 – Administrative sanctions by Member State		
Minimum and Maximum amounts of fines /	***Description***	***Evaluation of / comments on effectiveness of the measure and planned changes***
Min: 500 times minimum wage Max: 5000 times minimum wage (Note: July 2006: 1000 times min. wage = 3,170 Euro)	Fines paid to ANAEM: L'employeur verbalisé pour l'emploi d'un étranger sans autorisation de travail doit payer une contribution spéciale à l'Agence nationale de l'accueil des étrangers et des migrations (ANAEM), au titre de l'article L.341-7 du code du travail. Le montant de cette pénalité s'établit à 1 000 fois le taux horaire du minimum garanti, soit 3 170 € au 1er juillet 2006. La contribution spéciale peut être minorée ou majorée : elle est comprise entre 500 et 5 000 fois le taux horaire du minimum garanti. Dans certains cas, cette contribution spéciale peut être payée par le donneur d'ordre qui a eu recours à cet employeur.[143] En outre, l'employeur doit verser au salarié embauché irrégulièrement une indemnité forfaitaire équivalente à un mois de salaire. En cas de condamnation, il est exclu pendant cinq ans des marchés et des contrats publics. Enfin, lorsque l'autorité compétente a connaissance d'un procès-verbal relevant une des infractions constitutives de travail illégal, elle peut, eu égard à la gravité des faits constatés, à la nature des aides sollicitées et à l'avantage qu'elles procurent à l'employeur, refuser d'accorder, pendant une durée maximale de cinq ans, les aides publiques à l'emploi et à la formation professionnelle à la personne physique ou morale ayant fait l'objet de cette verbalisation.	La pénalité administrative de la contribution spéciale applicable à tout employeur d'un étranger sans titre de travail a concerné 1 201 salariés étrangers en 2003 et 956 salariés étrangers en 2005. La France a renforcé son système de sanctions administratives, d'une part en augmentant le taux de la contribution spéciale et d'autre part en créant une nouvelle pénalité administrative : la contribution forfaitaire (décret n° 2006-660 du 6 juin 2006).

[143] CIA questionnaire

Table A5.1 – Administrative sanctions by Member State		
Minimum and Maximum amounts of fines /	***Description***	***Evaluation of / comments on effectiveness of the measure and planned changes***
Germany		
Max 500,000 euro	Maximum penalty for illegal employment of aliens, regarded as particularly harmful for society, was recently increased from 250,000 to 500,000 euro. According to German law it is not possible to impose sanctions on a physical person (legal entity), only natural persons. The amount of the fine is dependent on the seriousness of the crime, and once this has been determined, personal and financial status of the person are taken into account.	
Latvia		
Fine: for private employers: 140-700 euro Fine: for enterprises: 700-14,000 euro	The main indicator of infringement is the absence of a valid work permit.	
Malta		
	The previous penalty of 25 Maltese Lira (58 euro) for employers employing staff without declaring their employment – irrespective of the number of persons employed – was raised significantly in January 2005. On payment of the fine, the employer will be compelled to complete the ETC engagement form.[144]	
Romania		
2,000 – 3,000 RON (approx. 590 – 880 Euro)		

144 European Employment Observatory; Review autumn 2004. Chapter on "*Thematic Overview: Fighting the immeasurable? Addressing the phenomenon of undeclared work in the European Union"*.

Table A5.1 – Administrative sanctions by Member State		
Minimum and Maximum amounts of fines /	***Description***	***Evaluation of / comments on effectiveness of the measure and planned changes***
Slovak Republic		
Fine: max: up to 1,000,000 SKK	A fine up to 1,000,000 SKK may be imposed on legal entity or a natural person who is an entrepreneur for illegal employment under a special regulation. *(rate euro / SKK: 35,278000 SKK, February 2006, Inforeuro, DG BUDG)*	Was not realised
Slovenia		
Fines: vary between SIT 50,000 (212 euro) and SIT 5 million (21,200 euro).	Penalties envisaged by the LPBWE.145	
Unclear if fine is imposed per illegal worker or for the offence		
Poland		
	Administrative fine. Obligation to incur the costs of expulsion. Obligatory refusal to grant the work permit for a foreign person issued in relation to an employer who violated the provisions of employment promotion and market labour institutions (duration: one year).[146]	

145 Thematic feature: industrial relations and undocumented work: Slovenia. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/si0406205t.html

146 CIA questionnaire.

Table A5.1 – Administrative sanctions by Member State		
Minimum and Maximum amounts of fines /	***Description***	***Evaluation of / comments on effectiveness of the measure and planned changes***
Sweden		
	Administrative fine	

Table A5.2 – Penal sanctions in the Member States

Minimum and Maximum amounts of fines / Years of imprisonment	***Description***	***Evaluation of / comments on effectiveness of the measure and planned changes***
Austria		
Fine from 1,000 to 50,000 euro	Fine, amount according to seriousness of crime and repeat crime.	
Min 6 months to max 5 years imprisonment	Penal sanctions for not paying contributions to social insurance or organising illegal employment Organised illegal employment is presumed when employing about 10 persons.	The Act of Social Fraud was launched March, 1st 2005. Due to lasting court procedures more time for evaluation is needed.
Belgium		
Min 15,000 euro per worker	Employers can be subject to criminal fines for hiring unauthorised foreign workers.	
Fines ranging from 12,500 to 62,500 euro and/or prison sentences ranging from 8 days to 1 year.	Employers who do not properly report employees' information to the social security administration can be subject to penal sanctions. [147]	
Denmark		

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Table A5.2 – Penal sanctions in the Member States

Minimum and Maximum amounts of fines / Years of imprisonment	*Description*	*Evaluation of / comments on effectiveness of the measure and planned changes*
DKR 10,000 per employed foreigner per month	Any person who employs an alien not issued with the requisite work permit or does so in violation of the conditions laid down for the issue of a work permit is liable to a fine or imprisonment for up to 2 years.	
DKR 20,000 per employed foreigner per month (aggravating circumstances)	There is no requirement of intent. Negligence is sufficient for criminal sanctions to be applied.	
Max prison sentence illegal migrant: 1 year	Attempt is also criminalised.	
Max prison sentence employer: 2 years	It is considered an aggravating circumstance if the violation was committed intentionally or by gross negligence, if, through the violation, a financial gain was obtained or intended for the benefit of the person involved or others, or if the alien is not entitled to stay in Denmark.[148]	
Finland		
Max: 1 or 4 years imprisonment if offence is aggravated	The use of illegal foreign labour is punishable under the Penal Code. Only intentional acts are punishable. Section 6a of the Penal Code establishes sanctions for work permit offences committed by the employer, namely employing a foreigner without a work permit, with a fine or imprisonment for up to one year. In practice, the use of illegal foreign labour often also involves other offences, such as tax fraud and accounting offence. If the offence is aggravated, the sanction may be up to four years imprisonment. Furthermore, the employer may be sentenced to forfeit the proceeds of crime and to compensate the damage caused to the injured party.	
France		
(1) Max: 5 years of imprisonment, 15,000 euro fine for every illegal worker	(1) Violation by employer.	En 2003, selon les statistiques du ministère de la justice, les tribunaux correctionnels ont prononcé 110 condamnations pour emploi d'étrangers sans titre de travail. En 2004, ce chiffre s'élève à 188, dont 67 peines d'emprisonnement ferme ou avec sursis et 94

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Table A5.2 – Penal sanctions in the Member States

Minimum and Maximum amounts of fines / Years of imprisonment	*Description*	*Evaluation of / comments on effectiveness of the measure and planned changes*
(2) Max: 10 years of imprisonment, 100,000 euro fine for every illegal worker	(2) Violation by organised gangs. Penal sanctions: If the employer is found to be a foreigner him/herself, s/he can be prohibited to reside on the national territory during 5 or more years (art.364-8-6 modifié du code du travail). If the infringement is commited within the context of a gang / organised group, all or part of the employers' goods can be confiscated (art.364-8 modifié du code du travail)..[149]	amendes. Dans son rapport au Bureau international du travail (BIT) sur l'activité des services de l'inspection du travail pour l'année 2004, le ministère du travail indique que l'infraction d'emploi d'étranger sans titre de travail a donné lieu à 444 procès-verbaux et à 12 peines d'emprisonnement ferme ou avec sursis et 63 amendes.
Germany		
(1) Max prison sentence for employment of at least five illegal immigrants: 1 year	(1) If at least five foreigners are employed without work permit the maximum sentence is one year.	
(2) Max prison sentence: three years	(2) The maximum penalty for legal employment itself is three years imprisonment in particularly aggravating circumstances.	
Greece		
Max.: 3 to 6 months of imprisonment	The employment without the appropriate residence permit drives to imprisonment sentence. Prison sentence for at least 3 months and, in case of recurrence, up to 6 months. Aggravated circumstances apply (e.g. illegal work in nightclubs or prostitution). [150]	
Hungary		
Max: 2 years of imprisonment	In criminal law, under Article 310/A (Employment-related Tax Fraud) of the Penal Code to evade the payment of any mandatory contribution payable by the payer of personal wages to any sub-system of the central budget on behalf of an	

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150 CIA questionnaire
151 CIA questionnaire

Table A5.2 – Penal sanctions in the Member States

Minimum and Maximum amounts of fines / Years of imprisonment	*Description*	*Evaluation of / comments on effectiveness of the measure and planned changes*
	employee who is employed: a) without an employment contract; b) by a fictitious contract; if the combined amount of taxes thus evaded results in minor losses in tax revenues constitutes an offence and shall be punished by imprisonment up to two years. Criminal sanctions are increased if the activities are linked to criminal actions related to human trafficking, enslaving or minors trafficking.[151]	
Ireland		
Fine Minimum: ? Maximum: 3,000 euro / 250,000 euro Imprisonment Maximum: 12 months / 10 years	All persons/employers who contravene Section 2 of the Employment Permits Acts 2003 and 2006 are on summary conviction liable to a fine not exceeding €3,000 or imprisonment for a term not exceeding 12 months or both, or if the offence is an offence consisting of a contravention, on conviction on indictment, to a fine not exceeding €250,000 or imprisonment not exceeding 10 years or both.	
Italy		
(1) For the person who acts as a go-between: Max. imprisonment: 6 months	(1) Legislation: The person who acts as a go-between in the labour field can be sanctioned as follows: arrest up to 6 months and a fine ranging from 1,500 to 7,500 euros. Aggravating circumstances are provided for in case of child labour as	

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Table A5.2 – Penal sanctions in the Member States

Minimum and Maximum amounts of fines / Years of imprisonment	*Description*	*Evaluation of / comments on effectiveness of the measure and planned changes*
Min. fine: 1,500 euro Max. fine: 7,500 euro (2) Imprisonment: Min. 3 months, max. 1 year Fine: 5,000 euro for each worker illegally employed.	well as penalty reduction if the activity is not profit-making. (2) Legislation on foreigners: Should illegally staying foreign workers be employed, the penalty for the employer ranges from 3 months to 1 year imprisonment and a 5,000 euros fine for each worker employed. Criminal sanctions are increased if the activities are linked to criminal actions related to human trafficking, enslaving or minors trafficking.[152]	
Latvia		
Fine (Art. 196: Max. 80 min. salaries, Art. 280: Max. 50 min. salaries, Art. 285: max. 100 salaries) Custodial arrest (Art. 196, Art. 280) Community service (Art. 196, Art.280, Art. 285[1].) Confiscation (Art. 196, Art. 285[1]) Imprisonment (Art. 196: max. 5 years, Art. 280: max. 1 year, Art. 285[1], max. 5 years)	The Criminal Law of Latvia does not stipulate the criminal liability specifically for employing illegally staying third country nationals. However, where such fact is established, following provisions of the Criminal Law may be applied to employers, depending on the particular substance of the case: Article 196: Intended misuse or abuse of authority: Article 280: Violation of employment provisions: Article 285[1](3): Ensuring with the opportunity to reside illegally in Latvia. Under the provisions of Criminal Law negligence is sufficient.[153]	
Luxembourg		
Fine	*The Law of 3 August 1977:* Article 8 specifies that breaches of the law are punished by a fine and, in cases of re-offending within five years, by a penalty of imprisonment ranging between 8 days and 6 months and a fine of up to twice the	

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Table A5.2 – Penal sanctions in the Member States

Minimum and Maximum amounts of fines / Years of imprisonment	*Description*	*Evaluation of / comments on effectiveness of the measure and planned changes*
Imprisonment: Min. 8 days, max. 6 months	maximum penalty, or one of these penalties only. In all the cases specified in Articles 1 and 2, the cessation of the illegal working is ordered. Article 9 creates the possibility of an agreed settlement.	
Netherlands		
Max fine: 67.000 euro Max imprisonment: 1 year	Anyone who employs an alien who has entered the Netherlands illegally or should have serious reasons to suspect illegal entrance of the alien can be prosecuted and sentenced for a maximum of 1 year imprisonment or a fine of the 5th category. Aggravated circumstances: - making it a profession or habit: maximum 3 years imprisonment / 5th cat. - Committing a crime in any profession or as an public servant: refusal of profession or public service In the Netherlands minimum sanctions are not applied.	
Poland		
Min fine: 3,000 PLN Max: 5,000 PLN	The performance of work or entrusts to a person the performance of work at post or under conditions other than those specified in the work permit is liable to a financial penalty not lower than 3 000 PLN. Adjudication in the above mentioned cases follows the procedure of provisions in the Act of 24 August 2001 – Code of proceedings in cases of petty offences. The upper limit for sanctions in Poland is 5 000 PLN. Attempt, instigation and assistance are not subject to penalty. It is possible though to commit the above mentioned offence, both intentionally and unintentionally, in the form of conscious inadvertence (colloquially: recklessness), as well as in the form of unaware inadvertence (colloquially: negligence). Aggravating circumstances. [154]	

[154] CIA questionnaire.

Table A5.2 – Penal sanctions in the Member States

Minimum and Maximum amounts of fines / Years of imprisonment	*Description*	*Evaluation of / comments on effectiveness of the measure and planned changes*
	Criminal sanctions may also extend to the undeclared workers; a person engaging in gainful employment while registered as unemployed and who neglects to notify the state labour office of this fact may be fined PLN 500, and a foreign national working in Poland without the appropriate work permit may be fined PLN 1,000.155	
Romania		
Before the end of 2004, there were not any provisions in the Romanian legislation stipulating sanctions imposed for illegally hired employees.	Romanian Government Emergency Ordinance no.194/2002 was amended in November 2004 by Romanian Law no. 482/2004 and in July 2005 by Romanian Government Emergency Ordinance no.113/2005, which was approved, with amendments, by Romanian Law no. 306/2005. Law no. 482/2004 and GEO no.113/2005 introduce new articles in the text of GEO no. 194/2002, such as art. 130^1 and 130^2. If the facilitation, by any means, of illegal stay of aliens in Romania implies a social risk with high potential, this shall be considered major offence. ***Article 130^1*** stipulates that: Paragraph 1 - Intentional facilitation, by any means, of illegal stay of aliens in Romania shall represent major offence and shall be sanctioned with imprisonment from 6 months to 5 years. Paragraph 2 - The offence stipulated in paragraph 1 is considered aggravated if it is committed under the following circumstances aggravated: a) by two or more persons together; b) if there has been caused a serious injury to life or corporal integrity, it shall be sanctioned with imprisonment from 2 years to 8 years;	

155 Thematic feature: industrial relations and undocumented work: Poland. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/pl0406107t.html

Table A5.2 – Penal sanctions in the Member States

Minimum and Maximum amounts of fines / Years of imprisonment	*Description*	*Evaluation of / comments on effectiveness of the measure and planned changes*
	Paragraph 3 - If the offence had as a result the death of the alien, the sentence shall be imprisonment from 3 to 15 years; Paragraph 3^1 – If the offence stipulated in paragraph 1 was committed by a person who is member of an organised group or the person has obtained for himself or someone else important material benefits, the special maximum of the inprisonment period shall be supplimented with 3 years. Paragraph 4 - The attempt shall be punished. ***Article 130***^{2} stipulates that: Paragraph 1 - If the offence stipulated in article 130^1 was committed in the name or interest of a legal person, by its bodies or representatives, it is sanctioned by fine. Paragraph 2 - The same fine shall be applicable if the offence stipulated in article 130^1 was committed in the name or interest of a legal person, as a result of non-applying control attributions by the persons stipulated by paragraph 1, by any person under their authority. Paragraph 3 - The responsibility of the legal person does not entail exemption from penal responsibility of the persons who participated in committing the offence stipulated by Article 130^1.	
Spain		
Fine: 6-12 months Prison sentence: 2-5 years	Infringement to employ foreigners without work permit under conditions that disregard rights conferred by law, collective agreement or individual agreement; to promote or facilitate immigration or clandestine. Fines and prison sentences. Las conductas tipificadas como delito en los artículos 312 y 313 del Código Penal, previamente señaladas, tienen previstas unas penas de prisión de dos a cinco años	In Spain there are either penal or administrative fines. For the same crime a company cannot receive both charges, so if the charge becomes penal it is no longer administrative. There is a special protection for foreigners but this is more around human trafficking.

Table A5.2 – Penal sanctions in the Member States

Minimum and Maximum amounts of fines / Years of imprisonment	*Description*	*Evaluation of / comments on effectiveness of the measure and planned changes*
	y multa de seis a doce meses. Para la imposición de dichas penas por los Jueces y Tribunales, se tienen en cuenta las reglas generales, establecidas en el mencionado Código Penal, de aplicación de las penas y de determinación de las circunstancias que atenúan o agravan la responsabilidad criminal o eximan, en su caso, de la misma.	
United Kingdom Following conviction under section 8 of the Asylum and Immigration Act 1996 (as amended) ("the 1996 Act"), an employer can be fined up to the statutory maximum (currently £5,000) per illegal worker in a Magistrates/Sheriff Court and can receive an unlimited fine in a Crown Court. *(rate euro / GBP: 0,660300 GBP, February 2006, Inforeuro, DG BUDG)*	If an employer wishes to avail himself of a statutory defence from prosecution under section 8 of the 1996 Act, he should undertake prescribed pre-employment checks, by checking, copying and retaining a copy of specified documents which demonstrate a job applicant's right to work in the UK. He will then have established a defence from prosecution for the duration of the employment of that worker, and may not be liable for prosecution.	Measures in the 1996 Act make no attempt to distinguish between those employers who are negligent in their recruitment practices, and those who deliberately and knowingly seek to employ illegal migrant workers. That is why the 2006 Act introduces the criminal offence of knowingly employing illegal migrant workers. Under section 21 of the 2006 Act, a person found guilty of the "knowing" offence shall be liable to imprisonment for a term not exceeding two years and/or an unlimited fine in a Crown Court. In a Magistrates/Sheriff Court, the offence carries a maximum 6 month prison sentence in England or Wales, or 3 months in Scotland and Northern Ireland, and/or a fine up to the statutory maximum. The "knowing" offence will come into force in late 2007, alongside the introduction of civil penalties. However as stated above, the evaluation of existing legislation led to the proposal of these new administrative and criminal sanctions. The introduction of civil penalties will provide a swift an effective means of tackling negligent employers, without criminalising them. This will allow us to concentrate our prosecution resources on rogue employers who knowingly and deliberately use illegal migrant workers, often for their own personal financial gain.

ANNEX 6 – PREVENTIVE MEASURES BY MEMBER STATE (SUPPORTIVE MATERIAL FOR OPTIONS 3 AND 4)

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
3.1 Measures placing the responsibility on the employer to declare new employees and verify their status		
a) (Limited) declaration of workers:		
Immediate declaration of new employees by their employers to the appropriate (local, regional or national) authorities, often local employment office or social security body). Information to be declared include e.g. the employee's social security number and nationality, pay rate, working hours, and employment entry date. In some cases new registers or databases have been set up to facilitate the implementation of this measure.		
In a number of Member States this declaration of workers is limited, e.g. is only applicable when hiring TCN, for certain sectors, or when working time exceeds a specified number of days and/or a specified minimum number of employees are employed.		
Belgium	Since 1 January 2003 employers must declare employees immediately. [156] Employers are required to electronically report information on new employees to the social security administration. This information includes the employees' social security number and employment entry date.[157]	
Bulgaria	Submission of notice (declaration within a 3-day period from the conclusion of labour contract) for new employees by their employers to the local directorates of the National Agency on Revenues.	Comments: the measure is effective because by the notice the employer declares data related to its and the new employee's identification numbers and also data for the employment contract.
Czech Republic	TCN according to Czech Employment Act: need work permit some special categories do not need work permit Employers of both categories have to announce the day when TCN commences work to local Labour Office in written form. They also have to announce all changes concerning TCNs' work activity (quit work, change of residence status).	

156 OECD Employment Outlook 2004. Chapter 5: Informal Employment and Promoting the Transition to a Salaried Economy (http://www.oecd.org/dataoecd/8/25/34846912.pdf)

157 CIA questionnaire.

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
	Employers are due to keep a record of all foreign employees.	
Denmark	In early July 2004, following an inspection campaign on undeclared work the minister responsible for taxation announced new measures, which include the registration of all employees with the relevant authorities from their first working day.[158]	
Estonia	In case of short-term employment the person is obliged to register it in the Citizenship and Migration Board.	
Finland	According to paragraph 73 of the revised Aliens Act (301/2004), an employer that hires a 'third-country' employee must without any delay report this to an employment office and also inform the workplace about the recruitment of the foreign worker and the collective agreement that applies.[159]	No evaluation of effectiveness of measure. Effectiveness is enhanced due to the fact that, in addition, the relevant employer organisation and trade union is to be informed about the recruitment of 'foreign workers', i.e. third-country nationals and EU citizens. This obligation has been adopted in a number of legislative documents: e.g. Client's Liability Act, (Amendment to) the Posted Workers Act, Aliens Act.
France	Since 1993, employers are obliged to declare an employee (currently via the déclaration préalable à l'embauche, DPAE) to the social security body URSSAF before work starts. [160] Le défaut de DPAE constitue une infraction passible de sanctions pénales.	Environ 2,8 M de DPAE sont déposées chaque mois. La mise en place de cette mesure rencontre donc un véritable succès dans la facilitation du contrôle et dans la promotion de la transparence de l'emploi.
Greece	In addition to notification of engagement to the competent local employment services – i.e. the branches of the Labour Force Employment Organisation (OAED), employers must pay their own and the employees' social security contributions, and see to it that all the necessary documentation is submitted to the relevant social insurance organisations. See also CIA questionnaire: Every foreign worker owes to declare to the competent Directorate of the Regional authority every change regarding his employer, his employment contract and his specialty as	

158 Thematic feature: industrial relations and undocumented work: Denmark. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/dk0406102t.html

159 Thematic feature: industrial relations and undocumented work: Finland. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/fi0406204t.html

160 OECD Employment Outlook 2004. Chapter 5: Informal Employment and Promoting the Transition to a Salaried Economy (http://www.oecd.org/dataoecd/8/25/34846912.pdf). Confirmed by CIA questionnaire.

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
	soon as a month after it has happened (par.2 art.73 Act 3386/2005).[161]	
Ireland	All new employees must be in possession of a valid work permit issued by the Department of Enterprise, Trade and Employment prior to commencing employment. Applications, which are currently made by prospective employers must include details of nationality, qualifications, current status and proposed terms of employment including pay rate and working hours.	Under the Employment Permits Act 2006, prospective employees will be able to apply for work permits directly. The "Towards 2016" Agreement between the Government, Employers and Union representatives contains a commitment that the employment of non-EEA students be the subject of an employment permit application. The Department of Enterprise, Trade and Employment is currently consulting with all the relevant bodies regarding the procedures and format of this type of employment permit. It has been alleged in some quarters that there has been significant abuse of the student visa system.
Hungary	A new Unified Labour Register (known as EMMA) came into operation in on 1 May 2004. All employers must now register new employees before they start working and provide information on matters such as pay rates and working hours.[162] Employers have to report any changes in the status of their employees to this central database. Employers are able to meet their reporting obligations not just through the traditional mailing method, but also through a PIN number-protected telephone number and through the Internet. At the same time, employees are also able to access the database through the Internet to check their employment status.	
Lithuania	Under national law, every employer has to inform the social security body in one day period about every new employee. Information to be declared include the employee's social security number, working hours, employment entry date and etc.	
Latvia	There is no obligation of immediate declaration of new employees by their employers to the appropriate authorities as such in Latvia. However in order to hire TCN: there has to be declared vacancy;	The current practice has proved to be relatively effective, while at the same time an obligation of declaring all employed third country nationals and to notify any changes to the appropriate authorities could be welcomed.

161 CIA questionnaire

162 Thematic feature: industrial relations and undocumented work: Hungary. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/hu0406103t.html

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
	the employer has to submit to the State Employment Agency for approval a work invitation for TCN; in order to approve a work invitation the employer inter alia has to submit an employment contract or a work-performance contract — a copy of the employment contract or a copy of a work-performance contract co-ordinated. Article 5 of the Regulations on Work Permits for Aliens stated If an employer has intended to employ a foreigner (except for the persons referred to in Paragraphs 28.[1], 29, 30 and 31 of these Regulations) by entering into an employment contract, the work invitation may be approved if a vacant position or a specialist vacancy is registered at the branch of the Agency and subsequent to the registration it has been vacant not less than one month up to the day of submission of the documents referred to in Paragraph 18 of these Regulations. The Article 18 of the Regulations stated that in order to approve a work invitation an employer or his or her authorised representative shall submit to a branch of the Agency the following documents together with the work invitation: 18.1. a submission where the necessity to employ a foreigner is substantiated; 18.2. a statement of the State Revenue Service certifying that the employer does not have such tax payment debts as are administered by the State Revenue Service (the statement shall be valid three months from the issue thereof); 18.3. if the profession of the foreigner is regulated — a copy of the education document and a copy of the certification acknowledging qualifications, which certify conformity of the education and professional qualifications acquired in foreign states with the requirements provided for in the Republic of Latvia. If the profession of a foreigner is not regulated, a copy of a legalised education document and a copy of the document certifying qualifications (legalisation is not necessary if international agreements to which Latvia is a member state provide for different procedures) shall be submitted; 18.4. if the work of the foreigner in the Republic of Latvia is provided for in accordance with an employment contract or a work-performance contract — a copy of the employment contract or a copy of a work-performance contract co-ordinated in conformity with Paragraph 15 of these Regulations; 18.5. a copy of a registration certificate, articles of association, by-laws or another document certifying the legal status of the employer; 18.6. a copy of a permit (licence), if the employer intends to employ the foreigner in such work as	According to the legislation: 3. A natural or a legal person who in conformity with the Law On State Social Insurance is deemed to be an employer (hereinafter — employer) is permitted to employ a foreigner only in the profession, speciality or position which is specified in the work permit of the foreigner. 9. If within the term specified in the work permit conditions which formed the basis for the issue of the work permit change (for example, the employer, position, working time, place of work changes), foreigner has a duty to receive a new work permit in accordance with the procedures specified in these Regulations. 10. If employment legal relationships with a foreigner are terminated prior to the term specified in the work permit, the employer shall before the end of the term specified in the work permit, but not later than three working days after termination of employment relationships, notify the Office thereof in writing. If an employer has failed to notify regarding the termination of employment relationships in accordance with the procedures prescribed in this Paragraph, the head of the Office, by taking an appropriate decision, may set a prohibition for the employer for one year (counting from the day of disclosure of the violation) to request approval of new work invitations and/or receive work permits for the foreigners.

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
	requires a permit (licence) for the performance thereof; 18.7. a power of attorney if the submitter of documents is an authorised representative of the employer; and 18.8. a document certifying payment to the Agency for the examination of the documents referred to in Sub-paragraphs 18.1, 18.2, 18.3, 18.4, 18.5, 18.6 and 18.7 of these Regulations and approval of the work invitation. The fee for the examination of documents and approval of the work invitation under normal procedures (within 10 working days after submission of the documents referred to in Paragraph 18 of these Regulations) shall be three lats, under accelerated procedures (within five working days after submission of the documents referred to in Paragraph 18 of these Regulations) — five lats.	
Malta	The ETC has the mandate, under the Employment and Training Services Act (1990), to maintain a register of persons in employment and of those seeking employment. Employers are obliged by law to submit engagement and termination forms to the ETC when recruiting or releasing employees.	
Romania	For aliens whose access on the labour market is regulated by Bilateral Agreements between Romania and other states, the employers shall be bound to inform in writing the Authority for Aliens with territorial competence, within 5 days from the entry of those aliens in Romania about the nominal situation of these persons (Article 57 paragraph 2 corroborated with Article 124 point 7 and Article 125 point c of Romanian GEO no. 194/2002 on the regime of aliens in Romania, with further amendments and completions); not complying of these obligations shall be sanctioned by fine. Law no. 203/1999 on work permits, republished with amendments and completions, regulates the employment and deployment of aliens in Romania. Thus, regarding aliens excepted from the obligation of obtaining a work permit, in accordance with Article 6^{1} of Romanian Law no. 203/1999 on work permits, these must register themselves to the Romanian Labour Force Migration Office within 30 days from the date they begun their activity in Romania.	The measure imposed by Article 61 of Romanian Law no. 203/1999 on work permits is necessary for the management of aliens, who are involved in labour activity in Romania, without holding a work permit.
Slovak Republic	Pursuant to the Act No.85/2005 on Illegal Labour and Illegal Employment the employer is obliged to report the employee to the register of the insured persons of Social Insurance Company immediately on the date of start of work (personal birth number). That number serves as the identifier for the contributions to the social insurance)	Was not realised
Spain	Article 16 obligates companies to communicate with the Public Office of Employment regarding new employees otherwise they could be sanctioned	No evaluation if this works or not, but this can be measured by the numbers of fines.

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
b) Explicit / implicit requirement to verify status of workers		
Employers are required to check the residence and work permits of foreign workers to verify foreign workers' authorisation to work in the Member State. In cases when this is done, the employer is either required to submit copies of such permits to the relevant authority and/or keep the information for inspection by labour protection authorities. In some Member States there is an explicit obligation to do so, whereas in other countries this requirement is implicit.		
Austria	There is no explicit obligation to verify status at federal level, however, some regions have this as an explicit requirement, e.g. Kernten.	
Belgium	Employers are required to check the residence and work permits of foreign workers to verify foreign workers' authorisation to work in Belgium (N.B.: In order to be able to work in Belgium, third-country nationals, other than those from Member States of the European Economic Area, must have a valid work permit. These foreign workers also require a visa to stay in Belgium for longer than 3 months. A foreigner entering Belgium for work purposes requires the following documents: a passport or other travel document that is valid for at least 1 year, a medical certificate by a Belgian embassy-recognized physician, and an employment authorisation document. A Belgium-based employer applies for the employment authorisation on behalf of the foreign worker and is issued to the foreign worker together with the work permit.) [163]	
Bulgaria	The requirement to verify the status of workers is implicit for the employers, as they are obliged to apply for a work permit for the third-country nationals whom they wish to employ.	
Czech Republic	It is established in law that employers are allowed to employ a foreigner only with a valid work permit as well as a valid visa/residence permit.[164]	
Estonia	The law (Aliens Act) states that if an alien does not have a legal basis for residing in Estonia then it is forbidden to sign an employment contract with him/her. It is therefore the employer's duty to check if a person whom he/she wants to hire is staying in Estonia legally.[165] If a person wishes to work in Estonia short-term under a visa then it is necessary to have an official confirmation from the	

163 CIA questionnaire
164 CIA questionnaire
165 CIA questionnaire

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
	employer. Also, a precondition for legal short-term employment is its registration in the Citizenship and Migration Board.	
Finland	Under the Aliens Act, paragraph 73, an employer must attach written information as laid down by law regarding the application for a residence permit for an employed person. The employer must ensure that the foreign national entering his or her service has the required residence permit or that he or she does not need a residence permit. In addition, the employer is obliged to keep the information and documents for inspection by labour protection authorities. Under the Aliens Act, these duties are applied to the main contractor or client operating in Finland, if the employees are posted workers or agency employees. An employer who deliberately or through (aggravated) negligence violates the Aliens Act may be sentenced to a fine. [166]	Important measure. However: There is not a clear list of the documents that employers are to provide for 'foreign workers'. Some of the documents may not be available from the worker's country of origin and then it is up to the employer to decide what constitutes a valid alternative. A further constraint is that the employer has to decide whether the documents are valid (e.g. copy passport) and haven't been forged.
France	According to employment legislation (le code du travail et la jurisprudence), the employer has to verify the status of person s/he is about to employ, including their nationality and work permit.[167] L'employeur doit demander à la préfecture de vérifier l'authenticité du titre de séjour et de travail, puis transmettre la DPAE.	Voir éléments indiqués dans la colonne C de la question 3.1 a).
Greece	In case an employer hires third country nationals who reside in Greek territory he ought to check the lawfulness of their residence permits for work. Otherwise: Each employer, in order to hire employees with a contract of dependent employment, through the procedure of invitation, deposits, before the entry of the third country national into the Hellenic Territory, a guarantee which correspond to the amount that is at least equal to the income of an unskilled worker for three months, for the coverage of the cost of living of a third country national in Greece for three months and to an amount which covers the expenses for his return or expulsion to his Country of origin.[168]	
Hungary	On the basis of Decree of the Minister of Social and Family Affairs No. 8/1999. (IX.10.) SZCSM on the authorisation of the employment of foreigners in Hungary, the employer has to apply for the authorisation of the employment of third country nationals. As a general rule, work permits may only be granted after the employment authority has completed a labour market test.	

166 CIA questionnaire
167 CIA questionnaire
168 CIA questionnaire

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
	According to the Act on Foreigners, employers are required to check their foreign employees before entering into employment in order to ensure that the foreigners have valid visa issued for employment purposes or residence permit. This Act also imposes an obligation on the employer to report the failure of the permitted employment of the foreigner or the termination of his/her employment within the period of validity of the work permit to the regional aliens policing authority competent according to the place of work within three working days.	
Ireland	Employers are explicitly required to keep such records for inspection by the Labour Inspectorate	There is some evidence to suggest to indicate a need for increased enforcement "To support more effective inspections, it is proposed to prescribe the form in which payroll and working time records must be kept by employers…"
	Section 2 of the Employment Permits Act 2006 provides that a person who engages a second person to carry out work or render a service in circumstances where it is contemplated that third-country nationals will be employed for that purpose, the primary contractor must ensure that the secondary-contractor has secured employment permits for the recruitment of these third-country nationals.	A new National Employment Rights Authority is being established
Italy	The employer who hires a foreign worker must verify that this person holds a regular residence permit qualifying him/her for work. The Italian system does not provide for a work permit as such, i.e. the qualification to carry out a job activity stems from the holder's type of permit.	
Lithuania	Lithuania has in place a general prohibition to employers to employ third-country nationals who do not hold the necessary valid permits. In Lithuania an employer may conclude a contract of employment only with an alien who holds a valid work permit, with the exception of cases specified. Besides, employers have obligations to notify about termination of a contract of employment with the alien in possession of a temporary residence permit.	
Latvia	Although not stated explicitly, the obligations for employers to verify (ensure) the lawfulness of the immigration and labour market status of a third country-national before employing that person exist in Latvian legislation. According to Article 37(8) of Labour Law the third country national can be employed only on condition that he/she has a valid work permit, unless the third country national qualifies under one of exceptional categories exempted from work permit requirement under provisions of Immigration Law. In Latvia a work permit can be issued only on the basis of (together with) a valid visa, residence permit or asylum seeker's identity document (Art.6 Cabinet Regulations No.44 adopted 20 January 2004 "Regulations Regarding Work Permits for Aliens"), thus a situation	This mechanism shall be regarded as effective since the work permit cannot be issued to persons who reside in the county illegally.

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
	where a person would hold a valid work permit without having a legal authorisation to reside at the same time is not possible in Latvia. [169]	
Luxembourg	*The grand-ducal regulation of 4 November 1994* A grand-ducal regulation of 4 November 1994 indirectly created one means for detecting undeclared working. For building sites where the presumed duration of the works is longer than thirty working days and more than twenty workers are employed at any one time, or where the number of workers is more than 500 per day, the project manager or the contractor must communicate a certificate of prior notice to the Inspectorate of Labour before the work begins. This certificate must state, among other things, the presumed maximum number of workers on the site, the number of companies and self-employed persons expected on the site, and identify the companies already selected. This enables the Inspectorate of Labour to carry out the appropriate monitoring.	
Netherlands	In the Netherlands employers are obliged by law to verify the identity of any person before he/she can be employed. If the person to be employed is an alien the employer has to verify the labour market status of the employee.[170]	
Poland	Polish law establishes an obligation for employers to check whether a foreign person – a third-country national – is in Poland on a legal basis prior to employment. A condition for legal employment in Poland is prior obtainment of a work permit, which in turn is issued after legalisation of a foreign person's stay in Poland. Some foreign persons are excepted from the obligation to have a work permit. Such categories of foreigners are described the Ordinance of the Minister of Labour and Social Policy of 19 December 2001.[171]	
Romania	The Romanian Office for Labour Force Migration (OLFM) gives information to alien employers and aliens on legal stay for work in Romania. Information is available on the OLFM's website: www.omfm.ro, where the information is in Romanian, English or French language. Also, the employers or aliens can contact directly the Documentation and Information Centre for Migrant Workers within OLFM, where they are advised, according to the legal provisions.	In September 2006, the Department for Labour Abroad, OLFM and Policy Sciences University from Oradea have developed an Impact Study, which was entitled: "Opportunities and risks. Open labour market", which proved that Romanian employers preferred native labour force, because out of 10,000 work permits, which were allotted by a Government Decision from 2006 for aliens, only around 5,000 work permits were granted.

169 CIA questionnaire
170 CIA questionnaire
171 CIA questionnaire

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
	In July 2006, OLFM along with the Department for Labour Abroad launched the Awareness Campaign: "Choose legal migration of labour force!". During this campaign, leaflets and info guides were published, in order to inform and raise awareness about the risks, they could deal with, in case of breaching legal provisions.	One of actions foreseen for OLFM in Romanian National Strategy for Immigration 2007-2010 is to organise a raising awareness campaign about the legal provisions on aliens regime, their employment, social security system, as well as risks of which the migrants could deal with, in cases in which they do not respect the legal provisions. This campaign will be carry out by OLFM and the Authority for Aliens.
Slovak Republic	Employers are required to check the residence and work permits of foreign workers to verify foreign workers' authorisation to work.	Was not realised
Spain	Article 36 of the Ley Orgánica 4/2000 (Autorización para la realización de actividades lucrativas) establishes that foreigners above the age of 16 who wish to exercise a 'lucrative, labour or professional' activity have to request authorisation to work. The same Article also establishes that 'To hire a foreigner, the employer has to seek authorisation for the foreigner to work or to verify that s/he has already received such authorisation / work permit. Criteria for giving such administrative authorisation are set out in Article 50.[172]	Employers must verify the status but they do not have to then send the documents to another government body. Since the government issues the permits, they have already seen them..
United Kingdom	An employer may engage staff without undertaking any checks as to whether an individual has a right to work in the UK although in the event that he is found to be employing illegal migrant workers, he may be liable to prosecution (or a civil penalty from late 2007). Our current and future legislation however allows an employer to establish a statutory defence/excuse from prosecution (or civil penalty from late 2007) if he undertakes prescribed checks to see, copy and retain a copy of a document/documents which confirms that a job applicant has the right to work in the UK and do the job in question. The records can then be inspected by the relevant department. There is no obligation for employers to verify that a person has the right to work with the authority, although we do provide a verification service for employers where an applicant may have difficulty in demonstrating their right to work in the UK.	
3.2 Measures to encourage employment of documented workers		

[172] CIA questionnaire

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
a) Modernising or simplifying administrative formalities for employers		
Simplification of administrative procedures by e.g. a fast-track administrative system for companies in specified sectors.		
Czech Republic	Work permit can be issued immediately depending on the situation on the labour market. Employer has to apply for Permit for obtaining employees from abroad, but not in every case (exemptions form rule).	
Denmark	Since the employer may be punished for employing illegal immigrants, it is the responsibility of the employer to ensure that the foreigner has a legal residence- and work permit in Denmark.[173]	
Estonia	Registration of short-term employment is free of state fee. The deadlines for procedures are also quite short (10 days).	It is under consideration to facilitate the procedures so that the application of registration of short-term employment can be submitted by the employer. According to the existing regulation it has to be done by the employee (while residing abroad) and a confirmation of the employer is added to the application.
Finland	Procedures for employing third-country nationals are complicated. Working group in Ministry of Labour has been established to simplify work permit system. In the past, administrative procedures have been simplified with regards to the employment of family members and the access of students to the labour market.	The simplification of the work permit system was one of the measures proposed by the new Migration Policy Programme which was launched in October 2006. Working group is to report and present proposal at end of March. Also responds to demand by employer organisations
France	Simplification of administrative formalities were initiated in 1991 through 'Cheque schemes' in various sectors, including the 'Service Employment Cheque Scheme'; and, 'Simplified Agricultural Employment Document'. The creation of the Service Employment Cheque enabled private individuals employing a person in the home (for housework, childcare, gardening, etc.) to simplify the administrative formalities significantly, and the same was the case for agricultural employers with seasonal labour. Ont également été mis en place des Centres for Business Formalities (a kind of one-stop-shop for start-up companies) and the 'Non-profit Organisation Employment Cheque' or the 'Enterprise Employment Document', which came into use gradually and in different sectors during 2004 (in the	This had a significant impact on concealed working: "in the year following its creation, 140,000 employers used the system" and it has been an undeniable success since then (900,000 users today)".

[173] CIA questionnaire

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
	hotels and catering, building and public works and commercial sectors, among others).	
Germany	There is an implicit requirement that employers are to check residence and work permit status of foreigners before employing them (§ 4 Abs. 3 AufenthG). However, in further amendments of the relevant legislation it will become an explicit obligation to check status.	
Hungary	In 2001, the new Labour Code extended the list of formal criteria concerning employment contracts. Most importantly, employment contracts must now be in written form and include certain elements, such as the amount of the basic wage, a job description and the location of the work.	
Ireland	The Employment Permits Act 2006 provides for a "Green Card" System for workers from workers from certain highly skilled sectors. This will allow for immediate family reunification and normally a pathway to permanent residency after only two years.	
Lithuania	Administrative procedures are simplified for companies in specified sectors by issuing special D visas (which are valid for at least 6 months during which third country migrant worker is obliged to receive a temporary residence permit, with the exception of long-haul route drivers) and work permits which enable to shorten the procedure by two times.	
Latvia	In the Regulations on Work Permits for Aliens there are stated persons and groups which can receive a work permit (without approval of an employer's work invitation at a branch of the States Employment Agency) in conformity with the term specified in the temporary residence permit, with the term of validity of the visa for a period not exceeding 90 days over a period of six months (counting from the day of first entry). At the moment there is an on-going discussion on policy of labour force migration in the country. Due to that reason an inter-institutional work group has been formed to deal with migration policy issues; the group is presently working on the "Strategy of migration policy relating to employment". Inter alia, Strategy proposes to simplify administrative procedures both for employers and employees for receiving work and residence permit, for example, introduction of "one-step agency principle" and reduction of fee for processing of documents. NB: Please take note that the Strategy has not been fully developed yet and still has to be approved by the government, therefore the information provided above are of preliminary nature.	

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
Poland	The single most important statute regulating establishment of the labour relationship is the Labour Code whose Article 29 imposes an obligation to conclude a written employment contract..[174]	
Portugal	The legal framework for foreigners establishes sanctions for whoever employs a foreign citizen not holding the document needed to exercise a professional activity (residence permit, permanence permit or working visa), thus, the employer is required to check if the foreign citizen he/she wants to hire holds any of those documents.[175]	
Romania	The Romanian Office for Labour Force Migration (OLFM) issues favourable notices, necessary for obtaining the work visa by third-country citizens within 15 working-days; also, work permits are issued by OLFM within 10 working-days. According to Government Ordinance no.49/2006, which amends Law no.203/1999, aliens married with Romanian citizens have free access to the labour market.	
Spain	There are some activities occurring around this with respect to sectors employing TCN in their home country. There have been moves to make this process smoother for employers and to fast track documents	Simplifying the process would be helpful for employers and decrease the number of infractions.
United Kingdom	The points-based system for managing migration is being introduced on a rolling basis from 2008. There are plans to simplify the endorsements used, which will assist employers in understanding what conditions are attached to various categories e.g. hours of work permitted etc. In line with EU regulations, we are also introducing Biometric Immigration Documents (BID) from 2008. A BID will be a highly secure card containing the holder's unique biometric data and biographical information for recording and verification purposes. Currently employers can expect to be presented with around 50 different types of document and we recognise this can be difficult for employers. In the future it is envisaged that BIDs will provide a swift and secure way for employers to make checks of an applicant or employee's right to work in the UK.	

b) Requirement for written employment contracts

Requirement that employment contracts must be in written form.

174 Thematic feature: industrial relations and undocumented work: Poland. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/pl0406107t.html

175 CIA questionnaire

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
Bulgaria	YES	
Czech Republic	*Employment contracts do not need to be in written form.*	
Estonia	According to the Employment Contracts Act of the Republic of Estonia it is allowed to conclude a verbal contract only if the working period doesn't exceed two weeks.	
Finland	If no written employment contract is given, the employer is obliged to provide a document with the (key) employment terms and/or the collective agreement that is applicable has to be identified. PIELAMI report, pg. 16: 'The condition of an employment contract, which is in conflict with the corresponding provision of a universally binding collective agreement, is void, and instead the provisions of this […] agreement should be observed according to section 7 of the Employment Contract Act. […] Like all other employees, migrants working in Finland are also covered under the collective agreement of the corresponding sector.'	Effectiveness derives from the universally binding collective agreements which have for decades been regularly concluded between trade unions, employer organisations and the Finnish government.
France	Il doit y avoir une formalisation écrite de la relation de travail.	Cette formalité permet de s'assurer de la transparence de l'emploi.
Ireland	Work permit applications must be accompanied by written contracts	
Lithuania	Employment contracts must be in written form	
Latvia	According to the provisions of the Labour Law of Latvia, in particular Art. 40, employment contracts shall be concluded in a written form. The Labour Law specifies what information shall be included in the contract. However, the Labour Law stipulates that if the written form has not been complied with, an employee has the right to request that the contract is expressed in writing. If the employee and the employer, or at least one of the parties, has started to perform the duties contracted for, an employment contract that does not conform to the written form shall have the same legal consequences as an employment contract expressed in writing.	There are still cases when the employment contracts are not concluded in writing. However, the provisions of laws and regulations on this matter shall be regarded effective. The law makes all the necessary conditions to promote the effectiveness of employment contract.
Romania	Article 16 paragraph 1 of Law no.53/2003, the Labour Code, stipulates that: "An individual labour contract shall be concluded based on the parties' consent, in written form, in Romanian language. The employer has the obligation to conclude the individual labour contract in written form, before starting	

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
	the work relations." According to Article 36 of Romanian Labour Law (Code), the labour contract is signed after the work permit has been acquired.	
United Kingdom	Employees (those directly engaged by an employer) are entitled to a written statement of particulars (Employment Rights Act 1996 Part I).	
Slovak Republic	Yes	
Spain	There are some activities occurring around this with respect to sectors employing TCNs in their home country. There have been moves to make this process smoother for employers and to fast track documents	Simplifying the process would be helpful for employers and decrease the number of infractions.
c) Financial incentives for employers		
Various fiscal measures (reduced taxation for companies, differentiated social security system for domestic services, subsidised social security contributions for new recruits etc.)		
Czech Republic	*There are no specific financial incentives for employers of TCN.*	
Estonia	See point a about the state fee.	
Finland	Not available in Finland	
France	Financial incentives to encourage the employment of document workers based mainly on the simplification of administrative formalities through 'Cheque schemes' in various sectors (Service Employment Cheque Scheme, in the agricultural sector, Simplified Agricultural Employment Document, Non-profit Organisation Employment Cheque and Enterprise Employment Document). Il existe également des exonérations ou des réductions importantes de cotisations sociales, notamment pour les emplois de courte durée dans le secteur agricole. Enfin, il existe des exonérations ou des allégements de cotisations sur les embauches de bas salaires.	En matière d'emploi domestique, l'augmentation du nombre d'employeurs, de salariés et de cotisations démontre un certain succès de la démarche.
Germany	Financial incentives to encourage the employment of documented workers	

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
Ireland	No such incentives operate in Ireland.	
Italy	However, the period since 2001 has seen the devising of new strategies centred on fiscal measures, intended to induce firms to regularise their position by offering temporary relief from labour costs, enacted by law 383 of 2001. Those employers and workers that join the regularisation programme and thus legalise their positions benefit from relief on taxes and social security contributions over the period 2002-4 and retrospective regularisation of their position in previous years (2001 and before). Regularisation must lead to the hiring of the irregular worker on a contract of employment or, if the regularisation concerns sums paid off the books (i.e. 'grey' work) it may concern only dependent employees (excluding 'employer-coordinated freelance work' , a common form of 'semi-subordinate' work). In order to be covered by the law's provisions, employers had to submit a 'declaration of regularisation' by 15 May 2003. [176]	
Netherlands	Financial incentives to encourage the employment of documented workers.	
Slovak Republic	Neither the taxation system nor the social protection system currently works directly to eliminate undeclared work. However, a 19% flat rate of income and profit tax, introduced in 1 January 2004, has reduced the taxation burden of entrepreneurs and self-employed people.[177]	Was nott realised
Spain	There are many incentives for hidden economic activity to become legitimate, such as reduced taxation for companies, a differentiated social security system for domestic services, and subsidised social security contributions for new recruits. However, it appears that in many cases these incentives are insufficient to outweigh the advantages of informal employment.[178]	These measures could be effective and could decrease the amount of informal labour but no more specific information is available.
3.3 Awareness raising		
General information campaigns		
Information campaigns targeted at employers/enterprises		
Information campaigns targeted at workers		

176 Thematic feature: industrial relations and undocumented work: Italy. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/it0406107t.html

177 Thematic feature: industrial relations and undocumented work: Slovakia. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/sk0406105t.html

178 Thematic feature: industrial relations and undocumented work: Spain. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/es0406209t.html

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
Awareness raising activities include general information campaigns or campaigns targeted at employers / enterprises and/or workers. Not all activities are large-scale information campaigns, but use has also been made of e.g. informative letters to enterprises in specific sectors that had formal labour costs remarkably lower than the average of similar enterprises in the same field, asking them to check data on taxes and make appropriate corrections.		
Belgium	Campaigns have regularly been launched to raise awareness amongst employers about their administrative duties when recruiting third country nationals and potential sanctions if they fail to do that.[179]	
Czech Republic	General information concerning employment of foreigners is available on Ministry's official websites. They are updated. Information campaigns targeted at workers are led in the CR. We also distribute information for workers in countries of their origin (sending countries).	We intend to lead information campaigns targeted at employers/enterprises.
Estonia	In Spring 2004, the Estonian Tax Board chose a new strategy of combating concealed salaries by sending informative letters to enterprises that had formal labour costs remarkably lower than the average of similar enterprises in the same field and asking them to check their data on taxes and make appropriate corrections. Otherwise there would be an audit by the Board. Three sectors receiving most of the letters were construction, hotels and catering, and car sales and repair. The method has proved to be very cost-effective as first experiences have shown that about a quarter of the enterprises	

179 Het Nieuwsblad (2004), Preventiecampagne over illegalen in tuinbouw. 26 June 2004. http://www.nieuwsblad.be/Article/Detail.aspx?articleID=g115hv5n.

180 Äripäev 25.05.2004

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
	receiving these letters improved their tax-reporting immediately[180].	
Finland	Information disseminated to employers and workers[181] In the Construction sector, Memorandum of Understanding between employer organisation and trade union has recently been adopted regarding the dissemination of information to employers. Info on the requirements for employing 'foreign workers', including third-country nationals and EU citizens. In the past, the Construction Trade Union put together guidelines for employers on the regulations and procedures which need to be adhered to when employing a new employee, in particular a 'foreign worker'. Directorate of Immigration: website outlines different requirements for those wishing to become resident and/or work in Finland.	Effective, as there is a perceived need for such information. PIELAMI report, pg. 21: 'As the OSH Inspectorate for Uusimaa noted, employers are responsible for understanding and following a wide range of regulations and employers need to be supported in order to fully understand their obligations. Similarly, there is a real need to provide information to migrant workers.'
France	Des campagnes diverses sont menées régulièrement (télévision, radio, internet, etc.) pour développer la lutte contre le travail illégal. Il convient de souligner que ces initiatives ne visent pas la catégorie des étrangers de manière spécifique mais cherchent plus généralement à promouvoir la transparence de la relation de travail et le paiement des cotisations. Par ailleurs, dans le secteur agricole, la Fédération nationale des syndicats d'exploitants agricoles (FNSEA) organise des campagnes.	La campagne nationale d'information sur le chèque-emploi-service a permis de « légaliser » des emplois non déclarés dans le secteur des services à la personne. Une campagne de communication par voie d'affichage a été menée du 8 novembre 2004 au 3 janvier 2005 par les URSSAF dans les lieux publics de 9 villes. Cette opération était destinée à déclencher une prise de conscience du grand public qui considère le travail illégal comme une pratique banale et courante. Cette campagne visait donc à inverser cette image complaisante et à révéler les véritables traits de ce fléau. Les caisses de mutualité sociale agricole ont constaté une augmentation du nombre de salariés et de cotisations. Toutefois, aucune étude n'a été conduite permettant d'étayer de manière précise l'impact pressenti sur le travail dissimulé.
Ireland	Employment Rights Information Section of the Department of Enterprise, Trade and Employment conducts regular information campaigns in relation to the area of employment rights, including both migrant workers and Irish nationals. A great deal of information on the relevant employment rights entitlements and protections is widely disseminated.	A new Employment Rights Authority Compliance is being established. It is intended that this new Office will initiate a publicity campaign, with an emphasis on workers from overseas and on the sectors in which they are employed in significant numbers, setting out their rights in a range of languages.
Lithuania	State Labour Inspectorate in the summer 2005 performed national campaign against illegal work.	

181 OECD (2000), Combating the Illegal Employment of Foreign Workers, Paris: OECD.

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
	State Labour Inspectorate diffuses information about public mischief on national and regional TV stations, radio, magazines. Special booklets are being released habitually.	
Latvia	At the beginning of 2004 the Cabinet of Ministers accepted the guideline paper "On Measures to Combat Undeclared Work". Some of the proposed measures are as follows: Raising social awareness and promotion of legal awareness and compliance More resources will be channelled for dissemination of information about labour law. Increased attention will be devoted to the explanation of the tax system and the uses to which taxes are put.	
Netherlands	Information campaigns aimed at employers and foreign workers	
Romania	The Office for Labour Force Migration (OLFM) provides to alien employers and aliens all the necessary data regarding the legal stay for work in Romania. The data is available on OLFM website: www.omfm.ro, in Romanian, English and French language. Also, the employers and aliens can contact directly the Information and Documentation Centre for Migrant Workers within OLFM, where they are advised, according to legal provisions. In July 2006, the OLFM and the Department for Labour Abroad have launched the awareness campaign: 'Choose legal migration of labour force!' During this campaign, there were published leaflets and info guides, in order to inform and raise awareness aliens about the risks, which they could deal with, in case of breaching the legal provisions.	During the first semester of 2007, OLFM and the Authority for Aliens will perform an awareness campaign regarding legal provisions related to aliens regime, their employment, social security system and the risks, which they can deal with, in case of breaching legal provisions. This action is part of the Action Plan of National Strategy for Immigration 2007-2010.
Slovak Republic	The Labour Inspectorate has recently issued an informative brochure, which aims to draw the attention of employers and employees to the negative consequences of undeclared work.	Was not realised
Spain	Information campaigns were done for regularisation that occurred 2 years ago however the campaigns were targeted at employers not workers. The campaign was mainly through articles in newspapers and political and social debate, which is strong in Spain.	This was effective. Offices extended their opening hours to after hours and weekends to ensure that employers could access the inspectorate to regularise their employees. This was a temporary change only for regularisation.
Sweden	Concerted efforts to raise social awareness of undeclared work have been undertaken through a joint campaign by the tax authorities and the recently founded. This started in 2000. The co-operation also involves branch organisations and trade unions in various sectors of the economy.	

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
United Kingdom	In November 2006 the Home Office commenced a nationwide campaign to remind employers of their responsibilities under the legislation on the prevention of illegal migrant working. The campaign used direct mailing to small- and medium-sized enterprises in high risk sectors (construction, catering and hospitality, agriculture), as well as adverts in the national press and radio. We also re-launched a website which provides employers with a step by step guide on the document checks they should undertake if they wish to establish a statutory defence. Information on employment rights sent to workers applying under the Worker Registration Scheme. Working with other Member States, information on employment rights in UK available to those intending to travel to work in UK from other Member States. Information sent to employers regarding new legislation.[182]	
3.4 Social security provisions and Proof of identity		
Some Member States link the right to health care to residence and work permit, and a proof of identify. This means that illegally staying TCN do not have any right to health care, which could provide a discouragement for employers to hire an illegally staying TCN compared to a legally staying TCN or EU national.		
Bulgaria	Only permanent residents and persons with refugee or humanitarian status or right to asylum are subject to the compulsory health insurance. There is no link to employment activity for the TCN.	
Cyprus	At a meeting held on 21 April 2004 at the Department of Labour of the Ministry of Labour and Social Insurance, the social partners agreed immediately to implement a Ministerial Committee decision taken on 15 December 2003 with regard to medical care for migrant workers in Cyprus. This decision makes healthcare insurance for migrant workers mandatory and also makes such cover a precondition for issuing entry permits or renewing temporary residence and work permits to such workers. [183]	
Estonia	*NA*	
Finland	Proof of identify: In February 2006: Amendment to Act on Occupational Safety and Health Working Security: all workers on construction sites must carry a photo a (ID). The ID card has to detail whether the person working on the site is an employee or a self-employed person. The main constructor has to check on the fulfilment of the obligations. The site can be closed on failure to implement this	Proof of identity: Effective measure, has been tested / implemented in the past. Past collective agreements in the construction sector had included this measure. A legislative change followed in February 2006.

182 OECD (2000), Combating the Illegal Employment of Foreign Workers, Paris: OECD.

183 Thematic feature: industrial relations and undocumented work: Cyprus. June 2004. http://www.eiro.eurofound.eu.int/2003/11/feature/cy0311103f.html

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
	obligation. Social security: As mentioned in the above, collective agreements apply to Finnish workers and 'foreign workers' equally.	Social security / rights of TCN workers: Barriers: PIELAMI report, pg. 21: 'The challenge is to ensure that information is understood (i.e. that is delivered in different languages and in different formats) and that employees feel that they can benefit from the information.' In addition, Finnish (employment) law foresees the backpayment of wages … but only if employee goes to court. Many 'foreign workers' do not have the means to take their employer to court or are afraid to denounce him/her.
France	According to French legislation, a foreign employee without a work permit is considered a regularly employed wage earner. In addition to the payment of his/her work hours and paid holidays, s/he has the right to a damage claim amounting to a salary of one month. The foreigner also has rights which can be claimed before French tribunals, with the help of intermediaries (trade unions and associations). Furthermore, s/he benefits from social protection if s/he becomes a victim of a work accident. As such, the responsibility / burden lies with the employer of the foreigner.	Le système français, qui protège l'étranger employé de manière irrégulière en le reconnaissant comme victime et en lui associant des droits, nous semble être une garantie fondamentale.
Greece	A legislative provision safeguards the right of foreign workers to be paid at least with the same monthly salary as the Greek unskilled worker. This fact provides them for a satisfactory level of living discouraging them, in this way, to work illegally. Also, third countries nationals that are working legally have the same social insurance rights and they are enjoying equivalent transfers from the social insurance organizations.[184]	
Ireland	Access to Public Health Services will be addressed in the context of the Immigration, Residence and Protection Bill which is currently being drafted.	
Lithuania	Only if migrant works legally then worker and his or her family members under 18 years of age have the right to health care; of course, basic medical aid is provided to all migrants free of charge.	
Latvia	Latvia to a great extent provides health care for illegally staying third country nationals, while at the same time they do not have access to social security provisions.	
Netherlands	The proposed law extending compulsory identification was implemented from 1 January 2005. As a result of these measures, the ability to require proof of identity has now been expanded.	

184 CIA questionnaire

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
Romania	After acquiring the work permit, the labour contract between the Romanian employer and alien can be concluded. The conclusion of labour contract implies the employer's duty to subscribe to the Romanian social insurance system, also to Romanian health insurance system.	
Slovak Republic	Employer is obliged to report the employee into the Health insurance company on the date of start of work. Alien who stays legally in the territory of the Slovak Republic must have the health insurance. Granting of the residence permit is subject to the health insurance.	Was not realised
Spain	In Spain anyone residing either legally or illegally in the country is allowed healthcare by registering with the local authority. Once they register with the local authority they get a form of ID.	Spain has never denied healthcare to its residents and there has been no move to do so in the future. The political opinion is that healthcare is a basic human right. There are issues that occur with this healthcare such as certain autonomous communities in Spain have more illegal TCNs and since they do not receive extra funding from the government, they are having budgetary issues.
United Kingdom	The Workers Registration Scheme (A8 Nationals) and A2 Worker Authorisation schemes provide full access to benefits for those who register after 12 months continuous employment, TCN's do not have access to public funds or health care unless it is an emergency.	Further legislative change is likely. Identity cards ('entitlement cards') were announced in 2002. They would be used to check rights to health service treatment, education and state benefits, and to clamp down on illegal working and benefit fraud. In January 2004 the House of Commons home affairs select committee urged the government to use the Proceeds of Crime Act to crack down on illegal working after an 'extremely low level' of prosecutions under immigration rules. Businesses that made money employing illegal immigrants would have their profits seized.[185]
3.5 Partnership agreements for cooperation and initiatives to prevent illegal work		
a) Bilateral and/or European agreements between Member States.		
Signature of bilateral agreements to combat undeclared work between certain Member States.		
Bulgaria	Several such agreements are in the process of elaboration – with Germany, Austria, France and Belgium.	

[185] Thematic feature: industrial relations and undocumented work: United Kingdom. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/uk0406104t.html

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
Czech Republic	We are negotiating some agreements concerning mutual cooperation and exchange of information with several MS.	
Estonia	There are no such agreements.	
Finland	Negotiations / Discussions with Estonia were recently started.	
France	With the development of transnational fraud and the difficulty the French authorities have had in controlling it, the campaign against undeclared working has also been based on a gradually developing European co-operation and on bilateral agreements signed with Germany (May 2001), Italy and Spain (2002) and Belgium (2003). More recently, there have been contacts between the DILTI and some of the new Member States (Poland, the Czech Republic and Slovakia).	*Cf.* réponse adressée le 24 janvier 2007 par les autorités françaises (DILTI et DGT) au questionnaire de la Commission européenne relatif au détachement de travailleurs dans le cadre d'une prestation de services. La coopération administrative entre les Etats membres par l'intermédiaire des bureaux de liaison est en nette progression, sur le plan qualitatif et quantitatif.
Ireland	There are no such agreements applicable in the case of Ireland	
Latvia	Negotiations have been conducted with the German officials in order to conclude a bilateral agreement on cooperation on social insurance and on illegal employment issues.	
Netherlands	Some employers' and employees' associations are also involved in fraud prevention and detection and usually work with one or more of the official agencies. The employers' association for agriculture and horticulture, LTO Nederland, co-operates with the Centre for Work and Income (CWI) in the Seasonal Labour project (Project Seizoenarbeid), helping companies in these sectors to fill their temporary vacancies. One of the aims of this project is to decrease illegal employment caused by labour shortages in peak production periods.	
Romania	For aliens whose access on the labour market is regulated by Bilateral Agreements between Romania and other states, the employers shall be bound to inform in writing the Authority for Aliens with territorial competence, within 5 days from the entry of that aliens on the Romanian territory on the nominal situation of these persons (article 57 paragraph 2 corroborated with article 124 point 7 and article 125 point c of our GEO 194/2002 on the regime of aliens in Romania with further amendments and completions); not complying of these obligations shall be sanctioned by fine	
Slovak Republic	Memorandum of understanding between the Ministry of Labour, Social Affairs and Family of the Slovak Republic and the Ministry of Social Affairs and Employment of the Kingdom of the Netherlands on cooperation concerning enforcement of the rules on social policy, in case of cross-border labour and services, and the enforcement of social assistance regulations.	Memorandum was signed on 6 November 2006.

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
Spain	A tri-partite organisation involving the government, trade unions and employers organisation was formed in 2006 to discuss these issues	The tri-partite group has strong political influence on policy. It is used as an advisory board for issues around immigration.
	AN agreement around outsourcing and subcontracting was reached to curb illicit activities but I did not receive any additional details on it	
Sweden	Concerted efforts to raise social awareness of undeclared work have been undertaken through a joint campaign by the tax authorities and the recently founded. This started in 2000. The co-operation also involves branch organisations and trade unions in various sectors of the economy.	
United Kingdom	We have co-operated with the Portuguese, Polish and Lithuanian Governments on information leaflets for their nationals. These are available from the DTI website and are made available in the countries of origin through UK embassies and government offices.	
b) Partnership agreements and initiatives by Social Partners		
(1) Conclusion of agreements between the central government and employer organisations and trade unions. Cooperation agreements concerning specific activities have also been established between different national authorities (in the same Member State).		
(2) Conclusion of agreements between trade unions and employer organisations in the same sector (e.g. construction industry) establishing bilateral agreements of actions to curb illicit activities.		
Czech Republic	There is no agreement, but there is an interdepartmental body called "Interdepartmental body for repressing the illegal employment of foreigners", where participation of social partners plays important role.	
Estonia	There are no such agreements though joint seminars and information events have been held between employers' organizations and the central government.	
Finland	***Initiatives by Social Partners***	Very effective. [Also established in interviews with employer organisation and traded union.]
	PIELAMI report (pg. 16): ' For decades the national labour and employer confederations and the Finnish government have regularly concluded comprehensive income collective agreements. […] Even though employers or employees might not be part of a collective agreement they are nevertheless bound to the provisions of a collective agreement, which is considered representative in	Employers who do not comply with collective agreements can expect pressure from employees.

[186] CIA questionnaire.

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
	the sector in question […]'. Migrants working in Finland are covered. The Finnish Construction Trade Union on the employee side and the Confederation of Finnish Construction Industries on the employer side have been actively seeking to curb illicit activities in the construction industry. They have agreed bilaterally that: Companies must demand proof of payment of tax and pension contributions from prospective contractors when they call for tenders. If these payments have not been met, it is justifiable to reject a bid; Information about contracts must be delivered quarterly to the tax administration; Electronic pass systems must be used for workers and contractors at building sites. It appears that in assessing the state of the black economy, the electronic pass system has proved the most effective of the measures in the construction industry. It has made it possible to monitor all contractors and workers at building sites effectively. As a result, illicit activity is now easier to detect. Furthermore, the Finnish Construction Trade Union has unilaterally conducted inspections of building sites in order to gather details of outsourced firms and their adherence to collective agreements. It has forwarded this information to the tax authorities. In addition, social partners in construction have co-operated in informing construction firms about the proper use of foreign labour. In May 2004, they published a guidebook on the subject. This followed EU enlargement, which had prompted concerns about an influx of foreign temporary agency workers to Finland.[186]	Trade unions can exert pressure on employers, informing them that they have received complaints about working conditions not being respected. According to Finnish law, employees can take their employer to court. Furthermore, trade unions in Finland have also adopted the strategy of organising boycotts.
France	Partnership agreements concluded between central government and employers' organisations.	Entre 1992 et 2006, 15 conventions nationales ont été signées entre l'Etat et les partenaires sociaux pour un engagement actif contre le travail illégal (coiffure, intérim, déménagement, spectacle, artisanat). En 2005, 300 conventions départementales ont été conclues avec les organisations professionnelles. En décembre 2005, une Charte nationale du bâtiment et des travaux publics a été signée entre l'Etat et 7 organisations professionnelles destinée à favoriser les bonnes pratiques en matière de sous-traitance et de lutte contre le travail illégal.
Ireland	The National Partnership Agreement between Government, Employers and Employees entitled "Towards 2016" provides for the enactment of the Employment Permits Act, 2006 which provides	

Table A6.1 – Preventive measures

Country	*Description of measure*	*Evaluation of / comments on effectiveness of the measure: and planned changes*
	important new protections for migrant workers. These workers can apply and reapply for their own permit, which is then issued to them rather than to the employer as was previously the case. There is also provision that employment permits cannot be granted in respect of employment where the remuneration is below the National Minimum Wage as stipulated under Minimum Wage legislation.	
Latvia	The policy paper "National Lisbon programme of Latvia for the period 2005 – 2008" proposes to create an enabling environment for reinforcing the good reputation of socially responsible entrepreneurship by strengthening the role of trade unions and employers' associations.[187]	
Romania	In 2006, the Office for Labour Force Migration (OLFM) had concluded a collaboration protocol with the Turkish Businessmen Association, which has the main goal to inform the Turkish aliens about the legislation on work permit. OLFM will give information that will help the Turkish Businessmen Association to issue leaflets and guides in Turkish language.	OLFM is open to collaborate with other agencies, which will have the task to inform and raise awareness about the illegal migration of labour force.
United Kingdom	No formal social partnership agreements have been made. However, we are working with trade unions and employers on vulnerable worker pilot projects to be launched shortly, including migrant workers.	

[187] CIA questionnaire

ANNEX 7 – ENFORCEMENT IN THE MEMBER STATES (SUPPORTING MATERIAL FOR OPTION 6)

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
Please provide the name of the administrative body or unit which is responsible for the monitoring and enforcement of the regulations regarding employment of illegally staying third-country nationals.	
Austria	KIAB (Kontrollen illegaler Arbeitnehmerbeschäftigung).
Belgium	Federal committee
Bulgaria	Executive Agency "General Labour Inspectorate"
Czech Republic	The Labour Offices and the Inspectorates of Labour; the Custom Offices (they are under the Ministry of Finance, they only conduct controls and collect fines, do not make administrative procedures)
Estonia	Citizenship and Migration Board, The Police Board, Board of Border Guard.
Finland	1) Surveillance Unit for Illegal Foreign Labour 2) Occupational Safety and Health (OSH) inspectorates 3) VIRKE project for the Development of Inter-Authority cooperation
France	National Committee on Illegal Work: Délégation interministérielle à la lutte contre le travail illégal (DILTI) En matière d'emploi illégal des étrangers, le comité interministériel de contrôle de l'immigration (CICI) a également une compétence.
Greece	Labour Inspectorate (SEPE), which replaced the former labour inspectorates operating under the supervision of the prefectural authorities.[188]
Hungary	In cases of illegal employment of non-residents (migrant workers), OMMF (the Labour Inspectorate) can fine the employer. [189] The response to the CIA questionnaire refers to that 'Fines are imposed by migration authority OIN'.
Ireland	The Department of Enterprise, Trade and Employment is responsible for the monitoring and enforcing of employment rights legislation/regulations in respect of all workers, regardless of whether or not the workers concerned are migrant workers from outside the EU/EEA, migrant workers from within the EU/EEA or Irish workers.
Lithuania	State Labour Inspectorate
Latvia	The administrative body responsible for monitoring and enforcement of regulations regarding employment of illegally staying third-country nationals is State Labour Inspectorate (SLI). Generally, State Board Guard (SBG) is the administrative body that enforces regulations regarding illegally staying third-country nationals.
Malta	Law Compliance Unit

188 Law 2639/1998 on 'regulation of labour relations, establishment of a Labour Inspectorate and other provisions' specified the competencies, staffing and other issues regarding the operation of the Inspectorate.

189 Thematic feature: industrial relations and undocumented work: Hungary. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/hu0406103t.html

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
Netherlands	Labour Inspectorate
Poland	Control of the legality of employment is attended to by inspection units informally known as the labour police.
Portugal	The competent entity to apply the sanctions is the general director of Serviço de Estrangeiros e Fronteiras, and he/she can delegate the decision.[190]
Romania	Romanian Labour Inspection, by Territorial Labour Inspectorates, and the employers of Romanian Office for Labour Force Migration (OLFM), appointed by Order of the Romanian Minister of Labour, Social Solidarity and Family – according to Article 12 paragraph 1 of Law no. 203/1999, republished. OLFM has competencies regarding the issue and extension of work permits for aliens. Also, OLFM along with the Labour Inspection have competences in checking and sanctioning employers, who use alien labour force. The Authority for Aliens has competencies in checking and sanctioning illegal stay of aliens in Romania.
Slovak Republic	The forthcoming Act date on illicit work and illicit employment will nominate the labour inspectorates as the competent authority to carry out surveillance over illicit work and illicit employment.
Slovenia	The Labour Inspectorate
Spain	Inspection of Labour and Social Security (ITSS).
Sweden	the National Economic Crimes Bureau (Ekobrottsmyndigheten, EBM)[191]
United Kingdom	UK Immigration Service & Police
Is this body under the auspices of any government department (which?) or is it an independent authority?	
Austria	The Ministry of Finance
Bulgaria	It is an agency under the Minister of Labour and Social Policy
Czech Republic	Under Ministry of Labour and Social Affairs
Estonia	Fall under the jurisdiction of the Ministry of the Interior.
Finland	1) part of the National Bureau of Investigation, which is a national unit of the Finnish Police. 2) Department for Occupational Safety and Health, under ministry of Social Affairs and Health. 3) Overall responsibility: Ministry of Finance
France	La DILTI dépend du ministère chargé du travail.
Ireland	The Department operates a labour inspectorate in respect of all the above workers. It is in the process of setting up a National Employment Rights Authority to manage/coordinate a greatly increased labour inspectorate (a trebling in numbers in 2007 to 90.
Italy	Ministry of Labour

190 CIA questionnaire

191 Thematic feature: industrial relations and undocumented work: Sweden. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/se0406101t.html

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
Lithuania	State Labour Inspectorate is subordinated to the Ministry of Social Security and Labour
Latvia	State Border Guard is established under the subordination of the Ministry of the Interior, while State Labour Inspectorate is under the supervision of the Ministry of Welfare.
Malta	The public employment service
Poland	As of January 1, 2002, these are subordinated to the voivod (i.e. regional level).
Romania	The Labour Inspection is a specialized agency of central public administration, subordinated to Romanian Ministry of Labour, Social Solidarity and Family, and has in its subordination territorial labour inspectorates. The Office for Labour Force Migration (OLFM) is a public agency subordinated to Romanian Ministry of Labour, Social Solidarity and Family (MLSSF) and to State Secretary, who coordinates the Department for Labour Abroad. The Authority for Aliens is direct subordinated to the Ministry of Administration and Interior.
Slovak Republic	Labour Inspectorate is under the auspices of Ministry of Labour, Social Affairs and Family of the Slovak Republic
United Kingdom	Home Office. The Immigration and Nationality Directorate (which includes the UK Immigration Service) moving to shadow agency status this year – to be called the Border & Immigration Agency.
Spain	Ministry of Labour and Social Security
Is coordination and cooperation required? (i.e. are several government departments or other authorities involved?) Is there any legislative framework that structures this coordination?	
Austria	Since 2002 the Ministry of Finance is assisting KIAB in these controls. As from January 2007 control teams are integrated in tax offices due to the close connection with tax and social security contributions fraud and in order to make enforcement more effective. 'Steuerhinterziehung, Sozialversicherungsbetrug und illegale Beschäftigung von Ausländern werden in Tateinheit begangen. Durch die Ansiedelung der Prüfung im Rahmen der Finanzverwaltung in Verbindung mit der Verständigungspflicht ist ein Höchstmaß von Synergien erzielbar, da jede illegale Beschäftigung von Ausländern im Zusammenhang mit Steuerhinterziehung und Sozialversicherungsbetrug steht.'
Belgium	The government has introduced a federal committee to coordinate efforts to combat illegal labour practices, tax fraud, and human trafficking.
Bulgaria	YES
Czech Republic	Yes. Cooperation of the Labour Offices and the Custom Offices is established in the Employment Act (435/2004 Coll.). All authorities coordinate their activities in "Interdepartmental body for repressing the illegal employment of foreigners" established by the government in 2000.
Denmark	Inspections are conducted in co-operation with the Directorate of Labour and the police, which control for abuse of unemployment benefits and for the employment of illegal workers.
Estonia	According to the Aliens Act all aforementioned state authorities are justified to check the presence of documentation allowing to work. State authorities will cooperate in case of necessity. A cooperation agreement between Citizenship and Migration Board and Board of Border Guard is currently being concluded.
Finland	1) The unit cooperates closely with local police and other authorities, various agents of business life and with trade and employers' associations. Cooperates with OSH and tax offices on 10-20 joint investigations / per year.

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
	2) Cooperates with NBI and tax offices on 10 to 20 joint investigations per year. 3) 'This project was set up on the basis of the idea that the fight against the informal economy and economic crime would be more effective if cooperation between different authorities was developed.' (PIELAMI report, pg. 20). The team includes: representatives from police, taxation, customs and distraint authorities.
France	Il existe deux types de coordination : coordination institutionnelle : 1/ entre les différents interlocuteurs nationaux; 2/ entre la structure nationale et ses représentations départementales ; coordination opérationnelle : opérations de contrôle conjointes ou concertées.
Ireland	The Department actively cooperates with other Department, including the Department of Justice, Equality and Law Reform and the Department of Social and Family affairs.
Italy	An important recent development is legislative decree no. 124 of 23 April 2004 which, in implementation of Article 8 of law 30/2003 (the 'Biagi law' on labour market reform), reforms the labour inspection services. The decree has created a specific section at the Ministry of Labour responsible for the coordination of inspectors (including those working for the social security institutes and social insurance agencies). [192]
Lithuania	According to 2001-11-21 Governmental Act No. 1407 State Labour Inspectorate coordinates activities of State Social Insurance Fund Board, State Tax Inspectorate, Financial Crime Investigation Service, Police Departament and Regional Divisions of State Labour Inspectorate in combating illegal work.
Latvia	Yes, coordination and cooperation is required and advisable; there is a special "Agreement of cooperation between Labour Inspection and State Border Guard" (No 58) adopted on the 4th of July 2006. The involved authorities are: State Revenue Service, State Labour Inspectorate, State Border Guard.
Netherlands	The employers' association, LTO Nederland, co-operates with the Labour Inspectorates to combat illegal employment in the agriculture and horticulture sectors.
Poland	The labour police may work in conjunction with the State Labour Inspection, the social insurance institution, the tax offices, the police, and with other bodies, as appropriate. [193]
Romania	The Territorial Labour Inspection carries out joint activities with territorial units of the Authority for Aliens according to the agreements concluded between these two institutions. Both institutions have drafted a common methodology of inspection (control) in view of combating illegal work on the black market labour and illegal stay of aliens. The Office for Labour Force Migration (OLFM) concluded a cooperation protocol with the Authority for Aliens and General Directorate for Consular Affairs within the Ministry of Foreign Affairs. Also, OLFM cooperates with the Labour Inspection, due to similar competences of checking the aliens.
Slovak Republic	The special law requires the amendment of several related laws, including the Labour Code, Act on Labour Inspection, Act on Social Insurance, Act on Employment Services. An important change in these laws concern improvements in the mutual co-operation of competent bodies in combating illicit work.
Slovenia	Monitoring is undertaken by the Market Inspectorate, the Labour Inspectorate, the Traffic Inspectorate, the Tax Administration, the police and other supervisory bodies, together with the Ministry of Finance, the Ministry of Internal Affairs and the Ministry for Labour.[194]

[192] Thematic feature: industrial relations and undocumented work: Italy. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/it0406107t.html

[193] Thematic feature: industrial relations and undocumented work: Poland. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/pl0406107t.html

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
Spain	Investigations are also undertaken by la Comisaría General de Extranjería y Documentación (Ministry of Internal Affairs) regarding trafficking of persons, illegal immigration and falsification of documents. 195
United Kingdom	Various directorates within IND have an interest in the employment of migrant workers (legal and illegal).
	Other Government departments also have an interest in workplace enforcement issues e.g. tax, health and safety etc. Co-ordination and co-operation is therefore required across Government departments. A recent pilot led by the Home Office has suggested that information sharing is key to cross Government working. Legal gateways exist, and work is underway to identify whether any further legislation is required to allow government departments to work together further.
When was this administrative body or unit set up?	
Belgium	2003
Bulgaria	1991
Czech Republic	LO – 1991; IL – 2005 (change of structure and competences); CO – competences in the sphere of employment since 2004
Finland	1) 2004. The project was given a mandate of five years which is scheduled to expire at the end of 2008.
	3) set up in March 2000 and will continue to the end of 2008.
France	1997.
	Toutefois, la France a mis en place dès 1974 un dispositif institutionnel interministériel pour lutter contre les trafics de main-d'œuvre étrangère en créant la mission interministérielle de lutte contre les trafics de main d'œuvre étrangère (MILUTMO), dont les missions ont évolué dans le temps pour s'intéresser à toutes les formes majeures de travail et d'emploi irréguliers, quelle que soit la nationalité des responsables de ces fraudes ou des victimes de celle ci. La MILUTMO a été remplacée en 1997 par la DILTI.
Ireland	The National Employment Rights Authority already has a Chief Executive, from February, 2007 and arrangements are rapidly being put in place for the establishment of the Authority.
Lithuania	1992-12-16
Latvia	State Labour Inspectorate was set up in 1992.
	State Border Guard was re-established in 1991.
	State Revenue Service was set up in 1993.
Romania	The Labour Inspection was set up in 1999, according to Law no. 108/1999, republished.
	The Office for Labour Force Migration was set up on January 15th 2002, according to Government Decision no. 1320/2001, modified and amended.
Slovak Republic	2005
Spain	This specific department was set up in 1996, but it has existed under different departments since 1906.
Sweden	1998
United Kingdom	The Immigration Service first came into being in 1919 with the establishment of the Aliens Restriction Act

194 Thematic feature: industrial relations and undocumented work: Slovenia. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/si0406205t.html

195 CIA questionnaire

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
Is the sole task of this body or unit to check illegal employment, or does it also deal with other employment issues (as, for example, laid down in employment legislation / labour law)?	
Austria	KIAB is a special law enforcement unit to combat illegal work practices. The core work is control of employment of illegal foreigners.
Bulgaria	The agency inspects the implementation of labour legislation in ensuring occupational safety and health and in carrying out labour relations, realises a specialised control of observation the Law on Employment Promotion and the other acts concerning the occupation and unemployment, gives information and technical advice to the employers and employees about the most effective methods for complying with labour legislation, informs the competent bodies about omissions and defects of the labour legislation which is in force.
Czech Republic	LO – provide employment and several other services, control activities in these spheres (also control of i/ legality of labour relations and work permits) IL – control activities concerning observance of most of labour law regulations CO – executive authority by the Ministry of Finance
Estonia	Aforementioned state authorities deal with checking the presence of documentation allowing to work. It is not their task to create and develop labor law. Still they are justified to propose amendments to legal acts that concern illegal employment.
Finland	1) Aimed at monitoring and preventing the use of illegal foreign workforce. In practice, the cases under investigation involve economic crime, such as (aggravated) tax fraud. Two tasks: expose informal economy crime based on Police Act + conduct pre-judicial inquiries. 2) PIELAMI report, pg. 18: 'The OSH Administration supports employers and employees to improve working conditions and fulfil employment obligations as well as integrate occupational safety and health into other activities of the workplace.' 3) Tasks (PIELAMI report, pg. 20): - 'distribute information on economic crime to different authorities in order to support their control activities; - maintain a general picture of the economic crime as well as evaluate effectiveness of control actions; - make initiatives to improve legislation and authority cooperation; - develop methods to prevent economic crime.'
France	La DILTI s'occupe du seul travail illégal mais elle est associée à l'ensemble des réflexions visant à alléger ou simplifier les formalités et les procédures liées à l'embauche ou à l'emploi.
Greece	The basic objective of the Labour Inspectorate is to supervise and monitor the implementation of the provisions of labour legislation. The IKA (social insurance organizations' control mechanism) carries out similar monitoring, though restricted to checking whether social insurance legislation is being complied with.[196]
Ireland	The Authority will have responsibility for monitoring/enforcing employment rights in respect of all workers, regardless of whether they are Irish or foreign nationals.
Lithuania	Illegal employment is not the sole task of this body. It is also responsible for control over compliance with

[196] Thematic feature: industrial relations and undocumented work: Greece. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/gr0406104t.html. Also confirmed by CIA questionnaire.

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
	the regulatory provisions of the Labour Code, labour laws, other regulatory acts and collective agreements
Latvia	State Border Guard (SBG) is a direct administrative institution which according to Article 13(15) of the Border Guard law controls compliance with regulations of entry, residence, exit and transit of foreigners in the Republic of Latvia, inter alia concerning employment of foreigners.
	The State Labour Inspectorate (SLI) also deals with other employment issues, such as the monitoring and controlling observance of the requirements of regulatory enactments regarding employment legal relationships, labour protection and technical supervision of dangerous equipment.
Netherlands	The Labour Inspectorate reserves about 19% of its capacity for investigating illegal employment at employment agencies, focusing investigations around the use of false identity papers or false social / fiscal numbers. One third of the capacity is used to conduct checks in the agriculture and horticulture sector.
Poland	The inspectors' mandate comprises control proceedings with respect to all employers, self-employed individuals, and any other institutions and private individuals as regards their retaining of Polish nationals as well as of foreigners.
Romania	The Labour Inspection has competencies in the field of labour, work relations, security and health in work – according to provisions of Government Decision no. 767/1999 on approving the Regulation for organising and functioning of Labour Inspection, completed and amended.
	Beside issuing and extending the work permits for aliens (and to check aliens too), the Office for Labour Force Migration has also the following competences: putting in force the bilateral treaties and agreements on labour force exchange; recruiting and placing labour force in states with which Romania hasn't concluded such agreements; information and documentation; cooperation with other agencies from Romania and abroad.
Slovak Republic	Labour Inspectorate deal with different employment issues like occupational and health and safety.
Sweden	The EBM deals primarily with dishonesty towards creditors, tax crimes, infringements of the insider trading legislation, and crimes against the financial interests of the European Union. EBM is thus a prosecuting authority that combats economic crime of a certain importance.[197]
United Kingdom	In addition to carrying out enforcement operations, the Service has additional tasks detecting and removing illegal immigrants.
How are these enforcement actions organised? What data inform them, if any (e.g. research)? Are particular sectors or businesses targeted (if yes, why these)?	
Austria	'Im Rahmen der Kontrolltätigkeit in Bezug auf die Überwachung der Einhaltung der Bestimmungen des Ausländerbeschäftigungsgesetzes haben die Abgabenbehörden zu diesem Zweck nicht nur umfangreiche Kontrollbefugnisse, sondern auch Parteistellung in bestimmten Verwaltungsstrafverfahren nach dem Ausländerbeschäftigungsgesetz, unabhängig davon, durch wen dieses eingeleitet wurde.'
Belgium	Each month, the federal committee plans a worksite enforcement action targeted against employers in specific industries, such as construction or restaurants, and coordinates the activities of various enforcement agencies in Belgium, including the Belgian Labour inspectorate, police, the Immigration Office and other government agencies, in conducting the enforcement operations. These enforcement actions occur over a 3-day period.
	Raids are organised and are targeted at 'risk sectors' such as agriculture, horticulture, construction and others. [198]
Bulgaria	The control is specific – it is not based on targeting specific sectors. The general observation is that companies with foreign capital most often violate the rules related to work permits requirements and

[197] Thematic feature: industrial relations and undocumented work: Sweden. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/se0406101t.html

[198] Het Nieuwsblad (2004), Preventiecampagne over illegalen in tuinbouw. 26 June 2004. http://www.nieuwsblad.be/Article/Detail.aspx?articleID=g115hv5n.

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
	registration of posted workers. The local calls for infringement are the other information source for inspections.
Czech Republic	They have a schedule of control actions, planned for one year, and they also act on the basis of notifications.
	They work in mutual cooperation with other control bodies (e.g. police)
Denmark	The tax authorities have intensified their control of the sectors where undeclared and illegal work is most widespread. This includes on-the-spot inspections of hotels and restaurants in a specific geographic area.
Estonia	This is regular surveillance/ monitoring activity. Some checks are definitely carried out due to tip-offs.
Finland	1) Main target areas: ship building, construction, hotels and restaurant. It 'carries out a limited number of on-site inspections of informal labour enterprises in which they also check workers for permits. These inspections are usually based on criminal suspicion.' (PIELAMI report, pg. 19)
	2) Sectors targeted: construction, hotels and restaurants, cleaning, and the metal industry. No inspections of private households. OSH carries out on-site inspections to check the working conditions and terms of employment of employees according to Finnish regulations. 'Inspections are random or based on hints from other companies, the police, tax authorities, etc. (PIELAMI report, pg. 18)
	3) 'It collects, analyses and distributes intelligence to different authorities, including information related to foreign labour and the practices of foreign companies working in Finland, for example. In particular: focus on tax evasion of employees and companies registered abroad but working in Finland. ' (PIELAMI report, pg. 20) Disposes of tax database, which it can draw upon when tips are received.
France	Le gouvernement a lancé un Plan national de lutte contre le travail illégal 2004-2005, reconduit en 2006-2007. Ce Plan fixe des priorités d'action pour les services de contrôle et détermine 4 secteurs professionnels prioritaires : Bâtiment et travaux publics, agriculture, hôtellerie-restauration, spectacles.
	Chaque année, un bilan statistique est établi pour indiquer les résultats obtenus.
Ireland	Data monitoring will be addressed in the context of the establishment of the Employment Rights Authority
Lithuania	State Social Insurance Fund Board, State Tax Inspectorate, Financial Crime Investigation Service, Police Department inform State Labour Inspectorate about accidents of illegal work.
	State Labour Inspectorate analyses the results of detecting illegal work and prognosticates tendencies
	The most hazardous sectors are segregated: ▪ Building sector ▪ Wholesale business and retail trade ▪ Garages ▪ Timber industry ▪ Agriculture ▪ Hotels and restaurants.
Latvia	Information about possible violation of law is collected mainly from the applications, anonymous calls, cooperative inspections together with State Board Guards, usage of the data base from State Revenue Service.
	In regard of illegally employed workers particularly targeted are those sectors of business where the majority of illegally employed workers are involved. They are the following: building and construction, agriculture, wholesale, hotels/restaurants, woodworking.
	Most recently, efforts have been intensified in the fight against "envelope wages".

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
Netherlands	From 1 January 2007 employers are obliged to assist the Labour Inspectorate in verifying the identity of employees during on site inspections. If the employer is not able to do so he can be fined with the same penalties as for employing illegal aliens.[199]
Poland	The Polish law provides for regulations aimed at securing the effectiveness of employment lawfulness. Such control may include employers, entrepreneurs and other institutions, as well as natural persons. Foiling or hindering the said control is punishable by a fine not lower than 3 000 PLN.[200]
Romania	The Labour Inspection carries out specific campaigns in different fields of activity. - after receiving complaints/intimations
Slovak Republic	The Act on Labour Inspection specifies obligations of employers, entrepreneurs and employees towards the labour inspectorate. These include, inter alia, the obligation of the employer to enable free access of inspectors to the workplace and create conditions for a swift inspection, to submit upon request the identity of persons present at his/her workplace and documents proving a labour relation to such persons. Any person present at the workplace of an employer is obliged to prove his/her identity and explain the reason for such presence at the workplace. However, as reality shows, it is not difficult for employers and employees who engage in undeclared activities to avoid sanction. In many cases it is not possible for the inspector to prove that a person is not just helping out a friend (e.g. at a construction site). The NLI admits that such a form of work is not considered to be illicit work. Current legislation does not enable labour inspectors to perform inspections of private non-commercial property where undeclared work is suspected.[201]
United Kingdom	The Nationality, Immigration and Asylum Act 2002 gives immigration officers new powers to enter business premises and requires public authorities, employers and banks to share information about suspected illegal workers with the Immigration Service.[202]
What happens when inspectors observe violations of regulations?	
Austria	'Die Organe der Abgabebehörde sind im Rahmen ihrer Kontrolltätigkeit gemäß der Bestimmung des § 26 Abs. 4 AuslBG befugt, die Identität von Personen festzustellen, sowie Fahrzeuge und sonstige Beförderungsmittel zu überprüfen, wenn Grund zur Annahme besteht, dass es sich bei diesen Personen um ausländische Arbeitskräfte handelt die beschäftigt werden, oder zu Arbeitsleistungen herangezogen werden. Die Organe der Abgabenbehörde sind, wenn Gefahr in Verzug besteht und das Einschreiten von Organen des öffentlichen Sicherheitsdienstes nicht abgewartet werden kann, auch ermächtigt, Ausländer für die Fremdenpolizeibehörde festzunehmen. Den Organen der Abgabenbehörde kommen dabei die im § 35 Verwaltungsstrafgesetz (VStG) geregelten Befugnisse der Organe des öffentlichen Sicherheitsdienstes zu.'
Czech Republic	They make a protocol, then conduct administrative procedure, and then they impose a fine, if necessary
Estonia	If a violation is ascertained then a misdemeanor procedure is carried out with the employer and a fine is imposed with an obligation to end the violation and pay the fine by a certain date. The misdemeanor procedure is also carried out with the employee. If it is discovered that an employee resides in the country without a legal basis then he/she will be detained and required to either leave or legalize oneself and if necessary expelled.
Finland	1) The unit conducts ,pre-judicial inquiries through real time crime investigation based on Criminal Investigations Act and Coercive Measures Act to expose tax offences, accounting offences, money laundering and more' (PIELAMI report, pg. 19).

199 CIA questionnaire.

200 CIA questionnaire

201 Thematic feature: industrial relations and undocumented work: Slovakia. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/sk0406105t.html

202 Thematic feature: industrial relations and undocumented work: United Kingdom. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/uk0406104t.html

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
	2) After each on-site inspection, the inspection officer writes an inspection report. Employers are provided with a list of requirements they must meet. OSH inspectorate then makes follow-up visits to supvervise compliance. If no compliance: sanctions imposed. (PIELAMI report, pg. 19)
France	Les inspecteurs du travail ont le libre choix des suites de leurs enquêtes lorsqu'elles révèlent des violations de la loi. Ils peuvent demander une régularisation, faire un rappel à la loi, ou dans les cas les plus graves dresser un procès-verbal transmis aux autorités judiciaires.
Ireland	The Inspectors are proactive in dealing with violations and cases are brought to Court/Legal Process as required.
Lithuania	Inspectors draw up the record of administrative violation of law and brings it to the administrative court.
Latvia	After the violations are observed and established, information about the illegally employed third-country nationals is given to the State Board Guards (SBG).
	Under the competence of the SBG there are two Articles of the Code of Administarative Violations that could be applied: Article 189 „Employment without the passport or permission to work" and Article 189[1] „Work without the permission to work".
	An administrative charge upon the employer is imposed.
Romania	When the labour inspectors find that the legal provisions have been breached, according to their competencies, they can apply contravention sanctions or can apprise the bodies of criminal investigation.
Slovak Republic	The Act on Labour Inspection also establishes the authorisation of the inspectorate to impose penalties for violation of these laws.
Do you consider the current approach to enforcement effective? Why /why not?	
Bulgaria	The control authorities meet difficulties with the identification of offenders.
Czech Republic	Main problem is a personal capacity. Otherwise it seems to be effective enough.
Estonia	Penalties for employers need to be reviewed and made more severe.
Finland	"Quite effective. Wider front established, because a range of bodies are involved in enforcement, are well aware of the tasks and activities of the other bodies, and often cooperate with one another."
France	Oui. Dès lors que la lutte contre le travail illégal présente un double aspect, préventif et répressif, et qu'elle est placée sous l'angle de l'interministérialité en associant l'ensemble des services de l'Etat et des organismes de protection sociale.
Greece	Further reinforcement needed: The main tool will be the Common Ministerial Decision (art.89 of Act 3386/2005) that will provide for the legislative framework so that the competent control mechanisms of Ministry of Labor and Social Protection can become more effective in the application of the labor and social insurance legislation being in force.[203]
Ireland	There has been evidence to suggest the need for increased enforcement and this is now being addressed through the establishment of the Authority.
Lithuania	From the low number of detected third-country nationals we can draw inference, that the current approach to enforcement is effective.

[203] CIA questionnaire

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
Malta	In 2003, however, the inspectorate section of the ETC was heavily criticised in parliament by a Labour MP, for finding too few violations. This was attributed to depletion of staff from the Law Compliance Unit and the lack of co-operation sometimes experienced with other departments.[204]
Slovak Republic	Yes
Slovenia	According to the head of the governmental commission for discovering and preventing undeclared work and employment, very good results in preventing and combating undeclared work have been achieved through the well-coordinated collective actions of the Labour Inspectorate and other agencies.[205]
Are current administrative and penal sanctions considered effective in discouraging the employment of illegally staying third-country nationals? If yes/no, why? Any changes to be proposed?	
Bulgaria	The amount of the current administrative sanctions is effective in discouraging the employment of illegally staying third-country nationals, but still there are problems related to implementation.
Czech Republic	The Czech Republic prefers administrative type of sanctions and focusing on both commercial and private employers, but it is important to act proportionally to their economical etc. situation and their position on labour market (e.g. adjust the amount of fine). However, administrative fines are not effective enough, when used solely. Preventive actions seem to be the most important measures, mainly when focused on roots of illegal immigration (on a concrete territory, push factors, informational level of would-be migrants, etc.), and on roots of preference of illegal employment by employers.
Denmark	According to the latest statistics the amount of illegally employed immigrants has declined. The number of reports and complaints against companies for using foreign labour without having the necessary valid documents in order has declined from 121 in the second quarter of 2005 to 62 in the second quarter of 2006.
Estonia	Current sanctions are not severe enough, especially for legal persons
Finland	CIA questionnaire: The legislation in force gives the authorities a good opportunity to monitor the right of people coming from third countries to reside and take up employment in the country. As regards the effectiveness and impact of current bills, no assessments can be made yet. In practice they do not, however, affect the work of the police, because responsibility for monitoring rests with labour protection authorities under the Customer Liability Act, and with fiscal authorities under the reforms in the tax law. From the crime investigation perspective, the most efficient way of combating illegal foreign labour and foreign labour working in the shadow economy is to target measures at the employers who employ illegal employees or operate in the shadow economy. In these cases, economic crime investigation is often carried out, and the most typical forms of crime are (aggravated) tax fraud or (aggravated) accounting offence. The investigation of such cases requires a good and effective cooperation between the police and fiscal authorities. It is particularly important to trace and confiscate the proceeds of crime the criminals have acquired through the use of illegal foreign labour or foreign labour in the shadow economy. See above Customer Liability Act, introduced in January 2007.
France	Oui. L'objectif est de décourager les employeurs d'embaucher des étrangers clandestins originaires des pays tiers. La loi du 24 juillet 2006 relative à l'immigration et à l'intégration renforce cet objectif.
Greece	The combination of measures aiming at the smooth integration of foreign workers in Greece with adequate legislative provisions applying sanctions to employers and workers contribute positively to the reduction of undeclared work. Nevertheless, what is needed is further reinforcement, both on the administrative level and in regard with the legislation application issue, of the control mechanisms in order to be more effective during their effort (see above). The main tool to this aim will be the Common Ministerial Decision (art.89 of Act 3386/2005) that will provide for the legislative framework so that the competent control mechanisms of Ministry of Labor and Social Protection can become more effective in the application of the labor and social

204 European Employment Observatory; Review autumn 2004. Chapter on "Thematic Overview: Fighting the immeasurable? Addressing the phenomenon of undeclared work in the European Union".

205 Thematic feature on Industrial Relations and Undocumented Work. Slovenia. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/si0406205t.html

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
	insurance legislation being in force.
Ireland	Ireland considers that the foregoing arrangements represent an effective deterrent and reduce the possibility for illegally staying third-country nationals of finding work.
Lithuania	According to the economy level, administrative sanctions for illegal work are strict. The Code of Administrative Violations of Law determines the fines: 3,000-10,000 Litas.
Latvia	The current sanctions are considered relatively effective, however in order to further improve the effectiveness, there are changes planned in the Administrative Offence Code, however it cannot be ascertained whether the issue of illegally staying third-country nationals will be involved.
Portugal	The consequences of the measures to reduce permanence of citizens in an illegal situation are not easy to account for. However, experience tell us that the application of economic sanctions to employers is an efficient measure to fight illegal immigration as, in one hand, is a form of inhibition for employers and immigrant manpower abusers and, on another hand, is a source of compensatory financial resources to bear the cost of the action against illegal immigration. We consider that sanctions of an administrative/economic nature are the most suitable to fight employment of foreign citizens in an irregular situation, rather than measures of a penal nature, and are those that best pursue a general and special prevention.
Romania	So far, the Authority for Aliens has not uncovered and sanctioned relevant criminal acts (e.g. facilitation). It is difficult to evaluate the efficiency of measures and sanctions available in the area, but if the sanctions are small (especially fines) and the authorities' checks are not continuously carried out, sanctions will not help in carrying out the general task: decreasing the possibility of third country nationals to find the opportunity of being hired without legal forms. The assessment of checks undertaken by the Office for Labour Force Migration at Romanian employers, who have employed aliens, relieved that there must be taken more severe sanctions than the current ones.
Slovak Republic	Yes
United Kingdom	As detailed in the answers above, the current legislation (section 8 of the Asylum and Immigration Act 1996) is due to be repealed and new measures (civil penalties, the new "knowing" offence) as introduced in the Immigration Asylum and Nationality Act 2006 are due to come into force in late 2007.
Political support for enforcement actions: Is the fight against undocumented / illegal work (in general and that of illegally staying third-country nationals in particular) a governmental priority?	
Czech Republic	Yes, of course. Government established a special body, mentioned above.
Estonia	Reducing the possibilities for illegal working has not been explicit governmental priority though it has always been very important subject.
Finland	Yes, it has been a governmental priority. This has been reflected in the range of policy and legislative measures that the current government put in place (e.g. Policy Migration Programme, Amendment to Act on Occupational Safety and Health Working Security, Amendment to Posted Workers Act). However, new elections and new government to arrive soon.
France	Oui. La lutte contre l'immigration irrégulière et le travail illégal constitue une priorité du Gouvernement.
Ireland	It is a Government priority as indicated in the latest Agreement with Social Partners, Towards 2016
Lithuania	Combating illegal work is the priority of the Government of the Republic of Lithuania. A special Commission which coordinates combating black economy was established under supervision of the Government.
Latvia	Yes, the fight against undocumented / illegal work (in general and that of illegally staying third-country

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
	nationals) is one of the governmental priorities.
Romania	In order to put into force the policies from immigration area, the Romanian National Strategy for Immigration was drafted.
Slovak Republic	There is wide political support for the fight against illegal work.
United Kingdom	Enforcement of the immigration laws are a Government priority. Illegal working operations are a key method used to detect and remove those who do not have the right to be/work in the UK.
How much of the successes (or problems) in relation to the enforcement do you attribute to the enforcement capacity?	
Czech Republic	It is very important for effectiveness.
Estonia	Sometimes it's difficult to prove that the employer is enabling illegal employment. It's not always enough to catch the person in the act of providing services. If the person claims to be "learning" or just "watching" then support and evaluation is required from the court.
Finland	The effectiveness of monitoring depends in practice on the resources allocated to monitoring.
France	Il est nécessaire de renforcer les moyens et les effectifs qui sont chargés de lutter contre le travail illégal.
Ireland	A good deal of success can be attributed to enforcement capacity.
Lithuania	Pursuing the control of illegal work State Labour Inspectorate notices to the most hazardous sectors (building sector, wholesale business and retail trade, garages). It helps to control illegal work more efficiently.
Latvia	Both the financial and human resources are appropriate to achieve results at present.
Romania	Every year, in order to put into force the Romanian National Strategy for Immigration, the appointed Inter-ministerial Group drafts an Action Plan, approved by Government Decision.
Slovak Republic	No, it is necessary personally strengthen the Labour Inspectorate
United Kingdom	Resources are an issue as they are in all Government departments.
In terms of the human and financial capacity of the enforcement body, are these appropriate or should they be increased / decreased? Why?	
Czech Republic	They should be increased, as mentioned above. Controls could be more frequent then.
Estonia	Human and financial resources need to be increased. Increase in financial resources will allow hiring of more competent staff.
Finland	The new unit established at the National Bureau of Investigation, the Surveillance Unit for Illegal Foreign Labour, and the new public offices at the labour protection districts have increased the resources for control and investigation. OSH: In 2005, 9 inspectors were hired specifically to inspect foreign labour in light of amendment to the Alien's Act in 2004, which included inspection of foreign employees' right to work.
France	Le Gouvernement vient de décider d'augmenter le nombre d'inspecteurs du travail. Over the years, there has been increased monitoring by the public services and the other bodies responsible: the URSSAF, for example, are supposed to devote 10% of their activity to workplace checks, a level they have gradually managed to attain (the number of such actions has risen by a factor of 3.3 in 10 years).206

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Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
Ireland	The number of Labour Inspectors is scheduled to increase from 31 to 90 over the course of 2007
Italy	The need is felt for the permanent training of inspectors, who are still insufficient in number (Italy has the lowest number of inspectors in Europe).
Lithuania	Till now illegal work of third-country nationals has not been a serious problem but in the future the number of third-country nationals might increase. Therefore, the human and financial capacity of the enforcement body is appropriate, but possibly it should be increased in the future.
Latvia	Both the financial and human resources are somewhat sufficient to achieve results at present. However, since the fight against illegal employment is one of the governmental priorities, it will be essential to increase the human and financial capacity in the near future.
Malta	In 2003, the capacity was criticised. With effect from October 2004, the staff complement in the Law Compliance Unit within the public employment service would be increased from six to ten inspectors. This was intended to increase infringement detection. Furthermore, in 2005, all Law Compliance Officers would be trained in investigative and reporting skills.[207]
Romania	Regarding the human and financial resources allotted to the Office for Labour Force Migration, there is a deficit for both segments. In this respect, 2007 Action Plan of the National Strategy for Immigration, actions in order to cover these deficits were foreseen.
Slovak Republic	The labour inspectors are widely considered to be too thinly spread around the country and their control activities are often regarded as insufficient.[208]
United Kingdom	The Government has recently committed to doubling enforcement capacity of the Immigration Service.
In Table 5 below we ask you to complete figures on enforcement. In relation to changes of financial costs (overall and for human resources), please comment on why increases / decreases have been made (or not).	
Ireland	Data not yet available.
Latvia	At the beginning of 2004 the Cabinet of Ministers accepted the guideline paper "On Measures to Combat Undeclared Work". Among other things it proposes more inspections by the State Revenue Service (SRS) and the State Labour Inspectorate (SLI) in industries and activities where the risk of illegal employment is believed to be high. The policy paper also proposes to increase the number of inspectors in the SRS and to devote more attention to he education and motivation of staff.
United Kingdom	E&R resources

Table A7.2 – Enforcement: qualitative information provided by enforcement bodies

Member State	Situation in the country
Please provide the name of the administrative body or unit which is responsible for the monitoring and enforcement of the regulations regarding employment of illegally staying third-country nationals.	
Czech Republic	The responsible body is the Czech Ministry of Labour and Social Affairs and the executive organs are the local labour offices.

207 European Employment Observatory; Review autumn 2004. Chapter on "Thematic Overview: Fighting the immeasurable? Addressing the phenomenon of undeclared work in the European Union".

208 Thematic feature: industrial relations and undocumented work: Slovakia. June 2004. http://www.eiro.eurofound.eu.int/2004/06/tfeature/sk0406105t.html

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
Finland	1) Surveillance Unit for Illegal Foreign Labour 2) Occupational Safety and Health (OSH) inspectorates 3) VIRKE project for the Development of Inter-Authority cooperation
France	There are several bodies responsible for control of the regulations regarding employment of illegally staying third-country nationals: the police, Gendarmerie, border police, labour inspectorate and the custom officers. DILTI is the body which coordinates the work of all these control bodies.
Hungary	The responsible body is the *Hungarian Labour Inspectorate* ('Országos Munkavédelmi és Munkaügyi Főfelügyelőség', lit.: 'National Inspectorate General for Work Safety and Labour'). Within the Inspectorate, a separate Unit for Labour supervision, and regional devolved supervision units are responsible for the above tasks.
Italy	*In Italia, l'organo amministrativo che si occupa del lavoro attinente gli extracomunitari è il Ministero del Lavoro e della Previdenza sociale. Nel particolare, all'interno del Ministero due sono le Direzioni Generali che si occupano di tali soggetti: la Direzione Generale del mercato del lavoro, per quanto riguarda i flussi migratori; la Direzione Generale per l'attività ispettiva per quanto attiene al controllo e alla verifica della corretta applicazione della normativa sugli extracomunitari con i conseguenti aspetti sanzionatori e ispettivi. Tale Direzione coordina gli uffici dislocati su tutto il territorio nazionale (Direzioni provinciali del lavoro situate in ogni capoluogo di provincia e Direzioni regionali del lavoro situate in ogni capoluogo di regione).*
Latvia	The State Border Guard of the Republic of Latvia (ENG: http://www.rs.gov.lv/?setl=2) is the primary enforcement body. The State Border Guard in cooperation with the State Labour Inspectorate (SLI) (ENG: http://www.vdi.lv/index.php?lang_id=2) carries out inspections in the work places since 2004. An official cooperation agreement between the two institutions exists since 14 June 2006. Labour Inspectorate is responsible for the monitoring the situation and enforcing the low concerning legal contracts to work. The State Border Guard is dealing with the rest of the issues (from the immigration and employment point of view).
Latvia2	The State border guard has nine Territorial Boards, which oversee some 30 Immigration departments in the regional cities. These are the bodies responsible for the Inner State affairs and thus also for the employment checks. The Immigration Services of the Territorial Boards are responsible for the enforcement and these efforts are coordinated by the Central Board under Chief of the State Border Guard.
Netherlands	Arbeidsinspectie, Directie Arbeidsmarkt Fraude
Spain	Labour and Social Security Inspectorate
Slovakia	The National Labour Inspectorate (Narodny Inspektorat Prace http://www.safework.gov.sk/) and its executive bodies. The executive bodies are eight Labour Inspectorates (one per region).
Is this body under the auspices of any government department (which?) or is it an independent authority?	
Czech Republic	Labour offices are under the auspices of the ministry of labour.
Finland	1) part of the National Bureau of Investigation, which is a national unit of the Finnish Police. 2) Department for Occupational Safety and Health, under ministry of Social Affairs and Health. 3) Overall responsibility: Ministry of Finance
France	The DILTI is under the auspices of the Prime Minister.
Hungary	The Inspectorate General may be regarded as a semi-autonomous authority. It is not subordinated to any Government department, but reports to the Minister for Social Affairs and Labour.
Italy	*Come già specificato al punto 1) questa Direzione Generale del Ministero del Lavoro e della Previdenza sociale si occupa di coordinare gli uffici territoriali programmando gli obiettivi strategici e politici fissati con direttiva annuale del Ministro del Lavoro, per l'intervento ispettivo sul territorio, quale ad esempio la lotta al lavoro nero*

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
	e agli infortuni sul lavoro.
Latvia	State Border Guard - under the subordination of the Ministry of the Interior
	Labour Inspection - under supervision of the Ministry of Welfare
Latvia2	State Border Guard is under the subordination of the Ministry of the Interior.
Netherlands	Ministerie van Sociale zaken en Werkgelegenheid = Ministry of Social Affairs and Employment
Spain	This authority is part of the Ministry of Labour and Social Services and works both nationally and locally
Slovakia	The National Labour Inspectorate is under the auspices of The Ministry of Labour, Social Affairs and Family.
Is coordination and cooperation required? (i.e. are several government departments or other authorities involved?) Is there any legislative framework that structures this coordination?	
Czech Republic	Coordination between the labour offices and the customs police is required in order not to duplicate tasks. There is an inter-ministerial body for the coordination of issues related to illegal employment of foreigners. This body involves the Ministry Labour, Ministry of Interior, Ministry of Finance, Ministry of Industry and Trade.
	All these bodies cooperate also at the level of regions – for example the labour offices, with the tax offices and the trade registers. However coordination is not always simple.
Finland	1) The unit cooperates closely with local police and other authorities, various agents of business life and with trade and employers' associations. Cooperates with OSH and tax offices on 10-20 joint investigations / per year.
	2) Cooperates with NBI and tax offices on 10 to 20 joint investigations per year.
	3) 'This project was set up on the basis of the idea that the fight against the informal economy and economic crime would be more effective if cooperation between different authorities was developed.' (PIELAMI report, pg. 20). The team includes: representatives from police, taxation, customs and distraint authorities.
France	Since its creation in 1997, the DILTI works under a clear legislative framework which sets up the cooperation between the various bodies, the role of each body and the tasks of the DILTI in the fight against illegal work.
Hungary	Cooperation is required by legal act on the supervisory activities concerning immigrants. A joint Ministerial Order (from the ministers responsible for the interior, finances and labour) obliged the Police, the Border Guards, Hungarian Customs and Finance Guard, and the Inspectorate General to cooperate in the fight against illegal immigration, all acting within their respective range of competence (e.g. the police concerned with human trafficking).
	Cooperation covers joint actions and a well-established exchange of information (including information on violators, on experience from on-the-spot checks, etc.), effecting in the development tools like the setting up of migrants' maps. E.g. there is day-to-day communication with the Border Guards, and opportunities for requesting ad-hoc help exist. The cooperation between the bodies had already been studied within an EU initiative, and was considered unparalleled and best practice (as labour inspectorates do not participate in these kind of cooperation elsewhere).
	There are examples of cooperation that is not required by regulations. One example concerns the county and regional labour centres (issuing work permits): they provide information in relation with work permits requested for foreign nationals. This information is mainly used to devise the annual work programme for supervisions, or to initiate on-the-spot checks when fraudulent practices are suspected.
	Cooperation with the Unit for Work safety within IG is also done (meaning joint actions from time to time, and notices on malpractices detected).
	There is also some cooperation with the national tax office.
	In addition, the IG also participates in international cooperation, covering mainly duties under the 'Posting of Workers Directive'. Dr. Zara is the liaison officer for Hungary.

Table A7.1 – Enforcement: qualitative information provided by Member States

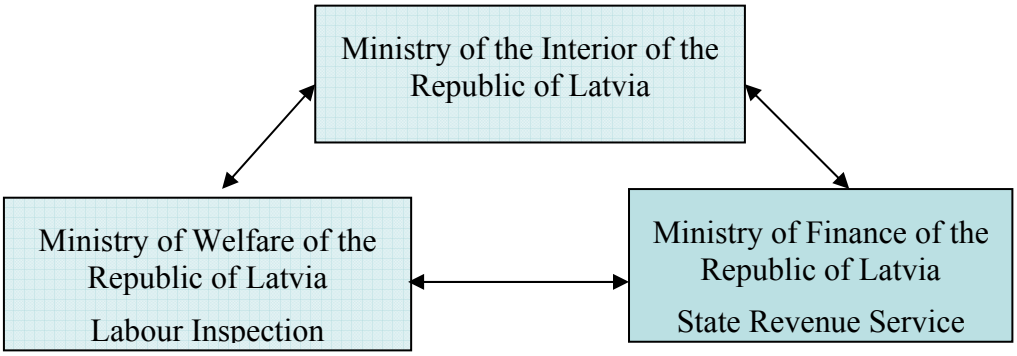
Member State	Situation in the country
Italy	*Trattandosi di sanzione penale sono gli agenti e gli ufficiali di polizia giudiziaria che, a vario titolo, effettuano gli accessi ispettivi nei vari luoghi di lavoro. Per gli ulteriori profili di natura lavoristica e previdenziale, sono competenti, invece, gli ispettori del lavoro che investono gli Enti previdenziali, INPS (Istituto nazionale previdenza sociale) e INAIL (Istituto nazionale Infortuni sul lavoro) per il recupero contributivo e dei premi assicurativi.*
Latvia	Yes, coordination and cooperation is required and advisable; Tax administration, Labour Inspection, State Border Guard - the authorities, which are involved in cooperation; Agreement of cooperation between Labour Inspection and State Border Guard
Latvia2	The State Border Guard undertakes inspections with other institutions involved in the enforcement process, mostly together with the Labour Inspectorate. The State Border Guard and its Immigration Services cooperate with State Police (cooperation agreement on information sharing signed December last year). All institutions have access to each others databases and if one discovers some breach of law in the field of competence of the other, this respective body is informed. The State Border Guard also has an institutional agreement with the Labour Inspectorate which foresees information exchange and meetings at least once in three month (Interagency agreement Nr. 58 was signed on July 4, 2006) The Border Guard cooperation in the field of employment control: 
Netherlands	Yes, coordination and cooperation occurs with the tax authority (Ministry of Finance), de 'vreemdelingendienst' (=immigration/foreigners service) which is located in the Ministry of Justice and that of Internal Affairs and towns/cities. Two types of enforcement actions take place: (1) those that are initiated by the unit – specific sectors and businesses are targeted – and (2) those that are requested by cities/towns. An 'interventiedienst' ('a service of intervention') is set up in the latter cases, which consists of inspectors of the Directie Arbeidsmarkt Fraude, tax authority, policy, representatives of local public services, etc. Normally, this intervention team comprises 10 persons and allows the companies under inspection to be assessed in a number of areas / legal requirements. 40% of the unit's capacity is allocated to the organisation of actual enforcement operations / actions. This is preceded by discussions at the national level of which problem areas – particular sectors, businesses and requests from cities – will be responded to. There is no legal framework that regulates this coordination and cooperation. However, there are written agreements – 'convenanten' as they are coined. Proposal for intervention teams have to go through a procedure for their approval by political power.
Spain	The situation of illegal workers in Spain is handled by the Ministry of Labour and Social Affairs because they are in charge of developing government politics on foreigners and immigration. The Labour Inspectorate is in this body, as previously discussed. The Ministry of Interior is also involved in foreign affairs issues and they have the power to execute penal charges. This inspectorate is only involved in the administrative process, not the penal.

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
Slovakia	The National Labour Inspectorate cooperates with the Centre for Labour, Social affairs and Family (UPSVAR) and the Social Insurance. UPSVAR is the head-office of the local labour employment offices. Both UPSVAR and the Social Insurance have information and data which are additional to the information and data of the Labour Inspectorate.
	There is no legislative framework which structures this cooperation.
When was this administrative body or unit set up?	
Czech Republic	Labour offices were set up in 1991. The customs police in 1991. The above mentioned inter-ministerial body was set up in 2000.
Finland	1) 2004. The project was given a mandate of five years which is scheduled to expire at the end of 2008.
	3) set up in March 2000 and will continue to the end of 2008.
France	In 1997.
Hungary	The Inspectorate General was founded in 1993. The labour supervisory function, including tasks related to illegal employment of immigrants was deployed to the IG by Act No. LXXV of 1996, coming into effect from 1 January 1997
Italy	*La Direzione Generale per l'attività ispettiva, che coordina l'azione del personale ispettivo, è stata creata con il Decreto legislativo n. 124/2004 che all'art. 2, comma 1, espressamente prevede: "Presso il Ministero del lavoro è istituita, senza oneri aggiuntivi per la finanza pubblica, , con regolamento emanato ai sensi dell'art.17, comma 4bis, della legge 23 agosto 1988 n.400, e successive modificazioni, una direzione generale con compiti di direzione e coordinamento delle attività ispettive svolte da soggetti che effettuano vigilanza in materia di rapporti di lavoro, di livelli essenziali delle prestazioni concernenti i diritti civili e sociali che devono essere garantiti su tutto il territorio nazionale e di legislazione sociale, compresi gli enti previdenziali..".*
Latvia	Labour Inspection – 2005, as regards illegal employment.
Latvia2	Immigration Police has existed already some 15 years. The Immigration Services in the regions exist since 2003.
Netherlands	Labour Inspectorate: 1890. Current form / structure: 2003. Since 1979 illegal employment has become to the attention / a particular focus of the organisation. In 1995, current law regarding the employment of illegally staying third-country nationals was adopted.
Spain	This body originated with the Social Reforms which dated 1 March 1906.
Slovakia	The National Labour Inspectorate was set up in 2000 and it replaced the Office for Labour Safety.
Is the sole task of this body or unit to check illegal employment, or does it also deal with other employment issues (as, for example, laid down in employment legislation / labour law)?	
Czech Republic	Currently labour offices have various responsibilities, such as controlling the employment situation in the region, registration of unemployed, implementation of active labour market policies, etc. In relation to foreigners they issue work permits.
	They used to be responsible for controlling implementation of employment legislation but this is currently under the responsibility of Labour Inspectorates.
Finland	1) Aimed at monitoring and preventing the use of illegal foreign workforce. In practice, the cases under investigation involve economic crime, such as (aggravated) tax fraud. Two tasks: expose informal economy crime based on Police Act + conduct pre-judicial inquiries.
	2) PIELAMI report, pg. 18: 'The OSH Administration supports employers and employees to improve working conditions and

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
	fulfil employment obligations as well as integrate occupational safety and health into other activities of the workplace.'
	3) Tasks (PIELAMI report, pg. 20):
	- 'distribute information on economic crime to different authorities in order to support their control activities;
	- maintain a general picture of the economic crime as well as evaluate effectiveness of control actions;
	- make initiatives to improve legislation and authority cooperation;
	- develop methods to prevent economic crime.'
France	The DILTI coordinates the work of all the control bodies. It has also a role of technical and methodological support: for ex., it produces guides on how to undertake and inspection or an interview. The body provides also training for officers
	The DILTI deals with illegal employment in general (not only of third country nationals). The body deals with all types of infringements concerning employment issues.
Hungary	The IG is also responsible for supervisory activities connected to Work safety, and also for the monitoring and enforcement of other regulations of employment legislation.
Italy	*La Direzione si occupa di tutti i profili di tutela delle condizioni di lavoro e previdenziali nonché alcuni aspetti sulla sicurezza del lavoro.*
Latvia	In accordance to "State Labour Inspection Law" (Sect 3, part 1) the task of the Labour Inspection is to take measures to ensure effective implementation of State policy in the field of employment legal relationships generally.
	Labour Law and other regulatory enactments regulate employment legal relationships between employers and employees if their mutual legal relationships are based on an employment contract. There are no specific rules as regards the third – country nationals.
	As concerning Labour Law, it does not deal with illegally staying third-country nationals. Therefore, monitoring and supervision of illegally staying third-country nationals, regarding employment, is not the task of the Labour Inspection. Labour Inspection also deals with the other employment issues, for example, health and safety at work, supervision of dangerous equipment.
Latvia2	In the context of the inspections the Border Guard has a primary competence in all that concerns illegal employment of foreigners. The contractual issues are in the competence of the Labour Inspectorate.
	Other responsibilities
Netherlands	It is mainly concerned with illegal employment and respect / adherence to the Aliens Act. An additional focus, to be introduced through a law which will be approved in Parliament next week, is the enforcement of a law regarding minimum wages. This issue is of particular relevance to Poles, which are often underpaid. This law is to enforce workers' rights to minimum wages. Previously, the labour inspectorate could inform the employee that s/he did not receive the minimum wage, but it was the employee who was to charge the employer. The new law will allow labour inspectors to impose fines directly on those employers who do not provide minimum wages for their employees. Effectiveness will have to be tested in practice.
	In NL, workers have the right to a minimum wage. Employers can also be obliged to pay the renumeration s/he is still owes to employee.
Spain	This department monitors labour law including health and safety legislation, immigrant working, and unemployment. The department is also involved in mediation and arbitration.
Slovakia	The Labour inspectorates are regulated by the law 125/2006 on labour inspection.
	The main tasks of the labour inspectorate are:

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
	To control the compliance with labour regulations
	To control the compliance with regulations on health and safety at work
	To control the observance of collective agreements
	To control the compliance with the regulations on illegal employment
	International cooperation
	Juridical advice to employers as well as to individuals
How are these enforcement actions organised?	
Czech Republic	Actions are often organised in cooperation with customs police. Customs police is an armed body and labour offices controllers appreciate being accompanied by customs police.
	The controller(s) present themselves at the work place with permission for a control. In case illegal employment of foreigners is observed a protocol is signed and a legal procedure is launched.
	Employers can be fined up to 2.000.000 CKK (69.000€). Illegally employed foreigners are fined 10.000 CKK (340€).
	The decision on the financial sanction is up to the controller.
Finland	1) Main target areas: ship building, construction, hotels and restaurant. It 'carries out a limited number of on-site inspections of informal labour enterprises in which they also check workers for permits. These inspections are usually based on criminal suspicion.' (PIELAMI report, pg. 19)
	2) Sectors targeted: construction, hotels and restaurants, cleaning, and the metal industry. No inspections of private households. OSH carries out on-site inspections to check the working conditions and terms of employment of employees according to Finnish regulations. 'Inspections are random or based on hints from other companies, the police, tax authorities, etc. (PIELAMI report, pg. 18)
	3) 'It collects, analyses and distributes intelligence to different authorities, including information related to foreign labour and the practices of foreign companies working in Finland, for example. In particular: focus on tax evasion of employees and companies registered abroad but working in Finland. ' (PIELAMI report, pg. 20) Disposes of tax database, which it can draw upon when tips are received.
France	Enforcement actions are organised at department level through coordination meetings with the prosecutors. Also, informal contacts between the responsible bodies are an effective way to organise enforcement actions.
Hungary	The IG performs the majority of the checks on the basis of an annual work programme, defining 'emphasised supervisory tasks', which take into account the priorities as set by the Minister and last year's lessons (reflecting an analysis of risk). The work programme is prepared by the central units, and forwarded after adoption to the regional bodies. They assemble their respective work plans on this basis, but introducing also regional specificities. Larger-scale central on-the-spot check actions are initiated by the central units.
	Other, specific checks are carried out when requested by the competent authorities, or on the basis of complaints (reaching several thousand per annum).
	The on-the-spot checks may include members of other bodies (e.g. Border Guards).
Italy	*Gli ispettori del lavoro svolgono la propria attività ispettiva in base ad un programma che viene fatto settimanalmente dall'ufficio di appartenenza. In tale programma vengono indicate le ditte da ispezionare, con i relativi indirizzi, che si trovano ubicate all'interno della propria Provincia.*
Latvia	According to the State Labour Inspection Law, the SLI officials (SLI director and the inspectors of all levels) have the right upon showing their work card to visit a work place, request information, carry out an inspection, demand documents and make measurements of environmental factors without prior notice or reception of permission in any time of the day also in the absence of employer or the employee responsible for the dangerous devices.

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
	To acquire documental prove on the breach of Law, the control is carried out simultaneously by two or more inspectors – one visiting the work place (e.g. a construction site) and the other the office of the employer. Wile the fist is checking the workplace situation and asking questions to particular employees on the location, the second (also upon receiving a particular indications from the first) may verify data on the workplace and contracts/documents on these people in the office.
	The information on possible breaches of Law is received though applications (employers are required to inform the Borger guards of any illegal workers in a written form), anonymous calls, cooperative inspections together with State Board Guards, usage of the data base from Tax Administration.
	Most recently, efforts have been intensified in the fight against "envelope wages".
Latvia2	The information and inspection plans are shared though meetings and though different databases. The inspections also may come as a result of controls carried out by other institutions that have revealed suspicious irregularities.
	The process of the inspection depends on the type of the object and the intelligence on the severity of possible breaches of the law. Depending on these conditions the inspection may vary from questioning of the employer to the surrounding of the work site.
	Most of the time, however, the border guards simply ask employers questions concerning their employees. The site is searched only if there is some suspicion of illegal employment of foreigners.
Netherlands	See above.
	In addition, the administrative unit receives notifications from employees and trade unions.
	Inspectors are allowed to enter companies and to ask employees to identify themselves.
	Trade unions and employer organisations are contacted and informed/ consulted regarding upcoming enforcement actions.
	Note: employers often complain about the lengthy and cumbersome procedures they have to start / engage in in order to obtain work permits for foreigners. For some foreigners, the procedures have been simplified, for example, for those coming from EU Member States. Although employers complain about the lengthy administrative procedures and ask them to be simplified, they do agree that those who engage in illegal employment have to be punished as they foster 'false competition'.
Spain	Until recently these enforcement actions were only based on reporting but now there is an element of prevention.
Slovakia	Enforcement actions are either initiated by the work programme or based on citizens' incentives. The Labour inspectorate has a work programme which contains names of companies to be inspected in a given period.
	When the labour inspector presents himself in a company, he/she specifies what are the reasons for the control. The inspector can undertake a control o several areas under the responsibility of the inspectorate at the same time. It should be noticed that illegal employment is always being checked.
	Based on the materials (documents and eventually testimonies) she/he observes a contravention or not.
	If not a report is written.
	If yes a protocol is written. The employer has a set period to express his/her comments to the protocol. If comments are presented they are expressed in the protocol.
	The protocol is a basis for the sanctions.
What data inform them, if any (e.g. research)? Are particular sectors or businesses targeted (if yes, why these)?	
Czech Republic	Controls are executed on basis of:
	action plan
	individual denunciations
	Each labour office has its own action plan. These are based on previous experience and on the knowledge of the employment

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
	situation in the region. The targeted sectors are those where prior controls showed the most success rate (e.g. construction or wood industry).
Finland	See above
France	Enforcement actions are based on researches and field work of the INSEE (national statistical institute) as well as of the DILTI itself. Four sectors are particularly targeted: the construction, agriculture, Horeca and "spectacle".
Hungary	The IG uses a sizeable internal database, including data on companies, structured by legal form, sector, employee number, etc. The database is used when establishing the work programme, and for the sampling exercise. Previous years' experience, as well as information from the Labour Centres is mostly considered in establishing the work programme. There are sectors and businesses emphasised, defined in the annual work programme (outlined in the Minister's priorities). This is also based on experience of previous years. Currently, illegal employment is the core priority, with construction, agriculture, retail, and hospitality are the sectors emphasised. Companies that were previously found to offend against regulation may be subject to repeated checks.
Italy	*I programmi di cui al punto precedente vengono stabiliti dall'ufficio in base sia alle direttive impartite dalla Direzione generale per l'attività ispettiva, sia in base alle esigenze del territorio che necessita, a volte, di intensificare la vigilanza in settori particolari, sia infine su richieste di intervento provenienti dalla denunce di lavoratori.*
Latvia	Applications, anonymous calls; usage of the data base from Tax Administration; Inspections together with State Board Guards; Building and construction, agriculture, wholesalers, hotels/restaurants, woodworking (because the majority of illegally employed workers are in these branches).
Latvia2	Particular sectors targeted are construction, ship building (recently there were Bulgarian workers found working illegally as ship builders, while they were registered as sailors), US citizens in sports industry, the heads and managerial staff in firms (which is often hired from abroad), language teachers, etc.
Netherlands	Decisions for targeting particular sectors or companies or for responding to requests from towns through intervention teams are based on (a) past experience of the labour inspectorate and (b) risk analyses. Such employment tends to take place in relation to / in the sectors of the labour market which draw upon unskilled labour, manual labour, where the cost of wages constitutes a primary element / is the primary determinant of the cost of products and where the employer seeks to depress wages through the use of irregular work. Sectors: Construction, catering, horticulture, etc. Employment agencies. Old city districts, where small – and struggling – companies are based.
Spain	In Spain the underground economy is especially prevalent in the agricultural, hospitality/tourism, construction, textiles, confectionary, toys and domestic service and homeworking sctors. In general irregular working is more common in small business and also business that lend themselves to subcontracting. Because Spain is separated into Autonomous Communities it is important for the Inspectorate to work as much as possible with local authorities in various sectors. For this reason they use the following methods to prevent irregular working: -checking companies track records for illegal working -the participation of many team leaders in the Inspectorate who know about issues of fraud in different areas of Spain -the participation of local authorities who are knowledgeable about the labour and social security issues for foreigners in their regions -the participation of various planning bodies that work directly with the sectors that have higher indices of illegal workers

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
	(construction, hospitality, etc.)
	-information requests from local authorities around licensing of business in different sectors and any information about their detection of illegal working
	-consulting trade unions, professional associations and local social agencies
	-Consulting local NGOs especially those that work with foreigners to obtain additional information on areas of fraud
	-revising any press articles
	-going over any studies conducted by local social agencies.
Slovakia	An inspection may be undertaken based on a citizen complain or based on the work programme.
	When a contravention is observed the employer is always controlled again to check whether the contravention has been removed.
	The sectors where illegal employment is most frequent are: Construction, Industry and Catering and Hotel business.
Are on the spot checks undertaken both at work places which are legal entities and in private households?	
Czech Republic	Labour offices can only undertake spot check in work places.
	But in cases of serious suspicion of illegal employment in private households controls can be organised in cooperation with police.
Finland	Yes, at work places, but not in private households.
France	Yes. Nevertheless, spot checks in private households have to be previously authorised by the landlord or on demand of the public prosecutor. The DILTI can ask for such an authorisation.
Germany	Controls can only take place at work places. Controls at households are forbidden.
Hungary	Employers not being legal entities may also be subject to on-the-spot checks. These would e.g. relate to illegal employment in garden work, orchards.
	Household helps may also be subject to the supervisory activities, but the IG is not allowed to enter and check private homes. On some cases, the police or the Border Guards (authorised to enter) would ask them to participate.
Italy	*Le ispezioni avvengono, di regola, con un accesso sui posti di lavoro che, a seconda del settore merceologico ispezionato, può essere la sede legale della società oppure semplicemente in luogo di lavoro in cui si svolgono i lavori (es., in edilizia le ispezioni avvengono nei cantieri di lavoro e non nella sede legale della ditta).*
Latvia	At work places only
Latvia2	Border guards also have the right to enter private households (the present law is being changed to more specifically establish these rights). These inspections are rare and the intelligence on possible breaches of law comes mainly from the Invitations database. Checks are carried out to determine who is invited, what are the aims of the visit and how do these correlate to other factors (like seasons, destination and other intelligence).
	In these inspections border guards mostly talk with the person who has invited the people to establish possible irregularities related to the say of the invitees. For the inspection in a private household border guards usually require the permission of the owner, although this is not a condition laid down by law. The owners of the propriety usually consent to such inspections, as their not doing so would cause even more suspicion.
Netherlands	Yes. In relation to checks of private households, the inspector has to be granted the authorisation to do so, either by a member of the household or by a 'justice officer' who grants a written authorisation to enter / search the property. The labour inspector wil have to demonstrate to the 'justice officer' that s/he has a suspicion that illegal employment is occuring. Interviewee comments that it is reasonably easy to obtain such authorisation.

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
Spain	Effectively the department has the ability to enter workplaces as they wish to conduct an investigation. However, one limiting factor is that the department does not have the right to enter private homes. As much illegal working, with respect to home working and care giving occurs in the home, this creates a problem for inspection.
What happens when inspectors observe violations of regulations?	
Czech Republic	As said above a protocol is signed and the legal action is launched.
	Typically a fine is applied. Illegally working employees have to stop working. They may be expulsed from the country but only if other violations are observed, such as lack of residence permit.
Finland	1) The unit conducts ‚pre-judicial inquiries through real time crime investigation based on Criminal Investigations Act and Coercive Measures Act to expose tax offences, accounting offences, money laundering and more' (PIELAMI report, pg. 19).
	2) After each on-site inspection, the inspection officer writes an inspection report. Employers are provided with a list of requirements they must meet. OSH inspectorate then makes follow-up visits to supvervise compliance. If no compliance: sanctions imposed. (PIELAMI report, pg. 19)
France	Inspections lead to two different actions (depending on the gravity of the facts):
	-The employer can receive an "appeal" for regularisation of the employee.
	-A criminal prosecution is started against the employer
Hungary	When offends are detected, an administrative procedure begins immediately. The inspectors set up an official protocol on-the-spot. They are authorised to call on all concerned persons to prove their identity and to question them, to copy or even to seize documents, to make audio or video recordings.
	A the end of the procedure, a decision is made by the competent regional body. Appeals may be directed towards the central Unit for Labour supervision.
Italy	*Gli ispettori, al momento dell'accesso, verificano i lavoratori presenti sul luogo di lavoro controllando i libri obbligatori, i libri paga e matricola, in cui sono registrati tutti i dati necessari all'identificazione dei lavoratori in regola. Nel caso in cui verificano che ci sono delle inadempienze da parte del datore di lavoro, in quanto ha omesso di assumere regolarmente la manodopera occupata, l'ispettore predispone un verbale di contestazione/notificazione con il quale viene quantificata la sanzione pecuniaria da irrogare al trasgressore. Da questo momento in poi prende vita la procedura esecutiva di riscossione della sanzione (Legge n.689/81). La materia della tecnica ispettiva richiede forse un approfondimento anche alla luce del D. Lgs. n.124/04 che ha introdotto delle sostanziali novità in materia ispettiva. Si rinvia, pertanto, se ritenuto utile da codesta Commissione Europea, di specificare ulteriormente gli istituti riguardanti la tecnica ispettiva. Nel caso in cui il personale ispettivo trovi sul luogo di lavoro, persone extracomunitarie prive del permesso di soggiorno e non regolarmente iscritte nei libri obbligatori provvederà a: 1) denunciare, con rapporto, all'autorità giudiziaria la notizia di reato ai danni del datore di lavoro che ai sensi dell'art. 22, comma 12, D.Lgs.286/98, così come modificato dall'art. 18 della Legge 189/2002 "occupa alle proprie dipendenze lavoratori stranieri privi del permesso di soggiorno…, ovvero il cui permesso di soggiorno sia scaduto e del quale non sia stato chiesto, nei termini di legge, il rinnovo, revocato o annullato". La pena è quella dell'arresto da tre ad un anno e dell'ammenda di 5.000 euro per ogni lavoratore impiegato; 2) fare rapporto agli istituti previdenziali per il conseguente recupero contributivo.*
Latvia	Information about illegally employed third-country nationals is given to the State Board Guards. Administrative charge is imposed on employer.
	For the employment without the work contact an employer who is a civil person may receive a fine up to 350 LVL for the first breach of law and up to 500 LVL for the second breach within one year. An employer, if a legal entity, may have to pay up to 1000LVL for the first instance of illegal employment and up to 5000 for the second. The amount of the administrative sanctions is not proportionate to the number of illegally employed.
Latvia2	Nothing happens with the illegal workers nor with the employers providing them with work. They both receive administrative fines. There are no cases of expatriation due to illegal work. There are two possible scenarios – the first, illegal workers and employers complete the necessary documents to regularise the situation, or second,

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
	the person who has been employed illegally leave the country. The cooperation with the Immigration departments of the cities helps to assure these situations receive the necessary follow up. There is also a possibility to annul the visa for the person illegally employed, but there have been no such precedents so far. The Articles in the Latvian Administrative Infringement code relating to the Border Guard and the administrative sanctions for illegal employment state: Article 189.pants. "Employment without passport or work permit" - For hiring a person, if he or she does not posses a valid passport or birth certicfivccate (if the person is younger than 16), a fine of 50 to 150 LVV is charged. - For employment of one or several persons (until the total of five), if the person does not have work permit that is required by the normative acts, fees of 100 to 300 LVL are charged for the civil persons and for legal entities from 500 to 10000 LVL. - For the employment of more that five persons, if they do not have work permit that is required by the normative acts, fees of 300 to 500 LVL, but for legal entities from 2500 to 10000 LVS are charged. Article 189.1 "Working without work permit" For working without work permit that is required by the normative acts, fees of 100 to 500 LVL are to be charged.
Netherlands	The inspector writes up a 'boeterapport' (= fine report), the observations and findings (which include the story / viewpoint/ defense of the employer, of the employees who act as witness, additional information acquired through the Centre for Work and Income), and subsequently sends the rapport to the authority / administrative unit which imposes the fines: 'Afdeling Bestuurlijke Boete'. They demand from the employer to pay the fine. The employer has two weeks to defend the case and to start an appeal. No criminal justice involved ('Bestuursrecht, geen strafrecht'). Fines consist of 8,000 Euro per illegally employed foreigner. 'High amount'. In the past, until January 2005, all cases were sent to the criminal court and fines normally amounted to less than 1,000 Euro. That procedure and that level of fine was considered too low for such a serious violation of regulations. If the employer offends again within 2 years: 12,000 Euro per illegally staying third country national employed. If the employer offends a third time, s/he is sent to the criminal where s/he risks imprisonment ('hardly ever happens'). If employment agency involved, both employer and employment agency receive fines. Excuse that the employer did not know that employment agency engaged such (illegal) actions is not considered valid. If an employment agency offers labour at 60% of the price /wages that the competitor offers, then an alarm bell should go off...
Spain	They sanction employers where there are illegal workers.
Slovakia	If a contravention is observed the inspector: Verifies that it is ceased/ removed – in case of illegally employed third country nationals this means that the person stops working in the work place. Can apply a sanction – in case of illegal employment this can only be a fine. Fines can go up to 1.000.000 SKK (approx. 28.000€). But usually they are between 10.000 and 60.000 SKK. The interviewee mentioned that the highest fine he came across was 100.000 SKK. The sanction is based on the number of people affected/ for how long/ what is the problem.
Do employers of illegally staying third country nationals often (or rarely) hire more than one such irregular worker?	
Czech Republic	Yes. The proportion of illegally employed foreigners among the total number of controlled employed foreigners is usually 1/5 to 1/3.
Finland	Yes
Hungary	In about 70% of the cases, the offence may be regarded as done intentionally with the purpose of violating the law, with none of the third country nationals having a work permit. In 30% of cases, the violation rather originates in negligence: some of the workers have permits, others are overdue, or not covering the specific

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
	activity in question. But legal liability is objective in this case, negligence does not prevent from the fines.
	Repeated offends by private persons are very unlikely, as fines are very retentive. Companies may repeatedly employ illegally staying third country nationals.
Italy	*Dai dati in possesso della scrivente Direzione, risulta che gli organi ispettivi hanno accertato lavoratori irregolari senza il permesso di soggiorno pari a n. 4.965. Occorre precisare che si tratta di un dato complessivo riferito all'anno 2006, pertanto non è possibile stabilire la dinamicità e periodicità con cui un datore di lavoro occupi tale personale.*
Latvia	No information
Latvia2	Have to see statistics.
Netherlands	Average number: 2,7 employees. In 70 % of violations: 1 employees, in another 30: 2 employees. Exceptions: up until 20 employees.
Spain	It depends on the case. The do not have figures on the numbers but anecdotal evidence points to it being common that companies hire various illegal workers from the same country.
Slovakia	Most frequently contraventions concern 2-3 people but in some cases it can be much higher.
Do you consider the current approach to enforcement effective? Why /why not?	
Czech Republic	Globally it is effective, but it could be improved by better human capacity of labour offices and better exchange of information among the different bodies (e.g. social security, tax offices, etc.).
	Ideally two controllers in labour offices should be dedicated to the control of illegal employment of foreigners. This not so for the moment.
	When labour inspectorate overtook some of the competences of labour offices the numbers of controllers were brought down.
Finland	"Quite effective. Wider front established, because a range of bodies are involved in enforcement, are well aware of the tasks and activities of the other bodies, and often cooperate with one another. "
France	The current approach is effective. Nevertheless, the effectiveness of exchange of information between the control bodies could be enhanced.
Hungary	The approach is considered to be effective. Fines are retentive. The still inadequate capacities (although stepped up by 100 new staff the end of 2006) are the bottleneck: only 5-6% of employers are checked in a year, which is lagging behind the EU's figure of 15-18%.
Italy	*Il sistema ispettivo italiano si basa su una organizzazione complessa ed anche completa, in quanto il personale ispettivo è altamente qualificato e si occupa di verificare la corretta applicazione di tutte le leggi in materia di lavoro. Questa complessità porta alla necessità di formare e aggiornare costantemente gli ispettori sia con elementi di teoria, sia con elementi di tecnica ispettiva. Questa Direzione Generale si occupa anche di questi aspetti inviando agli uffici circolari esplicative sulle nuove normative, ovvero circolari esplicative sull'affinamento della tecnica ispettiva (all'uopo è stato istituito anche un codice di comportamento degli ispettori) al fine di rendere non solo omogeneo e uniforme l'attività ispettiva svolta dal personale presso gli uffici, ma anche per rendere più efficace ed efficiente l'intervento ispettivo su tutto il territorio nazionale.*
Latvia	The existing regulations don't allow to detect the fact of illegal employment as such, because there are no complete regulations as concerning to identifying the workers.
	Efficiency is diminished by the lack of connection between number of illegal persons employed and the amount of the administrative sanctions (e.g. fines may be the same whether a person employs 100 or one illegal worker, although instructors do consider to the extent possible the severity of each individual case).
Latvia2	It is hard to say. Of course there could be ways of improving the information exchange between the institutions. Such possibility always exists. The biggest problems of illegal work are with the representatives of those countries that already are in the EU. Lithuanians, now lately Bulgarians, also some people from Ukraine. The

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
	system of shared databases seems to be sufficiently effective.
Netherlands	Effective, because of the high fines – no financial advantage for illegal employment – and because both employer and employment agency receive fine in case of violations. Effectiveness is reflected in figures: since 2005 there is less repeated offending. Before: 40 % were found to re-offend. Now: has declined to 25%. In addition to the high fines, the fact that the media paid a lot of attention to these high fines and to enforcement actions has been productive/ beneficial.
Spain	A big problem is the Southern border to the EU where a lot of immigrants come from Africa and Latin America as well as the borders to the East where people come from Bulgaria, although not as problematic now that they are part of the EU, as well as the Ukraine. An important part of enforcement is to monitor and better control the borders. There should also be an EU police force dedicated specifically to immigration issues.
Slovakia	Yes. It has considerably improved since the new regulation on "illegal employment2 which defines in details what is "illegal employment".
	The new regulation had raised employers awareness on what is illegal employment. It was also accompanied by series of targeted controls.
Are current administrative and penal sanctions considered effective in discouraging the employment of illegally staying third-country nationals? If yes/no, why? Any changes to be proposed?	
Czech Republic	The legal framework is adapted to the situation of CR. The maximum fine of 2 millions CKK is appropriate. It would not be considered appropriate to have penal sanctions just fro illegal employment.
	The only eventual problem is that clear and applicable indicators would be needed for controllers to decide on the level of fines.
Finland	CIA questionnaire: The legislation in force gives the authorities a good opportunity to monitor the right of people coming from third countries to reside and take up employment in the country. As regards the effectiveness and impact of current bills, no assessments can be made yet. In practice they do not, however, affect the work of the police, because responsibility for monitoring rests with labour protection authorities under the Customer Liability Act, and with fiscal authorities under the reforms in the tax law.
	From the crime investigation perspective, the most efficient way of combating illegal foreign labour and foreign labour working in the shadow economy is to target measures at the employers who employ illegal employees or operate in the shadow economy. In these cases, economic crime investigation is often carried out, and the most typical forms of crime are (aggravated) tax fraud or (aggravated) accounting offence. The investigation of such cases requires a good and effective cooperation between the police and fiscal authorities. It is particularly important to trace and confiscate the proceeds of crime the criminals have acquired through the use of illegal foreign labour or foreign labour in the shadow economy.
	See above Customer Liability Act, introduced in January 2007.
France	Administrative and penal sanctions have been recently increased by the Ministry of Labour (2004-2005). They are effective tools in discouraging the employment of illegally staying third-country nationals.
Hungary	Administrative sanctions (fines) are considered effective. They are high enough to be retentive, and are seen as extraordinary high in the Hungarian context.
	The fines (they are termed "payment liabilities" instead of "fines", to be paid to the Labour Market Fund) are fixed per law and non-negotiable, no equity may be granted.
	In most cases, the fine is set to be 4 x the wages paid out from the commencement of illegal employment, but not less 8 times the minimum wage per illegal employee, regardless of how short the time period of employment they claim to be (the minimum wage in 2007 is 65,500 HUF, approx. €260, thus fines amount to approx. €2,080 at least per person illegally employed).
	No penal sanctions are imposed as per the respective legislation. There are rare occasions where a violation of other laws may result in prosecution, with the IG reporting to the police (e.g. suspicion of human trafficking). But this is outside the scope of employment legislation.
Italy	*Le sanzioni penali appaiono le misure più idonee a scoraggiare il fenomeno in esame*.

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
Latvia	Any proprietor of an establishment, employer or person managing an establishment in the employer's stead who wilfully or negligently commits a breach of the provisions of Code of Administrative Offences of Latvia shall be liable to a fine, depending on complicity, in accordance with Article 189.
	A person guilty of the offences under Article 189, Code of Administrative Offences of Latvia, may be liable to a fine not exceeding LVL 10,000 (employment without passport or work permits.
Latvia2	They seem to be effective for the workers (up to 500 LVL is a lot for an illegally staying individual). Also for the firms/employers they seem to be sufficient as there are no discovered repeated breaches of the law (for the illegal employment of the Bulgarians, the employer received a fine of 4000LVL).
Netherlands	Administrative sanctions are preferred over penal ones. Faster and better. Previously, when dealt with by criminal courts / judges, much more variation between fines imposed (also inter-regional variation). Now sanctions are imposed by one and the same administrative unit and they decide the level of the fine. Equal approach across the nation.
Spain	This question can be answered by what was discussed in the previous question however it is important to add that general contractors should be held responsible for all members of the workforce that is participating in their project. For example, this process could be used in construction where currently the general contractor often washes his/her hands of the situation of illegal working attributing it more to the subcontractors.
Slovakia	There is a reduction in the number of contraventions observed, this can however be due to the fact that when the new regulations on illegal employment started to apply a number of targeted controls had been organised.
Political support for enforcement actions: Is the fight against undocumented / illegal work (in general and that of illegally staying third-country nationals in particular) a governmental priority?	
Czech Republic	It is among the political priorities for several reasons. Illegal employment leads to tax fraud and also to social contributions fraud.
	It is also very closely linked to crime such as human trafficking.
	There is a general effort to lessen illegal employment together with the above mentioned issues.
Finland	Yes, it has been a governmental priority. This has been reflected in the range of policy and legislative measures that the current government put in place (e.g. Policy Migration Programme, Amendment to Act on Occupational Safety and Health Working Security, Amendment to Posted Workers Act).
	However, new elections and new government to arrive soon.
France	The fight against undocumented / illegal work is a clear priority of the government since 2003. The DILTI is regularly required to report to the Ministry of Labour and the Prime Minister on the state of the problem.
Hungary	Political support has become very prominent in the last years. The fight against illegal employment is high on government agenda. The budget had been significantly increased, an additional staff of 100 had been awarded to the IG. The government is receptive to the recommendations of the IG, including proposed changes in regulation.
Italy	*Tra gli obiettivi primari di questo ministero rientra proprio la lotta al lavoro sommerso e per il raggiungimento di tale traguardo è stata investita questa Direzione Generale con il compito di individuare specifiche e attente campagne di attività ispettiva.*
Latvia	Yes, the fight against undocumented / illegal work (in general and that of illegally staying third-country nationals) is one of the governmental priorities.
Latvia2	The political engagement could be evaluated to some 50 per cent. The Border Guard law is being changed now to better define the rights and competences of border guards and employers alike. This new wording is taking already ½ years to agree upon. There are institutions concerned for the citizens' rights to privacy. Thus the political engagement could be better.

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
Netherlands	Past government (new government to be sworn in next week) did provide political support. There was a political consensus that tackling illegal employment is a key priority and that the necessary funds have to be reserved to enforce employment legislation. Until 2003: only 100 inspectors. During the subsequent government period, parliament made the decision to invest 10 million Euro per year in the labour inspectorate. This explains its expansion to 180 inspectors. In addition, an amendment to the law was accepted: the state secretary, briefed by the inspectorate for the need for a higher level of fines, proposed an increase in fines to 4,000 Euro. The parliament raised that number to 8,000 Euro per employee. Inspectorate / administrative unit feel they can influence policy-making in relation to the topic. For example: on 1 January 2007, a new element was introduced to relevant legislation: employer now has to cooperate with the identification of the employees on the worksite. Suggestion given by the inspectorate on the basis of problems experienced by employees. Recommendation to increase fines also derived from inspectors. However, there are decisions that are made 'beyond the reach of the inspectorate'. For example, the new government which is to be sworn has announced that it will pursue the goal of reducing government administration with 20 %. How will this affect the inspectorate? Will their unit be shrunk as well?
Spain	The Spanish government has taken an initiative to control illegal immigration but it is also important to monitor all borders and to take care in choosing workers from the country of origin and monitor their visa status. There should be more collaboration between Spain and sending countries. Currently there are programmes to hire workers from sending countries with specific skills. These are good programmes but at the same time the government needs to work with sending countries to ensure workers do not overstay their visas and that those who do come have the necessary skills to perform the job they are hired for. Currently the EU is conducting a study to make the situation for contracting workers in their country of origin easier. The EU is also investigating the possibilities of having a universal police force that controls for immigration. There is political will to fight against the irregular economy in Spain. Most recently, 2 years ago, a type of 'amnesty' was offered illegal workers to legalise their status. There were thousands of workers who were legalised during this process.
Slovakia	The fight against illegal employment of third country nationals is not directly the priority of the current Slovak government. However it is indirectly related to the government priority to lower unemployment. Rather than a priority it is a means to reach this goal.
How much of the successes (or problems) in relation to the enforcement do you attribute to the enforcement capacity?	
Czech Republic	If the human capacity was better controls could be quicker and therefore more effective. It is necessary in this area to detect problems quickly and to be able to act rapidly, not after several years of illegal employment.
Finland	The effectiveness of monitoring depends in practice on the resources allocated to monitoring.
France	The success is mainly due to the competence and the knowledge of the functionaries working within the body. Nevertheless, the effectiveness of exchange of information between the control bodies could be enhanced.
Hungary	The problems still rest with inadequate number of staff.
Italy	*Si ritiene che il valore da attribuire alla capacità dell'azione ispettiva per il raggiungimento dell'obiettivo primario del ministero, non possa quantificarsi in termini numerici, bensì debba riconoscersi nella capacità per ciascun ufficio di raggiungere il risultato richiesto.*
Latvia	Not very effective, there are the changes, concerning improvement to increase the capacity are to be proposed. There are reasons and indications that the number of illegal workers will rise with the enlargement. If such occurs the increase of financial and human capacity to deal with the illegal work may be reconsidered.
Latvia2	There are no great problems with enforcement. It is reasonably effective. The need for more capacity may grow together with the opening of borders with following Latvia's signing of the Schengen agreement.
Netherlands	Enforcement capacity is very important (see above, expansion in budget and number of inspectors).
Spain	It is not just a question of how much capacity we have to enforce but it is also important to limit the number of TCN who enter the country illegally and then look for work. Undeclared work is an issue even with Spanish people. This department has the responsibility of controlling that as well. Similarly there are also cases of

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
	migrant workers who are legally allowed to work but do not receive benefits which means that they are working irregularly eventhough they are not 'illegal'
Slovakia	This is difficult to estimate.
In terms of the human and financial capacity of the enforcement body, are these appropriate or should they be increased / decreased? Why?	
Czech Republic	As mentioned above ideally two people in each labour office should be dedicated to this task and this is so far not the case.
Finland	The new unit established at the National Bureau of Investigation, the Surveillance Unit for Illegal Foreign Labour, and the new public offices at the labour protection districts have increased the resources for control and investigation.
	OSH: In 2005, 9 inspectors were hired specifically to inspect foreign labour in light of amendment to the Alien's Act in 2004, which included inspection of foreign employees' right to work.
France	An increased human capacity would certainly increase the effectiveness of the body. Also the technical capacity of the Agency (the information exchange system) should be increased.
Hungary	(see above)
Italy	*Negli ultimi anni è stato riconosciuta la possibilità al ministero del lavoro di assumere, tramite concorso pubblico, nuovo personale ispettivo. Anche nell'ultima Legge Finanziaria 2007 (L.296/2006), è prevista l'assunzione di altri 300 ispettori per arrivare ad un numero complessivo di circa 3.000 ispettori su tutto il territorio nazionale. Queste nuove assunzioni attestano l'importanza dell'attività svolta, tale da dover potenziare l'organico esistente.*
Latvia	Both the financial and human resources are appropriate to achieve significant results at present. The problem may increase in the future according to the opening the labour market in 2007. Then definitely the human and financial capacity will have to be increased.
Latvia2	Unambiguously the capacity could be greater, especially in the Riga capital region. However, there are plans to increase the number of border guards working in this field from around 150 at the moment to some 500, after Latvia joins the Schengen agreement and the inspection on the internal borders are no longer required. Roughly three times more human resources are needed than available at the moment.
Netherlands	'We have 180 inspectors, not more.' As explained in the above, we are not sure what will happen to the labour inspectorate under the new government.
	Although there might be less irregular / illegal employment in the future – as the employment of Poles is now allowed / has been regularised (note how the focus / the definition of the problem is redefined as laws and procedures change, good example!). In previous years, 40 percent of the third-country nationals or EU ciitzens found to be illegally employed were Poles. But now they can work in NL legally. However, we intend to focus our checks / enforcement actions on respect for law on minimum wages (as said in the above, this often affects the employment situation of Poles).
Spain	It is important increase the resources for this body so that more inspections can be performed. Howver it is also important for there to be resources to conduct more studies to understand where there are greater numbers of illegal workers.
Slovakia	Opinions differ and the situation is different in the various regions of Slovakia. In the east the illegal employment of third country nationals is higher than in the west.
	The Labour Inspectorates have recently reduced the numbers of inspectors but a new recruitment phase is planned, though it has not yet been agreed.
In Table 5 below we ask you to complete figures on enforcement. In relation to changes of financial costs (overall and for human resources), please comment on why increases / decreases have been made (or not).	

Table A7.1 – Enforcement: qualitative information provided by Member States

Member State	Situation in the country
Czech Republic	There are no penal sanction for illegal employment of foreigners in Czech Republic. Penal sanctions can however apply, if there are other violations of the law such as forced labour
France	The financial costs have remained stable over the past years.
Latvia	Increases haven't been made, but could be made according to the opening of the labour market in 2007.
Latvia2	Detailed information would be hard to find. Some general data could be available. Some was sent, see below. From the web: http://robsardze.gov.lv/index.php?sadala=744&id=3491 20 Feb. 2007 Expected changes after Latvia's joining the Schengen Zone, as well as new changes to the Border Guard law, would make more precise the rights of border guards in controlling the enterprises, propriety and premises of legal and civil persons, to find out the aim of foreigners arrival and residence as well as to check the accuracy of information provided by the foreigner or his/her inviter. The Head of the State Labour Inspectorate expressed her satisfaction about the good regional Labour Inspectorate official and State border guard cooperation in the fight against the illegal employment. In cooperation with the State Border Guard, SLI undertook 205 common inspections in enterprises. In these common inspections the State Border Guard officials established 131 delinquencies in the field of immigration.

Table A7.3 – Enforcement figures provided by CIA members				
Country	**2002**	**2003**	**2004**	**2005**
a)Number of work place inspections				
AT	6,602	21,140	23,222	18,272
BE			6,000	
CZ	11 078 (1 382 controls of employers employing foreigners)	10 597 (1 760)	9 112 (1 430)	9 933 (1 631)
LV		980 *(State Border Guard fig.)*	1408 *(SBG)*	1109 *(SBG)*
LV2		717		
NL				8,500
PL	24,581	25,766		
RO			OLFM 129 Labour Inspection 50	OLMF 76 Labour Inspection 46
SK				10,600
SL	8,407	9,095	9,914	9,421
UK	303	446	1,618	2,850
b)Number of work places employing illegally staying third country nationals				
FR	5,873			
LV		103 *(SBG)*	34 *(SBG)*	26 *(SBG)*
PL		2,711		
RO			45	150
SK				40
UK	231	390	1	1,999
c)Numbers of detected illegally staying third country nationals employed				
AT	1,293	5,690	6,201	7,421
BE				565
CZ	1 488	1 466	1 646	2 017
FR		1,201		956
LT	722	499		
LV		103 *(SBG)*	64 *(SBG)*	28 *(SBG)*
MT	46	96		
RO			0	0
SK				565
SL		77	78	77
UK	1,099	2,304	3,854	9,227
d) Proportion of inspections which led to <u>administrative</u> charges? (as a % of total number of inspections by year)				
CZ	100%	100%	100%	100%

Table A7.3 – Enforcement figures provided by CIA members				
Country	**2002**	**2003**	**2004**	**2005**
EE	100%	100%	100%	100%
e)Proportion of inspections which led to penal charges? (as a % of total number of inspections by year)				
UK	1%	1%	1%	1%
f)Absolute numbers of administrative charges.				
CZ				34 256 500,- CZK
EE	17	12	11	66
RO			129	76
SL	2,236	2,962	3,378	2,175
g) Absolute numbers of penal charges				
BE			3,000	
UK	2	2	11	23
h)Total number (or proportion) of charges (if impossible to distinguish between admin and penal)				
AT		3,588	3,372	3,974
BE				26%
LT	234	185		
NL				26%
i)Proportion of inspections which have led to administrative sanctions? (as a % of total number of inspections by year)				
CZ	100%	100%	100%	100%
EE	82 (in 3 cases the procedure was ended)	100	100	88 (in 8 cases the procedure was ended)
LT	593	241		
NL				2,200
j)Proportion of inspections which have led to penal sanctions? (as a % of total number of inspections by year)				
FR		110	188	
k)Absolute numbers of administrative sanctions.				
CZ				1 254
EE	14	12	11	58
SL	29	6	18	4
RO			129	76
l) Absolute numbers of penal sanctions				
UK	1	1	8	13
m)Total number (or proportion) of sanctions (if impossible to distinguish between admin and penal)				
HU		54	65	121
LV2		182	179	153
n)Total amount of fines incurred (as million euro)				
AT	4,326	8,890	13,776	17,150
CZ				34 256 500,- CZK
EE	74900 EEK	43400 EEK	26600 EEK	144460 EEK

Table A7.3 – Enforcement figures provided by CIA members				
Country	**2002**	**2003**	**2004**	**2005**
LV2		12,660 LVL (nearly 19,000 euro) or just over 100 euro per firm		
RO			0,0765 mil Euro	0,03 mil Euro
SL				SIT 106,250,035,71
o) Numbers of employers convicted to imprisonment				
FR			67	
p) Number of inspectors (FTE[1])				
AT	88			300 (2006)
CZ				Circa 150
LT	187	195	196	211
SL	75	76	82	86
q)Percentage of staff or of their time (FTE) that is dedicated to the control of the employment of third-country nationals:				
CZ				Circa 15 - 20%
r)Costs for human resources				
CZ				Circa 500 000,- CZK
s)Total costs for running this body				
CZ				2.3 mld.CZK

Table A7.4 – Enforcement figures provided by enforcement bodies				
Country	**2002**	**2003**	**2004**	**2005**
a)Number of work place inspections				
ES	25,862	30,409	34,301	79,481
IT	143,336	178,637	188,125	163,013
LV1	10	8	11	20
RO			8,489	11,085
SK			4,817	10,624
b)Number of work places employing illegally staying third country nationals				
IT	8,147	9,345	10,543	12,766
LV1	5	7	1	-
c)Numbers of detected illegally staying third country nationals employed				
ES	8,413	10,152	13,8	9,535
IT	4,398	2,969	2,939	4,969
LV1	5	17	18	-
SK			3	15 (10 in 1st semester of 2006)
d)Proportion of inspections which led to administrative charges? (as a % of total number of inspections by year)				
ES	32,66	33,47	40,31	13,93
IT	78,954	91,549	67,135	51,961
LV1	0	0	0,2 %	-
f)Absolute numbers of administrative charges,				
ES	8,446	10,178	13,828	11,069
LV1	5	7	1	-
i)Proportion of inspections which have led to administrative sanctions? (as a % of total number of inspections by year)				
ES	32,53	33,38	40,23	12,00
k) Absolute numbers of administrative sanctions,				
ES	8,413	10,152	13,8	9,535
IT	269,65	221,857	197,735	169,418
RO			50	46
SK			56	574
l)Absolute numbers of penal sanctions				
IT	35,002	33,614	34,766	25,126
n)Total amount of fines incurred (as million euro)				
ES	51,34	60,53	84,98	59,30
IT	56,412,215		60,194,661	67,176,342
LV1	200 LVL (284,5 euro)	250 LVL 355,7 (euro)	100 LVL (nearly 142 euro)	
RO			2,010,000 (thousand lei)	151,000 (thousand lei)

Table A7.4 – Enforcement figures provided by enforcement bodies				
Country	**2002**	**2003**	**2004**	**2005**
SK			2,363,600 SK (~65,500€)	6 523 000 SK (~181,100€)
p Number of inspectors (FTE[1])				
ES	1,526	1,571	1,614	1,632
IT	2,215	2,175	2,06	1,949
LV1	98	98	95	116
q)Percentage of staff or of their time (FTE) that is dedicated to the control of the employment of third-country nationals:				
LV1	0,09 %	0,07 %	0,11 %	0,25 %
r)Costs for human resources				
LV1	662,28 LVL (942,3 euro)	547 LVL (778,3 euro)	852 LVL (1212,3 euro)	3,520 LVL (5008,7 euro)
s)Total costs for running this body				
LV1	735,871 LVL (1,047,054.6 euro)	781 450 LVL (1,111,909.5 euro)	774 581 LVL (1,102,135.7 euro)	1,408,083 LVL (2003533 euro)

ANNEX 8 – TYPOLOGY OF MEMBER STATES TO ASSESS THE ECONOMIC CONSEQUENCES OF THE EMPLOYMENT OF ILLEGALLY STAYING THIRD-COUNTRY NATIONALS

Member States show a great diversity as regards of the share of illegal third-country nationals in the workforce, their countries of origin, the significance of undeclared work in general. The variety in figures substantiate the notion that no single 'European case' exists.

Member States may have very different immigration situations and histories, as well as very different labour market and economic structures. This may justify a subdivision of the countries to three, internally more homogenous groups, based on similar patterns in illegal immigration and the illegal employment of third-country nationals, and the assumed motivations of employers behind that. The classification takes account of suggestions made by Rindoks, Penninx, Rath [2006][209].

The grouping allows for a more coherent analysis of the current situation and likely effects of interventions, as the different socio-economic situation in the Member States may result in different effects and impacts. The ex ante assessment of expected outcomes of the single policy options take account of this classification. The groups formed are the following:

Group A brings together „old" immigration countries (Austria, Belgium, Denmark, Finland, France, Germany, Luxemburg, the Netherlands, Sweden, UK). These have been traditionally target countries for immigrants. Being amongst the economically most advanced and richest countries, but lacking sufficient workforce in labour-intensive industries, they have often in the past actively promoted immigration from their foreign colonies or third countries. These Member States are characterised by high wage levels and standards of living, while still lacking adequate supply of workers for low- and medium-skilled jobs. Therefore, they are still prime target countries for illegal immigrants intending to work in the European Union. Their labour market structures and regulations are often rigid, and trade unions may thwart employers' ambitions concerning low-wage employment, as well as more flexible hiring and firing. The usually high taxation of low- and medium-skilled labour (measured by the 'tax wedge'[210] on low wages, i.e. 67% of the respective national average wage) creates an opportunity for a significant competitive advantage in labour-intensive industries for firms capitalising on undeclared work – Luxemburg and the UK being the exception. Sanctions and enforcement, however, are considered relatively strict and effective.

Group B is made up of mostly southern European Member States that may be termed as „new" immigration countries (Cyprus, Greece, Ireland, Italy, Malta, Portugal, Spain). Although they were seen as a sending rather than receiving countries of immigrants in the past, they have become nowadays target countries themselves, thanks to their increased wage levels. The Member States of Group B have started to experience labour shortage in the sectors requiring significant amounts of relatively low-skilled and, accordingly, less well-paid labour, despite relatively high unemployment figures in some countries. Therefore they measure up to Group A in attracting TCN workforce. As they are closer to a number of sending countries in geographic terms, they are also more accessible for them. The informal sector, including undeclared work tends to be more significant in these countries, which may

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209 A. Rindoks, R. Penninx, J. Rath – *Gaining From Migration*.

210 Defined as the share of income tax plus social contributions, paid by both employer and employee, as a percentage of the total labour costs of the earner (see Eurostat).

be attributed to tradition, a general culture of mistrust in authorities, milder sanctions, or the inadequate headcount of enforcement bodies (but it should be noted that the tax wedge on low wages is below European average). These are all phenomena that encourage companies to employ illegal immigrants.

Group C consists of the 10 newly joined Central and Eastern European countries (Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia) that are both senders and recipients of low- to medium-skilled workforce. These countries are characterised by relatively low wages, that are less appealing to illegal immigrants from distant countries (for whom getting into the EU is a significant financial investment), but competitive to workers from neighbouring countries[211] who are able to access the CEE countries' labour markets easily and cheaply. The illegally employed usually reside temporarily in the Member State, are mostly employed in seasonal and occasional jobs (agriculture, construction, hotel/catering), and do not intend to stay permanently. They often fill vacancies in sectors that have been abandoned by locals, who themselves work – legally or illegally – in other European countries. Dynamically rising wages and shrinking unemployment are all signals of labour shortages. The informal sector, and undeclared work in particular, reaches very high levels in countries in Group C, with illegally employed third-country nationals only playing a minor part in it. This is predominantly motivated by the high tax wedge on labour, which makes it almost impossible in labour-intensive sectors to compete with firms that are using undeclared work, and is encouraged in some countries by relatively lax regulation, mild sanctions and/or insufficient enforcement capacities.

Table A8.1 presents a scoreboard of the Member States in the three country groups, with statistical data used to highlight the countries that are potentially more vulnerable to the illegal employment of third-country nationals.

The statistical data taken into consideration are:

- The weight of the traditionally 'sensitive' sectors in total employment, using the NACE classification, i.e.: A. Agriculture, hunting and forestry, F. Construction, H. Hotels and restaurants. The higher the share, the higher the case and potential for illegal employment.

- Average hourly wage in euro, derived from the respective Eurostat statistical table for the year 2005. Higher wages are more attractive to third-country nationals and traffickers and the wider gap in the compensation of workers secures even greater benefits for the employers of illegally staying third-country nationals. This in turn increases the pressure on wages for legally employed workers and the likelihood of unfair competition for employers.

- Monthly labour cost in the sensitive sectors, expressed as a percentage of the average labour cost in manufacturing. Manufacturing has been selected as a benchmark, because within this branch of the private sector employment is usually legal, the knowledge- and skill-intensity is average and trade unions are present. A significantly lower labour cost may indicate a reliance on low-skill and/or undeclared work, which already exerts pressure on wages in the sector.

[211] E.g. Ukraine, Moldova.

- Tax wedge on low wages (i.e. a wage corresponding to 66.7% of the country's median wage), average for 2000-2005, taken from OECD's "Taxing Wages 2006" report. A large gap between the labour cost to the company and the net salary of workers creates high incentives for undeclared work and, within that, the employment of illegally staying third-country nationals. In addition, the huge potential for tax evasion may exert considerable pressure on other companies due to unfair competition.

The unemployment rate in the Member State could constitute another interesting indicator, but has not been included as the relationship with the extent of illegally staying third-country nationals in work and the effects on the national labour market could be hypothesised to go either way. Third-country nationals may respond to labour shortages, in particular in relation to low-paid or low-skilled jobs, both in countries with higher or lower levels of unemployment.

For each indicator, the scoreboard assesses whether the country falls within the lower, middle or upper third of all Member States (a small correction in the clustering has been undertaken to group countries with very similar indicator values into the same group). To keep the input information, the cells contain the original statistical data, but their shading represents the specific scoreboard value: no shading – lowest third; light blue – second third; dark blue/inverted – highest third. Where no data was available, the country was assumed to rank in the middle third.

The final column calculates the country's vulnerability by adding up the individual scores on the five indicators. Lower vulnerability of a specific country does not necessarily mean that the employment of illegally staying third-country nationals would be low, but indicates that the impacts of such employment on, amongst other things, the national labour market or intra-firm competition will probably be less adverse than in countries with a higher score.

Table A8.1 – Country vulnerability scoreboard (Groups A-C)

Country	Weight of sensitive sectors in total employment, in % (2005)[212]	Average hourly wage in EUR (2005)	Monthly labour cost: sensitive sectors vs. manufacturing (2004)	Tax wedge on low wages (average 2000-2005)	Total score
Group A					
Austria	20.1	24.2	..	43.1	**10**
Belgium	11.9	29.0	69.3	50.0	**10**
Denmark	12.6	29.0	86.4	40.0	**8**
Finland	14.5	24.3	74.5	40.7	**9**
France	13.8	27.2	96.3	45.2	**8**
Germany	12.5	25.6	61.1	47.4	**10**
Luxemburg	13.4	27.4	63.6	29.9	**8**
Netherlands	13.0	25.4	83.1	40.3	**8**
Sweden	10.8	28.8	..	47.3	**9**
United Kingdom	13.5	24.4	86.8	28.9	**6**
Group B					
Cyprus	23.9	10.0	109.9	17.9	**7**
Greece	27.2	12.1	..	34.7	**8**
Ireland	24.2	..	..	18.1	**8**
Italy	17.2	20.1	..	42.1	**9**
Malta	18.3	7.9	99.0	17.7	**6**
Portugal	27.7	9.4	89.7	32.4	**7**
Spain	24.2	14.2	71.8	35.2	**9**
Group C					
Bulgaria	20.3	1.4	77.2	36.9	**7**
Czech Republic	17.3	5.3	86.2	41.7	**7**

[212] Based on Eurostat employment data for the year 2005

Country	Weight of sensitive sectors in total employment, in % (2005)[212]	Average hourly wage in EUR (2005)	Monthly labour cost: sensitive sectors vs. manufacturing (2004)	Tax wedge on low wages (average 2000-2005)	Total score
Estonia	16.5	3.8	89.3	39.2	**6**
Hungary	17.0	4.9	70.3	46.2	**9**
Latvia	23.4	2.4	80.9	41.2	**9**
Lithuania	25.1	3.0	89.3	41.4	**7**
Poland	25.0	5.0	87.5	42.0	**8**
Romania	38.6	1.7	84.2	43.9	**9**
Slovakia	18.3	3.9	76.1	39.8	**8**
Slovenia	19.3	10.0	94.9	39.6	**7**

The findings presented in Table A8.1 suggest that the countries in Group A, with a relatively rigid labour market, high wages and high taxes, seem to be the most vulnerable to the adverse effects of the employment of illegally staying third-country nationals. Here the problem of creating unfair competition to others within certain sectors and depressing the wages of those legally employed is expected to be the greatest. In countries of Group B and C, the employment of illegally staying third-country nationals is not expected to have a significant adverse influence on the labour market and on competition. Here, the custom of making use of low-skilled, low-paid and/or undeclared work, whether done by EU citizens or third country nationals, is so wide-spread, that all companies within the sectors concerned have adapted to this situation, and employ illegally themselves or cope with unfair competition by other means.

ANNEX 9 – ADMINISTRATIVE COSTS CALCULATION

Proposal on minimum sanctions for employers of illegally staying third-country nationals						Tariff (€ per hour)		TIme (hour)		Price (per action or equip)	Freq (per year)	Nbr of entities	Total nbr of actions	Total cost	Regulatory origin (%)			
No.	Ass. Art.	Orig. Art.	Type of obligation	Description of required action(s)	Target group	i	e	i	e						Int	EU	Nat	Reg
1	15(1)		Cooperation with audits	Inspecting and checking (including assistance to inspection by public authorities)	Companies	27		4,00		108,0	1	1.760.000	1.760.000	190.080.000		100%		

Obligation for companies: need to cooperate with enforcement body conducting the check.

Total administrative costs (€) 190.080.000

Administrative costs by origin (€) EU 190.080.000

Assumptions on duration of steps:

– One check could be assumed to require 0.5 man days from the per company being checked.

It needs to be underlined that the legal act does not determine the procedure or duration of such checks. Sequence of necessary steps, time and cost required are estimations based on:

Contacts with enforcement bodies in Member States in the context of the impact assessment study and average employment costs at EU level (source for employment costs: EU 25 figures by Mercer Human Resource Consulting, 11 April 2005, http://www.mercerhr.com/pressrelease/details.jhtml/dynamic/idContent/1175865).

Calculation of hourly rate (EUR):

– average yearly employment costs across EU: 28269

– average hourly employment costs (200 working days à 8 hours): 18

– including 50 % estimated overheads 27

Assumptions on frequency of checks:

– Only a minority of Member States (data in annex 7,3 and 7,4 of the IA report) has provided replies on the frequency of checks. For example 79,481 inspections are reported per year in Spain and 163,013 in Italy (in 2005). Other Member States report a far lower number of checks, e.g. Austria 18, 272 and Czech Republic 9,933. On the basis of an estimated 22 million companies in Europe (source: http://ec.europa.eu/enterprise/smes/facts_figures_en.htm), a careful estimate could be that on the average, already 2% of companies are being checked across Europe. The proposal foresees annual checks of 10% of registered companies. This would amount to 2.2 million checks per year. The additional number of checks compared to the estimated baseline would therefore be 1.76 million checks.

ANNEX 10 – ENFORCEMENT COSTS CALCULATION

Proposal on minimum sanctions for employers of illegally staying third-country nationals						Tariff (€ per hour)		TIme (hour)		Price (per action or equip)	Freq (per year)	Nbr of entities	Total nbr of actions	Total cost	Regulatory origin (%)			
No.	Ass. Art.	Orig. Art.	Type of obligation	Description of required action(s)	Target group	i	e	i	e						Int	EU	Nat	Reg
1	15(1)		Inspection	Retrieving relevant information from existing data	Enforcement bodies in MS	27		7,20		194,4	1	1.760.000	1.760.000	342.144.000		100%		
2	15(1)		Inspection	Inspecting and checking (including assistance to inspection by public authorities)	Enforcement bodies in MS	27		9,60		259,2	1	1.760.000	1.760.000	456.192.000		100%		
3	15(1)		Inspection	Submitting the information (sending it to the designated recipient)	Enforcement bodies in MS	27		4,80		129,6	1	1.760.000	1.760.000	228.096.000		100%		
4	15(1)		Inspection	Filing the information	Enforcement bodies in MS	27		2,40		64,8	1	1.760.000	1.760.000	114.048.000		100%		

Explanation of steps for public bodies:

Step 1: Preparation of inspection by public body

Step 2: on-the-spot check

Step 3: Follow-up work after check (e.g. processing results, request for additional info)

Step 4: Filing and processing of results

Total enforcement costs (€) 1.140.480.000

Enforcement costs by origin (€) EU 1.140.480.000

Assumptions on duration of steps:

– One check could require 3 man days (à 8 hours) from the public sector bodies,

– The estimated total time could distribute as follows: step 1: 30% (7,2h), step 2: 40% (9,6h), step 3: 20%(4,8h), step 4: 10% (2,4h).

It needs to be underlined that the legal act does not determine the procedure or duration of such checks. Sequence of necessary steps, time and cost required are estimations based on:

Contacts with enforcement bodies in Member States in the context of the impact assessment study and average employment costs at EU level (source for employment costs: EU 25 figures by Mercer Human Resource Consulting, 11 April 2005, http://www.mercerhr.com/pressrelease/details.jhtml/dynamic/idContent/1175865).

Calculation of hourly rate (EUR):

– average yearly employment costs across EU: 28269

– average hourly employment costs (200 working days à 8 hours): 18

– including 50 % estimated overheads 27

Assumptions on frequency of checks:

– Only a minority of Member States (data in annex 7,3 and 7,4 of the IA report) has provided replies on the frequency of checks. For example 79,481 inspections are reported per year in Spain and 163,013 in Italy (in 2005). Other Member States report a far lower number of checks, e.g. Austria 18, 272 and Czech Republic 9,933. On the basis of an estimated 22 million companies in Europe (source: http://ec.europa.eu/enterprise/smes/facts_figures_en.htm), a careful estimate could be that on the average, already 2% of companies are being checked across Europe. The proposal foresees annual checks of 10% of registered companies. This would amount to 2.2 million checks per year. The additional number of checks compared to the estimated baseline would therefore be 1.76 million checks.