

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
<i>a) Fine imposed per illegally hired employee</i>		
<i>Austria</i>		
<p>min 1.000 euro max 50.000 euro</p>	<p>Administrative fine for each employee without working permission; the amount depends on the number of workers and previous conviction</p> <p>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 Erschwerungsgrund von 1.000,-- E bis 50.000,-- €.</p>	<p>to enforce prevention the amounts were raised in 2005</p>
<i>Belgium</i>		
<p>(1) (2) 3,750 per worker</p>	<p>(1) Employers who do not properly report employees' information to the social security administration can be administratively fined.</p> <p>(2) Employers can be subject to civil fines for hiring workers without residence and work permits,</p>	

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.	
<b>Bulgaria</b>		
500-5,000 for individuals	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.	Comments: the measure is generally effective; problems exists with ascertainment and collection
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.	
Recommitment:	(rate euro / BGN: 1,955800 BGN, February 2006, <i>Inforeuro, DG BUDG</i> )	
BGN 1,000 – BGN 10,000 for individuals		
40,000 BGN for legal entities		
<b>Greece</b>		
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).	
<b>Hungary</b>		

**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
<p>(1) Max: 500,000 forints (approx. 1,940 euro) per TCN</p> <p>(2) Fine: 100,000 (approx. 390 euro)</p>	<p>(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.</p> <p>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.</p> <p>(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.</p> <p>Failing these obligations (under the Decree of the Minister of Labour No. 3/1996. (IV. 5.) MfM on administrative fines), the employer will be subject to an administrative fine up to 100,000 forints (390 €).<sup>140</sup></p>	
<p><i>Italy (to verify whether admin and/or penal)</i></p> <p>5,000 euro per TCN</p>	<p>Fines.</p>	

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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
<p><i>Lithuania</i></p> <p>Fines per TCN:</p> <p><u>First time offence:</u></p> <p>Min: 870 euro</p> <p>Max: 2,900 euro;</p> <p><u>Repeat offence:</u></p> <p>Min 2,900 euro</p> <p>Max 5,800 euro</p>	<p>The Code of Administrative Violations of Law (2004) contains a specific article on Illegal Work (Article 41(3)) as follows:</p> <p>“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.</p> <p>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.“</p>	<p>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.</p> <p>In 2006 7 third-country nationals were detected working illegally.</p>
<p><i>Netherlands</i></p> <p>Fine for each illegally employed alien:</p> <p>For employers acting as natural persons: 4,000 euro</p> <p>For employers acting as a legal entity (enterprise): 8,000 euro.</p>	<p>Since 1 January 2005, the Employment of Aliens Act has included the possibility of an administrative penalty.</p>	

**Table A5.1 – Administrative sanctions by Member State**

Minimum and Maximum amounts of fines <sup>1</sup>	Description	Evaluation of / comments on effectiveness of the measure and planned changes
<i>Portugal</i>	<p>Fines.</p> <p>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.</p> <p>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.</p> <p>Infractions pursued with mere negligence are punishable and in this case the amount of the fines is reduced to half.</p> <p>The attempt is not punishable.<sup>141</sup></p>	
<i>Romania</i>	<p>But, there are a lot of provisions which establish administrative or criminal sanctions in this field:</p> <p>➤ For aliens, whose access on the labour market is stipulated by</p>	<p>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</p>

<sup>141</sup> 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
<p>completions, does not include special sanctions against employers of illegal workers (those who have illegal stay)</p>	<p>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;</p> <p>➤ 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);</p> <p>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.</p> <p>All these sanctions shall be applied to any employer even if he/she is private or commercial employer.</p> <p><b>There is not any fine for the foreign employee, only for the employer.</b></p>	<p>Inspectorates during their joint activities with territorial units of Authority for Aliens, according to the agreements concluded between these two institutions.</p> <p>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.</p>

**Table A5.1 – Administrative sanctions by Member State**

<i>Minimum and Maximum amounts of fines</i>	<i>Description</i>	<i>Evaluation of / comments on effectiveness of the measure and planned changes</i>
<p>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</p>		<p>According to Article 6<sup>1</sup> 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).</p> <p>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<sup>1</sup>.</p>

**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
<p>cumulated value of 100 000 RON” (cir. 440-590 Euro, max: 29,410 Euro )</p> <p>(rate euro / RON: 3,409000 RON, February 2006, Infoeuro, DG BUDG)</p> <p>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</p>		



**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
<p>fine from 5,000 RON to 10,000 RON.” (cir. 1470-2,940 Euro)</p> <p>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.</p>		
<p><i>Spain</i></p> <p>Minimum: 6001 euro</p> <p>Maximum: 60,000 euro</p> <p>per illegally employed person</p>	<p>“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.”</p>	<p>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.</p>
<p><i>United Kingdom</i></p> <p>There are currently no administrative sanctions in place.</p>	<p>N/A</p>	<p>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</p>

<b>Table A5.1 – Administrative sanctions by Member State</b>		
<i>Minimum and Maximum amounts of fines/</i>	<i>Description</i>	<i>Evaluation of / comments on effectiveness of the measure and planned changes</i>
		<p>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.</p> <p>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.</p> <p>These measures are due to be implemented late 2007, following public consultation in Spring 2007.</p>
<i>b) Single fine for the offence</i>		
<i>Czech Republic</i>		

**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)  <i>(rate euro / CZK: 28,300000 CZK, February 2006, Infoeuro, DG BUDG)</i>	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.
<i>Estonia</i>		
Private employers: Up to 18,000 kroons  Enterprises: Up to 50,000 kroons.	The amount of the fine differs for enterprises and private employers. <sup>142</sup>	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.
<i>Finland</i>		
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. (TEELAMI 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	

**Table A5.1 – Administrative sanctions by Member State**

<i>Minimum and Maximum amounts of fines /</i>	<i>Description</i>	<i>Evaluation of / comments on effectiveness of the measure and planned changes</i>
	<p>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.</p> <p>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.</p> <p>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 <b>Collective Agreements Act</b> by a fine.</p>	
<i>France</i>		

**Table A5.1 – Administrative sanctions by Member State**

<i>Minimum and Maximum amounts of fines</i>	<i>Description</i>	<i>Evaluation of / comments on effectiveness of the measure and planned changes</i>
<p>Min: 500 times minimum wage</p> <p>Max: 5000 times minimum wage</p> <p>(Note: July 2006: 1000 times min. wage = 3,170 Euro)</p>	<p>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.<sup>143</sup></p> <p>En outre, l'employeur doit verser au salarié embauché irrégulièrement une indemnité forfaitaire équivalente à un mois de salaire.</p> <p>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.</p>	<p>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.</p> <p>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).</p>

Table A5.1 – Administrative sanctions by Member State		Evaluation of / comments on effectiveness of the measure and planned changes
Minimum and Maximum amounts of fines <sup>144</sup>	Description	
<b>Germany</b>		
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.	
<b>Latvia</b>		
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.	
<b>Malta</b>		
	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. <sup>144</sup>	
<b>Romania</b>		
2,000 – 3,000 RON (approx. 590 – 880 Euro)		

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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 <sup>145</sup>	Description	Evaluation of / comments on effectiveness of the measure and planned changes
<i>Slovak Republic</i>		
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. <i>(rate euro / SKK: 35,278000 SKK, February 2006, Inforeuro, DG BUDG)</i>	Was not realised
<i>Slovenia</i>		
Fines: vary between SIT 50,000 (212 euro) and SIT 5 million (21,200 euro).	Penalties envisaged by the LPBWE.145	
<i>Unclear if fine is imposed per illegal worker or for the offence</i>		
<i>Poland</i>		
	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). <sup>146</sup>	

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Thematic feature: industrial relations and undocumented work: Slovenia, June 2004. <http://www.eiro.eurofound.eu.int/2004/06/feature/si0406205t.html>  
CIA questionnaire.

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

**Table A5.2 – Penal sanctions in the Member States**

<i>Minimum and Maximum amounts of fines /</i>	<i>Description</i>	<i>Evaluation of / comments on effectiveness of the measure and planned changes</i>
Years of imprisonment		

**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, 1<sup>st</sup> 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.<sup>147</sup>

**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
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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.<sup>148</sup>

**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'éleva à 188, dont 67 peines d'emprisonnement ferme ou avec sursis et 94

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	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.
	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 committed 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). <sup>149</sup>	
	(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.	
	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). <sup>150</sup>	
	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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Table A5.2 – Penal sanctions in the Member States

Minimum and Maximum amounts of fines /	Description	Evaluation of / comments on effectiveness of the measure and planned changes
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Years of imprisonment	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. <sup>15</sup>	
<b>Ireland</b>		
<b>Fine</b>	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.	
<b>Minimum: ?</b>		
<b>Maximum: 3,000 euro / 250,000 euro</b>		
<b>Imprisonment</b>		
<b>Maximum: 12 months / 10 years</b>		
<b>Italy</b>		
<b>(1) For the person who acts as a go-between:</b>	(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	
<b>Max. imprisonment: 6 months</b>		

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
<p>Min. fine: 1,500 euro Max. fine: 7,500 euro</p> <p>(2) Imprisonment: Min. 3 months, max. 1 year Fine: 5,000 euro for each worker illegally employed.</p>	<p>well as penalty reduction if the activity is not profit-making.</p> <p>(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.</p> <p>Criminal sanctions are increased if the activities are linked to criminal actions related to human trafficking, enslaving or minors trafficking.<sup>152</sup></p>	
<p><i>Latvia</i></p> <p>Fine (Art. 196: Max. 80 min. salaries, Art. 280: Max. 50 min. salaries, Art. 285: max. 100 salaries)</p> <p>Custodial arrest (Art. 196, Art. 280)</p> <p>Community service (Art. 196, Art.280, Art. 285<sup>1</sup>)</p> <p>Confiscation (Art. 196, Art. 285<sup>1</sup>)</p> <p>Imprisonment (Art. 196: max. 5 years, Art. 280: max. 1 year, Art. 285<sup>1</sup>, max. 5 years)</p>	<p>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:</p> <p>Article 196: Intended misuse or abuse of authority. Article 280: Violation of employment provisions: Article 285<sup>1</sup>(3): Ensuring with the opportunity to reside illegally in Latvia.</p> <p>Under the provisions of Criminal Law negligence is sufficient.<sup>153</sup></p>	
<p><i>Luxembourg</i></p> <p>Fine</p>	<p><i>The Law of 3 August 1977:</i> 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</p>	

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Table A5.2 – Penal sanctions in the Member States

Minimum and Maximum amounts of fines /	Description	Evaluation of / comments on effectiveness of the measure and planned changes
Years of imprisonment		
	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	
<i>Romania</i>	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 <sup>1</sup> and 130 <sup>2</sup> .	
	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.	
	<i>Article 130<sup>1</sup></i> 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:	
	<ul style="list-style-type: none"> <li>a) by two or more persons together,</li> <li>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.</li> </ul>	

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
Years of imprisonment	<p>Paragraph 3 - If the offence had as a result the death of the alien, the sentence shall be imprisonment from 3 to 15 years.</p> <p>Paragraph 3<sup>1</sup> - 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 imprisonment period shall be supplemented with 3 years.</p> <p>Paragraph 4 - The attempt shall be punished.</p>	
Article 130 <sup>2</sup>	<p>Article 130<sup>2</sup> stipulates that:</p> <p>Paragraph 1 - If the offence stipulated in article 130<sup>1</sup> was committed in the name or interest of a legal person, by its bodies or representatives, it is sanctioned by fine.</p> <p>Paragraph 2 - The same fine shall be applicable if the offence stipulated in article 130<sup>1</sup> 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.</p> <p>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<sup>1</sup>.</p>	
Spain	<p>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.</p>	<p>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.</p>
Fine: 6-12 months	<p>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</p>	
Prison sentence: 2-5 years		

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.	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.
United Kingdom	<p>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.</p> <p>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.</p>	<p>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.</p>
rate euro / GBP: 0,660300 GBP, February 2006, Infowero, DG BUDG)		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.