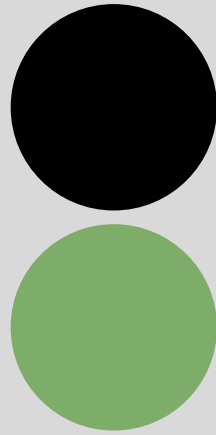


BUILDING A COMMON LABOUR MIGRATION POLICY FOR SEASONAL WORKERS



How can the EU tackle irregular economic migration and labour shortages in specific sectors requiring low-skilled workers while reinforcing its responsible global leadership?

Executive Summary

Improving the existing mechanisms for seasonal workers to enter the EU for specific tasks is a necessity given the fact that the existing legal framework has proven to be ineffective and its implementation has been difficult. For this purpose, we consider that a more flexible legislation that reduces the length of the existing bureaucratic procedures; as well as the implementation of multiple stakeholder collaborations and the promotion of development benefits for the country of origin of the participants are crucial.

Introduction

In 2020, as the world grappled with shutdowns and witnessed the emergence of barriers, the tendency towards a multinational landscape encountered a significant setback. The urge for an ***effective and dignified system enabling seasonal workers to support the needs of the agricultural sector*** was made unignorable:

Several countries struggled to meet their needs in terms of labour to harvest their crops, putting in danger the food security of their population.

Moreover, the Pandemic revealed the conditions in which the irregular workforce of several countries, the need for effective regularization for undocumented workers, and the construction of safe mechanisms to bring seasonal workers to work in several sectors.



"Hundreds of thousands" of workers could be impacted as a result of border closures.

The Good, the Bad and the Ugly: Understanding the Legal Framework and its challenges

While the directive 2014/36/UE, demonstrated the Union commitment to regulate seasonal migration and uphold the rights of third-country nationals, inherent limits, and challenges have come to light. The transposition of the goals of the Union to actionable regulations at a domestic level has led to variations in interpretation and enforcement, which demonstrates the need for an act that allows uniform application of legislation.

In addition, the stringent nature of the directive seems to exert adverse effects on the essence of seasonal work, which attractiveness inherently implies a degree of flexibility. Imposing rigorous regulations on seasonal migration may pose formidable challenges for employers, potentially compelling them to favor the recruitment of undocumented immigrants as a workaround. Such unintended consequence highlights the need for a balance between regulatory measures and practical demands to expand seasonal migration in the Union.

The ambiguous term of seasonal workers at the European level contributes to the ineffectiveness of a restrained legal framework. The particularities of certain industries or assignments confront seasonal workers to inequalities on work conditions, which implicates the necessity of specificities in the legal categorization of seasonal workers. Similarly, inequalities are exacerbated on a gender basis, confronting migrant women to vulnerable conditions at work, without a categorization allowing them to have access to an efficient protection. The seasonality persists as a restricted period of time within the European territory,

without taking into consideration the difficulties to assume an inherent seasonality of certain sectors where their activities can extend to several months.

Recommendations

According to the literature, the existing directive has failed to ensure a system that effectively meets the following four criteria:

- Provide solutions to labour shortages in specific sectors.
- Effectively protect the human rights of seasonal workers through monitoring and mechanisms of support.
- Ensure the return of seasonal workers to their country of origin in an orderly and safe manner.
- Promote development benefits in the countries of origin of seasonal workers that participate in the program.

Building on those, we encourage the EU institutions to work towards the implementation of the following recommendations:

REDUCTION OF BUREAUCRATIC PROCEDURES TO THE REQUEST OF WORK-PERMITS

Portugal's experience on this matter has shown a positive impact on the supply of work force in low-skilled jobs. In addition to this, the acceleration in the granting of work permits could potentially reduce abuse of workers and harness their need to go through illegal work networks, thus reduce illegal migration.

CREATION AND REINFORCEMENT OF MULTIPLE STAKEHOLDER COLLABORATIONS.

Dutch collaboration with different social and economic partners serves the government for the understanding of the migration situation. Similar partnerships with different actors can be created through Europe's different governments. This will result not just in a better understanding of migrations, but also in a better labour market analysis and forecast. In other words, sharing information, both vertically and horizontally, to have a better insight into the markets demand and offer. Therefore, facilitating contact between employers and workers.

Finally, by ensuring higher participation from different stakeholders, we are reinforcing our compromise to the protection of workers' rights. How? By encouraging workers to be educated regarding their rights and how to protect them; by creating surveillance networks that help prevent precarious working situations and support occupational safety and health among workers; by better-categorizing workers based on: type of work, sector, and gender.

PROMOTING DEVELOPMENT BENEFITS TO ENSURE HIGHER PARTICIPATION.

Australia's and New Zealand's recruitment programs for seasonal workers are worth highlighting given their explicit *development mandate* that seeks to promote the formation and capacitation of the participants in the program. Implementing this type of program would be of great use to boost participation among third countries.

Examples:

- For Australia, the 'Add-On Skills Training' included training in literacy, numeracy, first aid, and IT skills, and 42% of the seasonal workers participating in the project.
- For New Zealand, several mechanisms from both the private and public sectors provided training, from which the 12-week horticulture course has proven to be one of the most successful.

Bibliography:

- Bregiannis, F. (2021). An analysis of the EU Seasonal Workers Directive in the light of two similar regimes: Three dimensions of regulated inequality. *European Labour Law Journal*, 12(3), 266–279. <https://doi.org/10.1177/2031952520966626>
- *Crise agricole: Comment le gouvernement compte faciliter la venue de saisonniers étrangers*. (2024, February 21). Le Figaro. <https://www.lefigaro.fr/economie/crise-agricole-comment-le-gouvernement-compte-faciliter-la-venue-de-saisonniers-etrangers-20240221>
- Directive 2014/36/UE du Parlement européen et du Conseil du 26 février 2014 établissant les conditions d'entrée et de séjour des ressortissants de pays tiers aux fins d'un emploi en tant que travailleur saisonnier, CONSIL, EP, 094 OJ L (2014). <http://data.europa.eu/eli/dir/2014/36/oj/fra>
- International Labour Organization. (2020). *Seasonal migrant workers' schemes: Rethinking fundamental principles and mechanisms in light of COVID-19*.
- Le Coz, C., & Hooper, K. (2020). *Seasonal worker programmes in europe promising practices and ongoing challenges*. Migration Policy Institute. <https://www.migrationpolicy.org/sites/default/files/publications/MPIE-Seasonal-Workers-Policy-Brief-Final.pdf>
- Lewis, A. (2018, October 25). Belgium: Transposition of eu directives – state of play - newland chase global immigration services for corporations & individuals. *Newland Chase*. <https://newlandchase.com/belgium-transposition-of-eu-directives-state-of-play/>
- Mitaritonna, C., & Ragot, L. (2020). *After Covid-19, will seasonal migrant agricultural workers in Europe be replaced by robots?*(No. 33). CEPIL. http://www.cepii.fr/PDF_PUB/pb/2020/pb2020-33.pdf
- *One year later, none the wiser: Seasonal migrant workers still left behind during COVID-19*. (n.d.). Migration data portal. <https://www.migrationdataportal.org/blog/seasonal-migrant-workers-during-covid-19>
- *Seasonal migration and COVID-19: Undercounted, undervalued and underprotected*. (n.d.). Migration data portal. <https://www.migrationdataportal.org/blog/seasonal-migration-and-covid-19-undercounted-undervalued-and-underprotected>