



## COVID-19 WATCH ETUC BRIEFING NOTE

### SEASONAL WORKERS 29 MAY 2020

## National measures targeting seasonal workers to address labour shortages (particularly in the agricultural sector)

*This briefing note was originally produced on 18 May and has been updated on 29 May to take account of further information on and developments in France, Italy and Ireland.*

### Introduction

Following the COVID-19 outbreak, a number of short-term measures are being implemented at national level targeting seasonal workers, particularly in agriculture, to address labour shortages and ensure that food supplies are not jeopardised. Yet evidence shows that these measures fall often short in safeguarding seasonal workers' health and safety despite of the risks related to the current pandemic. Even in normal circumstances, seasonal workers employed in the agriculture sector often face deplorable working and housing conditions. They frequently live in containers or even segregated in rudimentary shelters built in overcrowded slums without running water, electricity, and proper sanitation. Social distancing in these informal settlements is not a realistic expectation. The risk of being infected by the virus is even more evident now with lockdown restrictions being partially lifted in several Member States.

This critical situation has been reported already in multiple occasions by EFFAT, the European Federation of Food, Agriculture and Tourism Trade Unions that has called for urgent actions to be implemented to safeguard seasonal and migrant agricultural workers.<sup>1</sup>

The agriculture sector in Europe is blighted by low average incomes coupled with a high working time load; a high proportion of illegal and precarious working conditions, especially for migrant and seasonal workers from both inside the EU and third countries; an extremely high incidence of accidents and illness – agriculture ranks first among European sectors for workplace accidents and illness; and low participation in education and training programmes. Taken together, these paint a bleak picture with workers often falling prey to widespread exploitation, including *caporalato* and other gangmaster practices or forms of modern slavery.

Labour shortages in the agri-food sector demonstrate that European agriculture to a large extent depends on seasonal and migrant workers, many undocumented. The current crisis sheds light on the poor labour conditions in the agri-food sector which have been ignored for too long.

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<sup>1</sup> Please see for reference an EFFAT [letter](#) addressed to the European Commission on 23 March. On 14 April, together with 27 civil society organisations, EFFAT [reiterated its request](#) for urgent action. On 15 May 2020 EFFAT also reached a [joint declaration](#) with GEOPA, its Social Partner representing farmers at EU level. The declaration aims at determining minimum standards to be respected everywhere in the EU to protect seasonal workers' health during the pandemic.



## COVID-19 WATCH ETUC BRIEFING NOTE

### SEASONAL WORKERS 29 MAY 2020

#### **The legal framework of seasonal workers in the EU**

Seasonal work can be carried out by both EU citizens and third-country nationals, taking employment on a seasonal basis in one EU Member State, while retaining their principal place of residence in another EU Member State or third country. Equal treatment is the basic principle for both legal regimes governing EU as well as non-EU seasonal workers. In this regard it must be recalled that equal treatment not only requires comparable situations be treated equally, but also different situations be treated differently. Seasonal workers may be in a particularly vulnerable situation, which may require special attention in order to ensure equal treatment. Similarly, the presence of both EU and third-country seasonal workers in the same workplace has the potential of mutually reinforcing the requirement of equal treatment by constituting an effective element of comparison.

EU citizens may engage in seasonal work in another Member State on the basis of their right to free movement within the EU. Freedom of movement is a fundamental right of workers and entails the abolition of any discrimination based on nationality as regards employment, remuneration and other conditions of work and employment. Seasonal employment is governed by the laws of the host Member State on the basis of equal treatment. In this regard, EU citizens in their capacity as seasonal workers enjoy the same rights and prerogatives as nationals with respect to, *inter alia*, the provisions of collective and individual labour agreements, working conditions and access to trade unions (as enshrined in Regulation [\(492/2011\)](#) on freedom of movement for workers within the Union). Moreover, they may benefit from protection set out by EU instruments such as the Written Statement Directive or the Fixed-term Work Directive. In some situations the Posting of Workers Directive as well as the [2008/104](#) Temporary Agency Work Directive may also be relevant. Access to unemployment benefits and social protection is governed by the rules of the Member State where the EU citizen is insured, as determined by the [883/2004](#) Regulation on Social Security Coordination.

Seasonal Workers Directive applies to non-EU workers who enter an EU Member State to work temporarily in a sector dependent on the passing of the seasons. The Directive grants workers the right to equal treatment with nationals of the host Member State as regards terms of employment, minimum working age, working conditions, including pay and dismissal, working hours, leave and holidays, as well as occupational health and safety measures. The requirement of equal treatment in part also applies to social security, such as benefits linked to sickness, invalidity and old age, while host Member States due to the temporary nature of the stay of seasonal workers may limit access to unemployment, family benefits, tax benefits, education and vocational training. The Directive also guarantees seasonal workers access to accommodation that ensures an adequate standard of living and meets the general health and safety standards in force in the host Member State. Despite the Directive aims at ensuring broad equal treatment for third country nationals' seasonal workers, it has proven inadequate in ensuring that migrant workers' rights are fully respected.

#### **Commission Guidelines on entry and free movement of seasonal workers**



## COVID-19 WATCH ETUC BRIEFING NOTE

### SEASONAL WORKERS 29 MAY 2020

Following the COVID-19 outbreak and border restrictions put in place by Member States, the European Commission on 30 March 2020 issued on the exercise of the free movement of workers, such as EU seasonal, frontier and posted workers. The Guidelines aim to ensure that mobile workers in the EU, and in particular in essential sectors, can reach their workplace also in cross-border situations between Member States, while avoiding further spread of the virus. In order to respond to labour shortages in essential sectors as a result of the crisis, Member States may use the Commission's Technical Committee on Free Movement of Workers to exchange information on their needs. With regard to seasonal workers, these Guidelines are complemented by a [Factsheet](#) as well as the Commission's [Guidance](#) on restrictions on non-essential travel to the EU for third-country nationals, issued on the same day.

The Guidance on EU entry of third-country nationals identifies seasonal workers in agriculture as an essential category of workers to which temporary restriction of non-essential travel should not apply, while at the same time encouraging Member States to introduce coordinated and reinforced health checks for all persons entering the EU. Similarly, the Guidelines on free movement recommend Member States to allow seasonal workers to continue crossing their borders to work if work in the sector concerned is still allowed in the host Member State. Health screenings for mobile workers such as seasonal workers must be carried out under the same conditions as for nationals exercising the same occupations. Member States are also encouraged to communicate to the employers the necessity to provide for adequate health and safety protection.

While emphasising equal treatment as the over-arching principle for putting in place or alleviating any restriction, these guiding documents nevertheless fall short of adequately addressing the particular challenges faced by seasonal workers in the crisis. Given their vulnerable situation, seasonal workers need to be guaranteed access to adequate health and safety measures and protective equipment, decent accommodation as well as information about the virus and applicable rules in terms of employment and social security.

ETUC and EFFAT affiliated organisations have reported about different measures undertaken at national level targeting seasonal workers to address labour shortages in the agricultural sector, as well as identified risks related to those measures. *One note of caution, this briefing note captures a dynamic situation which is subject to ongoing change. We therefore kindly ask affiliates to provide us with further information on COVID 19-related measures that have been introduced in your country so that we can update this briefing note.*

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#### **Albania**

The Covid-19 outbreak had a major impact on the work of many Albanian seasonal workers usually employed in other EU countries. Albanian workers employed in Italy and Greece came back to Albania after the announcement of the lockdown. The Albanian and Greek government signed an agreement on Friday 1<sup>st</sup> of May paving the way for thousands of Albanian seasonal workers to work in Greece's agriculture sector, despite the currently prevailing coronavirus restrictions.



## COVID-19 WATCH ETUC BRIEFING NOTE

### SEASONAL WORKERS 29 MAY 2020

Greek Parliament approved the agreement which will allow up to 10,000 Albanians to move into Greece without visas, starting in mid-May. Accommodation will be provided by the farmers.

The first hiring phase concerns Albanian workers who have already worked in Greece. The second hiring phase will include other workers as well. Albanians who want to work in the agricultural sector in Greece must apply online on the platform [www.punënegreqi.gr](http://www.punënegreqi.gr) starting from May 4.

Greek employers who are interested in hiring seasonal workers can apply to the agricultural cooperatives of the regions from May 4 to June 20.

Bus transfers will be provided by travel companies which implement the security protocols set by the Greek government. Covid-19 testing will cost 80 Euro to the farmer and it will be performed in the bus itself, at the Kapshtica border. The tests will be sent to the laboratories contracted in Thessaloniki. Hotel arrangements have been made to quarantine until the test results are available.

#### **Austria**

In Austria there is currently a need for around 5,000 agricultural workers to carry out harvesting. Borders are still closed, with the exception of entry for frontier workers: So far only cross-border commuters from the Czech Republic or Hungary had the opportunity to commute to Austria every day for harvesting. Due to border closures, many foreign workers cannot reach Austria or return back to Austria. This affects thousands of employees, particularly in the areas of agriculture and forestry, food processing and food retail. As a result, farmer associations called on the Government to take concrete actions to overcome the current labour shortages in the agriculture sector. Charter flights organised and paid for by the farmers themselves have brought so far around 250 Romanian agricultural workers to Austria to work in the fields. These workers mainly reached Tyrol, Carinthia and Lower Austria.

A decree published on the evening of 30th April by the Health Minister Rudolf Anschober (Greens) provides now for additional exceptions for "flights for the transport of seasonal workers in the agriculture and forestry sector as well as care and health personnel".

To meet the demand for seasonal labour the Government has also launched an [online platform](#) to recruit volunteering agricultural workers in Austria, but the initiative, highly opposed by PRO-GE, proved unsuccessful. Although around 7000 individuals have registered, some have found the place of work too far. Seasonal agricultural work often entails harsh working conditions, labour law violations and wage dumping. The protection of workers is often non-existent, combined with isolation in very rural regions and high degree of dependence on the employer. Initiatives that encourages forced placements affect in particular vulnerable groups such as migrants, asylum seekers, refugees etc.

To respond to the current situation, PRO-GE has updated its [campaign materials](#) for seasonal workers in agriculture with Covid-19 related information together with political demands.



## COVID-19 WATCH ETUC BRIEFING NOTE

### SEASONAL WORKERS 29 MAY 2020

Similarly, the Ministries of Health as well as Agriculture and the Chamber of Agriculture intend to issue joint guidelines on health and safety of seasonal workers in agriculture.

#### **Belgium**

In reaction to restricted intra-European migration, the Belgian government has decreed three measures to facilitate seasonal work in agriculture. Firstly, the measures allow for the renewal of seasonal work permits, thus doubling their (potential) duration. Secondly, prolongation of work permits in different agricultural sub-sectors will be accepted (as also agreed among social partners in 2019). Thirdly, Belgium has dropped the embargo on hiring workers who were employed in the previous 180 days, thus facilitating the influx of workers who are retired, temporary unemployed, laid off recently by the same or another employer, on maternity leave, etc. Moreover, social partners have provided a proof of employment templates to be filled in by employers and to be carried by seasonal workers, as well as medical declaration templates proving that the worker is not ill on departure, in order to facilitate transit.

Trade unions are certainly not opposed to intra-EU mobility of seasonal workers, but a number of concerns remain in regard to the effective protection of workers' health and safety on departure and throughout their employment, especially with regard to quarantine measures upon arrival and to distancing and other preventive measures at work (including accommodation). The sudden easing of employment of different categories of workers, especially those who are currently covered by social protection schemes, could set a dangerous precedent. It also mostly underlines the paramount importance of equating seasonal workers' wages with those of regular workers.

#### **Bulgaria**

As all over Europe, the Covid-19 crisis had a negative impact on Bulgaria as well. According to an economic and social survey (AlfaResearch, May 2020), 79% of the companies have been economically affected in direct and indirect ways. Until the 1st week of May, approximately 300 000 people have been registered as unemployed in Bulgaria, which represents 9% of the workforce - 60% of them being women (reported by NA Employment). Out of them, 6 000 people are seasonal agricultural workers normally working in other EU Member States

The Bulgarian Agriculture and Food processing industry have not been seriously affected by the crisis in comparison to other sectors (unlike tourism, hotels and restaurants, construction etc).

Bulgaria being a "sending" country, most of the Bulgarian seasonal workers, who traditionally migrate to other EU countries, were then available in the local labour market. Most of them came back from countries severely affected by the pandemic (Italy, France, Spain, etc.). They have been in quarantine and carefully monitored due to the high number of workers affected among those coming back from other countries.



## COVID-19 WATCH ETUC BRIEFING NOTE

### SEASONAL WORKERS 29 MAY 2020

The urgent need for seasonal workforce in Western and South European countries (where they traditionally work) is becoming more persistent. Many seasonal workers reached the UK for harvesting strawberry at the end of April. Seasonal workers employed in the strawberry picking season in France left the country at the beginning of May. The preparation for short-term seasonal work for grape, blueberries, apples etc. in France, Sweden, is ongoing too and we may expect other countries lifting their border restrictions as well.

Still many concerns remain among seasonal workers especially with respect to the proper implementation of measures to safeguard their health and safety, including decent housing conditions.

Seasonal workers and their families depend very much on the incomes gathered by this type of work. Mostly those from rural regions where employment possibilities are very limited, and poverty is severe. Moreover, very often only one family member has regular wage/income. Seasonal work abroad is their chance to ensure the winter period of the household.

Wage disparities between the Bulgarian agriculture sector and other countries is relevant. For example, for nonqualified seasonal work the hourly rate in Bulgaria to harvest cherries is 1,9 Euro/hour, in comparison to Germany 9,35 Euro/hour as minimum.

Trade unions have called on government and responsible sectoral employers' organisations to take common measures to ensure workers' health and safety and decent working conditions

Amongst the restrictive measures related to agricultural workers in Bulgaria there is transport. During transport farmers are required to provide to workers personal protective equipment and the disinfection of the vehicle.

FNSZ-CITUB proposed and insisted that agriculture along with the forestry and fishery sectors must be supported by governmental compensations under the measure 60:40. As a social measure, it means defending working places in some of the vulnerable businesses affected by Covid-19 (such as pig breeding farms and other animal farms).

#### **Denmark**

Access to Denmark to work in the agriculture sector remains possible. Employers require a 14-day quarantine in Denmark or no contact with other people outside the workplace. The lack of foreign seasonal workers does not affect domestic labour so far. No special rules have been adopted expect that the ordinary notice period of termination is suspended in the case of coronavirus related work deficiencies.

#### **Finland**

On 9 April 2020 amendments to the Aliens Act and the Seasonal Workers Act entered into force. The amended Acts allow third-country nationals already residing in Finland based on a residence permit or a seasonal work permit to change employer or sector without applying for an extended or new permit. The temporary measures remain in force until 31 October 2020 with the objective of enabling third-country nationals to work in essential sectors, thus avoiding



## COVID-19 WATCH ETUC BRIEFING NOTE

### SEASONAL WORKERS 29 MAY 2020

labour shortages. The conditions of permits granted under the amended Seasonal Workers Act also apply to third-country nationals entering Finland after its entry into force.

The Ministry of Agriculture and Forestry has outlined more detailed conditions for the entry of seasonal workers in terms of tasks, transport and quarantine measures. Prior to arriving in Finland workers will be given safety instructions related to COVID-19, such as placing themselves in quarantine-like conditions for two weeks upon arrival. Employers are responsible for arranging transport from the point of arrival to the place of quarantine. A first-stage reception of 1 500 seasonal workers has been envisaged by organised charter flights from Ukraine. The Ministries of Agriculture and Forestry, Economic Affairs and Employment together with the Public Employment Services have also launched a campaign, including a [website](#), in order to attract students, migrants, laid-off workers and the unemployed persons to seasonal jobs. So far more than 10 000 applications have been received.

#### France

On 20 May 2020, the French Prime Minister issued an [Instruction](#) on the entry of seasonal workers in agriculture to the territory of France. To enter into France, seasonal workers from other EU Member States must be able to present a valid employment contract from the employer. The employer must commit to take the necessary measures to guarantee the health, safety and sanitary conditions of their seasonal workers with regard to the organisation of work, transport and accommodation. Further [instructions](#) and a guide with best practice regarding the work and accommodation was published by the French Ministry of Agriculture on 26 May.

Prior to this date, there was no green lane for migrant workers in France in the agriculture sector. [Local initiatives](#) had been taken place, calling on refugees and asylum-seekers to work in the fields on a voluntary basis. There was not any national debate on this issue as localities are also competent to push for such initiatives, which in turn also blurs the visibility of trade unions. Nevertheless, the French Government was also encouraging recourse to workers currently in short-time work schemes as well as job seekers to fill the need of workforce in the sector.

In contrast to the growing pressures to get back to "normal" economic activity, there are constant concerns regarding the effective protection of migrant workers and their health and safety in view of the need to prevent further propagation and contamination by COVID-19. Similarly, concerns regarding the illegal practices of employers also persist.

Cross-border seasonal workers were still unable to travel to France in April 2020. The need for workforce is greater in western and southern France.

Farmers have set up the "des bras pour mon assiette/arms for my plate" platform in partnership with ANEFA and POLE EMPLOI. This initiative was relayed by the Minister of Agriculture, Didier Guillaume, on 24 March 2020, giving it thus greater media visibility. By mid-May, more than 240,000 people had registered on this platform to make up for the lack of foreign workers. The platform allows farmers to contact people directly depending on the progress of their work and seasonality.



## COVID-19 WATCH ETUC BRIEFING NOTE

### SEASONAL WORKERS 29 MAY 2020

The shortage of cross-border seasonal workers was mitigated in France by the partial success of the "des bras pour ton assiette" platform. Still workers have not been properly trained for agricultural work. Many are students or employees in partial unemployment from another sector. These employees can cumulate their unemployment benefits with the agricultural wage.

#### **Germany**

In April 2020, 40 000 seasonal workers were expected to arrive in Germany, followed by another 40 000 in May. At the end of April 17 000 workers had reached the country, many of whom are Romanian who arrived by chartered flight. Upon their arrival, workers are informed of the hygiene regulations put in place to contain the virus, and are then required to sign a declaration stating they are in good health. Seasonal workers are being placed in quasi-quarantine status, living and working separately from the domestic workforce for 14 days. Seasonal workers reaching Germany are often employed through short-time employment contracts (up to 70 days, extended currently to 115 days due to COVID-19). Such form of Labour contract it is exempted from social contributions if it is valid for a limited period of time and it is not the main source of income. This work contract applies also to German workers. The lack of social contributions is based on the presumption that seasonal workers have a main occupation in their home countries and are therefore insured through it for the time working as seasonal workers in Germany.

The government is preventing trade unions and advisory centres from reaching out to seasonal workers, making it impossible to assist them properly and to monitor the real conditions they are facing. In this critical context, one seasonal worker from Romania has died from COVID-19 in Germany. Evidence shows that social distancing is not ensured as well as decent accommodations are often not provided. A reporter's investigation revealed serious breaches of coronavirus containment measures at an asparagus farm in the lower Saxony district of Nienburg. The situation is exacerbated by the lack of sufficient inspections due to the COVID-19 outbreak.

Prior to the COVID-19 pandemic, issues of precarity for seasonal workers coming to Germany were already well-documented: low wages, below the legal minimum of €9.35 per hour; illegal pay deductions to cover exaggerated meal or accommodation costs; lack of health insurance; and poor living conditions. Such exploitation is only likely to be compounded during this crisis. The current situation also raises important questions concerning access to health care provisions and other contingencies in the event of a worker falling sick. Similarly, the question of the right for seasonal workers to return home in cases of abuse is left unanswered, with no other flights than chartered ones currently available.

EFFAT has supported its affiliated member organisation IGBAU in denouncing the deplorable housing and living conditions of seasonal workers in times of COVID-19. The following demands are particularly urgent:

1. Seasonal workers must benefit from decent housing and working conditions.





## COVID-19 WATCH ETUC BRIEFING NOTE

### SEASONAL WORKERS 29 MAY 2020

2. Effective measures must apply to protect seasonal workers' health from the first minute of their journey. Social distancing and protective equipment must be ensured and provided during the journey as well as during their work in the field.
3. Seasonal workers must be able to access trade unions and benefit from their support. On arriving in Germany, specifically, workers should be given the contact details of the [Fair mobility](#) hotline that gives legal and practical advice to seasonal workers in their home language.
4. Seasonal workers must receive a work contract in their home language with clear information about their rights and working conditions including remuneration and working time. Moreover, they should be able to come back to their home country safely in case of need.

#### **Greece**

The Greek Government has expressed concerns regarding the absence of foreign labour which could ruin farmers' production and cause big losses to the economy. For May, Greek farmers are in need of 50 000 fruit and vegetable pickers. Usually the seasonal work in the agricultural sector is covered from neighbouring countries (Albania, Bulgaria and Romania). Albania and Greece, whose borders are closed, are currently discussing plans to lift travel restrictions so as to allow Albanian seasonal agricultural workers to arrive in Greece by mid-May. Prior testing or quarantine measures of such seasonal workers are being envisaged.

It is estimated that at least 7 000 to 10 000 agricultural migrant workers are currently living and working in the wider strawberry production area in the region of Manolada. Many of those are from Bangladesh, living in unsanitary and overcrowded conditions (10 to 20 people in one makeshift hut). Furthermore, the conditions created by the pandemic results in decreased daily wages and working days so significant that many seasonal workers find themselves in an extremely difficult economic situation. In addition to this, the migrant workers must nevertheless pay a monthly rent to the field-owner for their accommodation, ranging from €30 to €50, as well as fees to various intermediaries in order to find another job.

#### **Hungary**

During the coronavirus epidemic, the Hungarian Government treats as a priority the maintenance of the stable operation of Hungarian Agriculture, food industry and the continuity of food supply. The Ministry of Agriculture has launched an Internet website <https://www.munkaszuret.hu/w> as an online medium through which seasonal job opportunities can be offered by farmers, thereby creating a chance to earn a living to those who have lost their livelihoods in other sectors of the economy on a permanent or temporary basis (e.g hospitality, tourism or service sectors as well as full-time students without courses in the current situation).

During April, the demand for seasonal agricultural workers increased sharply. In the Hungarian fruit and vegetable sector about two third of the production is carried out by the seasonally



## COVID-19 WATCH ETUC BRIEFING NOTE

### SEASONAL WORKERS 29 MAY 2020

employed workforce and one third by permanent employees. Each work phase is linked to very narrow and tight biological deadlines.

The coronavirus pandemic affects Ukrainian seasonal workers who represent the largest group of foreign workers in Hungary.

The challenges that Hungarian seasonal workers are currently facing are unemployment and the loss of their livelihood because of the crisis.

#### **Ireland**

The media reported in mid-April that a fruit company had chartered a plane to fly in approximately 190 fruit pickers from Bulgaria to pick fruit. Trade unions expressed alarm at aspects of how the workers had been transported and said it was vital that the state protect the workers involved. The Prime Minister and the Minister for Health both were reported as expressing unease, while Ireland's chief medical officer was also reported as saying that flying in workers was not consistent with public health advice. Other media commentary was very critical of the government's reaction, pointing out that Ireland had asked the EU to ensure cross-border travel for 'essential workers'.

Though it does not apply in this particular case, Ireland did not opt-in to Directive 2014/36/EU on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, and is therefore not bound by its provisions. The matter was raised in the Irish Parliament on a number of occasions.

Concerns were expressed in the Irish parliament about the fact that seasonal workers are unable to access the special 'Pandemic Unemployment Payment' introduced in mid-March for workers who were made redundant because of COVID-19. The Government's response is that the reason they have been unable to access this payment is that they were not working when it was introduced in mid-March and that if seasonal workers were able to access it, then 'many more workers would be able to access this payment'.

#### **Italy**

According to the [Placido Rizzotto Observatory](#), in 2019 between 400,000/430,000 agricultural workers were exposed to the risk of irregular work under gangmasters; of these more than 132,000 are in a state of serious social vulnerability. In addition, more than 300,000 agricultural workers, or almost 30% of the total, work less than 50 days a year. Presumably this includes a lot of irregular/illegal work. The rate of irregularity in labour relations in agriculture in Italy is up to 39%.

Due to the pandemic and the border restrictions also Italy is confronted with a lack of seasonal workers in the agriculture sector.



## COVID-19 WATCH ETUC BRIEFING NOTE

### SEASONAL WORKERS 29 MAY 2020

At the same time, thousands of undocumented migrants are currently employed in the Italian agriculture sector, but unfortunately undeclared. With the beginning of the pandemic a tough debate started in the country on the possibility to adopt an amnesty for undocumented migrants. After weeks of negotiations marked by political infighting and resignation threats, the parties in Italy's coalition government finally reached an agreement on Wednesday 13 May.

The Governmental Decree (*decreto rilancio*), whose final version has been published in the Italian Official Journal on 20 May 2020, seeks, among dozens of other measures, to regularise workers employed in agriculture and fisheries (and connected activities), domestic workers and home carers.

The expressed aims of the regularisation measures are to offer adequate levels of protection of individual and collective health in relation to the Covid-19 health emergency and to encourage the surfacing of undeclared employment relations.

Two methods have been determined to achieve the regularisation of undocumented migrant workers. The first provides employers operating in one of the concerned sectors with the option to declare to the authorities the intention to conclude a contract of employment or declare an existing one with Italian or foreign workers present in the country before 8 March. Undocumented migrants will automatically receive an ordinary residence permit.

The second allows undocumented migrants with a residence permit expired since 31 October 2019 to apply for a temporary residence permit of 6 months. They should prove that they have previously worked, even for only one day, in the sectors concerned by the measure. If during the six months validity of the work permit they secure a job or can show evidence that they have worked, the temporary permit is converted into a residence permit for work purposes.

Remuneration will not be below the one set by the sectoral collective labour agreement.

It is the first time ever in Italy that regularisation can be achieved through two distinct routes. In the past only the first avenue was available.

According to the Italian Government up to 200.000 people may be able to benefit from the amnesty. Many are already working undeclared as domestic workers or farm labourers. The condition of thousands of agricultural workers is particularly critical in this emergency period, with thousands of them living segregated in deplorable housing, shantytowns (called “ghettos”) often without running water and electricity and with poor sanitary conditions, in which they leave for fear of being discovered and receive an expulsion decree.

EFFAT has welcomed this initiative.

The decree has certainly some limits, primarily because it is addressed only to some sectors of the economy. It certainly doesn't mark the end of “caporalato” and labour exploitation; yet it is a major step forward that gives back hope to thousands of individuals who today are



## COVID-19 WATCH ETUC BRIEFING NOTE

### SEASONAL WORKERS 29 MAY 2020

invisible because victims of undeclared work and gangmaster practices. Ensuring access to legal employment and public care to these people is an act of social justice.

Coldiretti, the association of small and medium-sized farmers is also demanding the extension of the voucher system in agriculture.

EFFAT affiliates FLAI, FAI and UILA strongly oppose Coldiretti's interpretation. The use of voucher in the agriculture sector would only contribute to make the sector even more precarious. Moreover, collective agreements in the agriculture sector already allows for flexible work arrangements. CGIL, CISL and UIL strongly support EFFAT affiliated unions in denouncing the voucher system as inappropriate.

#### **Latvia**

Recent changes in the [Cabinet Order No. 103](#) 'Regarding Declaration of the Emergency Situation' provide that the Investment and Development Agency of Latvia shall provide support to the businesses whose workers need to return to the Republic of Latvia, and also to businesses which, in order to fulfil their obligations, need to send employees for work to other EU Member States or receive expatriate staff to Latvia. These measures may also be applicable to seasonal workers in case they are posted by an enterprise or temporary work agencies from Latvia to another Member State. The Cabinet Order particularly sets out conditions to be respected by a worker who arrives back to Latvia from abroad, e.g. the obligation of self-isolation for 14 days, during which the worker must stay at the place of residence and is not allowed to go to work, community, public, and other places where a large number of people is present.

#### **The Netherlands**

Chartered flights are currently being organised from Romania to Eindhoven on a daily basis, flying in Romanian seasonal workers to work in the agricultural sector. These workers are further transported on to worksites in the Netherlands and Germany. No specific measures have been put in place for seasonal workers arriving to the Netherlands. The moment they arrive, they can start working, without any specific precautionary measures for newcomers in terms of social distancing on worksites or in accommodation. The lack of access to protection and enforcement of health and safety measures already in place significantly increases the risk of contamination and propagation of the virus.

To improve the working conditions of seasonal workers, social partners in the agricultural sector has agreed on guidance on measures for healthy and safety working, transport and housing conditions in view of Covid-19. The [Dutch Corona Protocol](#) has been translated into [English](#), [Polish](#) and [Romanian](#). It provides clarity on what is allowed and what is not, but it remains to be seen whether it will actually improve the situation on the ground, and whether the Labour Inspectorate will enforce the guidelines. Fines tend to be low, without any deterrent effect. So far inspectors have only operated via phone calls, as the current policy has been to not conduct any physical inspections on worksites. Another problem is that the current



## COVID-19 WATCH ETUC BRIEFING NOTE

### SEASONAL WORKERS 29 MAY 2020

Guidelines only partly apply to seasonal workers employed through temporary work agencies, excluding the requirements in transport and housing.

#### **North Macedonia**

Most foreign seasonal workers in Macedonia come from Albania, especially in the southwest of the country, in the Ohrid, Struga and Prespa regions. Following the border closures of Macedonia and Albania, these seasonal workers returned to their home country. As these seasonal workers are mostly undeclared workers, their exact number as well as their impact on the local workforce remains unknown so far.

Foreign citizens from medium and high-risk countries are denied entry into North Macedonian territory.

About 5,000 Macedonian citizens remained in other countries following the closure not only of the Macedonian state border on 16.03.2020, but also of the other state borders in the region and in Europe.

Most of the seasonal workers from Macedonia, who work in other countries, began to return to Macedonia at the onset of the health crisis. Mostly they work in the north of Italy, Austria and Germany. The largest number of COVID-19 sufferers are seasonal workers who have returned from Italy. There is no exact number of seasonal workers from Macedonia in other countries, as most of them hold a Bulgarian passport and register as Bulgarian nationals there.

In addition to the 15-day state quarantine, another measure was introduced; the citizen will stay at least 14 day in home/self-isolation.

#### **Norway**

Due to travel restrictions, not many employees from abroad can be expected. Anyone entering from other countries will stay in quarantine for 10 days. In this sector, there is generally no migration of workers from Norway to other countries.

The demand for workers in the green sector will be high in the upcoming 5 months. Recruiting Norwegians in this sector will prove difficult as wage levels are quite low, and work can be physically demanding.

Fellesforbundet encourages employers to hire unemployed, students and youths, so that necessary work in the agricultural sector can be done. We underline that law and regulations on employment must be followed in order to make the sector more attractive. Agriculture is one of the few sectors in Norway where the state has made the collective agreement generally binding.

#### **Poland**



## COVID-19 WATCH ETUC BRIEFING NOTE

### SEASONAL WORKERS 29 MAY 2020

On the 12th of May, due to shortage of workers in agriculture, the Polish government simplified the regulations concerning the crossing of borders by Polish seasonal workers in agriculture in times of pandemic.

So far, the national borders have been closed. However, cross-border workers are allowed to work in the neighbouring countries. They may as well legally stay and work in Poland even after their visas expired during the pandemic and up to 30 days after it.

Seasonal workers are obliged to undergo the compulsory 14 - day quarantine on the farm after crossing the Polish border.

Workers from abroad are allowed to fulfil their duties during quarantine. “During the first 14 days of stay on the farm when the worker is under compulsory quarantine, he has the possibility to carry out the job whereas he is prohibited to leave the farm. His contact with people living on a farm need to be limited to the minimum as well”. The employer is obliged to provide his workers with means of personal protection as well as information.

An anti-crisis package called “Anti-Crisis Shield” was introduced, which, among other things, was based on unfavourable solutions for the workers:

1. restrictions on uninterrupted daily and weekly rest periods;
2. the introduction of a system of equivalent working time, allowing an extension of daily and weekly working time;
3. the application of less favourable employment conditions to workers than those resulting from employment contracts;
4. a provision that is unfavourable to trade unions, allowing employers (after only a two-day consultation period) to make arrangements to apply for job protection benefits themselves
5. Limited access of trade union to seasonal workers.

#### **Romania**

Responding to labour shortages in agriculture, Germany and other EU Member States have been given permission to organise chartered flights flying in Romanian seasonal workers. Following pressure from in particular the German Government and employers in the agricultural sector, the Romanian Government now allow seasonal workers to go abroad. Seasonal workers departing from Romania must have a valid identity card as well as an employment contract specifying the address where the worker will be quarantined upon his or her arrival. The same requirements apply to seasonal workers departing from Romania by car. Persons entering Romania may be instructed to go into quarantine for up to 14 days, depending on which country they come from. Seasonal workers are recruited from all over Romania by temporary work agencies and intermediary companies, mostly over the phone.



## COVID-19 WATCH ETUC BRIEFING NOTE

### SEASONAL WORKERS 29 MAY 2020

Quite often they do not know who the Romanian intermediary firm or employer is, or what their working conditions in Germany are. Sometimes they may not get their contract or flight ticket until they arrive at the airport.

Following the growing interest of Romanian seasonal workers to work abroad, as well as the frequent situations in which the Romanian workers are treated unfairly, BNS on numerous occasions has requested the Romanian Government and authorities to take measures to protect seasonal workers from becoming infected with the virus as well to provide workers with the necessary information on their rights and conditions before signing any contract. The request of BNS to be able to provide information leaflets to seasonal workers going abroad was not accepted by the Romanian authorities. BNS nevertheless offers relevant information on the website, on social media and via telephone counselling. Within the Faire Mobilität Network, BNS also cooperates with DGB to provide Romanian workers in Germany with information and counselling.

Also, the CSDR Confederation sent to all country branches material through which the seasonal workers were informed about the obligations and contractual rights of the parties, social distance measures, protection measures, as well as the signing of employment contracts in bilingual format.

Situations where the rights and conditions of Romanian seasonal workers abroad are not being respected are already being witnessed. Beyond poor health and safety standards, there are reports of cases where the workers have been charged for their travel costs (up to € 300), for their work equipment (€ 10-30 per day) or for meals. Some workers struggle to meet daily targets and thus be paid less than for the hours actually worked. Others have been forced to work during the Orthodox Easter or without a proper employment contract. The identity cards of some of the workers have even been taken from them upon their arrival. Under these circumstances seasonal workers finds themselves in a particularly vulnerable situation, as they risk experiencing troubles returning home to Romania should they resign or be dismissed. The authorities have not foreseen any remedy for such situations. Together with improved enforcement of decent working conditions, BNS and DGB are demanding such measures be put in place.

Starting on Sunday, May 10, the first train with seasonal workers operated by CFR has left for Austria from the North Station of Timișoara, following the request of the Austrian railway company (ÖBB) and the agreement between the Austrian authorities and Romania.

#### **Spain**

On 7 April 2020, by means of a Royal Decree, the Government approved to extend all work permits of seasonal workers until 30 June 2020. Before the crisis, about 7 000 Moroccan women arrived to work in the red fruits harvesting in the Huelva province. Given the total closure of Morocco's borders with Spain, the main challenge was to know what the situation of these women would be like once the campaign ended. Remaining without a job, would have implied remaining without accommodation and not being able to return to their home countries.



## COVID-19 WATCH ETUC BRIEFING NOTE

### SEASONAL WORKERS 29 MAY 2020

For this reason, the government extended the work permits, so as to allow the work of these women for other fruits and vegetables harvesting in other Spanish regions. As a priority, trade unions have demanded to guarantee health and safety at work as well as hygienic and sanitary conditions in the accommodation facilities foreseen for seasonal workers.

Farmers in Spain are accused of spreading fake news in the media about supposedly disproportionate needs for foreign labour so that the Government would allow massive hiring, often without respecting the conditions in collective agreement or the binding requirements on accommodation standards. At the Tripartite Labour Commission for Immigration (“Comisión Laboral Tripartita de Inmigración”) the accurate and official figures of all agricultural campaigns in 2019 were shown, being 21 500, while employers made requests for agricultural seasonal migrant workers of between 120 000 and 150 000 for 2020. It is important to report that in Spain many farmers do not pay minimum wage (Salario mínimo interprofesional) which amounts to 950 Euros per months. As in Italy, Spanish Trade Unions demand regularization of migrant workers.

#### **Serbia**

Many seasonal workers in Serbia lost their jobs as a result of emergency measures introduced due to the Covid-19 outbreak. Similarly, many Serbian seasonal workers in other European countries returned home, when their work and accommodation were discontinued because of the crisis. Although some sectors are starting to open up again, entry into Serbia is still difficult for those seasonal workers who chose not to stay. Many farmers therefore currently rely on labour provided by the extended family.

The crisis has made occupational health and safety concerns in the sectors even more apparent, and the Confederation of Autonomous Trade Unions of Serbia has launched an initiative of solidarity for all – local workers, as well as workers engaged in seasonal, temporary and occasional jobs. There is a lack of protective equipment such as masks and gloves, as well as social distancing measures. Currently there are around 8 800 migrant seasonal workers living in collective accommodation centres. Living in small spaces without personal space increases the risk of contamination, as well as tensions, aggressive behaviour or depression, and a feeling of helplessness.

#### **Sweden**

In a survey conducted a few weeks ago, 66 horticultural companies in southern Sweden were asked about their need for seasonal workers. Most employers stated that they need approximately 1,900 seasonal workers. The Swedish government recently decided that people with work permits from countries outside the EU should be exempted from the Swedish entry ban. Despite a range of new travel rules due to the coronavirus pandemic, flights to Sweden remain possible to a certain extent. The situation remains difficult for workers who have to cross several national borders within the EU to get to Sweden. Denmark has closed its borders and the ferry lines between Poland and Sweden have been closed as well. Some large horticultural companies plan consequently to fly in workers.





## COVID-19 WATCH ETUC BRIEFING NOTE

### SEASONAL WORKERS 29 MAY 2020

The lack of foreign seasonal workers does not affect much the domestic labour. The coronavirus pandemic led to a general lack of summer-jobs for young people, hence the hope that they will resort to working in the agricultural sector instead. Swedish Public Employment Service (AF) together with the Farmers' Interest Organization (LRF) try to liaise unemployed people with employers/companies. We must avoid that employers take advantage of the subsidies from the government; employers must pay decent wages without using Swedish tax-moneys. Moreover, all workers must have the same rights, wage, etc. as the Swedish workforce.

On April 23 LRF had arranged a meeting with the Minister of Rural Affairs and the Minister of Labour to discuss the need for seasonal workers in agriculture. After some lobbying, the Social Partners (Kommunal and the employers' organisation) were invited as well. LRF wants the Government to subsidize unemployed Swedes who will take up work in agriculture, which of course Kommunal disapproves. Employers must pay salaries at the CBA-level to all workers.

#### **United Kingdom**

On April 15 it was reported that two chartered planes had arrived from Romanian carrying around 150 workers who were then dispatched to farms in England to pick fruit and vegetables. More planes were reported to have been booked to bring up to 450 workers to the UK up to the end of June.

The government have confirmed that this is an employer-led scheme as workers from the EU do not need special permission to be in the UK until the end of transition period. The National Farmers Union is thought to be playing a leading role.

Unions have longstanding concerns about conditions, pay and safety in the fruit and vegetable growing (horticulture) sector. Employers in this sector have often been hostile to unions and there are no recognition agreements between employers and unions across the horticulture sector. Whilst all labour providers in the horticulture sector are required to be licensed by the Gangmasters and Labour Abuse Authority (GLAA) - which requires the conditions of employment to be inspected when they apply for a license - unions are concerned that there is not adequate monitoring to ensure labour providers adhere to GLAA requirements for respect for labour standards and safe conditions.

Unite does not seem to have had contact with employers in agriculture on the Romanian workers scheme or from the GLAA to monitor the conditions or pay of the workers. As there are no recognition agreements in the fruit and veg growing sector, there is significant risk that these workers will be exposed to unsafe conditions where they will be more vulnerable to infection from Covid-19 and poor treatment.

#### **Need for action**

Urgent action is needed to effectively guarantee seasonal workers adequate health and safety protection as well as decent working and living conditions. EU law obliges Member States and employers to take necessary measures to protect the health and safety of seasonal workers on the basis of equal treatment with nationals of the host Member State. A first obstacle to



## COVID-19 WATCH ETUC BRIEFING NOTE

### SEASONAL WORKERS 29 MAY 2020

effective protection concerns the lack of access to adequate and visible information about risks and preventive measures for seasonal workers in other languages than the one(s) of the host Member State. A proper and swift transposition of the Transparent and predictable working conditions Directive may play an important role.

Companies where precautionary measures have not been properly introduced represent another area of concern. Labour inspectorates need to be given the mandate and capacity to monitor and enforce also Covid-19 related health and safety measures. Lack of access to personal protective equipment increases the risks of contamination and generates both stress and insecurity among workers. The lack of adapted working methods, procedures and targets in view of the crisis similarly make it difficult for workers to follow social distancing and other hygiene precautions. Seasonal workplaces such as warehouses and farms may necessitate the introduction of special procedures or a reduced number of workers per facility in order to be able to observe social distancing. Unless the heavy workload or time pressure is adjusted, there is simply no time to follow safety measures formally in place, if workers at the same time feel pressured to meet their daily or hourly targets.

Conditions allowing for social distancing outside working hours is equally crucial, since many seasonal workers live in accommodation provided for by or through their employer. This may be the case for both EU and non-EU seasonal workers. The Seasonal Workers Directive even guarantees an explicit right to adequate accommodation, but as said above it is poorly used. Still, right to decent housing is not protected by specific provisions when it comes to EU seasonal workers reaching Member States within the framework of free movement of workers. As explained above many workers live in shantytowns or other informal settlements often without electricity and running water and poor access to sanitary facilities. Many workers live together in small facilities with constant changes of roommates. They may be transported to and from the workplace in minivans, everyday eating close together in cramped canteens. Under such conditions social distancing is impossible, neither at work nor in their free time. Staying in deplorable housing may represent a big risk for the spread of the pandemic among agricultural workers.

With little access to accurate information and afraid of losing their income or job, seasonal workers may find it particularly hard to stay away from work even in case they feel ill, or denounce abuses. For many seasonal workers, their accommodation is closely connected to their work. Losing their job in times of COVID-19 outbreak not only constitutes a risk of losing their income, but also their housing. This lack of decent conditions for seasonal workers in essential sectors constitutes a health risk not only for the workers themselves but also significantly increases the risk of further spreading of the virus.

#### **Policy recommendations**

In view of the COVID-19 outbreak, seasonal workers find themselves in a particularly vulnerable situation, which is not sufficiently remedied by the existing legal framework, recommendations or temporary measures introduced in Member States. The guiding principles for any measure taken to address the risk of labour shortages in essential sectors such as



## COVID-19 WATCH ETUC BRIEFING NOTE

### SEASONAL WORKERS 29 MAY 2020

agriculture should be the health and safety of all workers, access to decent working, housing and living conditions, the respect for fundamental social, workers' and trade union rights, including equal treatment, while at the same time recognising the special needs of vulnerable seasonal workers.

More specifically for the Agriculture sector, EFFAT has highlighted a number of EU policy initiatives that should be taken both on the short term (to deal with the COVID-19 outbreak) and more on the long term. Please find below a **non-exhaustive** list:

#### *On the short-term:*

1. To make sure that the EC Guidelines on the exercise of the free movement of workers issued on 30 March are strengthened with clear provision covering, inter alia, decent housing, protective equipment and social distancing. The Commission should deploy a strict monitoring of the implementation of the Guidelines.
2. To take some clear urgent initiatives concerning housing for EU seasonal workers moving within the framework of the EU free movement of workers.
3. Depending on the reality of each country, to regularize undocumented migrants tackling social dumping, facilitating regular employment and access to housing and public care (which is crucial during this pandemic).
4. To meet [EFFAT demands](#) in the upcoming Farm to Fork initiative.

#### *On the mid-term:*

1. To accelerate the empowerment of the European Labour Authority (ELA), in particular with respect to joint and concerted inspections and fight against undeclared work.
2. To finalise the revision of the 883/2014 Regulation on the Coordination of social security and to step-up other enforcement tools for mobile workers (ESSN and Insurance Status Verifier)
3. An effective way to make the EU agriculture sector more attractive would be to support [EFFAT long-standing demands on CAP](#) (e.g. Cap payments to farmers to be conditional to the respect of labour legislation and health and safety regulations).
4. To Improve the functioning of work permit routes for non-EU migrants to reach Europe and enforce respect for migrant and refugee workers' rights. In particular to revise the Seasonal workers directive.
5. To adopt an ambitious binding EU legislation on Due diligence, a proper revision of the non-financial reporting directive as well as an EU legal instrument ensuring joint and several liability in the subcontracting chains.



**COVID-19 WATCH**  
**ETUC BRIEFING NOTE**

**SEASONAL WORKERS**  
*29 MAY 2020*