



# **Collecting data on the situation of social protection of seasonal workers in the agriculture and food sectors in EU Member States after COVID-19**

STUDY



European Economic  
and Social Committee



## **Study**

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## Acronyms

<b>ADMiGOV</b>	Advancing Alternative Migration Governance
<b>ANAPEC</b>	<i>Agence Nationale de Promotion de l'Emploi et des Compétences</i>
<b>CAP</b>	Common Agricultural Policy
<b>CBA</b>	Collective Bargaining Agreement
<b>CBS</b>	<i>Centraal Bureau van Statistiek</i>
<b>CLA</b>	Collective Labour Agreement
<b>COVID-19</b>	COrona Vlrus Disease 19
<b>CPI</b>	<i>Centro per l'Impiego</i>
<b>EC</b>	European Commission
<b>EESC</b>	European Economic and Social Committee
<b>EFFAT</b>	European Federation of Trade Unions in the Food, Agriculture and Tourism
<b>ELA</b>	European Labour Agency
<b>EMN</b>	European Migration Network
<b>EP</b>	European Parliament
<b>ETT</b>	<i>Empresa de Trabajo Temporal</i>
<b>ETUC</b>	European Trade Union Confederation
<b>EU</b>	European Union
<b>EURES</b>	European Employment Services
<b>GECCO</b>	<i>Gestión Colectiva de Contrataciones en Origen</i>
<b>ILO</b>	International Labour Organization
<b>INPS</b>	<i>Istituto Nazionale della Previdenza Sociale</i>
<b>JRC</b>	Joint Research Centre
<b>LFS</b>	Labour Force Survey
<b>MITES-SEPE</b>	Spanish Ministry of Labour and Social Economy – Public State Employment Service
<b>MOF</b>	<i>Centro Agroalimentare all'ingrosso di Fondi</i>
<b>NA</b>	National Accounts
<b>NACE</b>	<i>Nomenclature statistique des Activités économiques dans la Communauté Européenne</i>
<b>NEN</b>	<i>Stichting Koninklijk Nederlands Normalisatie Instituut</i>
<b>PD A1</b>	Portable Document A1
<b>RNI</b>	<i>Registrazione Niet-ingezetenen</i>
<b>SMI</b>	<i>Salario Mínimo Interprofesional</i>
<b>SNA</b>	<i>Stichting Normering Arbeid</i>
<b>SNF</b>	<i>Stichting Normering Flexwonen</i>
<b>SPC</b>	Social Protection Committee
<b>SWD</b>	Seasonal Workers Directive
<b>TCNs</b>	Third-Country Nationals
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>USDA</b>	United States Department of Agriculture

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## **Abstract**

The decline of employment in the European agriculture sector increases the need of EU and non-EU seasonal workers at peaks of planting and harvesting activities. EU citizens' freedom and right to work across the Union allows the proper functioning of the market economy by providing labour where and when it is needed. Still, after 30 years of the single market, once seasonal workers arrive at their destination, they are subject to fragmented, often localised, employment arrangements and rules. Non-EU seasonal workers follow different mobilisation mechanisms, but end up in the same fragmented situations. In this context, characterisation and quantification of seasonal work in the agriculture and food sectors is a challenge. Due to the lack of sufficient law enforcement capacity at the territorial level by social (e.g., trade unions) and government (e.g., labour inspection units) actors, seasonal workers' rights in terms of social protection and decent working and living conditions can be violated by unethical employers, intermediaries, or even crime organisations. This study collects evidence on data/information gaps; draws insights from Italy, Spain and the Netherlands; highlights problems and makes suggestions to improve the working and living conditions as well as the protection of seasonal agri-food workers in Europe.

## **Executive Summary**

In 2020, the limited movement of goods and persons within the EU caused by the COVID-19 pandemic affected food supply chains and the availability of seasonal workers for labour-intensive activities in the agriculture sector. It also shed light on the working and living conditions of these workers across EU countries. This study puts together evidence to conclude that seasonal workers in the agriculture and food sectors are vulnerable to exploitation and that unethical employers perpetrate social fraud and social dumping and sometimes even abuse. In a few cases, these situations are 'legalised' as they occur without apparently breaching any law and by taking advantage of some legal inconsistencies or voids. The evidence collected in this study is instrumental in order to review legislation, enhance law enforcement, or change biased mechanisms. Still, we must not generalise. In agriculture, where permanent labour is regularly decreasing and activities have peaks across seasons, seasonal work is crucial for the correct functioning of the sector's market economy. Seasonal workers move because they have an economic gain in doing so, while farmers and agricultural/manufacturing entrepreneurs need seasonal workers to make their profits. This win-win situation needs to be protected and maintained.

The study's scope is to contribute to the **development of a knowledge base on seasonal workers in the European agriculture and food sectors in order to support actions aimed at ensuring these workers' decent working conditions**. Our methodological approach is based on desk research and on the development of three case studies on Italy, Spain and the Netherlands. Within the case studies, interviews with key social actors were carried out. In addition, a **data gap analysis** was carried out in order to 'size the problem' and understand existing constraints in quantifying seasonal workers in the agriculture and food sectors. The gap analysis shows that official statistics are insufficient for this quantification. The data situation is even worse for the food sector as publicly available data for the manufacturing of food products (and beverages) are not available in terms of temporary agency workers, temporary workers and posted workers.

Through an extensive search of national statistics and other reputable sources, **this study provides estimates of EU and non-EU seasonal workers in the agriculture sector.** This exercise is not considered exhaustive and is not extended to the manufacturing of food (and beverages) sector(s). Our estimates indicate the presence across the EU Member States of almost **2 million EU (domestic and intra-EU) seasonal workers and more than 0.4 million non-EU seasonal workers in the agriculture sector.** One of the most important pieces of evidence deriving from this sizing exercise is that, in 2021, **an estimated 71% of these non-EU seasonal workers in agriculture were not employed under the aegis of the Seasonal Workers Directive** and, accordingly, were not subject to its provisions in terms of rights and social protection.

Further to the Council Recommendation of 8 November 2019 on access to social protection for workers and the self-employed, countries are working to make their formal coverage of EU and non-EU seasonal workers compliant with existing EU legislation. Still, our overview of social protection coverage of seasonal workers across EU countries highlights the existence of several ‘exceptions’. These exceptions are sometimes linked to structural characteristics of seasonal work such as the limited length of employment and the lack of residence in the country where the work is carried out. In some EU countries, these two conditions prevent seasonal workers from accessing, for example, unemployment and family benefits. In other cases, it is the contractual arrangement used to employ these persons that excludes them from social coverage. The mini-jobs used in Germany, for example, are not covered by health and unemployment insurance. In fact, the tendency is, in some countries, to consider seasonal work as an activity done on top of other jobs for which these persons have regular social coverage. This often justifies the existence of simplified contracts, and of limited rights. However, these simple contracts, with their limited administrative burden and costs for the employer, are aimed at legalising seasonal work. The ‘harvest help contract’ in Poland is an example of compromise between reducing illegal work in the agriculture sector and providing seasonal workers with minimum rights in terms of social protection.

Our three case studies highlight the existence of several problems driving situations of exploitation, illegality or abuse of seasonal workers. Each EU Member State has its own approach to managing seasonal work in the agriculture and food sectors (e.g., collective agreements diversified by sector or by territory, types of applicable contracts) and its own specific issues to solve, but there seem to be commonalities among Italy, Spain and the Netherlands. First, there is a lack of proper knowledge or awareness of the extent of the phenomenon of seasonal work and how it ‘moves’ across territories. It is not only a quantification problem (as in Italy and Spain), but also a problem of not knowing where these seasonal workers actually live (as in the Netherlands). Second, housing arrangements are often inadequate. Housing is an area where employers can make savings and reduce the cost of labour; and it is by waiving the deduction of housing costs from their wages that seasonal workers may earn more money. Therefore, housing is basically a matter of money for all those involved and a trade-off is difficult to find unless decent housing is totally disentangled from the employment contract. Third, seasonal work represents a tough situation for vulnerable persons because of the existence of several disempowering mechanisms (Siegmann *et al.*, 2022) such as dependency on the employer, job precariousness and isolation (often determined by language barriers). Hence, women are particularly subject to exploitation and abuse and this situation should be taken into due account while making institutional decisions such as the one made within the framework of the collective management of hiring between Spain and Morocco.

The role of intermediaries is also investigated in the three case studies. These intermediaries play an important function in matching the seasonal needs of the agriculture and food sectors, but there is ample evidence that they also represent an entry point for fraud or even criminal practices. These intermediaries are able to circumvent rules, in particular by exploiting the right of free movement of EU citizens across the Union. Their certification, i.e., delegating their control to third parties, is one of the solutions adopted in the Netherlands.

With regard to the structure of the study, the first three chapters provide background information, a description of the study's objectives and an explanation of the terminology used. [Chapter 4](#) is the core of the work and includes the findings of the study as well as the three case studies. From these findings, conclusions and suggestions for support actions aimed at ensuring decent working and living conditions of EU and non-EU seasonal workers in the agriculture and food sectors are drawn in [Chapter 5](#). Suggestions relate to ways for improving EU-wide data collection processes on seasonal workers as well as for enhancing the enforcement of existing legislation. Lastly, we conclude on specific aspects that affect seasonal workers' living and working conditions, among which the provision of decent housing stands out. Even if these aspects are well-known to sectoral stakeholders dealing with migrants and seasonal work in the agriculture and food sectors, they remain unsolved.



## 1. Introduction

The COVID-19 pandemic caused critical situations in terms of workforce across different sectors. In agriculture, in 2020, the limited movement of goods and persons arbitrarily imposed by some EU Member States affected food supply chains and the availability of seasonal workers for labour-intensive activities. Besides seasonal workers' importance in safeguarding the harvesting of fruit and vegetables, workers' organisations and media across the European Union (EU) raised general public awareness on the working and living conditions of these persons, putting labour exploitation in the agriculture and food sectors high on the political agenda.

Labour exploitation relates to aspects such as working hours, wages, safety, occupational health conditions, housing and other decent living arrangements (e.g., transport). These aspects are regulated by social and labour legislation which is primarily the responsibility of EU Member States. Still, as some competencies are shared with the EU, minimum requirements on health and safety of workers, working conditions and information and protection of workers are usually defined in directives. Different pieces of EU legislation apply to seasonal workers depending on their nationality. According to the fundamental right to the free movement of workers within the EU<sup>1</sup>, **EU citizens** are entitled to be treated as the nationals of the host country with regard to employment, remuneration and other conditions (EP, 2021) including *'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)'* (ETUC, 2020, p. 2). EU seasonal workers may also benefit from the [Directive \(EU\) 2019/1152](#) on Transparent and Predictable Working Conditions, and, if applicable, from the Posting of Workers Directive<sup>2</sup> and the Temporary Agency Work Directive ([Directive 2008/104/EC](#)). In addition, Regulation 883/2004 on social security coordination, whose implementation was simplified and modernised by implementing Regulation 2009/987 on 'Procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems', provides for EU seasonal workers to access unemployment benefits and social protection according to the rules of the Member State where they are insured.

The working conditions of **third-country nationals** (TCNs) are determined by the Seasonal Workers Directive (SWD) of 2014 ([Directive 2014/36/EU](#)). This Directive grants seasonal workers *'equal treatment with nationals of the host country as regards terms of employment, such as the minimum working age, working conditions (such as pay and dismissal, working hours, leave and holidays) and health and safety regulations. This equal treatment also applies to branches of social security (benefits linked to sickness, invalidity and old age), training, advice on seasonal work offered by employment offices and other public services, except for public housing'* (EUR-Lex [webpage](#) accessed in March 2023).

Member States may adopt stricter provisions than those set in EU legislation and are responsible for defining and applying social and labour legislation according to national rules. **This national 'flexibility' implies the existence across the EU of heterogeneous approaches to guarantee social**

<sup>1</sup> Art. 45 of the Treaty on the Functioning of the European Union.

<sup>2</sup> When seasonal workers employed in one Member State are posted on a temporary basis in another Member State, Directive 96/71/EC concerning the posting of workers in the framework of the provision of services applies. This Directive, further amended by [Directive \(EU\) 2018/957](#) and strengthened by Directive 2014/67/EU on its enforcement, aims at ensuring that these workers are granted equal treatment in employment and working conditions.

**protection.** In addition, the European Commission (EC) receives little and fragmented information on the way labour rules are enforced at the country level.

Council Recommendation of 8 November 2019 on access to social protection for workers and the self-employed (2019/C 387/01) is meant to address the lack of (harmonised) information on the way labour rules are enforced in each EU Member State. With the aim of increasing the actual protection level of workers, the 2019 Council Recommendation provides for the development of a monitoring framework against which EU countries are required to report on a regular basis. It represents an application of the European Pillar of Social Rights which aims at guaranteeing citizens' rights and at making their rights effective. Also, it responds to the need to monitor EU countries' ability and willingness to provide workers with access to social protection. This aspect is particularly relevant for seasonal workers in the agriculture sector, as agriculture is among the most dangerous professions in Europe (EU-OSHA, 2020) where an important number of migrants is employed.

Another relevant policy development is the introduction of the social conditionality mechanism in the Strategic Plan Regulation 2022/2115 which governs the Common Agricultural Policy (CAP) 2023-2027. This mechanism provides area-based payments to farmers who respect certain provisions on transparent and predictable working conditions ([Directive \(EU\) 2019/1152](#)) and on occupational safety and health ([Council Directive 89/391/EEC](#) and [Directive 2009/104/EC](#)). This new mechanism may in fact become an incentive for farmers to guarantee decent working and living conditions to their seasonal workforce.

While waiting for the social conditionality mechanism's application by EU Member States by 2027, this study focuses on developing an overview of the level of social protection granted by EU Member States to seasonal workers in the agriculture and food sectors after the COVID-19 outbreak. It does so by building on a wide range of information sources at the EU and country level. Three case studies covering Italy, Spain and the Netherlands allow gaining country-specific insights regarding the conditions of seasonal workers, including by means of concrete examples.

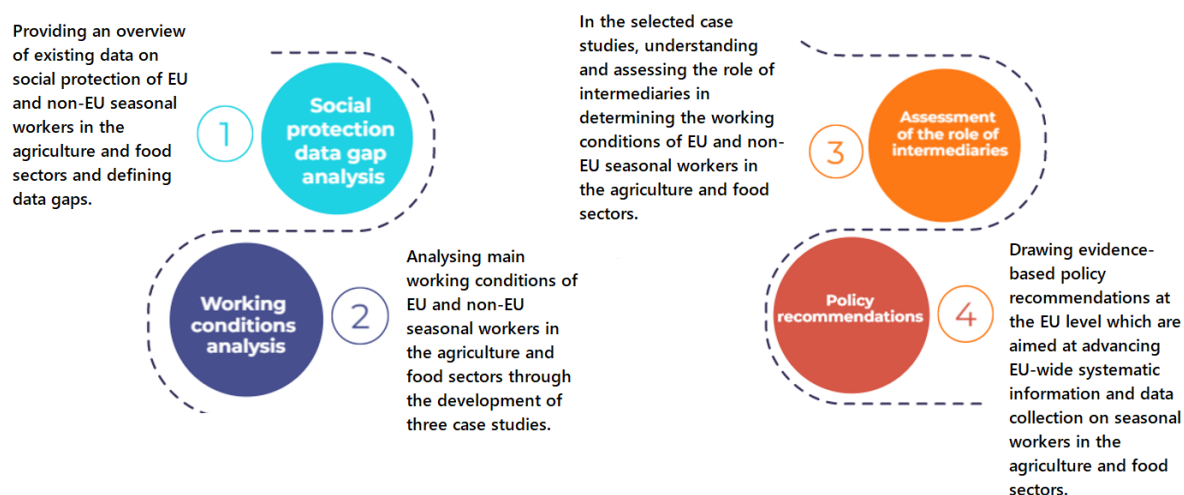
## 2. Objectives and scope of the study

When the EC issued the 'Guidelines on seasonal workers in the EU in the context of the COVID-19 outbreak' (EC, 2020)<sup>3</sup> in mid-July 2020, the number of these workers was estimated to be '*between several hundred thousand and a million*' per year (Eurofound webpage on '[Seasonal worker](#)' accessed in March 2023). In March 2021, a study by the EC estimated the number of intra-EU seasonal workers in the agriculture, forestry and fishing sectors as well as accommodation and food services sectors to be between 650,000 and 850,000 (EC-DG EMPL, 2021). These statements reflect the **approximate information available at the EU level** on the actual number of seasonal workers, **which adds to the limited information available on their social protection.**

<sup>3</sup> The guidelines called on Member States, employers of seasonal workers and workers' organisations to fulfil their obligations in terms of workers' safety and social protection.

Decent and quality working conditions are high on the agenda of the EESC<sup>4</sup>. The scope of this study is to **contribute to developing a knowledge base on seasonal workers in the European agriculture and food sectors in order to support actions aimed at ensuring their decent working conditions**. The study's scope is pursued by means of four objectives (Figure 1).

*Figure 1. Objectives of the study*



According to the **first objective ‘Social protection data gap analysis’**, the study provides qualitative information on the social protection of seasonal workers across EU countries. The challenging aspect in determining the social coverage of seasonal workers is the lack of harmonised data across the EU. This is a direct consequence of EU Member States having different arrangements (management and funding) for their social security systems and for the contracting of seasonal work. Examples of contracts used across the EU to employ seasonal workers in the agriculture and food sectors are provided. In order to ‘size the problem’, under this objective, the study also provides estimates of EU and non-EU seasonal workers in the agriculture sector. There are few and fragmented European statistics on seasonal workers. For this reason, the provision of estimates, that implies an extensive desk research of national data, is limited to the agriculture sector. Data gaps analysis at the EU level and insights on the availability of data and information across EU countries are used to suggest opportunities for improving EU-wide data collection processes.

The **second objective ‘Working conditions analysis’** aims at investigating in more detail the situation of seasonal workers in the agriculture and food sectors in three EU countries. This objective is pursued by developing case studies on Italy, Spain and the Netherlands (see [Section 4.5](#)). The three case studies are also used to tackle the study’s **third objective on the ‘Assessment of the role of intermediaries’**.

Finally, building on the evidence collected against the above three objectives, the study provides **conclusions and suggestions for support actions** (see [Chapter 5](#)).

<sup>4</sup> SOC/737-EESC-2022 Guidelines for the employment policies of the Member States (2022), SOC/727-EESC-2022 Decent work worldwide (2022), SOC/679-EESC-2021 Action plan on the implementation of the European Pillar of Social Rights (2021), SOC//685-EESC-2021 Key components of sustainable quality work during and after recovery (2021).

### 3. Methodology used, limitations and terminology

#### 3.1 Overview of the methodology used and limitations

The work was organised around three operational tasks, each comprising a number of sub-tasks. Figure 2 indicates the methodological approach.

**Figure 2. Methodological approach by task**

TASK	METHOD
<b>T1. Identify, collect and analyse existing data on social security coverage of seasonal agricultural workers in each Member State</b>	
1.1 Provision of referenced terminology and definitions	Desk research
1.2 Data and information mining across databases and reports	Desk research and extrapolation of estimates
1.3 Data gap analysis	Comparison of actual situation vs. desired situation
<b>T2. Development of case studies</b>	
2.1 Collection of country-specific information	Desk research and analysis of data
2.2 Carry out of interviews to get complementing information and data	Interviews using a semi-structured approach
2.3 Write case studies' reports	Analytical presentation of findings
<b>T3. Derive conclusions and recommendations</b>	
3.1 Draw main findings from tasks 1 and 2	Synthesis of findings vs. research questions
3.2 Derive evidence-based policy recommendations for decent working conditions of seasonal workers in the agriculture and food sectors	Extrapolate from evidence potential solutions or suggestions to identified challenges

**Desk research.** Because of the focus on a post-COVID-19 situation, desk research considered the most recent literature and data possible. The desk review aimed at identifying different types of information and data; EU-wide datasets and national statistics; and social protection coverage and working conditions of seasonal workers in the agriculture and food sectors. We intended social protection after the definition of the 2019 Council Recommendation to include one or more of the following benefits: unemployment, sickness and healthcare, maternity/paternity, invalidity, old age, accidents at work and occupational diseases.

Experienced limitations: with regard to data, the whole study is challenged by the lack of European statistics on EU seasonal workers and by the fragmented and limited statistics on non-EU seasonal workers. In addition, data on posted workers in the EU have limitations. These problems add to the fact that EU countries refer to different categories of seasonal workers in agriculture; rarely refer to seasonal workers in the food sector; and may have their own country-based rules for implementing existing legislation. With regard to literature and documents, contrary to expectations, the follow-up to the 2019 Council Recommendation was not informative enough with respect to seasonal workers. Other documents and sources were identified to compensate for this shortcoming. In particular, reports from the European Migration Network within their study ‘Attracting and Protecting Seasonal Workers from third countries in the EU’ were very relevant and useful towards the study’s scope.

**Extrapolation of estimates.** Our estimates of EU and non-EU seasonal workers in the agriculture sector are based on the review of national literature and statistics for the 27 EU Member States.

Experienced limitations: because of the qualitative and quantitative data gaps of existing statistics, it was not possible to estimate the number of seasonal workers in the agriculture and food sectors on the basis of common and EU-wide applicable methods. Thus, we were obliged to carry out extensive desk

review work for each EU country which was not originally foreseen for a relatively small study like this. Hence, **estimates are provided only for EU and non-EU seasonal workers in the agriculture sector.**

**Case studies and interviews.** The three countries for the development of the case studies (Italy, Spain and the Netherlands) were selected on the basis of the combination of two criteria. The first criterion (Criterion A) relates to the existence of high dependency on legally employed seasonal workers in the agriculture and/or food sectors (Natale *et al.*, 2019) and/or high dependency on EU temporary work in the same sectors. The underlying assumption is that the experience of these countries allows for the understanding of the multifaced aspects of the phenomenon and provides examples of counteractions adopted by competent authorities and relevant stakeholders responsible for guaranteeing the social protection of seasonal workers. The second criterion (Criterion B) relates to the presence of a specific situation that affects the social protection rights of seasonal workers in the agriculture and food sectors; constrains the proper understanding of the phenomenon; and/or prevents a proper quantification of these workers' effective social security coverage. This is, for example, the consequence of the dominance of a type of migration (e.g., EU workers, non-EU workers) and/or employment arrangement (e.g., directly employed by farmers, and/or employed through intermediaries or national bilateral agreements) and/or prevalence of undeclared work. Table 1 summarises the application of the two selection criteria.

**Table 1. Selection criteria applied to Italy, Spain and the Netherlands**

	<b>Criterion A</b>	<b>Criterion B</b>
<b>Italy</b>	High dependency on seasonal migrant workers in the agriculture sector both from EU and non-EU countries.	High percentage of irregular/undeclared workers and presence of structured illegal mechanisms and intermediaries exploiting migrant seasonal workers in the agriculture sector.
<b>Spain</b>	High dependency on seasonal migrant workers in the agriculture and/or food sectors from non-EU countries (North Africa and South America).	Circular migration approach and a new regulation for temporary workers, also affecting the agriculture and/or food sectors.
<b>The Netherlands</b>	High dependency on seasonal migrant workers in the agriculture and food sectors from EU Eastern countries.	Key role of intermediaries in recruiting foreign seasonal workers in the agriculture and food sectors.

The development of the case studies was based on **desk research, interviews and information gathering from relevant stakeholders**. Desk research related to academic literature, deliverables of research projects, reports, policy and legal documents, position papers of key stakeholders, press news and data. Interviews and information requests involved policy-makers at the national level (e.g., Ministries); experts in the national/regional agriculture/food sectors; members of trade unions; representatives of civil society organisations (e.g., associations supporting migrant workers); and representatives of professional agricultural associations for the agricultural/food sectors. Case studies are structured according to a common template which allows for an analytical presentation of findings and comparison among the three cases. Each case study includes the analysis of three in-country examples.

Experienced limitations: interviews were originally expected to be carried out using a semi-structured approach. In fact, relevant stakeholders were, for the most part, ready to contribute only on specific



issues, namely those where they had first-hand experience. In order to cover the wide scope of the study (i.e., from statistical information to working conditions, types of employment contracts, nature of collective agreements, social coverage and migration policies), several informal talks and contacts with different persons turned out to be more informative than semi-structured interviews.

### 3.2 Terminology

The EC defines seasonal workers after Art. 3 of the Seasonal Workers Directive. Directive 2014/36/EU only considers ‘third-country nationals’ (TCNs) while the scope of the study covers the seasonal work of both EU and non-EU citizens. More pragmatically and appropriately for this study, Eurofound defines **seasonal work** according to a temporal criterion as ‘*a form of temporary employment linked to specific periods of the year and sectors (for example, fruit pickers in the agricultural sector)*’ (Eurofound [webpage](#) on ‘Seasonal worker’ accessed in August 2022). Eurostat statistics on seasonal work refer to different employment periods that vary from one day to nine months. Accordingly, **we set nine (9) months as the maximum length of employment to be considered as ‘seasonal work’**.

Coherently to the above definition, seasonal work can be carried out under the form of temporary employment. **Temporary employment** refers to the work done under a fixed-term contract (Eurostat [glossary online](#)). Temporary employment implies a direct contractual relationship with the employer for which the work is done, or a contractual relationship with an agency. In this latter case, the reference is to **temporary agency work**. At the EU level, temporary agency work is regulated by Directive 2008/104/EC and is characterised by the presence of an agency (the employer) assigning its temporary workers (the employees) to a user undertaking, i.e., a natural or legal person in need of temporary services. Finally, seasonal workers can also be ‘posted workers’ when they carry out short-term temporary work in a different Member State than the one where they are employed. **Posting of workers** is regulated by Directive 96/71/EC concerning the posting of workers in the framework of the provision of services<sup>5</sup>.

**Social protection** is sometimes used as a synonym of social security. For example, the ILO’s World Social Protection Report 2017-19 reads ‘*Social protection, or social security, is a human right and is defined as the set of policies and programmes designed to reduce and prevent poverty and vulnerability throughout the life cycle. Social protection includes benefits for children and families, maternity, unemployment, employment injury, sickness, old age, disability, survivors, as well as health protection. Social protection systems address all these policy areas by a mix of contributory schemes (social insurance) and non-contributory tax-financed benefits, including social assistance.*’ (ILO, 2017, p. 1). For the scope of this study, we focus on the coverage stemming from social (contributory) protection systems as a result of the participation of seasonal workers in schemes determined by their employed status. Council Recommendation of 8 November 2019 on access to social protection for workers and the self-employed defines a **social protection scheme** as ‘*a distinct framework of rules to provide benefits to entitled beneficiaries which specifies the personal scope of the programme, entitlement conditions, the type of benefit, benefit amounts, benefit duration and other benefit characteristics, as well as the financing (contributions, general taxation, other sources), governance and administration*

<sup>5</sup>

Casual work differs from seasonal work as it follows irregular patterns, including from the point of view of duration and length (e.g., intermittent, on-demand). The irregularity of this form of employment contradicts the time-specificity of seasonal work and is therefore not considered in this study. **Still, in some cases, national statistics consider casual work together with seasonal work and the two cannot be distinguished in terms of data.**

of the programme'. The 2019 Council Recommendation defines a **benefit** as '*a transfer in cash or in kind made by a public or private entity to someone entitled to receive it as part of a social protection scheme*'. Benefits relate to unemployment, sickness and healthcare, maternity/paternity, invalidity, old age, accidents at work and occupational diseases. Also, the 2019 Council Recommendation distinguishes between formal and effective coverage. **Formal coverage** implies the existence of a piece of legislation or of a collective agreement under which an individual from a given group of workers is entitled to participate in a social protection scheme. **Effective coverage** occurs when the individual is actually able to access benefits if one or more of the covered risks materialise.

With regard to the **sectoral scope of the study**, the 'agriculture and food sectors' cover primary production and its subsequent processing. Within the quantitative analysis, our reference for data collection is primarily to **Section A 'Agriculture, forestry and fishing' of the NACE classification** of economic activities, **Division 01 'Crop and animal production, hunting and related service activities'** (Eurostat, 2008). These activities exclude any subsequent processing of the agricultural produce. In order to include the processing and manufacturing of food products and relevant beverages such as wine and beer, the reference is to Division 10 'Manufacture of food products' and Division 11 'Manufacture of beverages' of Section CA 'Manufacture of food products, beverages and tobacco products'.

Table 2 summarises the key definitions used in the study. It needs to be noted that **illegal employment is not treated in the study, apart from an overview of informal employment in the agriculture sector based on data from the International Labour Organization (ILO) and from some examples presented in the case studies**. These examples provide insights on under-paid situations, forms of exploitation, or estimates of illegally migrated individuals working in the agriculture or food sectors.

**Table 2. Key definitions used in the study**

Seasonal work	A form of temporary employment linked to specific periods of the year and sectors whose maximum length is nine months.
Temporary agency workers	Persons (employees) assigned by an agency (employer) to a user undertaking with whom the agency has a contract.
Temporary workers	Persons working under a fixed-term contract determined by a specific end date or by the end of a project or task.
Posted workers	Persons carrying out their work in a different Member State than the one where they are employed. These persons are sent by their employers to another country on a temporary basis.
Informal workers	Persons carrying out their own-account work or contributing to family work or having an employment relationship which ' <i>is, in law or in practice, not subject to national labour legislation, income taxation, social protection or entitlement to certain employment benefits</i> ' ( <a href="#">ILOSTAT Database Description on Labour Force Statistics</a> ).
Agriculture sector	The economic activities falling under Section A, Division 01 of the NACE Rev.2 classification include: growing of non-perennial crops (e.g., rice, vegetables); growing of perennial crops (e.g., grapes, oleaginous fruits); plant propagation; animal production; mixed farming; support activities to agriculture and post-harvest crop activities; and hunting, trapping and related service activities. Section A also includes 'Forestry and logging' (Division 02) and 'Fishing and aquaculture' (Division 03). Eurostat statistics are often publicly available only at the aggregated level of Section A, thus referring to agriculture, forestry and fishing.

Food (and drinks) sector	The economic activities falling under Section CA ‘Manufacture of food products, beverages and tobacco products’, <b>Division 10: Manufacture of food products</b> include: processing and preserving of meat and production of meat products; processing and preserving of fish, crustaceans and molluscs; processing and preserving of fruit and vegetables; manufacture of vegetable and animal oils and fats; manufacture of dairy products; manufacture of grain mill products, starches and starch products; manufacture of bakery and farinaceous products; manufacture of other food products (e.g., sugar, processing of tea and coffee, condiments and seasonings, prepared meals and dishes, dietetic food, sandwiches, fresh pizza); manufacture of prepared animal feeds. <b>Division 11: Manufacture of beverages</b> refers to the manufacturing of spirits, wine, cider, beer, malt, soft drinks, mineral water. Blending, purification and bottling of wine is included in this division.
Social protection scheme	A distinct framework of rules to provide benefits to entitled beneficiaries.
Benefit	A transfer in cash or in kind made by a public or private entity to someone entitled to receive it as part of a social protection scheme. Benefits relate to unemployment, sickness and healthcare, maternity/paternity, invalidity, old age, accidents at work and occupational diseases.
Formal social protection coverage	Implies the existence of a piece of legislation or of a collective agreement under which a seasonal worker is entitled to participate in a social protection scheme.
Effective social protection coverage	It occurs when a seasonal worker is actually able to access benefits if one or more of the covered risks materialise.

## 4. Findings of the study

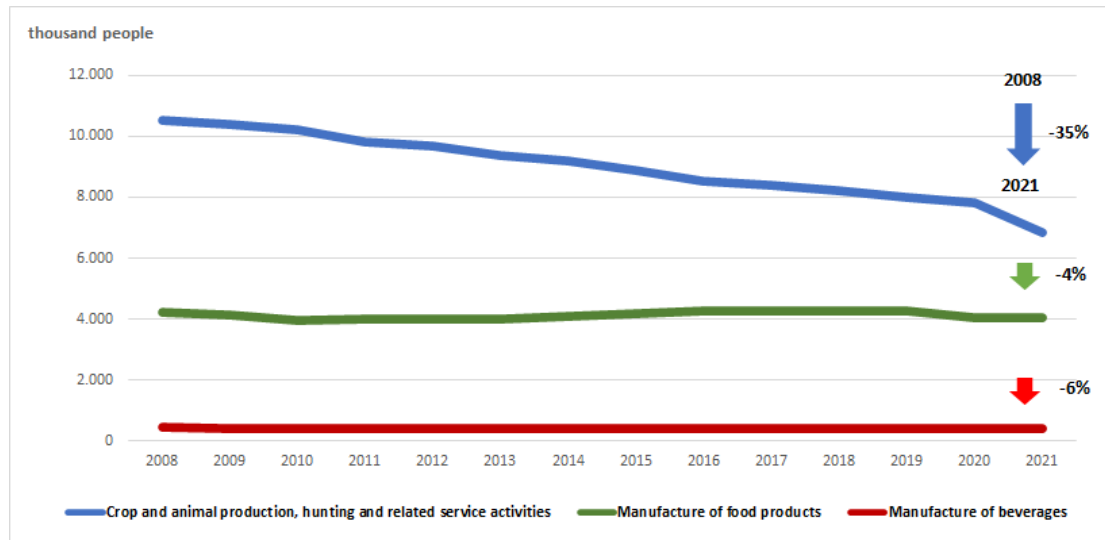
### 4.1 Overview of formal and informal employment in the agriculture and food sectors of EU Member States

Employment in agriculture has been steadily declining over the last 15 years. Figure 3 shows the trend of total employment in the agriculture and food (and beverages) sectors over the period 2008-2021.

According to EU Labour Force Survey data, in 2008, in the EU27, there were 10.5 million people aged 15 years or over employed in the agriculture sector; in 2021, this number dropped to 6.9 million persons. In contrast, the food and beverages manufacturing sectors have continued to employ a relatively constant number of workers over the same reference period. At the EU27 level, in 2021, around 4 million workers were employed in the manufacturing of food products (they were 4.2 million in 2008) and some 402,000 workers were employed in the manufacturing of beverages (they were 429,000 in 2008).

**Figures are different if national accounts (NA) are considered.** Notably, in 2021, 9.2 million persons were employed in agriculture, forestry and fishing (NACE Rev.2), while disaggregated data for the agriculture sector are not available. National accounts are based on the so called ‘domestic employment’ where **all persons working in a production unit are counted, regardless of their residence**. Instead, employment estimated through the EU LFS refers only to resident workers. This implies that employment data in national accounts are higher than those obtained through EU LFS and include also EU and non-EU seasonal workers (Figure 4).

**Figure 3. Formal employment in the agriculture and food (and beverages) sectors, EU27, 2008-2021, resident workers aged 15 years+**



Data source: EULFS, Eurostat.

**Figure 4. Labour force statistics: EU Labour Force Survey and National Accounts**

Labour Force Survey		National Accounts (NA)
<p>‘...as a survey addressed to the population, the LFS estimates the number of persons employed, based on residency within the country’s borders’ (Eurostat, 2019, p. 13).</p>	≠	<p>‘...the concept used in the NA is domestic employment linked to the location of the production unit’, and ‘The NA take into account people who work in the country and participate in producing GDP, although they have not been established in the country long enough to be considered residents. This includes, for example, immigrants and seasonal workers, defined as people resident in other countries who come to work in the country for several months according to the season, but for less than a year’ (Eurostat, 2019, p. 13).</p>

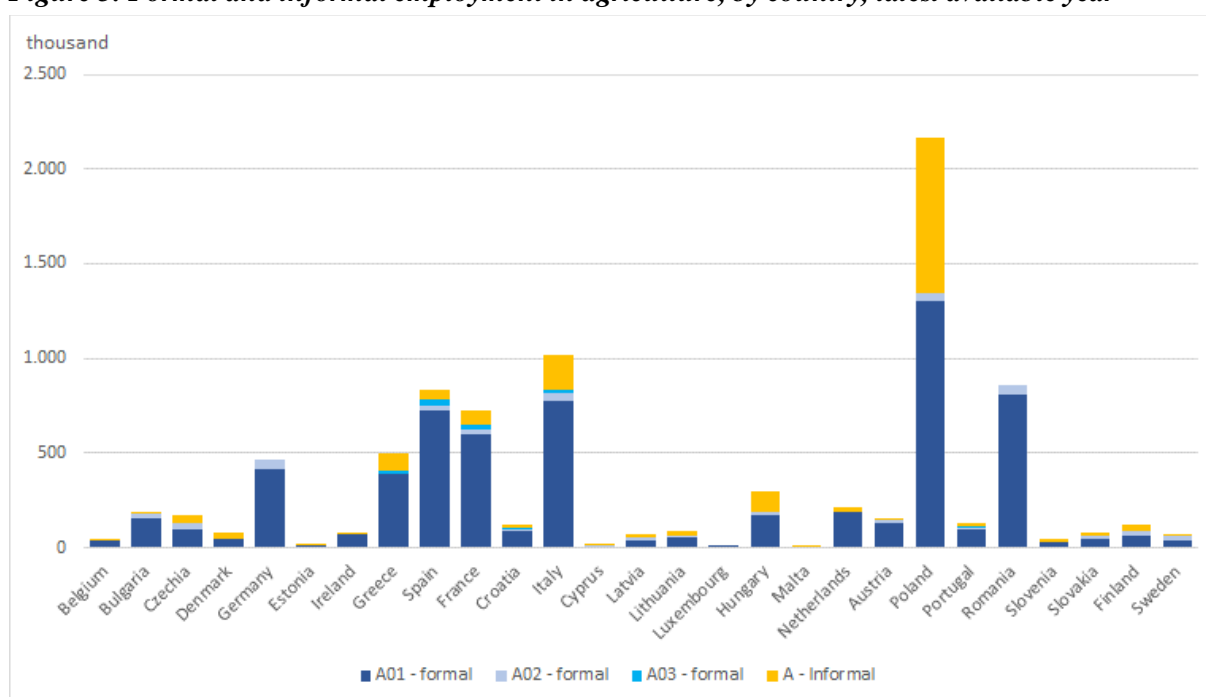
Alongside formal employment, the size of informal employment in agriculture is particularly significant in some EU countries. Informal employment is, by definition, characterised by the lack of social security coverage, the lack of paid annual or sick leave and the lack of a written contract ([ILOSTAT Database Description](#)). ILO provides estimates of informal employment on the basis of the screening of national sources. Data exist for the agriculture sector (Section A, i.e., referring to agriculture, forestry and fishing), but **they do not exist for the food (and beverages) sector(s)**. Figure 5 reports latest available data for formal (EU LFS) and informal (ILO) employment in agriculture, by EU country.

Data show that **informal employment in the primary sector is commonly found across several EU countries**. Even if informal employment is not geographically confined, some countries have larger shares of informal employment than others. Poland has the largest workforce in agriculture, both in the formal and informal sector. It is followed by Romania, Italy, Spain and France. The highest shares of informal employment versus formal employment are found in Poland (61%), Denmark and Hungary (57% each), Cyprus (49%), Finland (44%), Lithuania (38%), Czechia (36%) and Belgium (30%).

Overall, informal employment in agriculture involves some **1.6 million persons across 25 EU reporting countries** (no data are available for Germany and Romania).

Although the situation has improved compared to a decade ago (i.e., in 2010, informal workers in agriculture were 1.9 million), in some EU countries the number of people informally involved in agriculture sharply increased. Examples of **countries with significant increases** include Italy (from 72,900 persons in 2010 to 179,800 persons in 2019), Spain (from 19,700 persons in 2010 to 46,700 persons in 2020) and Finland (from 19,700 persons in 2010 to 37,200 persons in 2020).

**Figure 5. Formal and informal employment in agriculture, by country, latest available year**



Notes: Data on formal employment are from EULFS and refer to 2021; data on informal employment are from ILOSTAT and refer to 2020 or 2019. No data on informal employment in agriculture are available for Germany and Romania.

## 4.2 Data gap analysis for the quantification of seasonal workers in the agriculture and food sectors of EU Member States

The quantification of EU and non-EU seasonal workers in the agriculture and food sectors is challenged by the lack of data. Data gaps exist for both EU and non-EU workers. As explained in the terminology section, we also consider in the gap analysis the data related to the manufacturing of food and beverages.

### 4.2.1 EU seasonal workers

Intra-EU mobility of EU citizens undertaking seasonal work in the agriculture and food sectors in another EU country is not captured by the EU Labour Force Survey. A recent report by JRC confirms how Eurostat statistics are insufficient to quantify the number of seasonal workers employed in the agriculture sector and that this is a **design-related shortcoming** of the survey (Kalantaryan *et al.*, 2020). In the terminology section ([Section 3.2](#)) we highlighted that seasonal workers may also be employed as



temporary agency workers, temporary workers or posted workers. In general, within these categories of workers it is not possible to distinguish the length or period of the assignment. Thus, it is not possible to understand if these persons are employed on a seasonal basis, meaning within the set threshold of nine months. In addition, Eurostat's statistics on temporary and posted workers are qualitatively and quantitatively poor.

The data gap analysis for the quantification of EU seasonal workers in the agriculture and food sectors is detailed in Table 3.

**Table 3. Data gap analysis for the quantification of EU seasonal workers in the agriculture and food sectors**

<b>Intra-EU mobility of EU citizens</b>	By design, the EU LFS does not capture intra-EU mobility of EU citizens undertaking seasonal work in the agriculture and food sectors in another EU country.
<b>Temporary agency workers</b>	<p>The dataset [lfsa_qoe_4a6r2] from Eurostat provides statistics on temporary agency workers by sex, age and NACE Rev. 2 activity. Thus, data are available for Section A 'Agriculture, Forestry and Fishing', but only from a few Member States. Data are not available for the manufacturing sector as information is publicly provided at the aggregated level of 'Industry and Construction'. Thus, data are not available for the manufacturing of food and beverages.</p> <p><b>Gap analysis:</b> in March 2023, the dataset includes information from only three Member States, namely Czech Republic, Spain and the Netherlands (<b>quantitative gap</b>). Statistics are available at an aggregated level (Section A 'Agriculture, Forestry and Fishing') thus not individually for the agriculture sector (<b>qualitative gap</b>). Similarly, statistics for the manufacturing of food and beverages cannot be disaggregated under the Section 'Industry and Construction' (<b>qualitative gap</b>). Also, statistics are not broken down by length of assignments, thus it is not possible to understand if the job is comparable to a seasonal assignment or not (<b>qualitative gap</b>).</p>
<b>Temporary workers</b>	<p>The dataset [lfsa_etgan2] from Eurostat provides statistics by sex, age and economic activity. Thus, data are available for Section A 'Agriculture, Forestry and Fishing'. In March 2023, data were available from 2012 to 2021 (included) and from 20 Member States, with some data gaps. Data are not available for the manufacturing of food and beverages as information is publicly provided at the aggregated level of 'Manufacturing'. In 2021, there were 908,900 persons employed on a temporary basis in 'Agriculture, Forestry and Fishing'. See <a href="#">Appendix II</a> for data by country.</p> <p><b>Gap analysis:</b> statistics are available at an aggregated level (Section A 'Agriculture, Forestry and Fishing') thus not individually for the agriculture sector (<b>qualitative gap</b>). Similarly, statistics for the manufacturing of food and beverages cannot be disaggregated under the Section 'Manufacturing' (<b>qualitative gap</b>). In addition, temporary workers who are, in fact, employed on a seasonal basis, i.e., for up to nine months, cannot be distinguished from the other workers (<b>qualitative gap</b>).</p>
<b>Posted workers</b>	Regular studies commissioned by the EC report on the number of issued <b>Portable Documents A1</b> (1). The data show that <b>only 0.8% of all PDs A1 issued</b> in 2020 according to Article 12 of Regulation (EC) No 883/2004 (the 'Basic Regulation'), from a sending perspective, <b>relate to the 'agriculture, hunting and fishing sectors'</b> (2). This is equivalent to 13,149 PDs A1 issued in the EU27. Notably, issued PDs A1 are not equivalent to the number of persons as one person may be sent abroad multiple times during the year. The EC study finds that <b>the number of persons equals 60% of the</b>

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**number of PDs A1** (EC-DGEMPL, 2022). This implies that the number of people posted in the ‘agriculture, hunting and fishing sectors’, in 2020, is **less than 8,000**. The length of these postings is unknown. See [Appendix II](#) for the data by country.

**Gap analysis:** statistics are available at an aggregated level, so it is not possible to have figures for the agriculture sector. Likewise, figures on the manufacturing of food and beverages cannot be derived from this regular reporting exercise because the manufacturing sector is included under the broader ‘Industry’ category (**qualitative gaps**). Also, statistics are not broken down by length of assignment, thus it is not possible to understand if the posting is equivalent to a seasonal assignment (**qualitative gap**).

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- (1) The Portable Document A1 (A1 form) certifies that a person is part of a social security system in a EU Member State and is thus not liable to pay contributions in another EU Member State.
- (2) The wording ‘agriculture, hunting and fishing sectors’ is used in EC-DG EMPL (2022).

A recent report by Eurofound looks in detail at the data gaps and at the challenges faced to get information and data on posted workers. Although recital 5 of Directive (EU) 2018/957 states that sufficient and accurate statistical data are of utmost importance and that these statistics should be collected and monitored by the Member States and the Commission, the Eurofound study highlights that *‘Accurate statistics on the number of posted workers, their characteristics and the working conditions they experience are not available’* (Eurofound, 2020). Eurofound envisages ways for improving the monitoring of these workers by means of more coordinated instruments (e.g., PD A1 forms with mandatory elements across countries, use of EU templates, use of electronic systems). The most advanced option put forward by Eurofound for improving the situation is the development of a *‘European electronic registration system for the posting of workers, which matches data collected in connection with social security affiliation by authorities in the sending country, with data on incoming posted workers collected by authorities in the receiving country’* (Eurofound, 2020, p. 44). The posting of workers is a way to implement the free movement of workers across the Union, but monitoring *‘is needed to ensure that businesses are competing fairly across Europe and that the labour and social rights of posted workers are recognised’* (Eurofound, 2020, p. 47).

There are no provisions in Directive 2008/104/EC on temporary agency work to report, monitor or collect data on temporary agency workers. Although the Directive’s transposition period ended in 2011, some EU Member States only adopted national provisions in 2013. Also because of this late transposition, in 2014, when the EC reported on the application of the Directive in Member States, it concluded that no amendments to the Directive were necessary at that stage (EC, 2014). Some data on agency work (and on temporary employment) are collected by the World Employment Confederation in collaboration with the Staffing Industry Analysts. Some of these data are publicly available as [snapshots of the European Employment Barometer](#).

#### 4.2.2 Non-EU seasonal workers

Contrary to data on EU workers, statistics on non-EU seasonal workers are provided by Eurostat. Notably, these statistics **only refer to those non-EU citizens who are employed under the aegis of the Seasonal Workers Directive**. Art. 26 of the SWD makes provisions for the collection of *‘statistics on the number of authorisations for the purpose of seasonal work issued for the first time and, as far as possible, on the number of third-country nationals whose authorisation for the purpose of seasonal work has been extended, renewed or withdrawn. Those statistics shall be disaggregated by citizenship, and*

as far as possible by the period of validity of the authorisation and the economic sector’<sup>6</sup>. Notwithstanding these provisions, statistics provided by EU Member States have **qualitative and quantitative gaps**. Double counting issues exist. In addition, several EU Member States do not report any data. The data gap analysis for the quantification of non-EU seasonal workers according to the provisions of the SWD is detailed in Table 4. It needs to be underlined that this quantification is, nevertheless, **insufficient to monitor the actual number of non-EU seasonal workers**, because there is evidence that several EU countries apply other schemes for the granting of visas and work permits to non-EU seasonal workers.

**Table 4. Data gap analysis for the quantification of non-EU seasonal workers in the agriculture and food sectors**

<b>Authorisations for the purpose of seasonal work</b>	<p>The [migr_ressw1_1] dataset from Eurostat provides statistics on the number of authorisations granted or renewed to non-EU citizens for the purpose of seasonal work by status, length of validity, economic sector and citizenship. Data are available for Section A ‘Agriculture, Forestry and Fishing’. This dataset <b>estimates</b> the number of non-EU seasonal workers because the double counting of the same person during the year is allowed if more authorisations are issued. In March 2023, the latest available year was 2021, for which data were reported by 11 Member States. In 2020, data were from 19 Member States. Several countries report ‘0’ (zero) figures. A similar dataset on ‘Authorisations issued for the purpose of seasonal work by economic sector, sex and citizenship’ [migr_ressw2] is even less populated than [migr_ressw1_1]. Data are not available for the manufacturing of food and beverages as information is publicly provided only at the aggregated level of ‘Manufacturing’.</p> <p><b>Gap analysis:</b> statistics are available at an aggregated level (Section A ‘Agriculture, Forestry and Fishing’) thus not individually for the agriculture sector (<b>qualitative gap</b>). Similarly, statistics for the manufacturing of food and beverages cannot be disaggregated under the Section ‘Manufacturing’ (<b>qualitative gap</b>). Under Section A, data are missing for some Member States. The evidence collected in this study confirms that in some Member States this data collection process does not capture all the permits granted at the country level to non-EU citizens for the purpose of seasonal work (<b>quantitative gaps</b>).</p>
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In 2020, Eurostat data indicate the granting of **117,253 authorisations for the purpose of seasonal work in agriculture, forestry and fishing** to non-EU citizens. In the same year, a total of **2,772 authorisations were renewed**. Reference is to Figure 6.

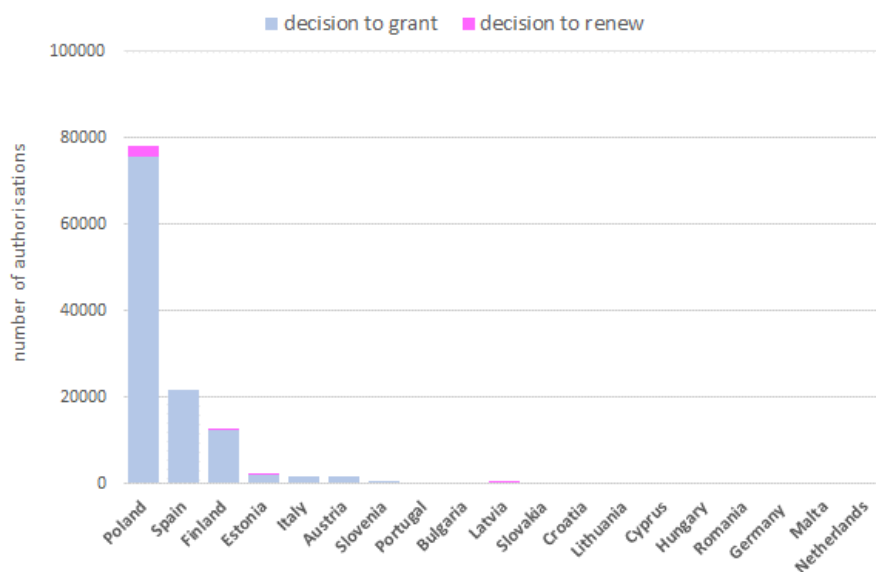
Eurostat data for 2021 were still partial at the time this study was finalised (March 2023). At that date, 2021 data were available for 11 Member States and indicated the granting of 94,560 authorisations and the renewal of 1,453 authorisations for the purpose of seasonal work in agriculture, forestry and fishing.

In 2020, Ukrainian citizens were granted the majority of the authorisations (see [Section 4.6](#)). Poland is by far the country issuing the most authorisations (65% of the total). It is followed by Spain (18%) and Finland (10%). Estonia, Italy and Austria report a few thousand of granted authorisations. Germany, Malta and the Netherlands report zero authorisations granted/renewed under the SWD. There is no

<sup>6</sup> The legislative basis for the collection of these statistics is Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection.

information on the ratio of authorisations/persons, thus it is not possible to determine the actual number of workers benefitting from the granted authorisations and a 1:1 ratio is estimated.

**Figure 6. Authorisations granted/renewed to non-EU citizens for the purpose of seasonal work in agriculture, forestry and fishing (Seasonal Workers Directive), 2020**



Data source: Eurostat

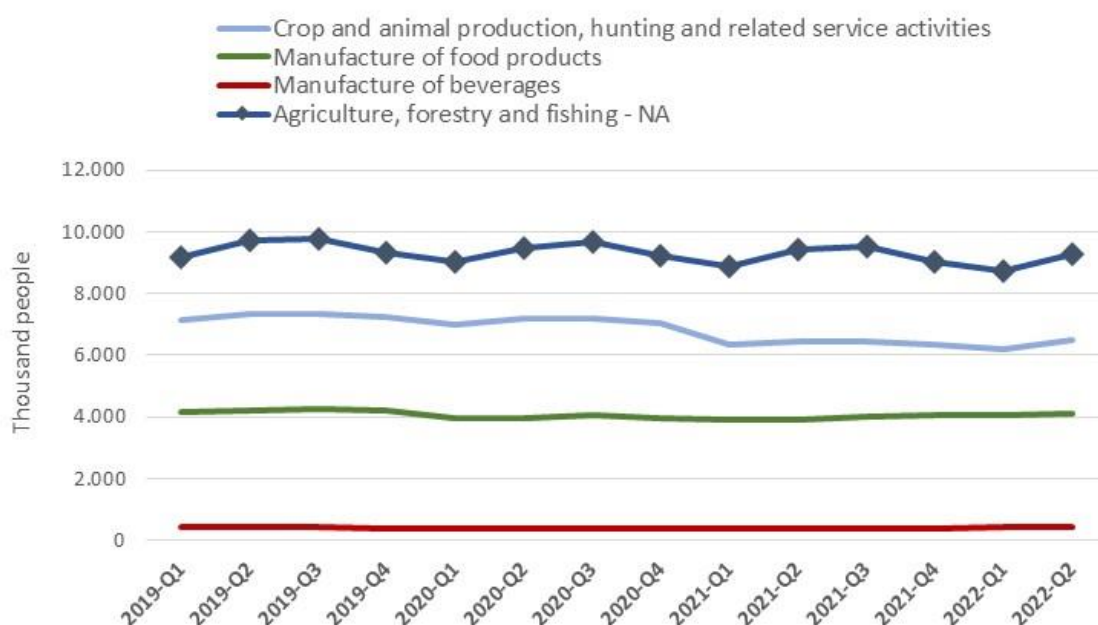
#### 4.3 Estimates of EU and non-EU seasonal workers in the agriculture sector of EU Member States

**The data gap analysis highlights that the quantification of seasonal workers in the agriculture and food sectors is not possible by means of existing and publicly available statistics.** The carry out of seasonal work under different forms such as temporary work, temporary agency work and posted work further complicate the analysis. Other approaches to estimate seasonal workers did not produce reliable figures for all EU Member States and thus could not be used. Namely, these approaches include the comparison of employment data from national accounts with data from EU LFS after deducting the number of non-EU seasonal workers, and the analysis of fluctuations, or contractions, of quarterly employment data. Thus, in this study, estimates of EU seasonal workers derive from **the desk research of statistics from national databases or of data from reputed sources**. This approach implied extensive information review by country and **was implemented only to estimate the number of seasonal workers in the agricultural sector**. Figure 7 shows that seasonality is evident in the agriculture sector whether national accounts (dotted line) or EU LFS data (plain lines) are used. Instead, seasonality is not reflected as clearly by data related to the manufacturing of food and beverages sectors (only EU LFS series available for these sectors).

The sectoral scope of the study evidently **mixes activities that are primarily seasonal in nature** (in the agriculture sector) **with activities whose seasonality in terms of employment demand is determined by other reasons** than crop production and harvesting peaks. This is the case for the food and beverages manufacturing industries. These industries depend not only on food supply chains, but also on consumer demand (with, for example, peaks at festivities that are not necessarily linked to crops cycles) and on the organisation of logistics and the use of technologies to optimise operations. In

addition, food and beverages industries may integrate or alternate the processing of different produce in order to have continuous production and thus regular workforce demand over time. These aspects and the variety of sub-sectors included in the food and beverages manufacturing industries (e.g., from meat processing to wine production) **make the quantification of seasonal work in these sub-sectors beyond the scope of this study**. Furthermore, in the case of non-EU workers, it is important to note that under the Seasonal Workers Directive eligible ‘seasonal’ sectors are determined by EU Member States. Our review shows that even if these sectors always include agriculture or the primary sector as a whole, they rarely include food and beverages manufacturing. This means that other employment schemes, besides the Seasonal Workers Directive, need to be investigated in order to understand the employment mechanisms of non-EU seasonal workers in the manufacturing of food and beverages.

**Figure 7. Quarterly employment data for the agricultural and food sectors, 2019-2022, EU27**



Data source: Eurostat.

Notes: National Accounts data are not available for ‘Crop and animal production, hunting and related service activities’ (Section A, Division 01 – see Eurostat table NAMA\_10\_A64\_E accessed in March 2023), but are available at the aggregated level of Section A. This also contributes to higher employment values compared to EU LFS data.

In this Section 4.3, **the term ‘seasonal agricultural worker’ is used to indicate a person employed in specific periods of the year in the agriculture sector or in the primary sector** (i.e., agriculture, forestry and fishing), depending on available data/statistics. **Table 5 summarises the findings** presented further below in more detail.

**With the exception of the number of posted workers** that are based on a harmonized database produced by DG EMPL (EC-DG EMPL, 2022), **figures in Table 5 derive from different sources and refer to diverse definitions of seasonal agricultural workers**, thus they are not comparable. Consequently, **the approximate totals that are derived need to be considered with caution.**

**Overall, in 2021, we estimate the presence of almost 2 million EU seasonal agricultural workers and of some 420,000 non-EU seasonal agricultural workers.**



**Table 5. Summary table of estimates of seasonal workers in the agriculture or primary sector (according to availability), 2021, by country**

	<i>This study's estimates of seasonal agricultural workers</i>		
	<b>EU (residents &amp; non-residents)</b>	<b>Posted (r)</b>	<b>Non-EU</b>
Austria	3,000 (e) – 5,000 (e)	565	10,000 (r)
Belgium	15,000 (e) - 20,000 (e)	234	0 (r)
Bulgaria	200,000 (r)	8	120 (es)
Croatia	14,190 (r)	25	430 (es)
Cyprus	(-)	0	211 (es)
Czechia	10,000 (r)	200	2,276 (es)
Denmark	(-)	226	(-)
Estonia	(-)	5	3,121 (es)
Finland	(-)	138	19,342 (es)
France	259,000 (r)(e)	545	11,138 (es)
Germany	272,000 (ns)	2,718	(-)
Greece	(-)	3	37,500 (r)(e)
Hungary	12,000 (r)(e)	37	24,000 (r)(e)
Ireland	1,500 (r)(e)	5	(-)
Italy	690,996 (ns)	249	169,888 (ns)
Latvia	3,259 (r)	6	271 (es)
Lithuania	856 (r)(e)	4	144 (es)
Luxembourg	(-)	22	0 (r)
Malta	25 (ns)(e)	4	10 (e)
Netherlands	32,571 (ns) - 125,000 (e)	2,174	0 (es)
Poland	5,200 (r)	108	110,000 (ns)
Portugal	29,949 (ns)	7	401 (es)
Romania	(-)	16	(-)
Slovenia	800-1,000 (e)	13	638 (es)
Slovakia	5,000-8,000 (e)	47	175 (es)
Spain	310,145 (ns) – 429,000 (e)	226	20,710 (ns)
Sweden	4,100 (e)	62	6,900 (ns)(e) + 5,000 (r)(e)

Notes: (-) Not quantifiable; (r) Reputed literature; (es) Eurostat statistics; (ns) National statistics; (e) Estimates.

In **Austria**, stakeholders' organisations report the country's needs in the range of few thousand seasonal workers. In particular, ETUC refers to 5,000 seasonal agricultural workers (ETUC, 2020). The World Farmers Organisation mentions about 3,000 workers who are mainly concentrated in the horticulture sector (fruits and vegetables) and in the meat processing industry (which is said to rely largely on workforce coming from Eastern European countries) (WFO [news](#) dated 6/04/20). Estimates of non-EU seasonal agricultural workers are based on 2019 national statistics and on the assumption that 2021 figures do not differ much, while also considering the existence of national quotas for the entry of TCNs. Austria distinguishes non-EU seasonal agricultural workers into seasonal workers, harvest helpers and regular seasonal workers. Regular seasonal workers are those persons who have worked in agriculture under seasonal quotas for at least three months in three of the previous five calendar years. These workers are employed outside the yearly quotas of work permits set by the government for temporarily

employed foreign nationals in agriculture, forestry and tourism. In 2019, the number of employment permits issued for non-EU workers in agriculture and forestry was 8,784 for seasonal workers and 1,177 for regular seasonal workers. In addition, there were 539 permits issued for harvest helpers. This makes a total of over 10,000 permits issued in 2019 in the agriculture and forestry sector (EMN Austria, 2021). In the same year, Austria did not report to Eurostat on the number of authorisations granted in agriculture, forestry and fishing under the SWD.

It is noted in literature that **Belgium** does not rely on non-EU seasonal workers in the agriculture sector (EMN Belgium, 2021). The country benefits from a high workforce offer at the EU level, thus employers prefer to avoid the administrative burden involved in the hiring of non-EU citizens. There is no reference in literature to the country's needs in terms of seasonal workers apart from a reported shortage by the Flemish agricultural industry federation Boerenbond during the COVID-19 pandemic of 15,000-20,000 seasonal workers in the agricultural and horticultural sectors (VRT [news](#) dated 4/05/20). The transposition of the SWD into the Belgian Immigration Act had to wait for an Executing Cooperation Agreement between the federal and the regional governments in 2019. Afterwards, the three regions adopted implementing decisions. The agriculture sector is covered by the Directive in all the three regions. The Flemish and the Walloon Regions also extended the Directive to the horticulture sector (EMN Belgium, 2021). Still, Belgium does not report to Eurostat on the number of authorisations granted to non-EU citizens for the purpose of seasonal work in agriculture, forestry and fishing under the SWD.

**Bulgaria** is mainly considered a sending country in terms of seasonal workers. According to a representative of the Confederation of Independent Trade Unions in Bulgaria, interviewed by the Bulgarian National Radio, there is a massive (i.e., in the range of hundred thousands) migration of Bulgarian seasonal agricultural workers to EU countries such as Spain and Germany and, to a lesser extent, France, Italy and Greece<sup>7</sup>. The incentive for this mobility is economic as all these receiving countries have a much higher hourly rate than the Bulgarian one, which is only €1.90 (BNR [news](#) dated 4/02/20). Assuming that Bulgaria is not attracting intra-EU workers, our estimate of seasonal workers in the country is based on the number of employment contracts for short-term seasonal agricultural work (see [Section 4.4](#) for details on this type of contract) issued in 2016 (i.e., 199,173) (good practice fiche for Bulgaria downloaded from the [European Platform for Undeclared Work](#) in November 2022). In addition, Bulgaria receives non-EU workers from countries like Ukraine, Armenia, Moldova, Kyrgyzstan, the Russian Federation and North Macedonia. The country has mechanisms in place to facilitate circular migration. For example, it has bilateral agreements with Armenia and Moldova and seasonal workers going to Bulgaria as part of these agreements have their visa process facilitated (EMN Bulgaria, 2020). Agriculture, forestry and fishing are among the sectors covered by the SWD, but the most demanding industry is tourism during the summer season (EMN Bulgaria, 2020). In fact, in 2021, the country reported the granting/renewal of only 120 authorisations to non-EU citizens for the purpose of seasonal work in agriculture, forestry and fishing under the SWD.

EURES reports that seasonal work in **Croatia** is '*most common in the hospitality and tourism industry (mainly in the Adriatic region), agriculture, trade, and the food industry*' (EURES [webpage](#) on Croatia). Our estimate is based on the number of seasonal agricultural workers reported by Kotulovski and Laleta (2021). Namely, in 2019, the authors indicate 14,190 seasonal agricultural workers employed by 1,530

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Since figures mentioned in the interview could not be validated, they are not reported in the text.

employers on the basis of vouchers (see [Section 4.4](#) for the description of the casual employment regime), but they underline how this figure underestimates the actual number of workers if people employed on a fixed-term basis (and illegal workers) are considered. Then, the number of seasonal workers may easily reach 50,000 people. In 2021, Croatia reported to Eurostat the granting/renewal of 430 authorisations to non-EU citizens for the purpose of seasonal work in agriculture, forestry and fishing under the SWD.

In **Cyprus**, EURES reports that seasonal work is not commonly used in the agriculture sector and that specific jobs to be done in specific time-frames usually fall under the legislation of posted workers (EURES [webpage](#) on Cyprus). Still, according to statistics, there are no posted workers in the agriculture sector for Cyprus (see [Appendix II](#)). No other references were found on the number of seasonal workers. In 2021, Cyprus reported to Eurostat the granting/renewal of 211 authorisations to non-EU citizens for the purpose of seasonal work in agriculture, forestry and fishing under the SWD.

In the **Czech Republic**, our estimates are based on a 2020 note by the USDA that quantifies seasonal labour needs in the Czech agriculture sector (covering vegetable harvest and fruit picking) in about 10,000 persons (USDA, 2020). Seasonal work is concentrated in the spring, summer and autumn. With regard to non-EU citizens, although the national EMN report states that the country needs seasonal work in forestry, agriculture and the grocery industry, statistics on granted seasonal work permits are not collected by sector. In addition, workers can be granted different types of visas to carry out cyclical, short-term work (i.e., the national non-extendable ‘[special work visa](#)’ and the short-term [Schengen visa](#)) (Government of the Czech Republic, 2020). In 2021, the country reported to Eurostat the granting/renewal of 2,276 authorisations to non-EU citizens for the purpose of seasonal work in agriculture, forestry and fishing under the SWD.

**Denmark’s** EURES [webpage](#) states that seasonal work is primarily found in agriculture and that ‘*Jobindsats.dk, the central authority with Danish Labour Market statistics provides no specific statistics on seasonal work*’. No data were found on EU and non-EU seasonal workers in the agriculture sector. Denmark opted out from the SWD.

For **Estonia**, no references were found in literature on the number of EU seasonal agricultural workers. The SWD was transposed into [the Aliens Act](#) in 2017. The country does not set quotas, does not implement a labour market test and has no specific measures to attract non-EU seasonal workers (EMN Estonia, 2020). Sectors interested by seasonal work and covered by the SWD are crop and animal production, hunting and related service activities, forestry and logging, fishing and aquaculture, manufacturing of food products, manufacturing of soft drinks and production of mineral waters and other bottled waters, accommodation, food and beverage service activities. The highest demand for seasonal work is from March to June. Most of the seasonal workers are from Ukraine. Other countries of origin are Moldova, Russia, Belarus, Georgia and India. The most common length of stay is between seven and nine months (EMN Estonia, 2020). In terms of non-EU workers, according to Eurostat data, in 2021, Estonia granted/renewed 3,121 authorisations for the purpose of seasonal work in agriculture, forestry and fishing under the SWD. However, not all migrants fall under the scope of the SWD. Some workers doing cyclical work belong to the short-term employment category and are employed using the short-term employment registration scheme (EMN Estonia, 2020).

In **Finland**, according to Kela, the Finnish Social Insurance Institution, some 14,000-20,000 foreign seasonal workers arrive in the country every year, starting from March (Kela [news](#) dated 2/03/21). A similar figure (i.e., some 16,000 seasonal agricultural workers) is indicated in literature (Heikkilä, 2020). In 2021, the country reported to Eurostat the granting/renewal of 19,342 authorisations to non-EU workers for the purpose of seasonal work in agriculture, forestry and fishing under the SWD, thus we estimate that most of the seasonal work is carried out by non-EU workers.

In **France**, according to a study carried out in 2019 by a statistical entity under the aegis of the Ministry of Labour, seasonal agricultural workers represent about 25% of the total seasonal workforce, i.e., 270,000 workers (including non-EU) (EMN, 2020; DARES, 2019). Our estimates are based on this figure. The study also specifies that seasonal agricultural work has peaks in July, August and September. In September, the main activity is the grape harvest, in July-August activities focus on vegetables, tubers and fruits. Some 11% of seasonal activities are dedicated to the wholesale of cereals, fruits, legumes and tobacco as well as to transformation. Seasonal work is concentrated in the south of France. In particular, 50% of the work takes place in New Aquitaine, Occitanie and Provence-Alpes-Côte d'Azur. Notably, France receives a significant number of Spanish seasonal workers for grape harvesting. This mobility is so significant (i.e., it apparently involves more than 15,000 workers) that the Spanish trade union confederation CCOO of Industry makes a guide on the harvesting season in France available to these workers (CCOO [news](#) dated 26/08/20). According to Eurostat data, in 2021, the country granted/renewed 11,138 authorisations to non-EU workers for the purpose of seasonal work in agriculture, forestry and fishing under the SWD. This figure is assumed to be included in the overall seasonal workforce estimated above.

In **Germany**, seasonal work is mainly carried out by domestic and EU workers, in particular from Poland and Romania (Lechner, 2020; Knuth, 2021). Among the sectors of interest for this study, seasonal work is required mainly in agriculture and horticulture. 2016 data by the Federal Statistical Office indicate the presence of 286,300 seasonal workers in the country, out of which 113,072 were employed in vegetable production enterprises and 33,086 in fruit production enterprises (Lechner, 2020). A [press release](#) by Destatis dated 5/05/21, updates the 2016 figure and indicates the presence of some 272,000 seasonal workers in the period from March 2019 to February 2020. This figure is taken as an estimate for 2021. By tradition, Germany establishes bilateral agreements with countries for the placement of seasonal workers. It did so with the former EU accession countries (i.e., Poland, Czech Republic, Slovakia, Hungary, Romania, Bulgaria and Croatia) and relied on these agreements up to the time these countries became members of the Union. In 2020, Germany concluded a placement agreement with Georgia and talks are ongoing with other countries such as Bosnia-Herzegovina, Albania, Moldova and North Macedonia (Lechner, 2020). Agreements with third countries comply with the SWD which was transposed, in 2017, in Section 15a of the Employment Regulation (Lechner, 2020). Third-country nationals can be employed only in the following sectors: agriculture and forestry, horticulture, hotels and restaurants, fruit and vegetable processing and sawmills. Some countries are visa-exempt, others need the issuing of a visa in addition to that of a work permit. A labour market test is performed only if the Federal Employment Agency has not set admission figures. However, in 2020, Germany reported to Eurostat zero non-EU workers in agriculture, forestry and fishing under the SWD. Germany is the European country with the highest number of posted workers in the agriculture sector.

**Greece** does not report to Eurostat on the number of authorisations granted in agriculture, forestry and fishing under the SWD. Seasonal work by non-EU citizens is primarily regulated by centrally-set quotas

and partially satisfied by means of bilateral agreements with Albania (in place since 2020), Egypt and Bangladesh (both agreements finalised in 2022). These agreements are expected to provide 10,000, 5,000 and 4,000 seasonal agricultural workers, respectively (Greek Ministry of Migration and Asylum, 2022; Reuters [news](#) dated 23/11/22; Deutsche Welle [news](#) dated 29/08/22; Vox [news](#) dated 1/10/22). Our estimates are based on the quotas set by the government for the number of permits for seasonal work. These quotas are set every two years by geographical area. For 2021 and 2022, a total of approximately 75,000 seasonal work permits were foreseen across the country (Government of Greece, 2021; Albanian Daily [news](#) dated 7/02/21). Thus, our estimate for 2021 is obtained by dividing this figure by two and assuming that one permit is equivalent to one person. In terms of EU workers, no reference is found in literature on the number of seasonal workers in the agriculture sector, although, historically, seasonal migration to Greece from Bulgaria and, to a lesser extent, Romania, is extensively reported.

It is stated in **Hungary**'s EURES [webpage](#) (accessed in February 2023) that '*There are about 30 000 to 50 000 migrant workers working in Hungary between May and October, the majority of whom arrive from Romania and Ukraine with a smaller percentage from Serbia*'. In 2019, EURES also reports an average of 35,500 seasonal workers in the agricultural sector. We use this figure as an estimate for 2021, assuming that one-third relates to EU workers and two-thirds to non-EU workers. However, in 2021, the country reported to Eurostat the granting/renewal of four authorisations to non-EU workers for the purpose of seasonal work in agriculture, forestry and fishing under the SWD.

The information provided on **Ireland**'s EURES [webpage](#) refers to seasonal needs of the fruit picking industry of about 1,500 persons per year. A recent investigation carried out by the Balkan Investigative Reporting Network and Noteworthy on the working conditions of seasonal workers<sup>8</sup> further reveals that these workers come primarily from Eastern Europe and that among the other sectors concerned by seasonal work are the soft fruit and the mushroom industries. However, the investigation does not provide an idea of the number of seasonal workers. Ireland opted out from the SWD.

Estimates for **Italy** are based on data from the 20<sup>th</sup> agricultural census carried out by the Italian National Institute of Statistics (ISTAT). Data refer to workers aged 16 years or over who undertook short-term jobs in the sector during the 2019-2020 agricultural season. The definition of 'short-term jobs' includes seasonal jobs, occasional jobs and jobs related to a specific phase of the field work. In 2019-2020, there were 559,556 domestic seasonal workers, 131,440 intra-EU seasonal workers and 169,888 non-EU seasonal workers (ISTAT [online data](#) accessed in March 2023). In 2021, Italy reported zero authorisations granted/renewed in agriculture, forestry and fishing under the SWD. More details are provided in the [case study on Italy](#).

In **Latvia**, seasonal work is required especially in summer and autumn. Non-EU seasonal workers are from Eastern countries and are principally (i.e., about two-thirds) from Ukraine. Commonly, seasonal workers are employed through agencies. In 2021, there were 3,530 seasonal field workers, employed by 279 farms (Rural Support Service [webpage](#) accessed in January 2023). In our estimates, the assumption is that this figure includes non-EU workers whose number, in terms of granted authorisations for the purpose of seasonal work in agriculture, forestry and fishing under the SWD was 271 in 2021.



**Lithuania** is both a sending and receiving country for seasonal work. Seasonal work in agriculture is especially needed in vegetable and berry farms, for planting in spring and harvesting in autumn. In these farms, at least 1,000 seasonal workers are needed ([news](#) from the Lithuanian Ministry of Agriculture dated 30/03/21). As local labour is difficult to find for agricultural activities, Lithuanian farmers often refer to intermediary agencies or employ Ukrainians coming from Poland. According to Eurostat data, in 2021, 144 authorisations for the purpose of seasonal agricultural work were granted/renewed in agriculture, forestry and fishing under the SWD. In our estimates, this number is assumed to be included in the 1,000 of required workers.

It is stated in **Luxembourg**'s EURES [webpage](#) that the country has no statistics on seasonal workers and no references were found in literature to estimate the number of EU seasonal workers in agriculture. Seasonal activities are defined in the national legislation and relate to the agriculture (harvesting and packaging) and hospitality sectors. Seasonal work is required mainly in spring for the asparagus and strawberry harvests and in September for the grape harvest (EMN Luxembourg, 2020). A labour market test is implemented before employing seasonal workers and so far priority has been given to the hiring of workers coming from EU countries, principally Poland and Romania (EMN Luxembourg, 2020). Thus, the number of non-EU seasonal agricultural workers is considered to be zero, and this is coherent with the country's reporting to Eurostat for agriculture, forestry and fishing under the SWD.

According to **Malta**'s official statistics, in 2021, there were few individuals working as seasonal workers in agriculture. Out of the 248 non-EU workers and 102 intra-EU workers employed in the agriculture, forestry and fishing sectors, about 10% are estimated to be seasonal workers. No information was found on nationals employed on a seasonal basis in the agricultural sector. In 2021, Malta reported zero authorisations granted/renewed in agriculture, forestry and fishing under the SWD.

It is noted in literature that **Poland** does not rely on EU seasonal workers in the agriculture sector (EMN Poland, 2020). Data related to employment through the 'harvest help contract' (see [Section 4.4](#)) allows an estimate of at least 5,200 domestic seasonal workers in agriculture. Migrant workers are needed for low-skilled occupations, including agriculture, which is not matched internally due to '*unfavourable demographic trends, accompanied by economic growth and low unemployment*' (EMN Poland, 2020, p. 21). Fruit picking is the most demanding sub-sector and the majority of seasonal workers are needed in spring, summer and early autumn. Importantly, in Poland, two types of seasonal work permits are issued. If the third-national to be employed is already living in Poland the reference is to 'national seasonal work permit'; if not, the reference is to 'directive seasonal work permit'. Seasonal work is envisaged in two sectors, one of which is agriculture (Section A of the NACE Rev.2). Most of the seasonal workers are Ukrainians. Other common nationalities include Belarus, Moldavia and Georgia. In 2021, Poland reported to Eurostat the granting of 66,648 authorisations to non-EU citizens for the purpose of seasonal work in agriculture, forestry and fishing, and the renewal of 129 authorisations. However, national data on the number of permits issued in 2021 for seasonal work in agriculture are higher and close to 110,000 permits (see national data [here](#)). Statistics sent to Eurostat by Poland relate to work permits under the SWD only (EMN Poland, 2020), which explains the difference. Poland has no quotas for the entry of third-country nationals. According to the EMN report on Poland '*it can be estimated that the actual employment needs of seasonal workers in horticultural production (on farms) amount to approx. 250-260 thousand people employed for approx. 70 days. Farms specializing in fruit farming show the greatest demand for seasonal workers. These farms employ 80% of seasonal workers.*'

(EMN Poland, 2020, p. 21). Thus, overall, figures in Table 5 underestimate the number of seasonal agricultural workers in the country.

Estimates for **Portugal** are based on the 2019 Agricultural Census from the National Institute of Statistics, for which casual or seasonal work totals 30,350 annual work units in the country (INE, 2021, table C6-F1). This is an approximation as the data reflect full-time employees (or annual work units) and also include occasional work. We assume that this figure includes EU and non-EU workers. Thus, we deduct from it the 401 authorisations granted to non-EU citizens in 2020 for the purpose of seasonal work in agriculture, forestry and fishing under the SWD. The country has an agreement in place with Morocco for the arrival of 400 workers and new bilateral agreements are expected to be made with India, Nepal and Bangladesh.

In **Romania**, national quotas for the entry of non-EU workers significantly increased over the last years, reflecting the growing need of employers to source workers from outside. In fact, with respect to seasonal work, Romania's workers find it more favourable, including from an economic point of view, to go work abroad rather than in their home country. In 2021, Romania reported to Eurostat zero authorisations granted/renewed for the purpose of seasonal work in agriculture, forestry and fishing under the SWD. In 2021, the government made available 50,000 work authorisations, but did not determine the authorisation type or the destination sector of workers (Agerpres [news](#) dated 11/08/21).

In **Slovenia**, seasonal agricultural work is common in the north-eastern and eastern parts of the country and is carried out in spring (for thinning and pruning fruit trees, or for hop gardening, or strawberry picking), summer (for vegetable harvesting and processing) and autumn (for fruit picking) (EURES [webpage](#) on Slovenia). In 2021, Slovenia reported to Eurostat the granting/renewal of 638 authorisations for the purpose of seasonal work in agriculture, forestry and fishing under the SWD. In 2020, during the pandemic, the hop industry reported the need for about 800-1,000 seasonal workers who used to arrive from Romania (Total Slovenia [news](#) dated 10/04/20). Since seasonal work in hop gardens takes place in spring, we assume that these same workers move to other seasonal tasks into summer and autumn and consider this figure to be an underestimate of the number of EU seasonal agricultural workers for 2021.

In the **Slovak Republic**, in the agricultural sector, seasonal work is mainly required for the harvesting of crops (e.g., fruits, vegetables) and occurs mainly in late spring and early summer (EMN Slovakia, 2020). In 2021, the Slovak Republic reported to Eurostat the granting of 175 authorisations for the purpose of seasonal work in agriculture, forestry and fishing under the SWD. Our estimates of EU seasonal agricultural workers are based on a statement by the Slovak Agriculture and Food Chamber mentioning the need of some 8,000 workers during the harvest period of 2020 (EMN Slovakia, 2020). This figure is not in contradiction with the launch of a project by the Ministry of Labour, Social Affairs and Family intended to subsidise the employment of 5,000 persons from mid-2020 to the end of 2021 in order to meet the demand for seasonal workers in agriculture (Ministry of Labour, Social Affairs and Family [news](#) dated 05/06/20).

Estimates for **Spain** are based on official data on the number of temporary contracts according to their duration. Official data were found only for contracts lasting less than 3 months and indicate a total of 310,145 (EU and non-EU) seasonal workers in the agriculture sector. Since the majority of seasonal workers' stay is reported to be around 90 days, with only a third staying between 3 and 9 months (EMN, 2020), we assume that the number of seasonal workers may, in fact, rise to 450,000. Estimates of non-

EU seasonal workers refer to MITES-SEPE statistics [online](#) accessed in February 2023 (table PTE-15) reporting 19,878 unqualified non-EU workers and 832 qualified non-EU workers. These figures are slightly higher than the 2021 data reported to Eurostat (14,334 granted/renewed authorisations in agriculture, forestry and fishing under the SWD). More details are provided in the [case study on Spain](#).

In **Sweden**, seasonal work relates mostly to the agriculture, forestry and tourism sectors (EURES [webpage](#) on Sweden). In the agricultural sector, it is principally required for berry picking in the northern part of the country. Seasonal planting activities are more common in the southern part of the country. In 2021, 5,176 work permits were granted for non-EU wild berry pickers most of which were issued to citizens from Thailand (Migrationsverket [webpage](#)). Sweden does not report on the number of authorisations for the purpose of seasonal work granted under the SWD. Berry pickers and planters fall under a national scheme. In particular, Thai berry pickers fall outside the scope of the Directive because they are hired through an employer established outside Sweden (art. 3 (b) of the SWD) (EMN Sweden, 2020). The number of berry pickers is considered to represent about 75% of the non-EU seasonal workers admitted in 2018 and 2019. This share is used to estimate the total number of non-EU seasonal workers in 2021. In addition, it is also estimated the presence of 5,000 independent berry pickers, mostly coming from Ukraine for which visa liberalisation has applied since 2017 (EMN Sweden, 2020). This is explained by the fact that, in Sweden, wild berry picking in forests is a free activity determined by the right of free access to forests. EU seasonal workers are reported to be used for farming activities and for shorter periods than three months. They mostly come from Bulgaria, Hungary, Poland and Romania. Their number is unknown and being informally employed makes them vulnerable to exploitation (Iossa and Selberg, 2022). The estimate of about 4,100 people is obtained by subtracting from the overall need in seasonal workforce expressed by the Federation of Swedish Farmers (i.e., 16,000) the non-EU seasonal workers earlier quantified (sverigesradio [news](#) dated 14/04/20). In 2021, Sweden reported to Eurostat zero authorisations granted/renewed for the purpose of seasonal work in agriculture, forestry and fishing under the SWD.

Estimates for **the Netherlands**, are based on data from Statistics Netherlands according to which, in 2021, there were 32,571 full-time equivalent jobs (CBS statistics [online](#)). Full-time equivalent jobs are likely to correspond to a much higher number of workers. A reputable reference in literature indicates the presence of about 125,000 workers in the greenhouse sector (Doomernik *et al.*, 2020). Employment of non-EU seasonal workers is not common and according to Eurostat, no authorisations have been granted so far in agriculture, forestry and fishing under the SWD. The Netherlands is the second European country, after Germany, with the highest number of posted workers in the agriculture sector. More details are provided in the [case study on the Netherlands](#).

#### 4.4 Social protection of seasonal workers in the agriculture and food sectors of EU Member States

The 2019 Council Recommendation mandated that the Social Protection Committee (SPC) and the European Commission establish a monitoring framework with qualitative and quantitative indicators to assess the effective implementation of the recommendation. According to the information made available on the SPC [webpage](#), this monitoring framework is inadequate towards the scope of this study since none of the indicators included in its latest (2022) version refer to seasonal work. Similarly, EU countries' national plans prepared versus the 2019 Council Recommendation are insufficiently focused on seasonal work. Only six of these plans specifically refer to seasonal work (four more plans refer to seasonal work with respect to temporary measures adopted during the pandemic). As a consequence,

several other sources had to be reviewed in order to develop country-based synopses of social protection of seasonal workers in the agriculture and food sectors. Amongst the most important sources used in this study are the country reports by the European Migration Network on the attraction and protection of seasonal workers from third countries, the synthesis report of the European Migration Network (EMN, 2020), EURES [website](#) on living and working conditions and national websites and documents.

The first monitoring of the 2019 Council Recommendation highlighted that the social protection of seasonal workers had formal deficiencies in only four EU countries (SPC&EC-DG EMPL, 2021). Provided that data collected on formal coverage by the SPC are not made publicly available and that only broad results are disclosed in the reporting by the EC to the Council on the implementation of the recommendation, the latest report by the EC informs that *‘In 2022, in 17 Member States at least one group of non-standard workers faces formal gaps in at least one of the relevant social protection branches. The social security branches with the most gaps are unemployment (13 Member States), sickness (11), and maternity benefits (9). The categories affected include casual workers or those on simplified, short-term fixed contracts, seasonal workers and those on other country-specific work contracts’* (EC, 2023, p. 11). Furthermore, the EC indicates as lower-bound estimates that *‘roughly 5.6 million non-standard workers are without access to unemployment benefits (in 11 Member States), while 366 000 have no access to sickness benefits (in six Member States) and 413 000 are without access to maternity benefits (in five Member States).’* (EC, 2023, p. 11).


Our review below provides details by country and confirms **that seasonal workers in the agriculture and food sectors are not granted specific benefits in several countries**. ‘Exceptions’ to equal treatment are sometimes linked to structural characteristics of seasonal work such as the limited periods of employment and the lack of residence. In other cases, it is the contractual arrangement used to employ these workers that excludes them from social coverage. These arrangements are usually simplified forms of contracting that imply limited administrative burden and costs for employers as well as limited social security rights for employees. With all their drawbacks, these ‘simplified’ contracts are aimed at legalising seasonal work in the sector.

For non-EU seasonal workers, it is the same Seasonal Workers Directive that allows derogations to the equal treatment of workers. With respect to the branches of social security indicated under Article 3 of Regulation 883/2004 on the coordination of national security systems, the SWD allows Member States to exclude non-EU seasonal workers from unemployment and family benefits. Evidence of this exclusion is found in the countries’ review reported below. However, more often, EU countries do not set limits to the granting of benefits, but non-EU seasonal workers do not meet the necessary requirements to access social benefits because they are not resident and/or because they have not paid enough contributions to the social protection scheme. The Directive also allows Member States to limit the application of equal treatment in relation to education and vocational training, as well as to tax benefits (EUR-Lex [webpage](#) accessed in March 2023) and some EU countries take advantage of this possibility.

In **Austria**, a TCN is employed for a seasonal job if the vacancy cannot be filled by national or EU citizens, i.e., a labour market test is implemented. A work permit is granted assuming that the worker’s working conditions will be the same as those applied to nationals employed in comparable occupations. Seasonal workers have the right to adequate accommodation and this aspect is subject to monitoring for enforcement. From 2020, federal states are responsible for regulating housing and accommodation

provisions in their provincial laws. In terms of remuneration, minimum wages for seasonal workers are set in collective agreements made at the regional level, but individual agreements are also possible <sup>9</sup>. Seasonal workers have the right to formal coverage with respect to health, accident and pension insurance schemes. In addition, Austria has signed bilateral agreements with several third countries, allowing for pensions entitlements to be summed up together. However, seasonal workers are usually not entitled to family allowance and in practice cannot access unemployment benefits (EMN Austria, 2021; EMN, 2020).

In **Belgium**, seasonal work in horticulture and agriculture has been regulated since 1994 ([horval.be website](http://horval.be)). There is a limit to the number of days that can be worked with a seasonal type of employment. The limit varies according to the sector and is 30 days for agriculture and 65 days for horticulture. Working conditions are the same for EU and non-EU seasonal workers. Seasonal workers are entitled to the same minimum wages of the other agricultural workers, with wages that vary according to the crop/sub-sector and not to the type of worker. Thus, there are specific minimum wages for flax and hemp cultivation, fruit growing, floriculture, silviculture and tree nurseries. In terms of social security, the employer has the obligation to electronically communicate to the National Social Security Office any worker's entry and exit from service. Contributions of seasonal workers are not calculated on the income, but against a low and standard daily income, so that payments for social security are lower than for other types of employment (EMN Belgium, 2021; [horval.be website](http://horval.be); [guichet-agricole.be website](http://guichet-agricole.be)). In addition, the majority of seasonal workers are reported to benefit from a so called 'work bonus' social security scheme which is aimed at guaranteeing higher net salaries to workers with low wages. According to EMN Belgium (2021), the application of this scheme implies very low or nil payments for social security contributions. EMN further specifies that non-EU seasonal workers are not entitled to family benefits if their work permit is a single permit issued for a maximum period of six months. In addition, access to unemployment benefits is for a maximum of 60 days, but requires having worked for a certain number of days over a given period (EMN, 2020).

 **The 'picking card'.** Seasonal workers are given an 'occasional card' (or 'picking card') where each day of work is recorded. The card takes the function of a daily contract. Each seasonal worker can use only one card per year.


In **Bulgaria**, seasonal work is defined according to the Seasonal Workers Directive. The Minister of Labour and Social Policy, in consultation with the National Council for Labour Migration and Labour Mobility, decides on the economic sectors having a seasonal character. These sectors currently include agriculture, forestry and fishing as well as hotels and restaurants (Vankova, 2020). Non-EU seasonal workers are distinguished according to the length of their stay (up to 90 days and from 90 days to maximum 9 months) and the issuing of their permits is not subject to a labour test. As part of the application process for a working permit, the employer has to demonstrate the provision of appropriate accommodation, the fulfilment of health and safety requirements and the application of working conditions and wages equal to those offered to Bulgarian citizens employed in the same sectors (Vankova, 2020). Also, seasonal workers have to be provided with transport from the place of origin to the place of work and with health insurance, whose cost is borne by the employer and cannot be deducted from the salary. The General Labour Inspectorate is responsible for carrying out inspections, including

<sup>9</sup>


Collective agreements and conditions are accessible from the Agriworker project [website](http://www.agriworker.eu).



in terms of accommodation provided to the workers (EMN Bulgaria, 2020). Accommodation rental is agreed upon between the parties and cannot be deducted automatically from the wage. For non-EU seasonal workers, the Law on Labour Migration and Labour Mobility establishes that they do not receive family allowances and unemployment benefits, but in its reporting for the 2019 Council Recommendation, Bulgaria underlines that its Social Insurance Code makes provisions for the coverage of all types of legally employed workers, including the non-standard ones, and that these workers are *‘all insured for general disease and for maternity, disability due to general disease, old age and death, accident at work and occupational disease and unemployment’* (Government of Bulgaria, undated). Contracts for seasonal workers may be of a fixed-term type or of a daily duration.

 **The daily contract.** This type of contract was introduced in 2015 with the aim of reducing undeclared work. It may be renewed for up to 90 days in a calendar year and applies to non-qualified workers for planting and harvesting activities. There are standard formats to be used for this type of contract which is subject to certification by the General Labour Inspection Service (EURES [webpage](#) on Bulgaria). Its characteristic is that the employer is required to pay taxes and social security contributions in advance. This guarantees the social protection of the worker. Social contributions related to this contract are very low, in the range of €3.3 per day ( good practice fiche for Bulgaria downloaded from the [European Platform for Undeclared Work](#) in November 2022).

In **Croatia**, for non-EU seasonal workers, a labour market test and the consequent opinion of the local office of the Croatian Employment Service are required for assignments up to six months over a one-year period, but are not necessary for assignments up to 90 days in agriculture, forestry, catering industry and tourism (Kotulovski and Laleta, 2021). Stay and work permits for non-EU workers are combined and issued if, among other requirements, the worker is provided with appropriate accommodation and has an employment contract which is respectful of the country’s law and of the collective agreement applicable to the employer. Several parameters defining the appropriateness of accommodation are listed on the [webpage](#) of the Croatian Ministry of Interior. The same webpage lists the rights of seasonal workers, which include, among other aspects, equal working conditions to those of Croatian citizens and the branches of social security as defined in Article 3 of [Regulation \(EC\) No 883/2004](#) on the coordination of social security systems. There is no specific definition of seasonal work, which is treated as other forms of temporary employment from the point of view of rights, obligations, taxation and social security contributions. For fixed-term employment contracts, the calculation and payment of contributions is the responsibility of the employer. Alternatively, employment is through the casual regime (EURES [webpage](#) on Croatia). By referring to the SWD, it is noted by Kotulovski and Laleta (2021, p. 340) that *‘Croatia has not used the possibility given by the Directive to restrict equal treatment of seasonal workers regarding certain rights, namely family benefits, unemployment benefits, education and vocational training, study and maintenance grants and loans, and tax benefits. Nevertheless, the question is whether a seasonal worker can fulfil the conditions needed for such rights/benefits’*.

 **The casual employment regime.** Seasonal jobs in agriculture whose duration is up to 90 days can be carried out using the ‘casual employment’ regime, which is based on the use of daily vouchers. This type of regime is valid only for unemployed jobseekers (registered or not registered with the public employment service) and retirees. The daily voucher is recorded by the employer at the start of the working day in the seasonal contract. Workers have the responsibility to communicate details

of their employment period to the Croatian Pension Insurance Institute in order to determine the length of insurance they have accumulated (EURES [webpage](#) on Croatia).

In the **Czech Republic**, the granting of work permits is subject to a labour test by the national Labour Office, but no quotas are set. Seasonal work is defined to be dependent on the season and to have a maximum duration of six months over a one-year period. Among our focus sectors, the SWD covers both plant and livestock production. In terms of social protection, *‘Seasonal workers are entitled to equal treatment with respect to remuneration (the Czech Republic introduced no special salary threshold for seasonal workers), access to public healthcare and social insurance. In general, a limited length of their permitted stay reduces the scope of social benefits to which they may become entitled and excludes them from the system of unemployment benefits’* (EMN Czech Republic, 2020, p. 37). In addition, accommodation has to be comparable to the housing of the locally residing population and a minimum room size applies. The State Labour Inspection Office and its regional offices are in charge of inspecting wages, working conditions and labour safety (EMN Czech Republic, 2020).

In **Cyprus**, EU workers taking up individual seasonal jobs are given a contract which is based on collective agreements. As contract law prevails, these contracts allow negotiation by the two parties. Still, the relationship has to respect the provisions of the [2003 Organisation of Working Time Law](#) in terms of health and safety requirements and of working conditions. In Cyprus, non-EU workers are employed only if labour market needs cannot be matched by national and EU citizens. Ministerial Council Decisions and administrative arrangements guarantee the treatment of migrant workers equally with national workers (Cypriot Department of Labour [website](#)). Cyprus has strict rules for the employment of non-EU seasonal workers: employers have to go through a preliminary screening by the District Labour Offices (i.e., initial approval) before being able to apply for the issuing of work permits for foreign workers to the Civil Registry and Migration Department. According to Cyprus’ National Plan under the 2019 Council Recommendation, the country’s General Social Insurance Scheme applies to all forms of employment, including seasonal work (Government of Cyprus, undated). A special definition of ‘continuous employment’ is applied to seasonal workers to determine their right to the ‘redundancy compensation’ which adds to the unemployment benefit (MISSOC tables [online](#) - update 1/01/22).

In **Denmark**, work in the agricultural and horticultural sectors is through a company, or directly with the employer (i.e., farmer). In the latter case, working conditions are regulated by collective agreements ([Agriworker](#) project). These agreements are between 3F (the United Federation of Workers in Denmark) and the employer’s association GLS-A. Agreements exist for ‘Horticulture and nurseries’, ‘Agriculture’ and ‘Agro-industry’ (GLS-A [webpage](#)). Collective agreements usually include rules on wages, pension, working hours, notice of termination, holidays, education and training (3F [webpage](#)). Working under a collective agreement implies the participation in a pension scheme. The pension scheme also provides for insurance and healthcare. Coverage is effective for as long as contributions are paid into the scheme. The employer applies deductions to the wage to contribute to the scheme, but this happens only if employment is for at least two months. If accommodation is provided to the agricultural worker, a daily amount is also deducted by the employer from the wage ([Agriworker](#) project). Denmark’s EURES [webpage](#) specifies that no special provisions for seasonal workers’ working conditions exist.

In **Estonia**, seasonal work falls under the short-term employment category, but no minimum mandatory wages apply and the maximum length of work is 270 days over 365 consecutive days. Also, work must be in one of the sectors to which the transposition of the Seasonal Workers Directive applies. Accommodation has to be provided to the worker according to standards set by law and working conditions have to be specified in a written contract (EMN Estonia, 2020). The contract is necessary for the employer to register the worker with the Estonian Police and Border Guard Board. If the employment contract is longer than one month and the employer has paid social contributions, the worker is covered by health insurance. Regarding workers' rights, restrictions apply to non-EU seasonal workers who are not granted family benefits, study allowances, and, in general, unemployment and tax benefits (EMN Estonia, 2020). Pensions contributions are not transferred to the country of origin unless Estonia has a bilateral agreement with that country and the contribution period is over one year. Bilateral agreements exist with Ukraine, Moldova, Belarus, Russia, Canada and Australia (EMN Estonia, 2020).

In **Finland**, the terms of employment for seasonal workers in agriculture are determined by employment legislation and the Collective Agreement for the Rural Industries signed between the employers' federation and the trade union representing the employees. The type of employment contract for seasonal work is a fixed-term contract. The employer has the obligation to provide safe and healthy working conditions and to have occupational healthcare coverage for accidents at work (which may not include the cost of treatments) (Industrial Union [website](#) on seasonal work). Finland defines seasonal work after the SWD which was transposed into the Finnish Seasonal Workers Act (EURES [webpage](#) on Finland). The Act covers work in agriculture and forestry, garden work and work in the tourism sector. The list of activities that may be considered for seasonal work is available on the website of the [Finnish Immigration Service](#). The [website](#) also specifies the procedures and types of seasonal work permits required. Non-EU seasonal workers shall apply to the Finnish Social Insurance Institution (Kela) to have their entitlement to medical care request assessed (Finnish Industrial Union, 2022). Kela also assesses the right of the worker to be covered by the Finnish social security. Payments for taxes and statutory social security contributions are withheld by the employer from the employee's wage. Statutory unemployment insurance contribution is not paid by TCNs (Finnish Industrial Union, 2022).

In **France**, seasonal workers are employed using fixed-term contracts. The provisions of the SWD were transposed into national legislation in 2016. France provides non-EU seasonal workers with multi-year residence permits for the purpose of seasonal work. These permits are valid for a maximum of three years and allow working for up to six months during each year (EMN France, 2020). Besides a residence permit, non-EU seasonal workers must also obtain a work permit. The employer is responsible for applying for a work permit. At the application stage several conditions are verified, including a market test, applied working conditions and accommodation. Remuneration must be at least equal to the minimum wage. The equal treatment principle is applied. Special conditions apply to workers from Morocco and Tunisia as France has bilateral agreements in place with these countries. For example, since 2019, workers from these two countries have been provided free transport by the state from the point of arrival in France to the place of work (EMN France, 2020). The country does not set annual quotas for non-EU workers, but may include quotas in the bilateral agreements with other countries (EMN France, 2020).



**The harvest contract.** The 'contrat vendanges' is a seasonal contract whose duration is up to one month. It is a particular contract because it allows individuals already hired by other entities,

either in the public or in the private sector, to take up seasonal jobs related, for example, to harvest activities. These individuals need the prior agreement of their employer and must do these ‘extra’ jobs during their period of paid leave (Ministry of labour [website](#)).

In **Germany**, anyone working for a German employer benefits from the same rights as national employees, but exceptions apply for the so called mini-jobs and short-time employment (the short-time employment is a variant of the mini-jobs). Mini-jobs are characterised by a maximum earning of €450 per month. Instead, short-time contracts for seasonal work in agriculture do not have this ceiling but have to meet two conditions: they shall not be performed professionally (i.e., theoretically, they are performed by people having another principal source of income or occupation such as students) and shall not last over 70 working days or three months over a one-year period. *‘Minijobs in general are not covered by health and unemployment insurance, and the worker can opt out of contributing to old-age provision. The employer pays a small flat-rate tax...’* (Knuth, 2021, p. 5). According to Knuth, the application of minimum wage is also circumvented by basing remuneration on piece rates rather than on hourly rates, or by excessively deducting the cost of food and accommodation from the employee’s wage. The author further states that *‘The unit of the German customs control responsible for the enforcement of the minimum wage is so weakly staffed that statistically a farm is inspected once in 350 years’* (Knuth, 2021, p. 9). With regard to non-EU workers, among the general principles set by German law is the principle of equal treatment according to which workers employed in the country cannot be employed under less favourable conditions than national employees. In terms of social coverage, *‘Seasonal workers from third countries who are employed in Germany are generally subject to compulsory social insurance. The social insurance consists of health insurance, nursing care insurance, accident insurance, pension insurance and unemployment insurance. With the exception of accident insurance, however, there is no obligation to pay social insurance if the employment is short-term. This is the case when the activity is limited to a maximum of three months or 70 working days within a year, depending on the nature of the work, or is contractually limited in advance’* (Lechner, 2020, p. 19). Still, the MISSOC database reports for Germany that *‘Seasonal short-time work (Saison-Kurzarbeit) is eligible for temporary/partial unemployment benefits’* (MISSOC tables [online](#) - update 1/01/22). Finally, accommodation has to comply with the requirements of the Workplace Ordinance and the Technical Rules for Health and Safety at Work (Lechner, 2020).




**The short-time employment contract.** Seasonal workers are often given a short-time employment contract which is valid for up to 70 days. Such a contract *‘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’* (ETUC, 2020).

Seasonal work in **Greece** is up to nine months over a one-year period (Greek Ministry of Migration and Asylum, 2022). The national coordination office of EURES (2021) reports that seasonal work is governed by a flexible type of contract and that working conditions are determined by both legal provisions and collective agreements. The latter, for example, are usually referenced to for minimum wages. In addition, *‘All employees under any kind of working contract are insured for medical care and pension’* (National Coordination Office EURES Greece, 2021). In order to access health services,

seasonal agricultural workers need to have contributed at least 50 days in the year preceding their illness. For cash benefits related to sickness, maternity, invalidity and funeral expenses, they need to have contributed at least 120 days in the calendar year preceding the event (National Coordination Office EURES Greece, 2021). Non-EU workers are employed if vacancies cannot be filled by national and EU citizens. Quotas are set by the central government and the employment of TCNs complies with the provisions of the SWD (EURES [webpage](#) on Greece). Greece importantly relies on bilateral agreements with Albania, Egypt and Bangladesh to meet its demand for seasonal labour force. The recent agreement with Bangladesh implies the granting of a multi-year visa for seasonal agricultural work.

In **Hungary**, seasonal workers are appointed for a maximum of 180 days and employed through a simplified scheme. Under this scheme, *‘The employer pays a public charge for each calendar day of employment, which replaces the advance payment of personal income tax and social security contributions on the employee’s side’* (Government of Hungary, undated, p. 2). Workers under this scheme are not insured under the Act CXXII of 2019 on Entitlements to Social Security Benefits, but they are granted retirement and job-seeking benefits as well as accident health services under the Act on Simplified Employment. They are also entitled to maternity benefits. In order to access healthcare services, they need to voluntarily pay healthcare contributions (Government of Hungary, undated). Seasonal workers are not covered for sickness and invalidity benefits (SPC&EC-DG EMPL, 2022).

 **The simplified employment scheme for agricultural seasonal work.** The simplified employment scheme, renewed in 2020 with the extension of the eligible employment period from 120 to 180 days, applies to the agriculture, forestry and fishing sectors. This scheme waives paperwork as it allows a verbal agreement between the parties. There are also limitations to the social security benefits granted to the employees (see above).

In **Ireland**, there is no specific legislation for seasonal work and in terms of rights seasonal workers are treated equally to employees with a fixed-term or temporary contract (Ireland’s EURES [webpage](#)). However, according to the country’s report on the 2019 Council recommendation, seasonal workers do not appear to qualify for some benefits related, for example, to unemployment, maternity, paternity and family (Government of Ireland, 2021). Depending on the length of the work and on the arrangements the employers adhere to (i.e., collective agreement, sectoral employment orders or employment regulation orders), working hours, breaks, night work and holidays may follow specific rules. These rules are made available from the main [webpage](#) on seasonal work of the Workplace Relations Commission. Seasonal workers are also entitled to the minimum wages set by legislation at the [national level](#). Ireland is in the process of finalising a new permit for seasonal employment by non-EEA citizens as part of its Employment Permits Bill 2022 which was, in December 2022, still in an amendment stage (Houses of the Oireachtas [webpage](#)). Employment rights for Ukrainians have a dedicated [webpage](#) which is also translated into Ukrainian and Russian languages.

**Italy:** reference is to the case study in [Section 4.5.1](#).

**Latvia** adopted the SWD in 2017. Seasonal work is up to six months and, according to national legislation of 2002, it is possible in 46 occupations across a variety of sectors including agriculture, stock farming, forestry and fishing (EMN Latvia, 2021). Ukrainian citizens have visa procedures simplified and this may explain their high number in the country. Seasonal workers benefit from the



same rights of workers with a fixed-term contract (against the mandatory contributions to be paid by the employer), but they may not access unemployment and family benefits because they do not meet the qualification criteria (i.e., minimum contribution period of 12 months over a 16-month period for the earlier and residence for the latter). In 2021, Latvia was found to not cover 1,092 seasonal workers in agriculture ‘*for unemployment, sickness, maternity, paternity, accidents at work and invalidity benefits*’ (SPC&EC-DG EMPL, 2022). The minimum wage in the agriculture, forestry and fishing sectors is set by considering the national average wage of these sectors. There are not specific provisions for the accommodation of seasonal workers and national laws on residential premises apply. A labour market test is implemented before visa and work permits are issued for non-EU seasonal workers.


In **Lithuania**, seasonal work and its working conditions are defined in the Labour Code. Seasonal work is for a maximum of 6 months over a one-year period. Applications for seasonal workers are sent by employers to the Employment Service under the Ministry of Social Security and Labour. They are subject to a labour market test and need to be related to one of the jobs defined as seasonal at the national level. Availability of proper accommodation in residential premises of at least 7 square meters needs to be demonstrated by the employer. After the work permit is issued, the worker has to obtain a visa. A faster and easier procedure applies for those jobs included in the list of professions which the country lacks (in early 2021, the list did not include agricultural activities – with the exception of some activities in the forestry sector). The majority of seasonal workers are from Ukraine (representing 68% of the granted permits in 2020), followed by Belarus (19%) and Georgia (5%). In 2020, seasonal work was needed for food production, agricultural, forestry and livestock activities and crop processing ([news](#) from the Lithuanian Ministry of Agriculture dated 30/03/21). Seasonal contracts must be in writing and specify at least the function, the wage and the place of work. Seasonal workers are covered by social security, but they are not granted family and unemployment benefits (EMN, 2020). Non-EU seasonal workers are also not entitled to education and training services (EMN, 2020).

In **Luxembourg**, seasonal employment is a form of fixed-term employment. All rights and duties implied by this type of contract are in line with the national Labour Law. A seasonal contract cannot last more than 10 months over a one-year period. Seasonal agricultural workers are thus granted the same rights of the other workers, but in terms of social benefits they are not granted family benefits (with one exception, as there is a bilateral agreement in place) and may not be entitled to unemployment benefits as these depend on the length of the assignment (EURES [webpage](#) on Luxembourg; EMN Luxembourg, 2020). Non-EU workers need a work permit, but if they stay more than three months they also need to apply for a residence permit. The employer has to request permission to hire seasonal workers and hand this permission over to the non-EU applicant for receiving a work permit.


In **Malta**, there is [specific legislation](#) regulating the entry and stay of TCNs for the purpose of employment as seasonal workers. Seasonal work is up to nine months over a one-year period. Depending on whether TCNs’ stay is below or over 90 days, a different procedure for obtaining the entry permit applies. If the stay is below three months, the application is for an employment licence with the Public Employment Services. For a stay up to nine months, the application is with the Identity Malta Agency. The application is also assessed according to labour market considerations and must be accompanied by a contract or a binding offer job by the employer. The contract is usually a fixed-term contract concluded directly with the Maltese employer. Non-EU seasonal workers are required to demonstrate that they have, or have applied for, sickness insurance, are provided with adequate accommodation and have enough subsistence resources. In terms of rights, they are to be treated as national workers with respect

to working conditions and are entitled to social security coverage with the exception of unemployment benefits. Family benefits apply only after three months of residence (Identity Malta Agency [website](#); EMN, 2020).

In **Poland**, the issuing of seasonal work permits requires a negative labour market test. However, there are exceptions to this requirement as the test is not necessary for citizens from Armenia, Belarus, Georgia, Moldova, Russia and Ukraine (Vankova, 2020). The work permit is issued if the remuneration level reported in the contract is equivalent to that paid to employees assigned to similar jobs (Vankova, 2020). In terms of social protection, seasonal workers do not receive family benefits, cannot register as unemployed (and thus do not receive unemployment benefits) and are not entitled to receive vocational training and education. There are not specific provisions for accommodation in the national legislation and compliance with the provisions of the SWD is checked in general terms only (EMN Poland, 2020). The National Labour Inspectorate checks the employment contract, the working conditions such as working hours, holidays and remuneration as well as health and safety standards.

 **The ‘harvest help contract’.** In 2018, Poland introduced a simplified contract, the ‘harvest help contract’, which is specifically meant to provide seasonal agricultural workers with social coverage and reduce illegal employment in the sector. The farmer adopting this short-term contract is obliged to register the agricultural worker in the accident, sickness and maternity insurance scheme and in the health insurance scheme of the Agricultural Social Insurance Fund (KRUS). Poland reports that by the end of March 2021, 5,230 ‘farmer’s assistants’ were employed using this type of contract. The contract excludes coverage related to old age and pension (Government of Poland, 2021).

In **Portugal**, seasonal work is carried out in the agriculture, tourism and hospitality sectors. Seasonal workers are usually given very short-term contracts which are to be registered in the social security system. For non-EU seasonal workers, contracts are to be in a written form as they are part of the documents to be submitted to obtain a visa. There are two types of visa for seasonal work: the short-term type visa, for stays up to 90 days; and the temporary stay visa, for stays up to 9 months (EURES [webpage](#) on Portugal). For non-EU seasonal workers, there is an obligation to register the contract both in the national social security system and at the Authority for Working Conditions (EURES [webpage](#) on Portugal). However, in practice, seasonal workers do not have access to unemployment benefits and training because they do not meet the nationally set minimum requirements. In terms of working conditions, foreign workers have the same rights and duties of national workers (ePortugal [webpage](#)). Legal provisions determining accommodation arrangements for seasonal workers are set by law: if accommodation is provided by the employer, it has to comply with existing laws for health and safety, furthermore its cost cannot be automatically detracted from the wage and cannot be higher than 20% of the wage ([Law 02/2017](#), Art.3).

 **The ‘very short-term’ contract.** This type of contract is for seasonal activities carried out for a limited number of days and up to a maximum of 70 days over one year. If the employment is below 35 days, the contract does not need to be in writing. In any case, the employer has the obligation to register the contract in the national social security system (EURES [webpage](#) on Portugal).

In **Romania**, seasonal work is regulated by the Labour Code. Employment for seasonal workers is through a full-time fixed-term type of contract (Romania's EURES [webpage](#)). According to the monitoring report of the 2019 Council Recommendations, seasonal workers are not covered for unemployment, sickness, maternity and accidents at work (SPC&EC-DG EMPL, 2022). In response to the 2019 Council Recommendation, the Government of Romania introduced in its National Employment Strategy 2021-2027 the objective to identify instruments aimed at ensuring an adequate level of social protection for all workers, especially for seasonal/fixed-term and casual/daily workers (Government of Romania, 2021). The employment of a non-EU seasonal worker requires the issuing of a work permit by the local office of the General Inspectorate of Immigration, which is also in charge of performing a market test. The employer must request the permit. The entry of non-EU workers is regulated through yearly set quotas.

In **Slovenia**, seasonal workers are contracted with specific fixed-term contracts for temporary and seasonal work which are regulated by the Agriculture Act. However, some contractual aspects are determined by the Employment Act (e.g., working hours, breaks, right to equal treatments) while health and safety conditions follow the provisions of other regulations (EURES [webpage](#) on Slovenia). Non-EU seasonal workers in the agriculture sector have to apply for a seasonal work permit, and a residence permit for stays longer than 90 days. Seasonal work may be up to six months, or seven months in exceptional circumstances. Change of employer is also allowed within the validity period of the permit (Government of Slovenia's [website](#)). Employment of foreigners is usually determined by the labour market situation according to which the government may decide to set annual quotas. It is regulated by the Employment, Self-employment and Work of Foreigners Act which reflects the provisions of Directive 2014/36/EU. EURES reports that '*Seasonal workers are registered for health, pension and disability insurance*' (EURES [webpage](#) on Slovenia). Registration in compulsory social security, inclusive also of health insurance, is an obligation of the employer (Government of Slovenia's [website](#)). Seasonal workers are entitled to tax benefits only if they are employed for more than 183 days or if there is an international agreement in place with their country of origin according to which double taxation is not allowed (EMN, 2020).

In **the Slovak Republic**, the SWD is transposed into two main acts, the Act on Residence of Foreigners and the Act on Employment Services. The agriculture, forestry and fishing sectors fall under the scope of the SWD, still, the most important sector attracting seasonal workers is not agriculture but manufacturing. Seasonal agricultural workers apply for work permits for assignments up to 90 days (with visa granted or according to a visa-free regime) or for temporary residence for the purpose of seasonal employment for assignments up to 180 days over a one-year period. The country does not set annual quotas but local Labour Offices shall implement a labour market test prior to the granting of work permits – exemptions apply if the application is for occupations which are experiencing a shortage in the country (EMN Slovakia, 2020). Seasonal workers have the same rights as national workers in terms of social insurance, tax benefits and education. However, they may not qualify for unemployment and family benefits if they do not meet the necessary requirements (i.e., at least a temporary residence for family benefits and registration in the jobseekers' database with 730 days of contributions paid in the previous four years for unemployment benefits) (EMN Slovakia, 2020). Evidence of adequate accommodation needs to be provided at the time of the work permit application. Minimum standards of accommodation arrangements are set in detail by the Ministry of Health (EMN Slovakia, 2020).

**Spain:** reference is to the case study in [Section 4.5.2](#).



**The discontinuous fixed contract for seasonal work.** The 2022 labour reform ([Royal Decree-Law 32/2021, of December 28](#)) established that seasonal workers will no longer be contracted on a fixed-term basis. Excluding a transitional period during which ongoing fixed-term contracts still exist, seasonal workers are to be contracted through a discontinuous fixed contract. This contract is a form of permanent employment that nevertheless is not performed continuously but on a seasonal basis upon the call by the employer. If the employer does not call the employee every year, the employee is entitled to a compensation. Social security contributions are paid only for the period of employment of the worker. When not active, the employee may (or may not) register as unemployed, or may take up a different job with a different type of contract.

**Sweden** regulates seasonal work as a fixed-term form of employment through its Employment Protection Act. Seasonal work is up to six months over a one-year period. The country transposed the SWD in 2018. Non-EU workers need a work permit, and in some cases also a visa, if they stay for less than 90 days. For stays longer than 90 days, residence and work permits are required (EURES [webpage](#) on Sweden; Migrationsverket [webpage](#)). In order to apply for these permits, non-EU seasonal workers need to have a job offer from a national employer, proof of a suitable accommodation (i.e., a rental agreement or accommodation certificate) and proof of health insurance coverage (i.e., name of the company through which the insurance is taken and coverage period). Employment of berry pickers is subject to specific rules. If employed on an individual basis, the minimum wage and employment conditions set in the Swedish Collective Labour Agreement apply. If employed through an intermediary with a branch in Sweden, the Swedish Municipal Workers' Union (SKAF) agreement with the Federation of Swedish Forest and Agricultural Employers applies for wage and employment conditions. If employed through an intermediary without a representative office in the country, the temporary staffing agreement applies (SWEA, undated). Seasonal workers are granted the same rights of national workers, in particular with regard to family, unemployment and tax benefits as well as to education and training (EMN Sweden, 2020).

**The Netherlands:** reference is to the case study in [Section 4.5.3](#).

## 4.5 Case studies

In this section, case studies on Italy, Spain and the Netherlands are developed. Each case provides an overview of the working arrangements and social protection coverage of EU and non-EU seasonal workers in the agriculture and food sectors. Insights on the role of existing intermediaries in each country are provided. Each case includes three examples focussing on labour exploitation of seasonal workers or violation of their rights in terms of living and working conditions by employers/intermediaries, as well as on counteractions taken by key stakeholders. Examples contribute to highlight country-specific issues as well as common challenges and potentially replicable solutions.

#### 4.5.1 Italy

##### **Working arrangements, formal and effective social protection coverage of seasonal workers in the agriculture and food sectors**

The most relevant national collective agreement (CCNL) regulating employment in the **agriculture sector**, the [National Collective Agreement for Agricultural and Horticultural Workers](#), is negotiated between the main trade unions representing agricultural workers (FLAI-CGIL, FAI-CISL, UILA-UIL) and Italian associations of employers (Confagricoltura, Coldiretti and CIA). It defines the framework and regulatory conditions for work and its contracting in agriculture with permanent and fixed-term contractual relationships. The last version of the National Agreement, signed in May 2022, covers the period 2022-2025. In addition, besides at the national level, in Italy collective bargaining also takes place at the local level. Province-level collective agreements refer to the minimum standards defined in the national agreement (e.g., the working time for agricultural workers is 39 hours a week) and define pay raises on wages determined at the national level according to the inflation rate; pay levels respecting the minimum wage set at the national level (currently ranging from €944,62 to €1.389,15 a month according to the level of expertise of the worker); and the provincial supplementary bonus. Employment in the **food sector** is mainly regulated by the [National Collective Agreement for the Food Industry Workers](#) (2019-2023) signed in July 2020 by the associations of various food industries and trade unions of agricultural workers (FLAI-CGIL, FAI-CISL, UILA-UIL). The agreement covers a wide range of products and their processing, from meat slaughtering to wine producing, from pasta making to coffee roasting. It rules the general minimum working conditions for the food industry (e.g., the working time is 40 hours over five working days a week with some exceptions), specifies differences between sub-sectors (e.g., surcharge for overtime work) and defines the food sector seasonality (i.e., mainly consumption-driven). Other aspects are left to contractual bargaining at the company level between representatives of trade unions and the employer.

In Italy, seasonal working activities are listed in the [Decree of the President of the Republic 1525/1963](#) and are updated for each sector (e.g., agriculture, food, cultural industries) by social partners' concertation at the national level (IPSOA [press release](#) dated 17/03/21). Seasonal workers are employed through ad-hoc seasonal contracts or through standard fixed-term contracts (IPSOA [press release](#) dated 14/03/22). Since 2018, the fixed-term contract has been the most common type of employment contract for seasonal work in agriculture (FARm project, 2020). Duration of the working period, proven by the number of hours on the pay slip, is relevant for accessing social protection. The right to sickness, maternity and paternity benefits is attained by fixed-term workers if they are registered in the annual lists of workers with at least 51 days of agricultural work performed in the year or in the previous one. The social security contributions paid to the National Institute of Social Security (INPS) by the employer and by the employee as deductions from the monthly salary guarantee pensions and unemployment benefits. Unemployment benefits are paid under certain conditions such as the presence of at least 102 daily paid contributions in the two years preceding the application.

Currently, these contracts are used for Italian citizens, EU citizens and non-EU citizens, but require different recruitment processes and obligations for employers. Changes are expected in the near future for the recruitment of seasonal workers in agriculture further to the re-introduction of vouchers. According to Law 197/2022 of 29 December 2022 (the so-called 'Legge di Bilancio' 2023) vouchers will be used over a two-year pilot period. This decision raised a debate between the agricultural



professional associations Coldiretti, CIA and Confagricoltura and the main sectorial unions FLAI-CGIL, FLAI CISL and UILA-UIL, as vouchers are considered an instrument to favour precarious employment even if they address the flexibility needs of the agriculture sector. Still, this new type of vouchers will have different characteristics compared to the ones abolished in March 2017 ([BollettinoAdapt.it](#) n°2 dated 16/01/23 and [BollettinoAdapt.it](#) n°3 dated 23/01/23).

Third-Country Nationals (TCNs) need a permit of stay to perform work in Italy. This permit implies the registration at the civil registry of the non-EU worker and the issuing of the identity card and of the tax identification number (needed, for example, to open a bank account or to sign a contract). It also grants access to social security and benefits, to health, school and social services as well as to services provided by the public administration (FARM project, 2020). Entry of TCNs for seasonal work is mainly regulated by the Italian Flows Decrees which sets yearly immigration quotas. For 2022, the Flows Decree provided for 42,000 entries for seasonal work in the agriculture and tourism sector for citizens of Albania, Algeria, Bangladesh, Bosnia-Herzegovina, Republic of Korea, Ivory Coast, Egypt, El Salvador, Ethiopia, Philippines, Gambia, Ghana, Japan, Guatemala, India, Kosovo, Mali, Morocco, Mauritius, Moldova, Montenegro, Niger, Nigeria, Pakistan, Republic of North Macedonia, Senegal, Serbia, Sri Lanka, Sudan, Tunisia and Ukraine. Within the overall quota, 14,000 units were reserved for the agriculture sector and in particular for those applications presented through employers' professional organisations and alliances of cooperatives such as CIA, Coldiretti, Confagricoltura and Copagri (Italian Government's [webpage](#) accessed in December 2022). The 2023 Flows Decree increased the number of entries of TCNs for seasonal work in the agriculture and tourism sectors to 44,000 units. Half of these units are reserved for applications presented through professional organisations. Georgia and Peru are new entries in the list of countries of origin (Italian Government's [webpage](#) accessed in December 2022; Italian Government's [webpage](#) accessed in March 2023). Application procedures and recruitment rules changed slightly compared to 2022. The employer shall submit an online application to the Italian Ministry of the Interior. The application is for employment periods up to a maximum of nine months. Among the documents to be attached to the application are the proposal for an employment contract with detailed conditions (including the indication of the collective agreement of reference) and proof of suitable accommodation. The employers should commit to paying the cost of the return trip to the country of origin and to providing wage not lower than the minimum indicated by the collective agreement of reference. Once the contract is signed, the employer should guarantee the availability and suitability of the accommodation and respect the proposed rent conditions. The rent cannot exceed one-third of the remuneration and cannot be automatically deducted from the wage.

In parallel to the legal practices, a large number of non-EU citizens are in Italy without a permit of stay and are exploited in agriculture especially in the carrying out of seasonal activities. Victims of this type of illegal exploitation can apply for a permit of stay by proposal or with the favourable opinion of the Public Prosecutor. The **permit of stay for victims of labour exploitation** lasts six months and can be renewed for one year, or for a longer period if necessary for the conclusion of the criminal proceeding. Non-EU citizens with this type of permit can work, register at the National Health Service and access social inclusion programmes of local authorities (IntegrazioneMigranti.gov.it [webpage](#)).

In the last decade, the fight against labour exploitation and *caporalato* (an illegal form of intermediation in the recruitment of agricultural workers) has been intensified at all administrative levels. Within the

Italian National Recovery and Resilience Plan (NRRP), a specific measure<sup>10</sup> contributes to combatting undeclared work in agriculture with an allocation of €200 million and a number of actions. In February 2020, the strategic 3-year plan against illegal hiring in agriculture and for the fight against undeclared work was adopted<sup>11</sup>. A decree of the Ministry of Labour and Social Policies dated 29 March 2022 provides for the allocation of resources at the territorial level on the basis of the mapping of seasonal workers' illegal settlements as determined by the 'Round table to combat labour exploitation in agriculture'; another decree of the same Ministry, dated 14 September 2022, defines housing standards. Local administrations will be supported in developing action plans to provide decent housing solutions (e.g., creating new ones or renovating existing ones) for agricultural workers. The final aim of these actions is to reduce the dependency of vulnerable workers such as non-EU migrants on criminal groups, coherently with the national 3-year plan. Another initiative to fight labour exploitation and the *caporalato* phenomenon is based on a bottom-up approach and seeks the registration of agricultural entrepreneurs to a Network of Quality Agricultural Work<sup>12</sup>. The network, established by Law n. 116/2014, is managed by INPS, the Italian Institute for Social Security. The aim is to create a voluntary-based register of businesses in the agriculture sector that are compliant with the payment of social security contributions and not subject to administrative or criminal sanctions related to working conditions. Although registered businesses avoid labour inspections, the initiative is still far from being considered a success as only around 6,000 agricultural businesses out of 1,100,000 (with important disparities between regions) were registered by July 2022 (Battistelli *et al.*, 2022).

### The role of intermediaries in recruiting seasonal workers

In Italy, the legal system of intermediation for seasonal workers in the agriculture and food sectors suffers from key drawbacks such as the lack of regular channels for the effective matching of work demand and supply; the scarce attractiveness of the 'Centri per l'Impiego' (CPIs), i.e., the Public Employment Services, for both employers and workers; the lack of a common national approach; the limited availability of dedicated services for employers and workers in the agriculture and food sectors; and the difficulty for CPIs to promptly adapt to the needs of the agricultural labour market (Ministero del Lavoro e delle Politiche Sociali, 2020). Over the years, these weaknesses have favoured illicit labour intermediation in seasonal work. The use of temporary agency work as defined at the EU level by the Temporary Agency Work Directive ([Directive 2008/104/EC](#)) is possible under certain conditions. These conditions imply the presence of an employment agency specifically authorised to outsource work according to articles 20-30 of Legislative Decree no. 276 of 2003 (the so-called 'Biagi Law'). In 2017, a survey involving 1,737 agricultural entrepreneurs/farmers revealed that the intermediation services provided by public employment services or private employment agencies were not used by respondents when looking for agricultural workers. If fixed-term workers are needed, public employment services are used by only 2% of the respondents. If seeking permanent workers, public employment services or private employment agencies are used by only 1% of the respondents each (EBAN, 2017).

Various practices led to the predominance of cooperatives with an intermediary role in **matching both legal and illegal demand and supply of seasonal work**. Workers in food and agriculture are employed

<sup>10</sup> ['M5C2. Investimento 2.2 - Piani urbani integrati per il superamento degli insediamenti abusivi per combattere lo sfruttamento dei lavoratori in agricoltura'](#).

<sup>11</sup> ['Piano triennale di contrasto allo sfruttamento lavorativo in agricoltura e al caporalato 2020-2022'](#).

<sup>12</sup> ['Rete del Lavoro Agricolo di Qualità'](#).

by cooperatives that provide on-demand labour to agricultural entrepreneurs/farmers. Some of these cooperatives adopt forms of labour exploitation (e.g., landless cooperatives for the tomato harvesting, bogus cooperatives in the meat processing industry). However, more impactful is the illegal intermediation carried out by gangmasters (i.e., ‘*caporali*’) that are structured into well-organised and territory-specific ‘*caporalato* systems’, often linked to criminal organisations aimed at exploiting vulnerable workers and migrants in particular. The *caporali* illegally manage the recruitment of the manpower, organise the transport of workers to farms, find them accommodation (for which they charge workers despite the poor conditions offered) and guarantee ‘discipline’ and ‘productivity’ of the workforce also through verbal and physical violence.

Initiatives of intermediation only aimed at **matching information** about job demand and offer are promoted through dedicated proprietary online platforms by Coldiretti ([JobInCountry](#)), Confagricoltura ([Agrijob](#)) and CIA ([Lavora con gli agricoltori italiani](#)). These initiatives are essentially targeted to Italian workers. Other matching initiatives are carried out at the local and regional level. One example is the [Idolweb portal](#), a tool matching the demand and supply of seasonal work in the Tuscany region, including in the agriculture sector.

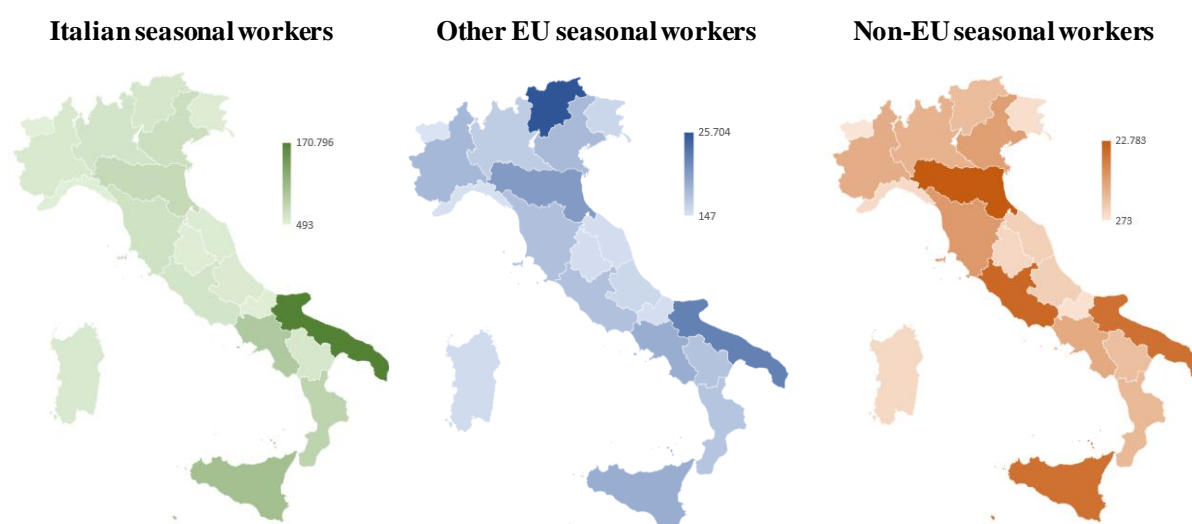
### Quantifying and characterising seasonal workers in the agriculture sector

In Italy, the quantification of seasonal agricultural workers is complex for several reasons: the existence of different types of contracts for hiring seasonal workers, the presence of different institutional actors collecting and analysing employment data, each focussing on specific aspects of the information, but never on seasonality in the agricultural sector; and the presence of a relevant (but not quantifiable) number of illegal workers in agriculture. For example, in 2021, in the agriculture sector (NACE A, Rev.2), the National Institute of Social Security, INPS, reported the registration of some 17,600 workers (out of which 80% are Italian citizens) according to the three different types of contracts used in agriculture to hire seasonal work, namely fixed-term contract, seasonal contract and on-call contract (INPS data online from the [Osservatorio sul precariato](#), accessed in December 2022). These figures seem low and are far from the findings of the 20<sup>th</sup> agricultural census carried out by the Italian National Institute of Statistics (ISTAT). ISTAT findings are used in this study to quantify seasonal agricultural workers in Italy.

In the 20<sup>th</sup> agricultural census, data refer to workers aged 16 years or over who undertook short-term jobs during the agricultural season 1 November 2019–31 October 2020. The definition of short-term jobs includes seasonal jobs, occasional jobs and jobs related to a specific phase of the field work such as ploughing, pruning, harvesting, or planting. The majority of these seasonal workers are Italian citizens (559,556). The second most populated group is represented by non-EU workers (169,888). Intra-EU workers follow (131,440) (ISTAT [online data](#) accessed in March 2023). The maps below show the distribution of the three seasonal workers’ categories across Italian regions.

By considering the three regions concerned by the examples below (i.e., Puglia for Foggia Province, Lazio for the Agro Pontino area and Emilia-Romagna), it is interesting to note that Puglia, in the southern part of the country, has the highest number of seasonal workers (207,629), the majority of which (82%) are Italian citizens. Emilia-Romagna, in the northern part of the country, has 70,465 seasonal workers out of which almost half are Italian citizens (49%), 32% are non-EU citizens and 19% are EU citizens.

Lazio, in the centre of the country, has the lowest number of seasonal workers among the three regions (44,942), but the highest share of non-EU workers (46%).



Source: data are from ISTAT. Data handling and mapping by the authors.

The number of non-EU seasonal agricultural workers surveyed by the agricultural census is also very different from the 1,716 authorisations granted under the Seasonal Workers Directive and reported by Italy to Eurostat for the year 2020. Eurostat figures do not even compare with the allocations set by the Flows Decree related to 2020, where 6,000 units of non-EU seasonal workers were reserved for the agriculture sector and in particular for applications processed through the employers' professional organisations such as CIA, Coldiretti, Confagricoltura, Copagri and the Alliance of cooperatives (Italian Government's [webpage](#) accessed in March 2023). Notably, set quotas importantly underestimate the actual number of seasonal workers also because the [Consolidated Law on Immigration](#) provides for the possibility of requesting a three-year residence permit for seasonal work, in the event that the worker has already entered Italy to perform seasonal subordinated work at least once in the previous five years. A multi-year permit allows the seasonal worker to enter Italy without being part of the yearly set quotas (ClickLavoro portal, [webpage](#) on workers from non-EU countries).

As mentioned above, another important reason preventing the quantification of seasonal workers is the presence of undeclared and/or illegal work which is basically used to exploit non-EU migrants without residence/work permits and EU citizens from Eastern European countries. Illegal seasonal workers do not exist in official employment statistics although ISTAT roughly estimates irregular workers in the primary sector (about 220,000 persons in 2020 - see table below). Cross-analysis of data declared to INPS by agricultural employers on social protection leads to higher estimates, i.e., around 320,000 illegal workers a year in the agriculture sector (De Gregorio and Giordano, 2022).

With regard to the manufacturing of food and beverages, according to ISTAT data, these sectors employed, in 2020, 479,000 workers (the data include also workers in the tobacco industry). Less than 9% (42,500) were estimated to be irregular. In the same year, in agriculture, forestry and fishing, 24% of 903,800 workers were estimated to be irregular. No data were found on the share of seasonal workers employed in the manufacturing industries.

### Regular and irregular employment in the agriculture and food sectors, 2020

	Regular	Irregular
Agriculture, forestry and fishing	683,300	220,500
Manufacturing of food, beverages and tobacco	436,500	42,500

Sources: ISTAT data [online](#) accessed in April 2023.

### Examples of challenging situations

#### IT\_1. A supply chain for labour exploitation in the Foggia Province

The Province of Foggia in the Puglia region, with its 500 thousand hectares of utilized agricultural area, is the largest agricultural province in Italy. It is cultivated with grains and horticultural products (e.g., green asparagus, broccoli, fennel, artichoke and cabbage), but the traditional products are industrial tomatoes. The large number of workers needed to harvest tomatoes are seasonal and active from July to September, but their actual number can only be estimated as exploitation of seasonal workers exists, as described by Terra! (2021). Mechanised tomato harvesting has structurally reduced the demand for seasonal agricultural work and also made it more unpredictable because if it rains harvesting machines cannot drive through the fields and manual harvesting is needed. Every summer, informal settlements in abandoned farmhouses (i.e., ‘ghettos’) localised in specific areas of the province host around 5,000 migrants. These migrants are mainly males without a residence permit (i.e., asylum seekers waiting for an administrative response, not accepted asylum seekers and irregular migrants having received expulsion orders). They satisfy the daily demand for manual harvesting that in the Province of Foggia is estimated to be around 800 people a day, higher when it rains. The illegal recruitment practice by tomato farmers is based on a structured system composed of ‘landless’ cooperatives, fake workers and gangmasters. ‘Landless’ agricultural cooperatives are illegal intermediaries whose core activity is the formal registration of fake workers in agriculture. Registered workers present false income tax declarations to INPS in order to receive social security benefits (e.g., health assistance, maternity leave, unemployment benefits). In practice, the recorded worked days are transferred from migrants harvesting tomatoes to fake workers. Gangmasters collect migrant workers mainly according to the tomato farmers’ daily needs and transport them to the fields. Migrant workers are not interested in having their worked days recorded. If illegally employed, they get immediate and better income than if hired regularly for manual harvesting because they are paid by ‘piece’ and not by hour. If the province-level collective agreement provides for around €45 per day, illegal work by piece (i.e., by the actual number of boxes filled with tomatoes) may total up to €80 per day (by considering €4 per box and an average number of 20 boxes filled in a day). Although part of the payment goes to the gangmaster for transport and subsistence, the gain for migrant workers is still higher than if regularly employed, and the farmers benefit from a more productive workforce.

Most of the tomatoes are transported daily to the processing companies that are mainly located far away from the tomato fields (i.e., in the province of Salerno). However, the presence of key players in the province belonging to the tomato processing industry, such as the multinational Princes (with its Foggia factory processing 300,000 tonnes of raw tomatoes each year), guarantees the existence



of a local supply chain aimed at fighting labour exploitation - see the counteraction below (Tomato [news](#) dated 7/02/18).

**Counteractions of key stakeholders:** • Since January 2018, Princes became committed to having 100% of the raw materials provided by its suppliers certified for ethical work. In 2017, 81% of the suppliers of Princes, in Foggia, had already obtained the [Global GAP GRASP](#) or the [SA8000 certification](#), the main international quality standards guaranteeing compliance with ‘best agricultural practices’ for products’ farming and implementation of good practices for workforce treatment in terms of health, safety and well-being, as well as contracts, salaries and workers’ representation rights (Tomato [news](#) dated 7/02/18). In February 2019, Princes and the agricultural union Coldiretti Foggia signed a supply chain agreement to guarantee a fair 100% Italian tomato production line (Terra e Vita [news](#) dated 1/04/19). In March 2022, this agreement led to a wider collaboration of Princes and Coldiretti Foggia with Oxfam Italia (an association at the frontline in fighting all forms of inequality) and the agricultural trade unions FLAI CGIL, FAI CISL and UILA UIL. The aim of this collaboration is to design and implement projects and initiatives aimed at spreading ethical practices in order to achieve a sustainable ‘made in Puglia’ tomato supply chain (from harvesting to processing) as well as to fight labour exploitation, especially in case of seasonal work (Agrifood.tech [news](#) dated 15/03/22). • The Puglia Region was the Coordinating Partner of the [SU.PR.EME Italia Programme](#) (2019-2022) funded by the Asylum, Migration and Integration Fund-Emergency Funds of the European Commission – DG Migration and Home Affairs and led by the General Directorate of Immigration of the Italian Ministry of Labour and Social Policies. The programme provides for the implementation of an integrated plan aimed at tackling and overcoming all forms of severe labour exploitation as well as marginality and vulnerability of migrant workers in Puglia, Basilicata, Sicilia, Calabria and Campania regions. Interventions include actions aimed at improving housing conditions in order to reduce informal settlements and ghettos in agricultural areas; fighting situations of severe labour exploitation in agriculture through preventive, monitoring, inspection and legalization actions; strengthening health services for migrant workers; and offering transport and mobility solutions to support workers’ autonomy and weaken the role of illegal intermediaries.

## **IT\_2. The ‘double exploitation’ of Indian female agricultural workers in the Agro Pontino area**

The agricultural production of the Agro Pontino, an area in the Latina Province about 100 km from both Rome and Naples, is mainly made up of SMEs and cooperatives supplying fruit and vegetables to the [Centro Agroalimentare all’Ingrosso di Fondi – MOF](#), a Food Market of National Interest located in Fondi, in the Agro Pontino. The MOF is the largest food market in Italy for conditioning and sorting fresh fruit and vegetables. Therefore, it requires the presence of significant agricultural labour in the area that is constantly employed on a seasonal basis according to the harvesting periods of the different produce. According to Calderoni *et al.* (2022), the agricultural labour force of the Agro Pontino is mainly (66%) made up of foreigners and among them 80% are non-EU citizens. Women represent 29% of the total employees; 46% of them are foreigners and half of this share are non-EU. The foreign workforce is mainly composed of Indians (around 30,000).

Migrant women of Indian origin arrived in the Agro Pontino at the beginning of the nineties. Primarily involved in domestic activities in their family contexts, in a few years’ time they started

taking part in agricultural activities. In all cases, they work without a regular contract and with lower wages (even 50-60% lower) than those guaranteed by national agreements. The provincial-level agreement for agricultural workers in the Latina area provides for 6 days a week, 6 hours and 30 minutes of daily work and around €9-12 gross per hour. During the harvesting periods, Indian women are generally asked to work for 8 to 14 hours a day (Saturday and Sunday included), 16-28 days a month and for about €4 per hour (Sodano, 2022). The investigation carried out in 2021 by the association [Tempi Moderni](#) found that about 65% of the interviewed women got involved in agricultural work through the mediation of their husbands who interacted directly with Italian employers or with Indian *caporali*. The mediation usually sets aspects related to modalities for on-call enrolment (directly calling the husband or using Whatsapp group), transport to the place of work (e.g., van, bicycle, public bus or private car), type of work (e.g., harvesting in the field, washing and processing vegetables within the firm warehouses), formal and actual remuneration (i.e., if a regular contract is foreseen) and frequency of payments. According to Sodano (2022), if employed through regular contracts, Indian female workers are employed on a seasonal basis, but they work for a much higher number of days than those declared by the employer (this form of exploitation is referred to as 'grey work'). Data from INPS reveal that many female immigrant agricultural workers have fixed-term contracts with less than 50 working days per year, or 102 registered working days over two years, a situation that excludes them from accessing a series of social security benefits such as unemployment and maternity benefits (granted only for contracts exceeding 51 working days per year). In the case of employment without a regular contract, an obligation of silence is imposed to avoid inquiries or investigations by the competent authorities. In 95% of the interviews, a severe gender pay gap (approximately 20%-30%) was found among the male and female Indian employees working on the same farm and with the same tasks. Concerning working conditions, within some farms, Indian women have two breaks a day during which they are forced to speak Italian to allow employers to listen to their conversations in order to prevent conspiracy or joint complaints. Occupational accidents are often not reported to the competent authorities to avoid on-site checks. Interviews further disclosed that if an ambulance is required, it can intervene only after the real cause of the accident is hidden. Liability of the accident is then attributed to the inexperience of the injured woman. Disputes and complaints raised by immigrant female workers in the province of Latina are 60% lower than those raised by their male compatriots.

**Counteractions of key stakeholders:** • Initiatives such as the '[Dignità Joban Singh](#)' project by the association Tempi Moderni aim to provide precise information regarding women's rights and conditions and to formally file a complaint against their husbands (for violence), the Indian *caporali* (for illicit intermediation) and the employers (for exploitation). • The association [Progetto Diritti](#) has recently produced a [multilingual vademecum](#) containing information on rights, useful contacts and a detailed legend to facilitate the reading of the pay slip by migrant workers.

### IT\_3. Labour exploitation through cooperatives working in the pork meat processing industry in the Emilia-Romagna region

In December 2021, the Court of Modena, based on a 2019 appeal made by the workers of some cooperatives, ruled that Castelfrigo S.r.l., one of the most important companies in the pork meat processing industry, dealing with one-quarter of the Italian pork meat, was involved in the exploitation of workers because of the use of illegal intermediation. In line with Italian law's provisions, the cooperatives' workers were accorded the same rights as the Castelfrigo's employees (ModenaToday [news](#) dated 4/12/21). According to [ISMEA](#), in 2019, pork production accounted for 5.7% of the total value of the Italian agricultural production. One-third of Italian pigs are slaughtered in Emilia-Romagna, one-third in Lombardia and the last third in the rest of Italy. The Emilia-Romagna region is one of the most competitive regions in Europe in terms of pork meat products and has Protected Designation of Origin (PDO) for world-known products such as 'Prosciutto di Parma' and 'Mortadella di Bologna'. In 2017, the case of the Castelfrigo company started a public debate on working conditions in the meat processing industry of the Modena province, stirred by the union FLAI-CGIL (Osservatorio Diritti [news](#) dated 18/12/17). As described by Battistelli *et al.* (2020), the core activity of Castelfrigo was butchery of fresh pork to supply the cured meat industry. Its activities were based on workforce recruited through subcontracting to bogus cooperatives. These cooperatives usually do not have physical headquarters and are created to bypass the obligation of companies in the meat processing industry to pay social security contributions and other social-welfare provisions. These cooperatives were supplying workforce for daily processing tasks and for addressing seasonal peaks in the demand. Workers of cooperatives were involved in core business activities such as butchery, although formally this type of cooperative should only provide logistics services. In fact, the national collective agreement in place at that time for the food industry prohibited the outsourcing of tasks directly related to a business' core activities. In 2017, Castelfrigo had some 100 employed workers (mainly Italians), out of which one-third was dedicated to the production process; and around 130 workers (+30% during peaks) supplied through cooperatives, mainly represented by migrants from Albania, China and Ghana. Low wages, 12-14 working hours a day, obligation to silence and no compliance with workplace's health and safety standards characterised the working conditions of these migrant workers. Castelfrigo's gain derived from the fact that the average hourly cost of labour set under the food industry's collective agreement at the national level was about €22 while the average hourly cost of labour under the industry-wide collective agreement in logistics was about €16. Additionally, the competition between cooperatives for supplying their workers further lowered the cost for the company to less than €16 per hour and part of the remuneration was paid as reimbursements for travel expenses, thus avoiding taxation and social security payments. The reason why cooperatives in logistics were subcontracted to provide workforce to the meat processing industry is that they benefit from a favourable system of social security contributions (Ministerial Decree of December 3, 1999). The Presidential Decree no. 602/1970 defines cooperatives in logistics as '*comprehensive (pure) activities that are preliminary and complementary to the movement of goods and products*', including "*matting, skinning, grooming, and slaughtering*'.

**Counteractions of key stakeholders:** • A protocol of intent was signed between the Emilia-Romagna Region, the Ministry of Labour and the Ministry of Economic Development with regard to 'subcontracting and legality' (Battistelli *et al.*, 2020). Under this protocol, the in-house agency

[ERVET](#) of the Emilia-Romagna Region developed a system for monitoring bogus cooperatives. In addition, the digital solution supports labour inspectors at the local level (AGCI Emilia Romagna [news](#) dated 7/06/18). • In 2019, the Emilia-Romagna Region also signed a [protocol](#) of intent with the National Council of Labour Consultants whose aim is to encourage the use of certification as a way to ensure contracts' compliance with law requirements.

## Highlights

- Seasonal workers in agriculture are employed through different types of fixed-term contracts characterised by administrative complexity.
- Provincial labour agreements determine the contractual working conditions of seasonal workers in agriculture. In the food industry, seasonal workers are guaranteed by collective bargaining at the national level. Working conditions can be improved at the company level.
- In the case of non-EU workers, cumbersome hiring practices and a continuously changing regulatory framework disincentivise the legal employment of workers by farmers. In the last years, different types of practices have been adopted to fight labour exploitation, from specific national laws to fight crime organisations exploiting migrants in agriculture, to the funding of initiatives for decent housing provision at the territorial level, to the quality labelling of employers complying with social security obligations.
- The relevance of recruitment agencies is negligible and in effect cooperatives have taken the role of intermediaries between the demand and supply of seasonal workers. As in the case of temporary agency work, the administrative burden of the recruitment process and of workers' social security is not the responsibility of the farmer/owner of the factory.
- The lack of public/private effective official systems for recruiting non-national workers, the high demand for seasonal work in agriculture and the reduced interest of Italian citizens in agricultural jobs favoured the establishment of a variety of illegal practices exploiting migrant workers. Misuse of the intermediary role of cooperatives occurs as reported in the examples of landless cooperatives in IT\_1 and of bogus cooperatives in IT\_3. In most of the cases, these practices are even linked to criminal activities (i.e., *caporalato*) as shown in the examples IT\_1 and IT\_2. Illegal settlements and ghettos in agricultural areas signal the presence of crime activities exploiting non-EU workers (see example IT\_1).
- Publicly available statistics are not suitable to characterise seasonal employment in terms of sector (agriculture and food), type of contract, Italian provinces where the work is performed and nationality of workers. Quantification of seasonal workers in agriculture according to the 20th agricultural census is totally different (i.e., much higher) from the one derived from INPS data on social security. Census data show that the need of seasonal work in agriculture is heterogeneous across Italian regions and so is the type of employed workers (EU or non-EU). Differences are even more significant if the reported number of authorisations granted/renewed under the SWD for non-EU workers is compared to the permits allocated to the agriculture sector by means of the Flows Decree. Besides these incongruencies on official data, there are only estimates of workers illegally employed.
- Labour exploitation, especially of non-EU migrants, is often hidden by legal-like practices that make its identification and sanctioning difficult. Foreign workers may have a regular permit of stay and a formally valid employment contract, but farmers may record less days than those actually

worked to pay fewer social contributions (social fraud) and exploit workers (social dumping) (IT\_1, IT\_2). Women are especially discriminated against (IT\_2).

- Multi-stakeholder actions have been demonstrated to be effective in fighting labour exploitation through the certification of ethical practices. This occurred through the creation of an ethical supply chain with the involvement of businesses and their organisations, unions, third sector associations and local and regional authorities (IT\_2); the adoption of law-compliant contracts guaranteed by labour consultants (IT\_3); and the use of a quality mark at the national level for those agricultural employers who regularly pay social security contributions for their seasonal workers.

#### 4.5.2 Spain

##### **Working arrangements, formal and effective social protection coverage of seasonal workers in the agriculture and food sectors**

In Spain, minimum working conditions are defined in the different collective agreements applying at the territorial/administrative level for the agriculture sector, the food sector, or both sectors. Henceforth, the all-encompassing reference is to the agri-food sector<sup>13</sup>. Collective agreements of Provinces or Autonomous Regions cover almost the entire the country. The Laudo Arbitral of 6 October 2000 is the reference document which applies when there is no collective agreement in place ([iberley webpage](#)). The scope of these territorial contractual agreements is determined by the dominant agri-food sub-sectors in the territory. It may range from crop harvesting to handling and packaging of fruits, from livestock to gardening and associated industries. The heterogeneity of this situation is reflected by the list of 60 collective agreements included in the guidelines on labour rights in agriculture issued by the Federation of Industry, Construction and Agriculture of the General Union of Workers (UGT FICA, 2021). Examples are the collective agreements for [agricultural, forestry and livestock work](#) (2022-2025) of the Seville province signed by the Agrarian Association-Young Farmers (ASAJA) Seville for the producers and by CCOO Sevilla for unions; and for the [handling and packaging of citrus fruit, fruit and vegetables](#) (2020-2024) of the Valencia Region signed by the Citrus Management Committee (CGC) and the Federation of agri-food cooperatives of the Valencia Region for producers, and by the trade union CCOO Industria PV and FICA-PV Federation for industry, construction and agriculture of UGT-PV. The provincial or regional collective agreements are expected to be the reference documents to determine the working conditions (including social security provisions) of people employed in the sector, including those seasonally employed through circular migration schemes (i.e., non-EU workers), direct employment contracts (nationals and other EU citizens) and temporary employment agencies (*empresa de trabajo temporal*, or ETT). However, for the latter, exceptions occur (see below ‘The role of intermediaries in recruiting seasonal workers’).

The minimum wage of agricultural workers employed in a territory is set according to the type of activities and the level of workers’ competencies defined in the provincial or regional collective agreements in the agri-food sector of reference. By law, the wages of agricultural workers (including seasonal workers) have to respect the Minimum Interprofessional Wage (SMI) (Agrodiario Huelva [news](#) dated 30/09/22). Starting from 1 January 2023, the SMI increased to €1,080 gross per month per 14 payments (€15,120 gross per year) in agreement with the trade union Confederation of Workers’

<sup>13</sup> REGCON is the [online repository of all the Spanish collective labour agreements](#), established on the basis of Royal Decree 713/2010 of May 28 on the registration and deposit of collective labour agreements.



Commissions (CCOO) and the General Union of Workers (UGT). This amount represents a 47% increase over the last five years (Spanish Council of Ministries [news](#) dated 14/02/23). According to the Active Population Survey (EPA 2021), the minimum wage already reaches, on average, 90% of what full-time workers in the agriculture sector earn. This is the highest share among all sectors (Nacional [news](#) dated 06/02/23). According to Vicente Jimenez Sanchez (CCOO), in recent years the wages of agricultural workers have been raised essentially through the SMI and not through collective bargaining. Many provincial agreements remain outdated (e.g., Almería, Huelva, Granada) and in some cases wages remains ‘stuck’ below the SMI (EFE Agro [news](#) dated 30/08/22). On the other side, the Agrarian Association of Young Farmers (ASAJA), the Coordinator of Organisations of Farmers and Livestock Raisers (COAG) and the Union of Small Agricultural and Livestock Farmers (UPA) emphasise the risk for agricultural producers to sustain higher costs for labour while in the last decade prices of agricultural products have remained stable or even decreased (EFE Agro [news](#) dated 27/01/20). Terra! (2021) reported complaints of various workers employed in the agri-food sector of Murcia, collected by the UGT, that refer to the practice of not declaring all the days actually worked to ‘absorb’ the impact of the increase of the minimum wage.

Non-EU migrant workers are historically contributing to Spanish seasonal agricultural needs by means of a circular migration mechanism. The national employment situation and the annual forecast of the needed workforce are both considered to formally activate this controlled and circular migration. The underlying principle is that the same seasonal workforce is employed over the years so that migrant workers gain specific competencies in the agri-food sector over time and employers benefit from an experienced workforce. Every year, within the framework of the provisions of Integrated Law 9/2000 of 11 January 2000, the Ministry of Inclusion, Social Security and Migrations approves the procedure for the collective management of hiring of non-EU foreign workers in the country of origin (*Gestión colectiva de contrataciones en origen*, or GECCO). Such flows occur from third countries that have signed bilateral agreements or defined collaboration initiatives for circular migration with Spain. [Decree ISM/1302/2022 of 27 December 2022](#) (GECCO 2023) regulates this collective management process for the year 2023. The decree establishes that in the agricultural domain, migrant workers must be guaranteed continuous activity for at least 85% of the duration of the requested residence permit (75% in the previous years). Circularity is based on a four-year work authorisation which entitles migrants to work for a maximum period of nine months a year, based on a fixed discontinuous contract, and to participate in different seasonal campaigns. The workers hired through this procedure must return to their country of origin immediately after the completion of the work and have the right to be called for the following campaign (Articles from 5 to 9). Art. 15(2) of the decree lists the countries that have agreements with Spain in place, namely Colombia, Ecuador, Morocco, Mauritania, Ukraine, Honduras and the Dominican Republic. Also listed in the decree are countries with other types of collaborations with Spain such as Gambia, Guinea, Guinea Bissau, Cape Verde, Senegal, Mali, Niger, Mexico, El Salvador, the Philippines, Paraguay and Argentina. The decree is also the reference document setting migrants’ working (e.g., the employer’s obligation to register the worker in the social security system in Art. 3 (b) and living conditions.

After the 2022 Spanish labour reform (defined in Royal Decree 32/2021 of 28/12/2021 in force since 30/03/2022) aimed at reducing temporary and precarious employment, recruitment of workers in the agri-food sector can occur through four types of contracts: the permanent contract, the fixed-term contract, the fixed-discontinuous contract and the training employment contract. The fixed-discontinuous contract (*contrato fijo discontinuo*), regulated by [Art. 16](#) of the Workers’ Statute amended

by Royal Decree 32/2021, has become the most suitable contract for farmers as well as for temporary employment agencies to hire seasonal workforce in the agri-food sector. The fixed-discontinuous contract is for jobs that are carried out intermittently but regularly, in which the employer does not need the worker continuously throughout the year. In effect it foresees the right of seasonal workers after the closure of the harvesting period, to be re-called for the next year's harvest. During periods of inactivity, work for other employers is possible with two exceptions: if the worker has accepted an exclusivity clause, or if the worker is receiving unemployment benefits. While the fixed-term employment contract remains applicable in certain circumstances of production or in the case of the substitution of a worker, the contract for works and services (*contrato de obra y servicio*), one of the most adopted in the agri-food sector in the last years, loses its importance with the reform (Wolters Kluwer [article](#) dated 6/09/22). Vicente Jimenez Sanchez (CCOO) reported in the interview that *'through the permanent discontinuous contract, precariousness has been significantly reduced. One year after the labour reform introducing the permanent discontinuous contract, the percentage of temporary contracts has fallen by 54% to 38% (a difference of 16 percentage points)'*. José Miguel Morales (Andalucía ACOGE) specified during the interview that *'it is not a problem of the type of contract that is used, what matters are the actual labour conditions. In addition, there are not enough controls from the public sector about violations. For instance, about safety. Sometimes workers use chemical products without any protection equipment. Other violations concern the amount of worked hours.'*

### **The role of intermediaries in recruiting seasonal workers**

In Spain, temporary employment agencies (*empresa de trabajo temporal*, or ETT) are key private intermediaries involved in the recruitment of EU workforce in any economic sector, including agriculture. In agriculture, nationals and intra-EU workers are hired to match the needs of the sector during production peaks. In principle, when contracting workers, the ETTs have to respect the provisions of the collective agreements of reference. ETTs apply intermediation fees, thus the workforce provided through these agencies costs more to farmers than the one directly contracted.

According to some Spanish trade unions (Terra!, 2021), the extensive use of contracts with ETTs<sup>14</sup> for recruiting workers hides labour exploitation phenomena which are favoured by a weak bargaining power of the agricultural workforce. In some cases, farmers threaten their hired employees to replace them with workforce from ETTs in order to force them to accept inadequate working conditions. In other cases, a number of ETT contracts replace one single fixed-term or permanent contract, generating a biased labour market. Vicente Jimenez Sanchez (CCOO) reported in our interview that *'some contracts through ETTs apply working conditions that do not respect the minimum provisions of the collective agreements of the agri-food sector. We have always denounced these facts. In this situation you can have in the same farm 10 ETTs workers and 10 workers directly employed by the farmer that in theory should have the same salary, never below the SMI. However, the ETTs workers do not have the same salary and the same rights. For example, the same license to accompany their son to the doctor, or the same supplement for illness or accident, as foreseen in the collective agreements for the agri-food sector'*.

<sup>14</sup> In Spanish, these contracts are referred to as *puesta a disposición* contracts after [Law 29/1999 of 16/07/1999](#) on the regulation of the ETTs.

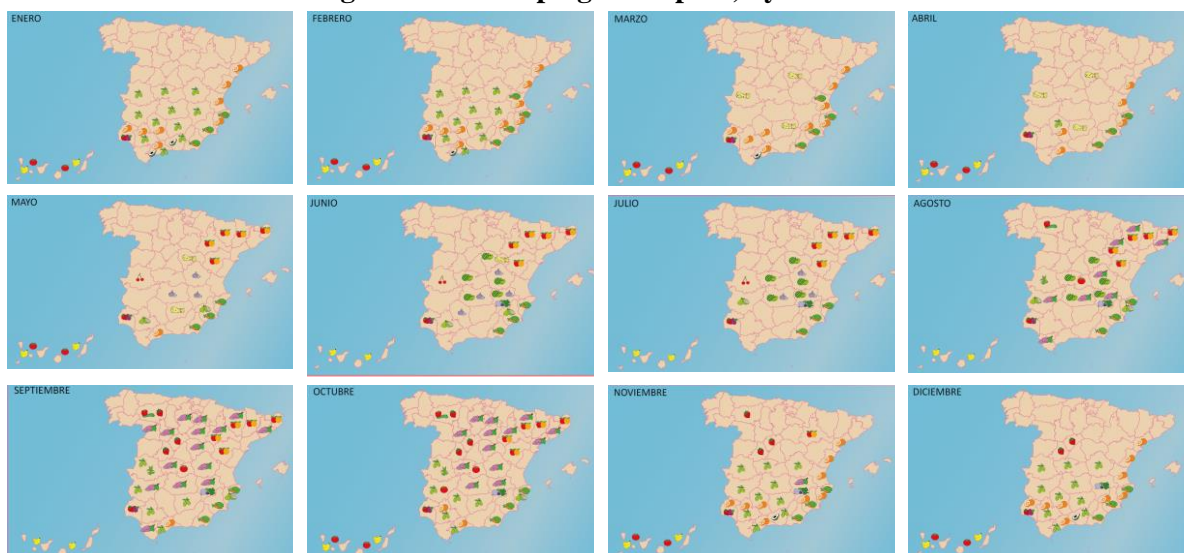
There is also evidence that ETTs' contracts are used as an instrument to bypass obligations of collective agreements (e.g., not respecting the minimum wage, declaring less hours than those performed, paying by piece instead of by hour)(ElDiario [news dated](#), 19/02/18). Counter-measures to the misuse of the ETT contracts have been taken in some collective agreements, for example by making provisions for their limited use. According to Art. 27 of the collective agreement for the [handling and packaging of citrus fruit, fruit and vegetables](#) (2020-2024) of the Valencia Region, workers with an ETT contract employed by the same user for two consecutive campaigns for citrus fruit handling, and having worked in each campaign at least 50 days, would be recognised as having the status of permanent discontinuous staff in the next campaign. The same applies for fruits and vegetables campaigns with at least 20 days worked in each campaign.

The most worrying phenomenon of labour exploitation concerns those ETTs created by crime organisations or gangmasters to make a profit on vulnerable workers, and not the large number of internationally reputed ETTs that operate to favour the matching of the demand and supply of seasonal workers by employing Spanish or other European citizens. As reported by Terra! (2021), a CCOO representative pointed out the need for a legislative change in order to stop crime organisations using ETTs. For example, the closure of a temporary agency after a certain number of fines does not prevent the same person from opening a new one. In addition, the increasing phenomenon of ETTs operating across EU countries' borders calls for an effective European Labour Inspectorate able to fight new forms of exploitation of seasonal workers based on the free movement of EU people across the borders. In terms of in-country law enforcement capacity, according to data reported in Terra! (2021), over the period 2010-2020, the number of labour inspectors has remained essentially stable at around 2,000 officials all over the country, with a 10% increase in 2021.

### **Quantifying and characterising seasonal agricultural workers**

In Spain, seasonal work is an all-year-round activity (see figure below). Seasonal workers usually pass from one seasonal activity to another, moving across regions and following demand which is determined by production and harvesting peaks of the different crops (olives, garlic, cherries, citrus, asparagus, fruits, strawberries, tomatoes, grapes, etc.). The GECCO scheme itself foresees the possibility for the participant workers to carry out a series of consecutive campaigns across the country within the period they stay in Spain. In 2022, through the GECCO, the Spanish government recruited more than 13,000 workers: 12,200 from Morocco, 250 from Ecuador, 250 from Honduras and more than 400 from Colombia (CCOO, 2022).

### Agricultural campaigns in Spain, by month



Source: extracted from EURES España (2021) - *Buscar empleo en el sector de la agricultura como temporero/a en España*.

The quantification of seasonal agricultural workers hired through ETTs is not possible. The time series of the contracts de ‘puesta a disposición’ between ETTs and employers over the last decade is reported in the table below to show the increasing importance of intermediaries in the agriculture sector. In 2022, in agriculture, these contracts represented 17.8% of the total ETTs’ contracts.

#### Contracts between ETTs and employers, in the agriculture sector

2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
411,528	525,090	570,994	623,732	676,821	714,088	811,420	695,799	690,441	643,997

Sources: MITES (2023); MITES-SEPE table ETT-2 accessed online in December 2022.

These ETTs contracts do not reflect the number of workers and there are not publicly available data on the number of workers actually contracted by the ETTs by economic sector. These data were made available in the past only for two years, 2007 and 2008. In 2008, the contracts registered in the Public Employment Services by temporary work agencies for occupations in the agriculture and fishing sectors were 90,871 for unqualified workers and 12,358 for qualified workers (MITES [table ETT-10](#) accessed in March 2023). However, the length of these employment contracts is unknown, thus it is not possible to determine if they were used for seasonal activities, i.e., for periods up to nine months, or not. According to Eurostat data, in 2021, temporary employment agency workers represented 3.5% of the total workers employed in the agriculture, forestry and fishing sectors.

Our estimates of seasonal workers for 2021 are based on the official data on temporary contracts according to the contracts’ duration and type of occupation. The table below reports the number of temporary contracts made in relevant qualified and unqualified occupations. By considering the number of contracts by duration, it is possible to derive an underestimate of the workers contracted in the agriculture sector on a seasonal basis. It is an underestimate because official statistics from the Observatory of Occupations only indicate the following contracts’ duration: less than 7 days, between seven days and 3 months, over 3 months and ‘not defined’. Thus, contracts lasting between 3 and 9 months cannot be distinguished from the undefined ones.

### Number of temporary contracts by duration, 2021

Occupation	N° of temporary contracts by duration			
	less than 7 days	between 7 days and 3 months	over 3 months	duration is not defined
Qualified agricultural workers	10,225	78,644	10,932	121,047
Qualified workers in the livestock sector	986	2,201	1,493	3,155
Skilled workers in mixed agricultural activities	332	837	350	2,128
Unqualified workers in agriculture, forestry and fishing	154,014	596,356	60,122	1,747,878
	<b>843,595</b>			

Source: MITES-SEPE(2022).

Note: calculated by the authors on the basis of data included in MITES-SEPE (2022, Table 67, pp. 144-146).

In 2021, the number of contracts lasting less than 3 months were 843,595. The number of contracts can be ‘translated’ into the number of workers by using the so called ‘rotation index’. The rotation index indicates the number of contracts finalised by each worker (MITES-SEPE, 2022). For 2021, this index is set, on average across all sectors, at 2.72. Thus, the number of seasonal workers in agriculture/primary sector (with a contract of less than 3 months duration), is, in 2021, around **310,145**. In addition, EMN (2020) reports that ‘*The majority of seasonal workers stay for around 90 days; around a third stay for up to six months; few stay for longer periods between six and nine months*’. It is thus likely that the number of seasonal workers is, in fact, close to 450,000 (including non-EU seasonal workers – see below).

Estimates of non-EU seasonal workers refer to MITES-SEPE statistics [online](#) accessed in February 2023 (table PTE-15) reporting 19,878 unqualified non-EU workers and 832 qualified non-EU workers. Workers are mostly coming from Morocco (51%) and Senegal (12%). These figures are slightly higher than the 2021 data reported to Eurostat of 14,334 granted/renewed authorisations in agriculture, forestry and fishing under the SWD.

Data on temporary contracts and persons employed on a temporary basis provided by the Ministry of Labour and Social Economy show that, in 2021, there were around 9,000 EU temporary workers employed in fruit and vegetable canning, in the production of non-alcoholic beverages and in food manufacturing processes. The majority (89%) of these workers were Spanish<sup>15</sup>. The share of seasonal workers within the temporary workers is unknown.

<sup>15</sup> Written communication to EESC dated 3/04/23.



## Examples of challenging situations

### ES\_1.The exploitation of the Moroccan female agricultural workers in the strawberry fields in the Huelva province

In Spain the production of strawberries is concentrated in the Andalusia region and, in particular, in the Huelva province. In 2021, 90% of the national production of strawberries was in Huelva (ItalianBerry [news](#) dated 26/01/22). Blueberry and raspberry production is gradually gaining relevance in the province's berry production and in export. In 2021, 74% of the volume of strawberries, blueberries and raspberries exported by Spain (350,677 tonnes) came from Huelva and corresponded to 71% of the national export value (€1.21 billion). In 2021, strawberry exports amounted to 70% of the total volume of the berries exported from Huelva (Eurofresh distribution [news](#) dated 28/06/22).

The contracting of female workforce in Morocco through the GECCO has been crucial during the last 15 years for the strawberry cultivation and harvesting in Huelva. The entry of Romania, Poland and Bulgaria into the Union in 2007, and the related freedom to work across the Union for their citizens, led to a change of the type of non-EU workers admitted to Spain (Hellio and Moreno Nieto, 2017). In 2007, a new selection criterion was introduced in the [bilateral agreement](#) signed between Morocco and Spain in 2001, for the recruitment of Moroccan workers. The criterion gave preference to the recruitment of female workers with family responsibilities in order to reduce the rate of non-return of migrants at the end of their campaigns in Spain. In 2007, the rate of non-return of Moroccan workers fell to 13% versus the 50% of the previous year. Thousands of female workers from Morocco were recruited for seasonal work on the basis of a job profile published by the National Labour Agency of Morocco (ANAPEC). Women aged between 25 and 45 years, married, widowed or divorced, from rural areas, with previous experience in the sector and responsible for children younger than 14 years, participated in the selection carried out in Morocco by a delegation of the main berry producer associations in collaboration with ANAPEC. Although for years the introduction of this selection approach has guaranteed an effective circularity of migration between Spain and Morocco (disincentivizing in practice the permanence in Spain of the migrants by using family and maternity obligations), the underlying selection criteria have been pointed out to be in contradiction with the principle of non-discrimination and have in fact favoured the migration of the most vulnerable migrants (e.g., women are less demanding than men, not prone to raise issues or organise protests). In 2018, more than 14,000 Moroccan workers were employed in the Huelva area. In the same year, an investigation on the living conditions of Moroccan women during the 2016/2017 harvest (i.e., [Rape in the fields](#)) reported cases of sexual abuses and violence as well as of labour exploitation with working days lasting 10-12 hours, daily earnings being less than €30, sanctions for mistakes being applied and no compensations being paid in case of adverse conditions (e.g., bad weather). Lack of knowledge of Spanish was a key obstacle to reporting these abuses to law enforcement agencies as well as to proving them in front of a court. In October 2019, Women's Link Worldwide, an international non-profit organisation that advances the human rights of women and girls against inequalities, provided an overview of the violations suffered by Moroccan temporary female migrant workers in advance of the country visit of the United Nations Special Rapporteur on extreme poverty and human rights. *'Upon arrival at Spanish shores, however, many of these women find themselves in a very different situation to the one that was promised to them before travelling. These women are often deceived as to the terms of their*

*employment: the promised 6.5 working hours per day come to up to 10 hours per day; the probation period of 15 days is doubled to one month; the fixed-term duration of their contracts changes from three months to a discretionary termination of employment; the promised salary of 39-40 EUR per day decreases significantly with even occasional lapses of payment'* (Women's Link Worldwide, 2019a, p. 2). Furthermore, also in 2019, the investigation led by Women's Link Worldwide on the working and living conditions of female seasonal workers from Morocco hired for the strawberry harvest revealed additional violations (Women's Link Worldwide, 2019b). There were differences between the job offer presented during the selection process and the actual work, whose understanding was not facilitated due to the pre-contracts being made in French, a language not understood by many of the candidates. Although the GECCO procedure requested that migrant workers must be guaranteed a continuous activity of at least 75% of the duration of the residence permit, the most common contract specified that the days actually paid were those actually worked and that worked days were subject to the daily variation of demand. In some cases, a percentage of the salary was withheld for housing rent expected to be available free of charge for migrant workers according to the job offer presented in Morocco and in line with the 2018 provincial collective agreement related the agricultural work in Huelva. Usual features of housing solutions were crowded situations, inadequate hygienic conditions and isolation from urban areas. Cases of sexual harassment in the workplace as well as a common practice of gender-based degrading treatment were reported.

**Counteractions of key stakeholders:** • At the end of 2018, the business organisation ASAJA and the union CCOO included a protocol for prevention and response to incidents of sexual and gender-based harassment in the provincial collective agreement (Art. 36) (Women's Link Worldwide, 2019). This protocol is the result of an agreement reached between unions, business organisations, NGOs and the Regional Government of Andalusia in June 2018. It calls for training on gender perspective addressed to employers, provision of information in the languages of the women involved in the strawberry harvests and involvement of intercultural mediators to monitor compliance with the expected working and housing conditions (Heconomia.es [news](#) dated 13/06/18). • In 2018, Interfresa, the most important agrifood inter-professional association of the berry sector in Andalusia, developed an Ethical, Work and Social Responsibility Plan ([PRELSI](#)). The plan aims at supporting and promoting social and occupational well-being involving all the stakeholders of the berry sector (i.e., public administrations, businesses and workers, whatever their nationality) in Andalusia in general and in the province of Huelva in particular. In December 2022, Interfresa was granted the 2022 Andalusia Migration Award promoted by the Regional Government for Good Practices for Social and Labour Integration ([PRELSI webpage](#) of the Interfresa website). • The mapping of illegal settlements in the Huelva province, carried out by Andalusia ACOGE (2022), indicates that 67.7% of women have no educational background, while the share is 37.7% for men. This condition may contribute to increasing the likelihood of abuses or exploitation.

## ES\_2. The temporary agency system in the agriculture sector of the Murcia region

The agriculture sector is very important in the Murcia region. There are 320,000 hectares of cultivated land out of which one-fourth are certified organic. The regional agri-food industry employs around 140,000 people, i.e., 23% of the total employment of the region ([Diario de Sevilla news](#) dated 3/10/22). In 2021, exports in the primary sector exceeded €6 billion and more than 50% of these exports were related to fruits and vegetables. Not surprisingly, Murcia is considered to be the ‘orchard of Europe’. The region is renowned for its lemons, table grapes, apricots, peaches, nectarines, plums, melons, watermelons and almonds. The main vegetable productions are broccoli, peppers and tomatoes (Terra!, 2021). Working conditions and social security protection in such a variety of sub-sectors are regulated through seven collective agreements related to managing agricultural work, forestry and livestock; processing and packaging of fresh fruit and vegetables; citrus harvesting; citrus treatment and packaging; picking fresh fruit and table grapes; picking vegetables; processing and packaging fresh tomatoes; and working in companies involved in tomato production and harvesting (UGTFICA, 2021).

As reported in Terra! (2021), agricultural employers in the region belong to two main categories: small and medium-sized enterprises, in which the employer is an agricultural worker himself/herself, often grouped into cooperatives; and large companies with foreign capital dedicated to a large-scale production. According to a regional association of small farmers (*Unión de Pequeños Agricultores y Ganaderos* or UPA), large companies represent 30% of the sector and make extensive use of workers provided by the ETTs to manage agricultural seasonal peaks that require thousands of additional workers. In the region, the number of ETTs structurally increased in the last ten years. In 2020, Murcia was the first region in Spain by number of ‘puesta a disposición’ contracts (i.e., the contract between an ETT and the user to whom the worker is provided) in the agriculture sector. Such contracts in agriculture were 411,570 in Murcia versus a total of 695,799 across Spain (i.e., 59% of the total). Furthermore, in Murcia, ETTs contracts in agriculture represent 81% of the ETTs contracts made in all sectors in the region (CES, 2022).

As mentioned, some criminal organisations adopt the ETT model as their favourite instrument for labour exploitation of migrants in agriculture. For these organisations, a one-day contract is enough to maintain a formal aspect of legality in case of inspections or checks. Among their illegal practices are, for example, the possession of social security numbers and personal data by persons other than those who work in the fields, or the practice of having the agricultural workers ‘rent’ documents from residents. In May 2018, a police inspection against the exploitation of workers in Torre Pacheco, a town in the Murcia region, revealed the existence of a criminal network for illegally trafficked Indian citizens from Serbia. Most of the people checked by the police in the two vans were working using documents of other Indian persons with legal residence in Spain. People in the vans were in fact employed in the greenhouses for few euros per month. Part of the workers’ salary went to the criminal organisation, while people providing documents were formally benefitting from social security. Such exploitation mechanisms were expected to last for three years, i.e., the minimum period of time needed for exploited workers to be able to request a regularisation through the mechanism of the ‘arraigo social’, i.e. the issuing of a temporary residence permit due to extraordinary circumstances, which is available to TCNs only after having lived for some years in the country without being registered as residents ([La Opinión de Murcia news](#) dated 22/05/18). Twenty people from the criminal organisation were arrested. In May 2020, in a similar operation, the 19 people arrested also included the administrator of the ETT (Terra!, 2021). In May 2021, the

regional CCOO trade union reported labour irregularities in the 63 ETTs operating in the rural areas of the region, also including suspects of a cross-border fraud between Spain and French realised by exploiting the mobility rights of EU citizens (Onda Regional de Murcia [news](#), 18/05/21).

**Counteractions of key stakeholders:** • In July 2020, a sectoral table to monitor the activity of ETTs, a supervisory board of the temporary employment agencies called ‘Mesa de supervisión de las Empresas de Trabajo Temporal’ was established. It includes representatives of the General Directorate of Social Dialogue and Labour Well-being under the Ministry of Employment, Research and Universities; the Regional Confederation of Business Organisations of Murcia (CROEM); the trade unions CCOO and UGT; and the ETTs themselves (HRPress [news](#) dated 25/07/20) (Terra!, 2021).

### ES\_3. Housing for seasonal harvesters of fruits in the Lleida province

Lleida is a province of around 430,000 inhabitants in the Catalonia region that is leading in the production of seed fruits, namely apples, peaches, nectarines and pears. In 2021, the province produced more than 630,000 tonnes of these fruits (i.e., over 80% of the regional production), out of which 195,000 tonnes were apples (Generalitat de Catalunya, 2023). According to Güell and Garcés-Mascareñas (2020), estimates of agrarian unions and of employers’ associations indicate that some 30,000 seasonal agricultural workers work in the province every year, although the official sources on social security refer to a lower number and official data are not available. In August 2019, the Government Sub-delegation in Lleida estimated that 86% of the workers employed in the agriculture sector were not Spanish. They were from other EU countries or from third countries and thus were in need of housing arrangements. Non-national workforce in Lleida is mainly composed of Colombian workers (essentially men) recruited through the GECCO; Romanian and other Eastern European nationals are recruited by temporary agencies or directly by the employers; migrant workers (mainly men from Maghreb and sub-Saharan Africa) living in Spain who move regularly to follow seasonal harvesting campaigns across the country; and irregular migrants workers (mainly men from Maghreb and sub-Saharan Africa working predominantly in the fields). Housing conditions of these workers depend on the modalities of their recruitment. The GECCO requests employers to provide workers with housing according to the applicable collective agreement. In Catalonia, there are two main collective agreements in agriculture: one is related to field workers in agriculture- and livestock-related activities and the other is related to workers in food processing plants. Both collective agreements foresee similar working conditions (e.g., 40 working hours per week with a maximum of additional 10 extra hours per week), but set different conditions on housing: for workers in the fields, if they live more than 75 km far from the workplace, the collective agreement foresees that they must be accommodated at the expenses of the employer with a 10% reduction of their remuneration for accommodation costs (including the cost of utilities such as water and electricity), whilst respecting the minimum wage. In the case of seasonal workers employed through temporary agencies, it is still controversial if the provision of accommodation is the responsibility of the intermediary agencies or of the employer benefitting from the provision of workers. However, it is reported that even if agencies offer to provide accommodation, seasonal workers often prefer not to lose 10% of their wage and instead find their own cheap housing options. According to UGT, housing provision is usually not

respected and no indications of where the worker resides during the contract period are provided. The inclusion of such information in employment contracts would provide the labour inspectors a tool to fight housing provision violations (Publico [news](#) dated 2/05/21). Irregular workers together with the poorest of the regular seasonal workers are displaced in settlements in the countryside that lack decent living conditions. More than 15 years ago, when Eastern European workers were employed in the province of Lleida as non-EU seasonal workers (in 2007, GECCO provided 7,237 workers mainly from Romania and Colombia according to Molinero-Gerbeau and Avallone (2018)), the trade union Unió de Pagesos in Lleida promoted the creation and adaptation of 18 hostels ('albergue's) directly managed by the City Council. Over the years, the management of some of these hostels has been outsourced to temporary agencies limiting farmers from accessing them for their directly employed workers and preventing job seekers (sometimes irregularly employed) to benefit from this accommodation. As a result, in harvesting periods, irregular workers sleep at the margins of the fields or on the streets (Ara [news](#) dated 29/08/19), whilst in the city of Lleida some flats are over-occupied leading even to sharing the same mattresses that are rented on an hourly basis. In 2022, due to adverse climate conditions (frosts in spring and heat waves in summer), the production of fruits halved. The direct consequence was an equivalent reduction in the number of seasonal workers for harvesting and packaging activities. According to the Agricultural Association of Young Farmers and Cattlemen of Catalonia (JARC), in 2022, contracted seasonal workers were 20,000 compared to the 50,000 of 2021 (Ara [news](#) dated 24/07/22). Positive side effects of this reduction were fewer illegal workers and less pressure on housing arrangements. According to UGT, in the summer of 2022, inspections did not find any relevant illegal settlements. Throughout Segrià county, the investigations of the Region's delegation in Lleida only discovered 16 settlements with around 140 irregular agricultural workers, i.e., the number of workers usually found in a single town. The Lleida City Council also reported a slight reduction in the number of overnight stays in its facilities for seasonal workers. Until 21 July 2022, 427 people had spent a night in these facilities; one year earlier the number was 490 (Ara [news](#) dated 24/07/22). Although the housing situation improved in 2022, housing deficiencies are expected to return with the production of fruit at the 2021 level.

**Counteractions of key stakeholders:** • At the end of 2019, an annex (Annex IX) on conditions of accommodations for migrant temporary workers in agriculture was included in GECCO 2020. • [Annex IX related to GECCO 2023](#) provides indications on the housing requirements that should be provided to seasonal workers in agriculture such as facilities and services, types of accommodation (e.g., module-apartments), characteristics and equipment of the accommodation (e.g., recommendations on minimum square metres per person).

## Highlights

- Fragmentation of the rules set by different collective agreements (by province/region and by product), the lack of updates of these agreements, or of their alignment with other labour regulations (e.g., the minimum interprofessional wage), and the misuse of agreements with ETTs prevent obtaining a clear overview of the labour conditions of seasonal workers in the agriculture and food sectors. The presence of illegal employment adds complexity.
- Over the years the GECCO scheme based on bilateral agreements with non-EU countries has been guaranteeing regular temporary migration to meet the needs of seasonal agricultural production



peaks in specific Spanish areas. The hiring of agricultural workers in their countries of origin has made it possible for the Spanish Government to regularly employ non-EU seasonal workers. Although these migration flows are controlled, there is evidence of violations of working conditions (ES\_01). Thus, the scheme is not a guarantee itself of respect of the rights of seasonal workers.

- Circular migration through GECCO (ES\_1) and the adoption of the fixed discontinuous contract demonstrate that it is possible to decouple agricultural seasonality from precarious forms of employment.
- The number of ETTs contracts does not indicate the number of workers in the sector. Misuse of ETTs may generate precariousness of workers and hide illegal practices. Mechanisms to monitor this misuse should primarily include fair intermediaries (ES\_2).
- ETTs are also used by crime organisations to hide cross-border labour exploitation. As labour inspection capacity at the national level is limited, a proliferation of fraudulent intermediaries exploiting seasonal workers in agriculture requires an intervention at the EU level (ES\_2).
- Vulnerability of migrants persists also when these persons are legally recruited. Gender-based discrimination and cases of sexual harassment demonstrate that women are among the most vulnerable workers engaged in seasonal work in the agri-food sector. Multi-stakeholder counteractions aimed at promoting social inclusion and integration are effective answers (ES\_1).
- GECCO provisions for employers regarding housing conditions as well as the specification of responsibilities of employers in collective agreements set the framework for decent living conditions of non-resident seasonal workers in the agriculture and food sectors. However, housing remains a crucial issue for seasonal workers (ES\_1, ES\_2, ES\_3). Migrants' dependency on the availability of housing has been found to be one of the main levers for exploitation by both unethical farmers and crime organisations. Local and regional authorities have a role to play in securing decent housing.

#### **4.5.3 The Netherlands**

##### **Working arrangements, formal and effective social protection coverage of seasonal workers in the agriculture and food sectors**

In the Netherlands, seasonal work is regulated by collective labour agreements. At the national level, there are two main collective agreements in the agriculture sector: the Collective Labour Agreement (CLA) for Open Cultivation and the CLA for Greenhouse Horticulture. The CLA for Open Cultivation covers arable farming, bulb growing, outdoor flowers, tree nurseries, fruit growing and outdoor vegetable growing sectors. It is agreed upon between the trade union confederations FNV and CNV on the one hand, and the Netherlands Agricultural and Horticultural Association (LTO Nederland), the Dutch Fruit Growers Organisation (NFO), the Royal Trade Association for Nursery Stock and Flower Bulbs (Anthos) and the Royal General Bulb Growers' Association (KAVB) on the other hand. The current CLA for Open Cultivation runs from 1 March 2021 to 28 February 2023. The CLA for Greenhouse Horticulture covers vegetable cultivation that takes place permanently under glass or plastic, with the exception of mushroom and tree cultivation. The current version of the CLA for Greenhouse Horticulture refers to the period 1 January 2023 – 31 December 2023. It is agreed upon between LTO Nederland, Greenhouse Horticulture Netherlands and Plantum on the one hand, and CNV on the other hand. There are other collective agreements covering other agriculture and food sectors such as mushroom cultivation, animal husbandry and the meat processing industry.

These collective agreements usually have specific provisions for seasonal workers. The CLA for Open Cultivation (Actor Bureau voor sectoradvies, 2021), for example, specifies that seasonal workers are contracted for relatively simple harvesting-related activities through direct fixed-term employment contracts whose duration is maximum 6 months per calendar year. They are paid a remuneration on the basis of the statutory minimum wage; the hourly wage is determined by dividing the weekly wage by 38 hours. However, in terms of working hours, a working week of 48 hours on average may be agreed upon for a period of 16 weeks and an allowance applies for the hours worked over the standard 38 hours/week. In general, seasonal workers benefit from the same working conditions that apply to the other workers in the Open Cultivation sector, with some differences, for example in terms of allowances. The CLA for Open Cultivation also distinguishes the ‘pick workers’ as those workers employed for a maximum of eight consecutive weeks to perform routine activities related to harvesting, cultivation and processing of agricultural crops during a peak period. One person may have a peak contract only once a year.

The CLA for Open Cultivation also includes provisions for temporary agency workers and posted workers. Regarding temporary agency work, the CLA mentions that it is the responsibility of the user undertaking (e.g., the farmer, the greenhouse company) to check that the temporary agency supplying workers holds the NEN certificate and is registered with the quality mark of the Labour Standards Foundation, or SNA. The NEN certification, and in particular NEN 4400-1 national standard (if the intermediary agency is registered in the Netherlands) ensures that the agency complies with the rules in terms of legitimacy of employment arrangements, payment of taxes and of social security contributions. Instead, the NEN 4400-2 national standard applies to intermediaries with registered headquarters outside the Netherlands, and in this case, it ensures that the intermediary complies with employment obligations. The SNA registration implies compliance with tax payments, the Minimum Wage and Minimum Holiday Allowance Act, and entitlement to work (Labour Standards Foundation [website](#)). The CLA also makes some of its provisions binding for posted workers, in compliance with the Terms of Employment for Posted Workers in the European Union Act (WagwEU).

The CLA for Open Cultivation further specifies that if the employer is providing accommodation to the agricultural worker, this accommodation has to meet specific standards which implies the company providing accommodation has one of the following two certifications: the Agrarian Quality Mark for Flex Living (AKF) or the ‘[Stichting Normering Flexwonen](#)’ (SNF). The Agrarian Quality Mark was jointly developed by the social actors to ensure the provision of quality and safe housing to agricultural workers with standards that are tailored to the sector and to the short stay of seasonal workers. The SNF is a registry of organisations providing suitable accommodations for migrant workers. These accommodations must meet housing standards and are inspected yearly.

In the Netherlands, seasonal work can be carried out for a maximum of 6 months (Dutch government [website](#)). The seasonal contract is a type of fixed-term contract (EURES [webpage](#) on the Netherlands). For non-EU seasonal workers, the Dutch law foresees the granting of a ‘single permit’ that combines work and residence permits. The application may be submitted by the worker or the employer and is assessed by the Immigration and Naturalisation Service (IND) under the Ministry of Justice and Security, in liaison with the Employee Insurance Agency (UWV) with respect to the work permit. However, the administrative burden and the associated costs for the employers discourage this practice in favour of workforce available on the EU labour market (Siegmann *et al.*, 2022). Since seasonal employment in the country relies on EU workforce, once workers are regularly employed, their social

security registration follows automatically. According to existing legislation introduced in 2005, namely Article 42 of the Unemployment Act and Article 59 of the Act on work and income according to the Labour Capacity Act, seasonal workers, and in general all part-time workers, are allowed to build up an employment history and be granted unemployment and disability benefits by working at least 208 hours in a calendar year (Government of the Netherlands, 2021).

The country's most important employment arrangements in the agriculture and food sectors are direct contracting with Dutch employers or with temporary agencies, sometimes owned by companies that need seasonal workers. Payment of social security contributions and the securing of decent living conditions are the responsibility of the employers/intermediary agencies. According to an interviewed representative of the business organisation LTO Nederland *'there are good practices of "circularity" i.e., seasonal workers returning, year after year, to the same employer. At the basis of these practices, there is a good-level offer of living and working conditions'*.

### **The role of intermediaries in recruiting seasonal workers**

The number of temporary agency firms is estimated to be around 14,000 (Berntsen *et al.*, 2022). Out of this number, more than 4,500 temporary agencies are registered in the Labour Standards Register (tbos [blog](#) dated 14/06/21). A company registered in the Labour Standards Register is certified according to standard NEN 4400-1 or NEN 4400-2 (see above). This certification is meant to be a guarantee of legality of practices for employers hiring temporary staff (normeringarbeid [website](#)).

In the Netherlands, employment of seasonal agricultural workers through these agencies is very common. After logistics, horticulture is the second-ranked sector with flexible employment contracts in the country (Van Liemt, 2013). There are two main representatives of temporary agencies, the ABU and NBBU, which agreed on a joint [Collective Labour Agreement for Temporary Workers](#) applying from 1 January 2022 to 2 January 2023. Because of their own collective agreement, intermediary agencies may create discrimination among workers employed in the same sector since the collective agreement for temporary workers may differ from the provisions of sectoral collective agreements. In reality, employers are allowed to deviate from the sectoral collective agreement and chose the option that provides for lower wages. The last agreed collective agreement for temporary workers recognises this aspect and sets the conditions to gradually reduce the disparity in wages between temporary workers and permanent staff. Some of the provisions of the last agreed collective agreement also address critical aspects related to the hiring of migrant workers such as housing and the guarantee of the statutory minimum wage. With regard to housing, for example, the collective agreement provides for allowing migrant workers to not have to leave their accommodation immediately upon the termination of their temporary contract (capital-ges [news](#) dated 12/02/22).

Engagement through temporary agencies is attractive to EU seasonal workers because these agencies' offer is a comprehensive package inclusive of an employment contract, accommodation and transport arrangements as well as medical insurance. This 'package', apart from having tax advantages for the intermediary agencies with respect to expenses for migrant workers' housing and health insurance, makes seasonal workers almost totally dependent on their contractual relationship. When interviewed, a representative of the union FNV indicated that *'according to some information directly provided by labour migrants, when arriving in the Netherlands, they are asked to sign more contracts. One is the labour contract, the other relates to housing arrangements. In this latter contract, the worker confirms*

*that 25% of his/her wage is deducted automatically every month for housing costs. Dutch law allows temporary agencies to deduct 25% of the minimum wage. This mechanism has become a business model in itself’.*

Temporary agencies have often been blamed for exploiting migrant workers in the country. Exploitation is apparently facilitated by the fact that the establishment of these agencies as well as their liquidation takes place rather easily and this situation is used to avoid law enforcement. Another aspect facilitating exploitation relates to the contractual conditions applicable to migrant workers: *‘Since the 1999 Flexibility and Security Act, indirect contracts with employment agencies that provide workers with phased economic and social entitlements have been legalised. During the first phase, the contract may be terminated at any time. Workers are only paid for the hours worked, while subsequently they gradually build up social rights, for example regarding notice periods, paid holidays and pension rights. In practice, the majority of migrant workers in agriculture remain stuck in the first phase even after years of employment in Dutch agriculture. This is legally achieved by dismissal before the conclusion of the first contractual phase’* (IISS, 2020, p. 2).

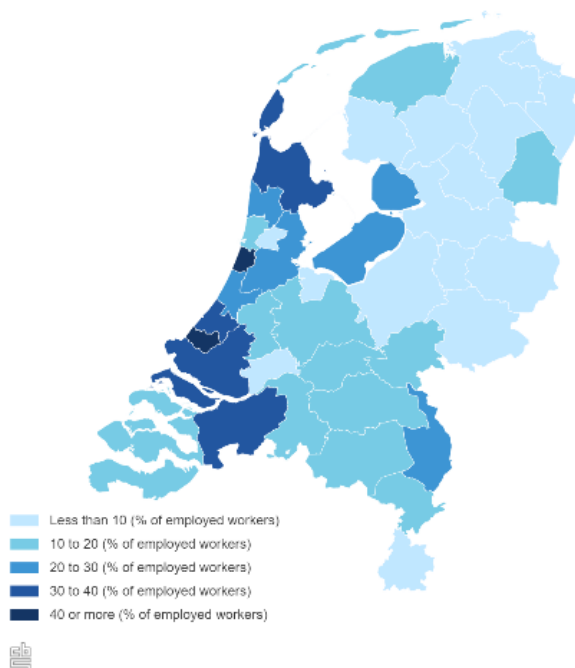
### **Quantifying and characterising seasonal agricultural workers**

In the agriculture sector, the country is reported to rely principally on EU seasonal workers from Central and Eastern European countries, in particular from Poland, Romania and Bulgaria (Siegmann, 2022). More recently, in 2022, workers from Ukraine are also reported. In terms of non-EU seasonal workers, since 2018, according to Eurostat data no authorisations have been granted so far in agriculture, forestry and fishing under the Seasonal Workers Directive.

Seasonal workers are employed using fixed-term contracts or through temporary employment agencies. The most labour-intensive sector is horticulture, where 87% of the EU seasonal workers are concentrated. Geographically, the highest shares of seasonal agricultural workers are located around Haarlem and in the Westland region (CBS article online dated 10/04/20).

## Share of seasonal workers in the labour force, 2019

Seasonal workers in agriculture, corop region, 2019



Source: CBS article [online](#) dated 10/04/20 accessed in March 2023.

According to the Dutch Central Bureau of Statistics, seasonal workers are part of the non-regular jobs for which data is available only in annual work units, or full job equivalent. The time series of non-regular jobs since 2010 is reported below. These data include the input of seasonal workers contracted through third parties or intermediaries. Data show that seasonal agricultural workers in the last three years correspond to around 32,000 annual work units or full-time equivalent. However, one full-time equivalent is equal to one person working full time over the course of one year, thus this information largely underestimates the actual number of seasonal workers. The ADMiGOV Project (Doomernik *et al.*, 2020) quotes a labour specialist from the greenhouse sector who reports that ‘*At its [seasonal] peak our sector employees 125 thousand people. (...) 72 percent is*

*not included in the payroll, they are flexibly employed and of those 80 percent, 72 thousand are international workers. Among those about 38 thousand work all year round.*’

Seasonal and occasional workers in agriculture, in annual work units

2010	2015	2020	2021	2022 (provisional)
28,180	29,019	33,470	32,751	32,265

Source: CBS data [online](#) accessed in March 2023.

According to Eurostat data, in 2021, temporary employment agency workers represented 12.9% of the total workers employed in ‘Agriculture, forestry and fishing’. In 2020 (last available year), the country received about 2,174 posted workers in the agriculture sector (estimate), the second highest number in the EU after Germany. With regard to the manufacturing of food and beverages, these sectors employed, in 2020, 182,200 and 11,000 persons, respectively (CBS data [online](#)). No data were found on the share of seasonal workers employed in these manufacturing industries.



## Examples of challenging situations

### NL\_1. A large-scale fraud with ‘invisible’ seasonal workers harvesting strawberries, raspberries, asparagus and mushrooms

In 2019, a 71-year-old man was ordered to pay a €134,000 fine and provide 240 hours of community service. His 2-year prison sentence (versus a prison sentence request of five years made by the public prosecution authority) was suspended. This is the end of a story which began in 2005, when this man set up an illegal arrangement allowing him to underpay income taxes and avoid social security and other employment-related costs for seasonal workers’ labour input. Under the form of a legal entity established outside the Netherlands, he was buying crops before harvest from large Dutch growers of strawberries, raspberries, asparagus and mushrooms, with whom he had an agreement. Once the crops were ready, the buyer, through one of his legal entities, arranged their harvesting by (mostly Polish) seasonal workers. The harvest was then purchased by another company (still owned by the same person) and finally sold to Dutch retailers. Income from these sales were then partially re-distributed to the large Dutch growers using a complex system of bank accounts, so that the money remained untaxed. Overall, this man made some 1,850 agreements with about twenty large Dutch growers and generated a turnover of (untaxed) €300 million. Out of this large fiscal fraud, all involved seasonal workers remained invisible to the system over these years, including from the point of view of social security, because formally the Dutch growers had no crop to harvest (NOS [news](#) dated 19/02/19; Ministry of Social Affairs and Employment [news](#) dated 17/01/19).

**Counteractions of key stakeholders:** • In May 2020, the Dutch Government set up a task force to investigate housing, employment and recruitment practices of EU mobile workers. As a result, a set of 50 recommendations were made (Aanjaagteam Bescherming Arbeidsmigranten, 2020). Some of the recommendations of the task force were implemented through the conclusion, by the end of 2021, of a new collective bargaining agreement for temporary agency work (Bermtsen *et al.* (2022). Recommendations envisage better control of the temporary employment agencies, an improved overview of the phenomenon based on migrant workers' registration by employers, better housing and wellbeing for migrant workers, improved enforcement and supervision (by means of data analysis as well as inspections) and inclusion/integration of migrant workers. • In 2020, the Dutch business organisation LTO Nederland published a [document of ten recommendations](#) addressed to its associates in the agriculture and horticulture sectors highlighting the importance of being fair employers. • Stichting Fair Produce Nederland was established in 2011 by CNV Vakmensen, FNV, GroentenFruit Huis and LTO-Nederland. The [Fair Produce](#) label is given to producers, retailers and intermediary agencies in the mushroom sector if their workers receive a fair wage, work under good labour conditions and have decent housing.

### NL\_2. Indecent housing in Germany for seasonal workers of Dutch meat factories

The Dutch meat industry is the largest food production industry in the country and employs some 12,000 workers out of which 7,500 are estimated to be mobile workers, primarily from Poland and Romania. These mobile workers make up the majority (90%) of the workers employed in production. They mostly ‘work via specialised temporary agency firms, which predominantly

supply workers to the meat industry. Their employment conditions therefore fall under the scope of the collective bargaining agreement (CBA) for the meat sector (and not the temporary agency CBA). The minimum wage for jobs in the meat sector that require limited expertise or skills is 10.94 euros an hour' (Berntsen *et al.*, 2022). Usually, migrants working in the Dutch meat industry share accommodation facilities provided by the agency firms and have up to 25% of their wage deducted in order to pay for these housing arrangements.

In February 2022, media reported that joint inspections by the German and Dutch police authorities over the two countries' borders revealed the existence of miserable employer-sponsored accommodations where migrant workers were living. The initiative was taken by the German local and regional authorities to enforce a new regional law on decent housing for migrant workers (Berntsen *et al.*, 2022). These cheap accommodations were six housing complexes located on the German part of the border in Nettetal and Brüggen, in the region of North Rhine-Westphalia, but migrants were working in Dutch meat factories or Polish logistics or construction businesses (NL#Times [news](#) dated 13/12/22). Media report that these accommodations had '*significant fire safety deficiencies, mold, pest infestation, a lack of electricity and building faults, among other things*' (Infomigrants [news](#) dated 14/02/22). The investigation by the Dutch Labour Inspectorate further revealed the infringement of labour law also in terms of minimum wage, working hours and protection against dismissal (Euractiv [news](#) dated 15/12/22). Some of the stakeholders interviewed by Euractiv highlighted that the free movement of workers within the Union makes these cross-border arrangements easy to organise and at the same time makes it more difficult for the authorities of the country where employment actually takes place to monitor the workers' housing conditions. According to the German authorities, this practice of buying or renting cheap accommodations over the border is common for companies active in the Netherlands. In 2022, similar poor housing situations were disclosed in another three cases: in Geldern and Emmerich in February, Goch in May, and Gronau and Sudlohn in November (NL#Times [news](#) dated 13/12/22).

**Counteractions of key stakeholders:** • In May 2022, the Central Association for the Meat Industry (COV) proposed a two-year collective labour agreement for the Dutch meat sector which was agreed upon with the trade unions. Among the agreed points is that the meat companies have to ensure that intermediaries (i.e., the temporary employment agencies or specialised rental companies) only provide workers with certified housing that meets the standards of the '[Stichting Normering Flexwonen](#)' (COV [news](#) dated 25/05/22). • Precarious working and living conditions of migrant workers in the meat industry were already highlighted during the first wave of the pandemic, not only in Germany (with the well-known outbreak in the meat factories of Gütersloh, North Rhine-Westphalia) but also in the Netherlands. Since then, the Dutch Government commissioned various studies to understand the situation but the conclusion was that there is a share of EU mobile workers that is hard to reach because for stays below four months they may still indicate their country home address while obtaining the compulsory registration number. In addition, trade unions, who are responsible for enforcing the collective labour agreement, do not have the right to access workplaces and the Labour Inspectorate is able to inspect only 1% -2% of the temporary agency sector (Berntsen *et al.*, 2022).

### NL\_3. An alleged case of exploitation of Ukrainians' seasonal workers in greenhouses

On 2 June 2022, RTL [news](#) published a story on the labour exploitation of seasonal workers in a greenhouse located in the municipality of Westland. The story had a media echo because it involved a group of 30 Ukrainians, i.e., persons potentially already challenged by a difficult situation. These workers were contracted by a Polish employment agency which usually matched the labour needs of greenhouses' owners/companies located in the Westland area, in the Netherlands. The agency had to take care of the paperwork and provide, against the payment of a fee, the seasonal workers with transport to the Netherlands and accommodation. The point is that this fee was not clearly specified in the contract and other punitive clauses prevented the workers from asking for clarification or discussing any other aspect of their contract with the greenhouses' owners/companies, with the risk being a fine of €500. Seasonal workers were also warned that any anticipated end of their 3-month contract would have implied a 20% deduction of their monthly salary and, finally, they were prone to being sent back to their country and banned from the Netherlands for two years if they did not follow the rules. Ukrainians workers were also distressed because after almost one month of work they had not yet received any salary from the Polish agency/employer, and had in fact only paid the Polish agency to get the job.

**Counteractions of key stakeholders:**

- Both the agency and the greenhouse company reacted to these accusations (RTL [news](#) dated 2/06/22). The latter stated that they rely on that Polish agency because they know it follows the rules and is also certified to make payments in accordance with the CLA – but that in the event the Polish company turns out to be faulty, they will change intermediary. The Polish agency replied that nobody complained about the timing of the payments and that, in any case, advances were paid. In addition, nobody would be sent back to Ukraine, but to Poland, where the workers are registered.
- The case had media echo and was further investigated after coming to the attention of the Ministry of Social Affairs and Employment. CNV, the second largest trade union confederation in the Netherlands apparently had the chance to see these contracts and reported the existence of monetary fines and impositions, such as the inability to travel within the Union and to decide when to leave the Netherlands (The Nation View [news](#) dated 3/06/22).
- The Dutch union FNV organises informative campaigns in different Dutch provinces addressed to foreign agricultural and horticultural workers in their native languages. Information about working rights and conditions is available on the [FNV website also in Ukrainian](#) (in addition to Polish, Romanian and English).
- A [webpage](#) with some advice for Ukrainians, also available in their language, is published online by the Westland Foundation for Ukraine (i.e., a private initiative). The page provides phone contacts in FairWork and at the Dutch Labour Inspectorate for reporting any issue related to work and/or labour exploitation.

### Highlights

- The role of intermediary agencies is dominating the contractual relationship with seasonal agricultural workers and these agencies sometimes adopt practices that make workers vulnerable to exploitation. For example, their contracts usually include phased social and economic entitlements, so that, for example, notice period or pension rights are granted only in a second, more mature phase of contracting that nevertheless may never be reached because the worker is dismissed before the completion of the first phase.

- In addition, temporary agencies usually offer comprehensive packages to seasonal workers, inclusive of employment contract, accommodation, transport and medical insurance. This makes workers totally dependent on intermediaries (NL\_2, NL\_3). The decoupling of housing from the provision of the job is envisaged to prevent unfair behaviours (Aanjaagteam Bescherming Arbeidsmigranten, 2020).
- The Dutch model, based on the certification of temporary employment agencies is a way to signal fairness of employers. The certification of Dutch temporary employment agencies and of foreign temporary agencies recruiting workers who are afterwards employed in the Netherlands is recommended to become mandatory (Aanjaagteam Bescherming Arbeidsmigranten, 2020).
- Lack of enforcement of EU and national labour rules is determined by several aspects (NL\_1, NL\_2). The most important one is the limited inspection capacity of workplaces by state authorities. The second aspect is that housing and transport are under the responsibility of the municipal police and not of the labour inspectors. The third reason is that trade unions are not authorised to carry out inspections even if, together with the other signatory parties of the collective bargaining agreements, they are responsible for their enforcement. On top of these reasons, the fact that fines are not a successful deterrent to illegal practices needs to be highlighted.
- EU workers are obliged to register in the Netherlands with a Dutch address only if they are staying longer than four months (but if they do want to register, they may). In this case, they have to register with a Dutch municipality in the local Personal Records Database (BRP). If their stay is shorter than four months, they only have to register in the non-residents Records Database (RNI) in one of the RNI-offices where they will be given a tax number to be used for tax payment. This type of registration does not require indicating a Dutch address, and the given address is the one of the migrants' countries of origin. The result is that because of these rules, local authorities are not aware of where EU seasonal workers live and this makes the checking of their living conditions difficult (NL\_2).

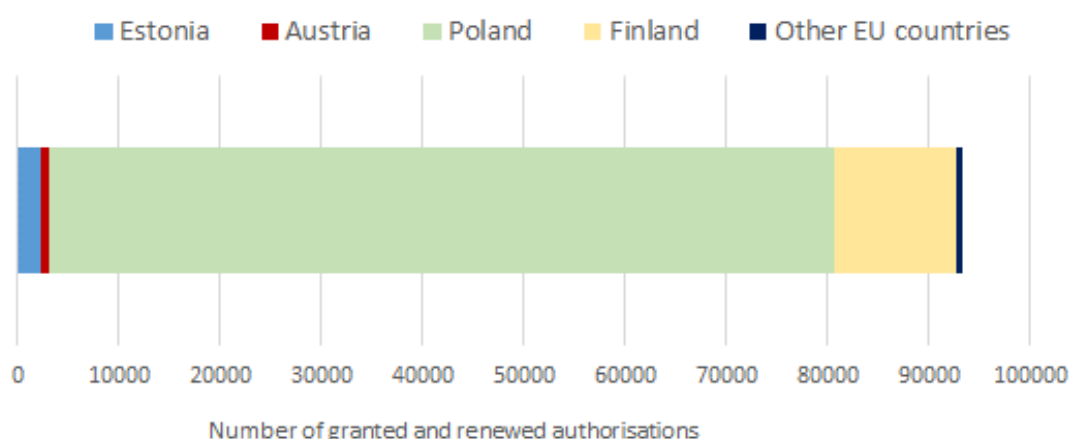
#### **4.6 Ukrainian seasonal workers employed in the primary sector of EU Member States**

On 3 March 2022, [Directive 2001/55/EC](#) of 20 July 2001 on 'minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof' was activated for the first time since its introduction. It grants Ukrainian nationals a temporary residence permit, access to the labour market, social benefits, housing, medical care and educational opportunities.

Before that, Ukrainians' seasonal work was statistically recorded according to the number of authorisations granted/renewed under the Seasonal Workers Directive. In 2020, data reported by 19 EU countries indicate a total of 117,253 granted authorisations to non-EU citizens for the purpose of seasonal work **in agriculture, forestry and fishing. Ukrainians citizens received the majority of these authorisations, i.e., 90,661 or 77% of the total** (Figure 7). Most of the authorisations for Ukrainians were issued by Poland (75,175) and Finland (12,036) and had primarily a length of validity below 90 days. Also in 2020, in addition to the granted authorisations, a total of 2,772 authorisations were renewed for the purpose of seasonal work. Similarly, **almost all these renewals (i.e., 2,648, or 96%) were for Ukrainian citizens.**

Since Poland is the most important recipient of Ukrainians seasonal workers, the portrait of an ‘average’ seasonal worker coming from Ukraine as depicted in the Polish EMN report (2020) is significant: ‘*The statistical seasonal worker working in Poland is a Ukrainian woman aged 35 to 44. She stays in Poland for about 31-90 days during the summer period and works on the basis of a national seasonal work permit. She works in agriculture, picking mainly fruit in the field. She earns 3.30 euro gross per hour, but not less than 570 euro gross per month. Her employer, a farmer from the Lubelskie Voivodeship, obtained information on the recruitment procedures of foreign seasonal workers from the Ministry of Family, Labour and Social Policy. The foreign woman submitted an application to the local employment office via the website and obtained a national seasonal work permit for the employee, because she had previously come to Poland from Ukraine on the basis of a visa-free regime*’ (EMN Poland, 2020).

**Figure 7. EU reporting countries with the highest number of authorisations granted or renewed for the purpose of seasonal work to Ukrainian citizens, 2020**



Notes: 2020 is the latest available year with complete data for the reporting countries.

Source: Eurostat (migr\_ressw1\_1) accessed in March 2023.

Because of its proximity to Eastern European countries, Ukraine is a significant source of seasonal work for these EU Member States. Thus, it is common for these countries to have special arrangements for the entry of Ukrainians workers or for the recognition of their social protection rights. For example, in Poland, the labour market test is not required for the issuing of seasonal permits and Estonia has a bilateral agreement in place with Ukraine that allows the transfer of pension contributions to the country of origin. Similarly, ‘*In December 2019 the Czech Government approved a Programme Special Work Visa for Ukrainian Citizens which is meant for companies focused on forestry industry, agriculture or grocery in need of seasonal workers. The maximum annual quota is 1500 persons*’ (EMN Czech Republic, 2020). This programme was the follow up to a migration project called ‘Zemědělec’, i.e., farmer.

Overall, there are old and new arrangements in place to attract Ukrainian seasonal agricultural workers (e.g., the publishing on EU countries’ websites of documents related to seasonal work in the Ukrainian language). The problem does not seem to be related to demand, but to offer in terms of both volume and types of Ukrainian seasonal workers. **The availability of the same volume of unskilled seasonal agricultural workers that used to exist in the past is unlikely to exist in the future.** In fact, Ukrainian men aged 18-60 years are at the time of writing unable to leave their country under the existing regime



of martial law extended up to 20 May 2023. The UK, for example, a major recipient of Ukrainian seasonal workers, started turning to other countries in 2022 to meet its seasonal agricultural needs (Financial Times [news](#) dated 22/03/22).

According to UNHCR [webpage](#) on Ukrainian Refugee Situation accessed in March 2023, refugees from Ukraine are more than 8 million people. A profiling and monitoring exercise by UNHCR based on 22,468 interviews reports that the majority of respondents are women (87%) and have completed higher education or university (78%). Similarly, the Food and Agriculture Organization reports that Ukrainian refugees are in large part (i.e., 69%) educated (FAO, 2022). Although it is unlikely that seasonal work in agriculture represents a structural employment solution for these persons, in the short-term and driven by economic motivations, some of these refugees may opt for this choice. In the meanwhile, UNHCR recommends continuous support in offering decent work opportunities to Ukrainians by considering that *‘While over a third of refugees from Ukraine are currently working, the majority are employed at a lower level than previously in Ukraine, with a higher prevalence among women than men.’* UNHCR (2023, p. 7). Thus, the problem for these persons may be to enter the labour market in unskilled and temporary occupations, which is what most of the seasonal activities are, even if these jobs do not reflect their qualifications. In order to achieve their fair integration, the fast recognition of Ukrainians’ skills and qualifications is required. This was already pointed out clearly in the EESC Resolution dated 16/06/2022 on [‘Ukraine – from relief to reconstruction’](#).

## 5. Conclusions and recommendations

According to our estimates, in 2021 there were **2.4 million EU and non-EU seasonal workers in the agriculture sector** of the EU27. These workers **represented 26% of the 9.2 million workers** employed in agriculture, forestry and fishing according to national accounts. Because of the regular decline of employment of resident workers in agriculture (-35% over the period 2008-2021 according to Labour Force Survey data), **this share of mobile workers is expected to increase over time**. It is evident that **seasonal work in agriculture is a structural component of the sector’s labour force and cannot be downgraded to the category of ‘non-standard’ work for which monitoring mechanisms do not exist**.

There are important drawbacks in existing data flows managed by Eurostat that prevent the quantification of EU seasonal workers in the agriculture and food sectors. EU surveys such as the Labour Force Survey do not capture intra-EU mobility in these sectors. The data gap analysis carried out in [Section 4.2](#) of the study also identifies quantitative and qualitative shortcomings of existing Eurostat data on temporary workers, temporary agency workers and posted workers, namely the three forms of employment most commonly used to hire workers on a seasonal basis.

From the point of view of social coverage, the 2019 Council Recommendation on access to social protection for workers and the self-employed did not result in the development of a structured and publicly available data collection system on the social coverage situation of seasonal workers. Rather, seasonal work is still treated as a category of non-standard work (EC, 2023). This study highlights on a country basis that **seasonal workers in the agriculture and food sectors are not granted formal and/or effective social protection coverage in several EU Member States**.

Considering that information on mobile workers exists in the administrative registers of EU Member States (Baas *et al.*, 2014) and that the European Labour Agency, established with [Regulation \(EU\) 2019/1149](#), is tasked to assist EU countries and the EC in their ‘*application and enforcement of Union law related to labour mobility across the Union and the coordination of social security systems within the Union*’ (Art.1), there is scope to take advantage of the ongoing digital transformation of the public administration to modernise and innovate processes.

**Recommendation #1. Establishing the regular and digital collection of administrative information on employment contracts used to hire EU citizens for seasonal work in the agriculture and food sectors**

The European Labour Agency may be asked to identify, possibly building on the current work of the Social Protection Committee, with the support of EURES and in liaison with EU Member States, the type of **administrative information to be made available by each country** to set the basis of an **EU-wide observatory of seasonal mobile work in the agriculture and food sectors**. The European Labour Agency could be in charge of regularly collecting this information by means of a digital tracking system. This system could require the exclusive use of **digital contracts** and/or the use of **unique identification numbers** for each EU citizen. That would be coherent with the current efforts made to create an European Social Security Pass ‘*to improve cross-border verification of social security coverage and address challenges in mobile citizens’ identification and authentication for social security coordination purposes*’ (DG EMPL [webpage](#) accessed in March 2023). The ELA could then use this information on seasonal employment to characterise intra-EU mobile work in the agriculture and food sectors.

Due to the lack of official EU-wide statistics, this study proposes an estimate of EU and non-EU seasonal workers in the agriculture sector. A similar exercise for the manufacturing of food and beverages sectors was out of the scope of the study. The manufacturing of food and beverages, compared to the agriculture sector, has a less pronounced seasonality. It ranges widely in terms of products. Also, its operations are importantly influenced by technology and management which may result overall in continuous production and thus regular workforce demand over time. In addition, for non-EU workers admitted under the SWD, eligible ‘seasonal’ sectors as determined by EU Member States occasionally include the manufacturing of food and beverages.

**Recommendation #2. Carrying out a study on the value chain of food and beverages**

The EESC may consider launching a study to gather detailed information on the quantification and characterisation of EU and non-EU workers (including seasonal ones) employed in the food and beverages manufacturing sector. The study could be an opportunity for widening the investigation to include the food/beverage supply chain (i.e., including wholesalers and retailers) of some selected products dependent on seasonal work in order to understand where violations of labour conditions and social coverage are rooted and identify best practices to prevent them.

With regard to the quantification of non-EU seasonal workers, this study provides evidence that statistics collected by Eurostat according to the Seasonal Workers Directive do not capture all the authorisation granted by Member States to non-EU citizens for seasonal work in agriculture (see [Section 4.3](#)). The

main reason is that other national schemes exist. Another problem is evident from the statistics made publicly available online by Eurostat: some countries do not report, and other countries report with delays, or Eurostat is late in validating their data. In March 2023, several statistics related to 2021 were still missing even if Article 26 of the Seasonal Workers Directive states that statistics shall be communicated to the Commission within six months of the end of the reference year.

**Recommendation #3. Proposing the review of the Seasonal Workers Directive's reporting system to improve data collection on non-EU seasonal workers**

The EESC may consider proposing a review of the reporting system envisaged under Article 26 of Directive 2014/36/EU. In particular, it could be suggested for reporting (1) to refer to the **number of TCNs** who have an authorisation for the purpose of seasonal work in the reference year (and not to the number of authorisations granted) under the SWD. This would avoid issues at the origin of double counting and issues related to multiple-year authorisations; and (2) to express the number of TCNs who have an authorisation for the purpose of seasonal work in the reference year under the aegis of the SWD **also as a share of the total number of TCNs who have an authorisation for the purpose of seasonal work** in the reference year. This would allow understanding the actual coverage of Directive 2014/36/EU.

This study provides evidence of **drawbacks** in the implementation of the **Seasonal Workers Directive** that may potentially be addressed in a future revision of the Directive. In particular, the Seasonal Workers Directive applies to non-EU citizens that are not yet in the EU. This leaves EU countries free to adopt other schemes for the employment of non-EU seasonal workers who have already crossed their borders. Recent literature suggests that the hiring of non-EU seasonal agricultural workers through national schemes implies less red tape and allows more flexibility in responding to seasonal requirements (Passalacqua, 2022). Evidence on the existence of these national schemes is frequent across the countries' synopses included in [Section 4.3](#).

As a result, the SWD with its equal treatment and social protection provisions does not apply to a significant number of non-EU seasonal agricultural workers, i.e., the Directive's reach out capacity is limited. According to the estimates provided in this study, **the SWD covers only 28% of the estimated number of non-EU seasonal workers in agriculture**.

**Recommendation #4. Increasing the scope of the Seasonal Workers Directive**

The EESC may consider proposing to EU institutions the widening of the scope of the Seasonal Workers Directive to those undocumented, or with illegal migration status, non-EU workers who are already present in the EU.

After 30 years of the single market (1993-2023), EU seasonal workers, once they have arrived at their destination, are subject to fragmented, often localised, employment arrangements and rules. It is sufficient to mention the 60 collective agreements applying in the agri-food sector of Spain to understand the complexity of this situation (see [case study on Spain](#)). Also, [Section 4.4](#) provides examples of the different contracts used across EU countries to employ seasonal workers (e.g., the daily contract in Bulgaria, the mini-jobs or short-time employment contract in Germany, the simplified employment

scheme in Hungary, the harvest help contract in Poland, or the very short-term contract in Portugal). Non-EU seasonal workers follow different mobilisation mechanisms than EU mobile workers, but end up in the same fragmented situations. Language barriers only add to the complexity implied by the existence of different rules across EU Member States and even across regions within Member States. In addition, the EU-wide overview provided in this study is based on multiple and diverse sources, confirming that EU initiatives such as EURES, or EU agencies such as ELA are not yet the repositories of the information that any mobile worker would wish to know before moving to a country for seasonal work.

An EU-wide picture of the phenomenon of seasonal work in the agriculture and food sector is constrained by a number of factors, including the different definitions of seasonal workers; the variety of geographical and sectoral scopes of collective agreements; the differences in social security schemes across EU countries; the multitude of contracts and recruitment methods used for hiring seasonal workers; the lack of harmonisation of standards concerning decent working and living conditions; the diverse national governments' choices in migration policies; and the invisibility of illegal workers. Such multi-dimensional fragmentation which is thoroughly reported by a number of organisations, associations and scholars often lacks an all-encompassing and comparative perspective that prevents the design of appropriate measures at the EU level. An exception is the European Migration Network which provides excellent comparable knowledge across the EU on migration aspects.

**Recommendation #5. Setting up an EU-wide platform on seasonal work in the agriculture and food sectors**

The EESC may consider **taking a leadership role in the setup of an EU-wide information-sharing platform on seasonal work in the agriculture and food sectors**, collecting examples of transferable solutions and best practices adopted at the territorial level to guarantee decent working and living condition of seasonal workers. The direct involvement of unions, organisations representing businesses and the civil society, and local and regional authorities is a must. As the latter are importantly concerned, liaison with the European Committee of the Region is suggested.

This study includes evidence of **the lack of a generalised enforcement capacity of existing EU and national laws ensuring the social protection and decent working conditions of seasonal workers** in the agriculture and food sectors. For example, in the Netherlands, only 1%-2% of the temporary agency sector can be inspected. Difficulties also relate to the fact that social actors and civil society actors are not allowed to inspect workplaces. Also, it is difficult for seasonal workers to be located by the police outside of their workplaces since these workers do not have to register with a Dutch address if their stay is less than four months. The limited resources dedicated to the enforcement of existing EU and national laws makes labour inspections so rare that they do not represent a deterrent for breaking the law. If controls occur, sanctions and fines are irrelevant in comparison to gains from fraud and violations of seasonal workers' rights (see the [Netherlands' case study](#)).

Furthermore, when irregular migrants are concerned, as evidenced by the Italian, the Spanish and the Dutch cases, labour exploitation may become an organised fraudulent and/or criminal activity going well beyond national borders (e.g., *caporalato*, bogus or landless cooperatives). Opportunities offered by the single market also create entry points for unfair practices and unfair competition among agricultural and food manufacturing entrepreneurs. These practices often take advantage of the different

and sometimes conflicting rules existing in national labour markets. This explains the need to go beyond cross-border cooperation in labour inspections. In 2021, EFFAT expressed the need for an EU Directive that builds on the ILO Convention N.81 and sets minimum standards for EU Member States on labour inspections and complaint mechanisms (EFFAT, 2021).

**Recommendation #6. Conceiving an EU-wide labour inspection system**

In liaison with Member States and the new Labour Employment Agency, European institutions could design an **EU-wide labour inspection system that looks into the violation of EU laws according to cross-border dynamics**. This EU-wide system could be the **first step towards the preparation of EU legislation addressing labour inspection weaknesses at the national level**.

It is also important to avoid relying only on checks and inspections and **distinguish the majority of the employers that do follow the rules from those that do not**. Towards this scope, it is necessary to find methods that signal employers' compliance with social protection and respect of decent working conditions. The Dutch model, based on the certification of temporary employment agencies, is easily replicable in other countries that rely importantly on intermediaries for the provision of seasonal labour in agriculture. The Italian case suggests the adoption of a quality mark for those agricultural employers who regularly pay social security contributions for their seasonal workers. It is also in the interest of the associations of employers to find ways to distinguish 'the good from the bad'.

**Recommendation #7. Assigning reputational labels for 'fair' employers of seasonal workers**

Member States in cooperation with business associations and civil society organisations should design reputational labels to be **assigned to fair employers in the agriculture and food sectors** who are respectful of decent living and working conditions of migrant seasonal workers and are compliant with the payment of the contributions for their social protection coverage. This fairness signalling may also have an attractive/reassurance effect for migrant seasonal workers when approaching employers and **could drive a reputation-based circular mobility of work**.

According to the social conditionality mechanism of the CAP, the farmer is responsible to '*ensure safety and protection of farm workers with regard to farm machinery and equipment, protective clothing and equipment or dangerous substances*'; the farmer is also responsible for informing (seasonal) workers on '*place and type of work, beginning and, where relevant, end of employment, information on probation period, paid leave, notice periods, remuneration, work pattern/schedule, social security information*' (DG AGRI [webpage](#) accessed in March 2023). These obligations may be met if the farmer directly contracts seasonal workers, but the mechanism seems to overlook the fact that in several EU countries the provision of seasonal work in the agriculture and food sectors is through intermediaries. The case of the Netherlands, where the shortage of national workers for seasonal activities is structural, is exemplary from this point of view. Dutch farmers, agricultural and horticultural companies are willing to pay higher prices for seasonal labour provided through intermediaries because these agencies bear the responsibility of complying with administrative, fiscal and logistic aspects such as contracting, transport and housing. These aspects contribute or are an integral component of the working conditions of seasonal workers in the agriculture and food sectors. In such cases, CAP payments to farmers would be linked to the respect of the rules by third parties.



Another aspect that raises concerns is the fact that ‘labour authorities in EU countries will need to inform agricultural paying agencies at least once a year on the results of their own controls. If necessary, the paying agency will apply a reduction to the farmer’s payment’ (DG AGRI [webpage](#) accessed in March 2023). This study provides evidence on the difficulties faced by national authorities in enforcing existing laws because of their limited inspection capacity. For example, under [Section 4.4](#) it is reported how Germany’s capacity to inspect is disproportionately low with respect to the number of farms to be checked. Thus, if the controls by labour authorities are expected to be **of a merely administrative nature under the CAP, the positive impact of the social conditionality mechanism is questioned.**

**Recommendation #8. Seeking clarifications on the implementation of the social conditionality mechanism of the CAP**

The EESC may consider asking the European Commission for clarification on how the social conditionality mechanism is expected to be **implemented with respect to seasonal workers**. Main areas of concern relate (1) to those cases where farmers employ seasonal workers through intermediaries, because the farmers’ payment would then depend on the third party’s compliance with some the conditional rules; and (2) to the foreseen modalities for monitoring compliance, as evidence shows limited inspection capacity by labour authorities at EU Member States’ level.

Provision of decent housing is an important component of seasonal workers’ living conditions. This is widely recognised by sectoral stakeholders since minimum requirements and obligations related to accommodation are imposed on employers in many different ways (e.g., in the GECCO in Spain, and in the collective bargaining agreements in the Netherlands). However, housing issues (e.g., availability, costs, distance from the workplace, presence of essential services and facilities) still remain generally unresolved and continue to be a source of distress for seasonal workers. Illegal settlements in the countryside of Italy and Spain are a sign of labour exploitation of non-EU migrants by crime organisations. Since in these cases hundreds, if not thousands, of seasonal workers are concerned, it is evident that **something more than obligations for employers is necessary.**

As a starting point, in some cases (see the [case study on the Netherlands](#)) the decoupling of housing provision from the provision of employment is recommended to reduce the dependency of the worker on the employer/intermediary agency and to make the worker less prone to exploitation practices. Other actions to prevent indecent housing conditions of migrant seasonal workers range from public housing initiatives led by municipalities (as in Lleida province, in the [case study on Spain](#)) to projects for the provision of adequate buildings to migrants in order to reduce their dependency on the *caporalato* system (as envisaged in the Italian National Recovery and Resilience Plan). Among the necessary steps is the mapping of illegal settlements to properly characterise the phenomenon of irregular workers and to arrange adequate hospitality measures (*Andalucía ACOGE* and *Fundación CEPAIM*, 2022; Giovannetti *et al.*, 2022).

**Recommendation #9. Assessing ex-ante the housing need at the territorial level of non-resident seasonal workers during production and harvesting peaks**

Local and regional authorities, unions, business organisations and civil society organisations should cooperate to assess **the housing needs of seasonal workers in their territories of competence in order to prevent indecent living conditions and related unfair and criminal exploitation practices**. As irregular workers represent a significant share of seasonal workers, a proper assessment should include the mapping of illegal settlements in the area of interest. Initiatives triggering adequate response at the territorial level may be defined by predicting in advance seasonal workers' flows in terms of period of the year and number of workers.

In the EU, seasonal work mobility in the agriculture sector follows an **east-west flow**. The **incentive** to move is an **economic** one. The case of Bulgaria is exemplary to understand this dynamic. Bulgarian seasonal agricultural workers move to EU countries such as Spain and Germany as well as France, Italy and Greece. At the same time, Bulgaria receives non-EU workers from countries like Ukraine, Armenia, Moldova, Kyrgyzstan, the Russian Federation and North Macedonia. After 30 years of European single market (1993-2023), EU citizens' freedom to work (and study and live) anywhere in the Union is a fundamental right that allows the proper functioning of the market economy as it provides labour where it is needed. However, the extent of this flow is also an indicator of the socio-economic divide across EU Member States.

Most of the seasonal workers moving to other countries to look for a job in the agriculture or food sector are, for one reason or another, vulnerable people. Among them are irregular migrants, refugees, and women in an unemployment condition. As evidenced in the examples of the case studies, their vulnerability is amplified in a foreign working environment due, for example, to language barriers, cultural diversities and lack of knowledge of their rights. In addition, if seasonal workers are irregular, they are often prevented from access to basic health services. In the workplace, women are particularly subject to discrimination and exploitation (e.g., lower wages or worse treatment at workplaces than men). Gender-based discrimination and exploitation are reported in the Italian example of the Agro Pontino area and in the Spanish example of the Murcia region.

**Recommendation #10. Empowering seasonal workers in the agriculture and food sectors, especially women, through social inclusion**

With a view to reinforcing existing institutional activities, civil society organisations (i.e., the third sector) should be financially supported by local and/or regional authorities (possibly under the European Social Fund+ or the European Agricultural Fund for Rural Development) in order to facilitate the integration of migrants outside their workplace while raising their awareness on civil and labour rights. Initiatives could, for example, provide language teaching and basic medical assistance, in addition to being an opportunity for reporting exploitation and abuses, if any, or for female workers to report gender-based discrimination.

Our desk research did not identify specific situations of vulnerability of Ukrainian seasonal workers compared to seasonal workers coming from other countries. Rather, in several EU countries there is evidence, even before the Russian invasion in February 2022, of facilitated procedures for the

employment of seasonal workers from Ukraine (e.g., bilateral agreements). The activation of [Directive 2001/55/EC](#) on the mass influx of displaced persons further facilitates the employment of citizens from Ukraine. Still, **in the near future there might be issues** related to the fact that the majority of refugees from Ukraine are women. These persons, driven by economic motivations may decide to opt for seasonal work opportunities in the agriculture and food sectors where, as evidenced by the findings of this study, a gender issue exists.

**Recommendation #11. Preventing the risk of labour exploitation of Ukrainian women in the agriculture and food sectors**

The EESC, through its civil society members and, possibly, with the support of UNCHR, should regularly monitor the working conditions and social security of Ukrainian women employed on a seasonal basis in the agriculture and food sectors of EU Member States. **This could be a focus area of the EU-wide platform envisaged under Recommendation #5.** Since in most of the cases Ukrainian women in European countries also represent the only family caregivers (i.e., for the youngest and the oldest) and wage recipients, they **may become one of the most vulnerable categories of workers in Europe.**

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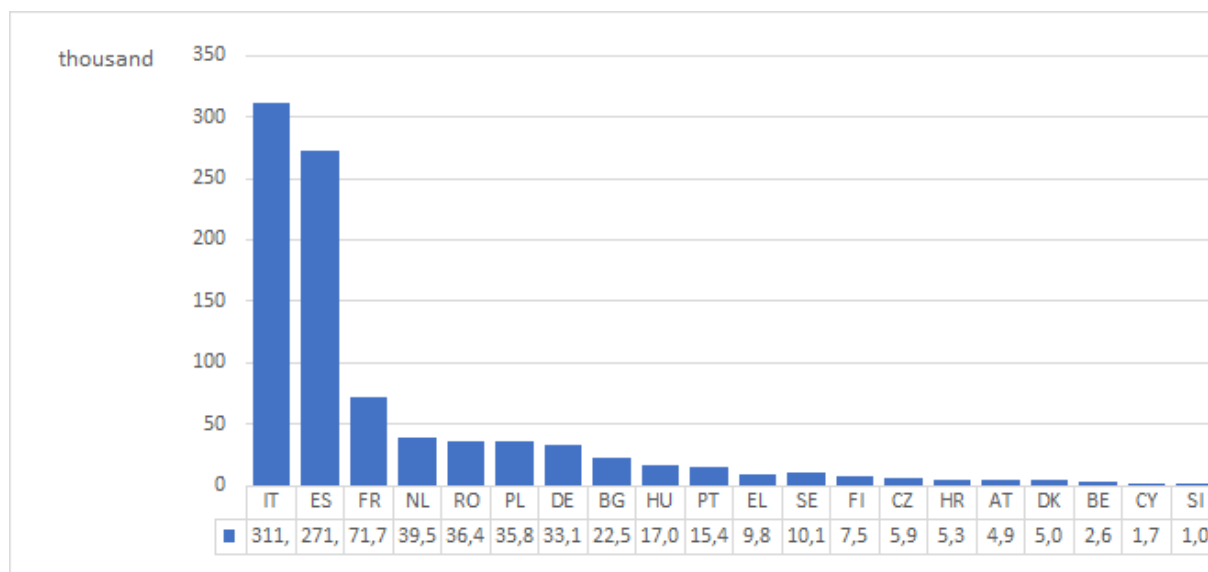
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## Appendix II: Key Data and Information

**Figure II.1 Temporary workers aged 15 years or over in ‘Agriculture, forestry and fishing’, 2021 (latest available year)**



Source: Eurostat, accessed in March 2023.

Notes: data refer to persons aged 15 years or over.

**Table II.1 Number of issued PDs A1 related to economic activity NACE A - agriculture, hunting and fishing\*, 2020**

	sending perspective	receiving perspective
<b>Belgium</b>	145	390
<b>Bulgaria</b>		13
<b>Czechia</b>	132	334
<b>Denmark</b>		376
<b>Germany</b>	3922	4530
<b>Estonia</b>	158	9
<b>Ireland</b>		8
<b>Greece</b>		5
<b>Spain</b>		377
<b>France</b>	20	909
<b>Croatia</b>	70	41
<b>Italy</b>		415
<b>Cyprus</b>	0	0
<b>Latvia</b>	25	10
<b>Lithuania</b>	11	6
<b>Luxembourg</b>	41	36
<b>Hungary</b>	0	61
<b>Malta</b>	8	6
<b>Netherlands</b>	272	3624
<b>Austria</b>	455	941
<b>Poland</b>	6473	180
<b>Portugal</b>	50	11
<b>Romania</b>	179	27
<b>Slovenia</b>	159	21
<b>Slovakia</b>	974	78
<b>Finland</b>	48	230
<b>Sweden</b>	7	104
<b>TOT</b>	<b>13149</b>	<b>12742</b>

Source: extracted from EC-DG EMPL (2022), Table A3 and Table A4, based on administrative data PD A1 Questionnaire 2021.

(\*) This is the definition of NACE A reported in EC-DG EMPL (2022).

Note: The report finds that the number of persons equals 60% the number of issued PDs A1 (EC-DG EMPL, 2022). Thus, both from a sending and receiving perspective less than 8,000 workers were posted in the agriculture sector across the EU27.



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