

Resolution 2017-01
of the
European Union Sectoral Social Dialogue Committee on Sea-Fisheries
of 10 May 2017
on abuses of migrant fishers in a part of the Union's fishing sector

Management and labour,

- (1) the General Confederation of Agricultural Cooperatives in the European Union (COGECA);
- (2) the Association of National Organisations of Fishing Enterprises in the European Union (Europêche); and
- (3) the European Transport Workers' Federation (ETF).

Having regard to:

- (1) Article 94 of the United Nations Conventions on the Law of the Sea, 1982.
- (2) Article 3, paragraph 1, of the Charter of Fundamental Rights of the European Union.
- (3) Consideration (52) and Article 31, paragraph 6, of the Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy.
- (4) The Declaration on Fundamental Principles and Rights at Work, 1998 of the International Labour Organization.
- (5) The Work in Fishing Convention, 2007 of the International Labour Organization.
- (6) The social partners' Agreement concerning the implementation of the Work in Fishing Convention, 2007 of the International Labour Organization.
- (7) Council Directive (EU) 2017/159 of 19 December 2016 implementing the Agreement concerning the implementation of the Work in Fishing Convention, 2007 of the International Labour Organisation, concluded on 21 May 2012 between the General Confederation of Agricultural Cooperatives in the European Union (COGECA), the European Transport Workers' Federation (ETF) and the Association of National Organisations of Fishing Enterprises in the European Union (Europêche).
- (8) Appendix V to the Guidelines on flag State inspection of working and living conditions on board fishing vessels of the International Labour Organization.
- (9) Article 21 of Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time.

Whereas:

- (1) In everything, do (not) to others what you would (not) have them do to you.
- (2) The rule of law is a fundamental principle within the European Union.
- (3) The European Union and its Member States themselves shall observe human rights and the fundamental principles and rights at work the Union demands respect for from third countries in its sustainable fisheries partnership agreements with these third countries.
- (4) A European Union flag state shall fulfil its international duties under Article 94 of the United Nations Convention on the Law of the Sea by effectively exercising its jurisdiction and control in social matters over each fishing vessel, regardless of its size, flying its flag, in particular by assuming jurisdiction under its internal law over each such fishing vessel and its master, officers and crew in respect of social matters concerning the vessel.
- (5) Under Article 94 of the Law of the Sea a European Union flag state shall take such measures for fishing vessels flying its flag as are necessary to ensure safety at sea with regard to the manning of

fishing vessels, labour conditions and the training of crews, taking into account the applicable international instruments, which include, at least, the Declaration on Fundamental Principles and Rights at Work, 1998 of the International Labour Organization and the applicable acquis of the European Union, which includes Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels, Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels, Council Directive 97/70/EC of 11 December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over, and Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time.

(6) Under Article 94 of the Law of the Sea a European Union flag state shall take any steps necessary to secure observance of the measures referred to in consideration (5).

(7) The International Transport workers' Federation (ITF) has found numerous, very serious infringements of fundamental principles and rights at work and further social protection rights of migrant fishers in a part of the European Union's fishing sector. The infringements found concern:

- (a) abuse of vulnerability;
- (b) deception;
- (c) restriction of movement;
- (d) isolation;
- (e) intimidation and threats;
- (f) retention of identity documents;
- (g) withholding of wages;
- (h) debt bondage;
- (i) abusive working and living conditions; and
- (j) excessive overtime.

These infringements, found by the ITF, represent ten out of the eleven indicators of forced labour as referred to in Appendix V to the Guidelines on flag State inspection of working and living conditions on board fishing vessels which were adopted by the Governing Body of the International Labour Organization in its March 2016 session.

(8) All Member States of the European Union shall, as flag states, in accordance with their internal law on basis of Article 94 of the Law of the Sea, without delay investigate alleged infringements brought before them concerning fishing vessels flying the Member State's flag and take appropriate and timely action.

Invite the European Union:

(1) To ensure fulfilment by Member States of their obligations under Union law where the fundamental principles of the Union and the social protection of fishers are concerned.

(2) To adopt, at least and in relation to Council Directive (EU) 2017/159, appropriate guidelines for flag state and port state inspections of working and living conditions on board fishing vessels.

Done at Brussels, 10 May 2017.

*For the social dialogue committee
The spokesperson on the workers' side
Flemming Smidt*



*The spokesperson on the employers' side
Ment van der Zwan*

