



Brussels
HOME.C.2.002

Third Meeting of the Labour Migration Platform

05.10.2023 (9:30 – 17:30)

Conference Center Albert Borschette

Rue Froissart 36 – Brussels, Belgium

Minutes

1. Nature of the meeting

The third meeting of the special group “Labour Migration Platform” brought together representatives of Member States’ migration and employment sectors and European Social and Economic Partners, as well as relevant stakeholders active in labour migration. Participants discussed measures and good practices to attract and protect third-country seasonal workers (morning session), on the prevention and fight against illegal employment and trafficking on human trafficking for the purpose of labour exploitation (afternoon session).

2. List of points discussed

A. Welcoming remarks

COM opened the third Labour Migration Platform meeting, highlighting its role in discussing and addressing the links between labour migration and employment policies.

B. Attracting third-country seasonal workers in the EU and ensuring decent working and living conditions

COM explained that seasonal workers make a significant contribution to the EU’s economy but there are difficulties in attracting them to the EU. Third-country seasonal workers is indeed a category of third-country nationals that faces specific challenges and difficult working and living conditions, especially after the COVID-19 pandemic. As the number of irregularly employed workers remains high in the seasonal sectors (e.g.

agriculture, horticulture, forestry, accommodation, and food services), it is essential to work closer together to channel people into legal pathways and avoid exploitation. **COM** recalled in this regard the recent launch of a targeted study on the need and potential avenues to better protect third-country seasonal workers under the Seasonal Workers Directive, which will feed in the first implementation report of the Seasonal Workers Directive.

COM stressed that the Seasonal Workers Directive ⁽¹⁾ is a key tool in this context, as it provides for harmonised rules for the admission and stay, equal treatment, and further rights of third-country seasonal workers, including the right to adequate accommodation, monitoring and inspections, and mechanisms to facilitate complaints and sanctions against employers to prevent and detect labour exploitation and infringements by employers.

Labour shortages in specific sectors and initiatives to attract seasonal third-country workers

COM identified tourism, agriculture and food industries as key sectors for seasonal work, involving a substantial number of EU mobile workers and third-country seasonal workers. Studies conducted this year revealed issues such as high undeclared work in agriculture (35%), contracting complexities in tourism, and widespread temporary agencies presence in food services. Acute shortages were noted in occupations such as cooks, waiters, cleaners, and agricultural machine mechanics at the EU level, exacerbated by precarious conditions post-COVID-19.

To help address the situation, the *Commission Guidelines on seasonal workers in the EU in the context of the COVID-19 outbreak* was adopted in 2020, the introduction of the social conditionality clause in the context of the reform of the Common Agricultural Policy (CAP) took place in 2021, and the European Labour Agency's "Rights for all seasons" campaign launched in 2021 and which seeks to ensure compliance with working and employment conditions legislation.

COM indicated that obtaining reliable estimates of seasonal workers in the EU remains challenging due to distinctive contracts, legal gaps, and undeclared work, resulting in estimations varying from 650,000 to 850,000 intra-EU mobile seasonal workers out of 3 to 4 million in the EU.

Tour de table

Some Member States mentioned relying on third-country seasonal workers to a limited extent (**CZ**, **NL**) while **IE** reported not offering seasonal employment permits at the moment (pilot project expected by 2025). However, these Member States face similar issues as Member States that depend on third-country seasonal workers, particularly concerning the exploitation of seasonal workers. Concerns regarding the legality of activities of some temporary working agencies active in this area were also underlined (**CZ**, **PL**).

Member States also presented various measures to address shortages in seasonal work and the risks of exploitation, including placement agreements with specific third-countries (**DE**, **EL**), labour mobility agreements with specific countries (**PT**), efforts to improve pay, working conditions, and transparency, particularly within specific sectors

⁽¹⁾ Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers.

(BE), quotas for seasonal work in agriculture (EL), multi-year seasonal work permits (EL), leveraging EU funding (IT) or ongoing effort to identify “trusted” employers (FI). Using digital processes for residence and work permits (HR) and EU-level information campaigns (PL) were also mentioned as potential solutions.

Presentation of the preliminary results of the targeted study on the need and potential policy options to better protect third-country seasonal workers under the Seasonal Workers Directive (Milieu Law & Policy Consulting and Ramboll Management Consulting)

COM indicated ongoing work on the Implementation Report on the Seasonal Workers Directive. To better comprehend Member States' situations, COM initiated a targeted study with MILIEU LAW & POLICY CONSULTING.

MILIEU LAW & POLICY CONSULTING presented the preliminary findings of the study, including the challenges encountered in this sector and the disparities in statistics, making it challenging to assess the inflows and populations of third-country seasonal workers.

MILIEU LAW & POLICY CONSULTING also explained the methodology followed, involving surveys, desk research, workshops and follow-up interviews with stakeholders at different levels. The focus spanned all EU Member States, with an emphasis on 17 of them.

Roundtable discussion

Intervening Member States presented the state of third-country seasonal work in their Member State and their approaches to attracting and protecting third-country seasonal workers, emphasising the importance of comprehensive frameworks and cooperation between employers, unions, and national authorities. ES presented a collective recruitment model for around 20,000 workers which promotes circular migration and grants multi-year work and residence permits. IT outlined ongoing projects (SU.PR.EME Italia & A.L.T. Caporalato) supporting seasonal workers, including initiatives to support access to housing which gathers cultural mediators in collaboration with IOM and Labour Inspectorates. ES and IT emphasised the importance of addressing living and housing conditions and providing secure work and residence permits.

Some Member States also mentioned the need to strengthen access to information for employers and workers, including through information phone lines (EE, EL) and pre-departure information within mobility agreements (PT, DE). EE also insisted on the increasing role of digitalisation and the potential of IT tools to analyse and help respond to potential abuses. SE highlighted its efforts to address abuses in the green sector, for instance through interviews with employers directly in the concerned third-country and regular on-site inspections. FR mentioned efforts to digitalise visa and permit procedures and focus on better coordination between services internally.

The **European Federation of Trade Unions in the Food, Agriculture, and Tourism (EFFAT)** advocated for fair and socially responsible labour mobility. EFFAT called for social partner involvement in recruitment processes and highlighted the importance of the cooperation with Public Employment Services (PES) and employers' associations, notably as concerns information to seasonal workers.

The **Platform for International Cooperation on Undocumented Migrants (PICUM)** highlighted the need for secure work and residence permits while IOM noted as successful practices the right to change employer and multi-year entry permits, echoing

the importance of pre-departure orientation and cooperation with social notably as concerns accessibility to grievance mechanisms and multi-lingual support. IOM recalled the UN Global Guidance on bilateral migration agreements and Montréal recommendations for the enforcement of recruitment fees, registration and licensing of recruitment agencies or strengthening of inspection capacities.

COM provided additional insights into recent relevant EU initiatives mentioning the social conditionality clause under the new CAP, conditioning subsidy payments to respect of social legislation. **COM** highlighted upcoming initiatives, including the *Val Duchesse Summit* in 2024 to boost social dialogue, actions focusing on the agricultural sector through the Platform for undeclared work, cooperation with ELA and funding opportunities under ESF+.

C. Fight Against Illegal Employment and Trafficking in Human Beings

Enforcement of the Employers Sanctions Directive: Labour Inspections and Risk Analysis

COM highlighted the challenge of measuring illegal employment, a concealed issue linked to the informal economy. There is clear evidence that the share of illegal employment of irregular migrants is higher where the share of informal activity is high. For irregular migrants, illegal employment exposes them to violation of individual and social rights. Therefore, it is paramount to effectively address illegal employment of irregular migrants as part of a comprehensive approach to migration management.

In this context, the Employers Sanctions Directive ⁽²⁾ establishes EU-wide standards to combat illegal employment, including sanctions against employers, protection measures for migrants' rights, and rules for inspections. In 2021, a *Communication on the application of the Employers Sanctions Directive* was adopted, addressing sanctions, migrants' rights protection, and inspections. The Communication identified several challenges and suggested, among others, increased training for labour inspectorates on irregular workers' rights and identifying exploitation cases.

COM launched a dedicated subgroup for the Employers Sanctions Directive, within the Irregular Migration Expert Group, to promote among others good practices to identify exploitation victims. The **FRA** (European Union Agency for Fundamental Rights) is currently preparing a training manual for labour inspectors on the Directive's protective elements. An IT-reporting tool aiming at enhancing annual reporting on the Directive was also developed recently, with added functionalities being considered for data consolidation.

COM concluded by urging Member States to boost inspections, effectively applying the legal framework and existing tools amid the high-priority issue of irregular migration.

Tour de table

Intervening Member States explained implementing comprehensive strategies to combat illegal employment and exploitation of third-country nationals.

BG indicated relying on risk-based analysis to shape inspection priorities, emphasising input from employer and employee representatives in agriculture, construction, and

⁽²⁾ Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

hospitality. **EL** mentioned the use of risk analysis for focused inspections, targeting sectors with higher mobility and recruitment rates. In **SE**, risk sectors for inspections are identified by the Joint Authority Control, coordinating with the SE Work Environment Agency, particularly in construction, agriculture, forestry, and restoration. **HU** identifies at-risk sectors based on EUROPOL's Evaluation Reports and indicated utilising deterrent measures such as exclusion from subsidies, and specific training on trafficking detection for labour inspectors.

Some Member States, such as **ES**, indicated efforts regarding legal framework improvements, shortening work permit processes, and enhancing detection through improved cooperation between labour inspectorates and law enforcement. **HR** mentioned recently adopted legislation against undeclared work, with emphasis on investigations in construction and HORECA sectors. **IT** underlined a multi-year plan targeting labour exploitation, including training for labour inspectors and specific projects supporting social integration of potential victims. **IE** mentioned the Workplace Relations Commission which focuses on employment rights compliance and human trafficking indicators and indicated legislative efforts ongoing to enhance coordination and information sharing with the Garda National Immigration Bureau. **DE** underscore the creation of dedicated units for financial control of undeclared work with enhanced powers. Prioritising quality over quantity, inspections focus on areas heavily impacted by undeclared work. In **RO**, preventing undeclared work for foreigners is a focus through regular information campaigns for employers and foreign employees. Additionally, annual professional development courses on human trafficking are organised by several Member States (**DE**, **HU**, **RO**). **PT** emphasises preventive action in source countries, with detailed screening of visa procedures.

Some Member States highlighted the significance of cooperation protocols with defined operational roles between migration and labour inspection authorities to ensure compliance with the legal framework (**BE**, **BG**, **FI**, **RO**). **BE** underscore successful internal collaboration targeting risk sectors like restoration or construction, with labour inspectorates empowered to request proof of salary payment from employers of illegally employed third-country workers, assuming a legal connection for the past three months. **PL** emphasised cooperation between the Ministry of Family and Social Policy, control institutions, and border guards, with potential for EU-level initiatives supporting efforts in risk sectors such as construction and hospitality.

PICUM called for empowering third-country nationals through complaints mechanisms and legal procedures, advocating for robust and easy-to-access legislative provisions.

The **European Union Agency for Fundamental Rights (FRA)** mentioned efforts to address illegal employment and exploitation by developing a training manual for labour inspectorates focusing on the protective elements of the Employers Sanctions Directive, Seasonal Workers Directive and the Single Permit Directive (expected to be published in the second half of 2024).

COM emphasised leveraging existing mechanisms within the Employers Sanctions Directive to combat irregular migration effectively. **COM** pledged for the collaboration with Member States for enhanced data collection and stressed again the vital role of labour inspections and trainings in combating illegal employment and labour exploitation. **COM** also stressed that cooperation with EU agencies like FRA and ELA is

essential for promoting best practices and improving detection and protection against labour exploitation.

D. Addressing Trafficking in Human Beings for the Purpose of Labour Exploitation

COM indicated that over 7,000 victims of trafficking in human beings are registered annually in the EU, with labour exploitation comprising nearly 30% of cases in 2021. Despite increased efforts, prosecution and conviction rates remain low. **COM** outlined the EU legal framework, notably the Anti-Trafficking Directive⁽³⁾ which establishes minimum rules concerning trafficking in human beings' offenses, including for the purpose of labour exploitation. The proposed revision of the directive seeks to introduce a mandatory regime of sanctions on legal persons and criminalises the knowing use of exploited services of victims of trafficking in human beings, including for the purpose of labour exploitation.

COM also mentioned the EU Strategy on Combatting Trafficking in Human Beings (2021-2025)⁽⁴⁾ which encompasses measures on prevention, victim protection, prosecutions, which are implemented under the lead of the EU Anti-Trafficking Coordinator. Besides, **COM** indicated that collaboration between law enforcement, labour inspectorates, judicial authorities, and EU agencies is crucial, and awareness campaigns play a vital role to address trafficking in human beings. Additionally, the *EU Common Anti-Trafficking Plan* and a dedicated sub-group created by ELA within the EU Platform tackling undeclared work contributed to reducing the risks of trafficking in human beings for labour exploitation among people fleeing the war in Ukraine.

EUROPOL presented its dynamic operational project, *Analysis Project (AP) Phoenix*, which addresses a growing number of trafficking in human beings cases. *AP Phoenix* focuses on various forms of exploitation, and priority areas include labour exploitation. **EUROPOL** highlighted the underreporting of labour exploitation, particularly in labour-intensive, low-skilled, and low-paid sectors like agriculture, with notable occurrences in countries such as DK, FI, FR, DE, EL, IE, and IT. Labour exploitation victims, facing higher risks of physical abuse, are often targeted by criminal groups involved in migrant smuggling, complicating the recognition of trafficking in human beings indicators. The online dimension further challenges detection efforts. **EUROPOL** emphasised the relevance of Joint Action Days under EMPACT which provides for an integrated approach to protect EU internal security.

Tour de table

IE underscored the importance of a new national legislation⁽⁵⁾ which aims to enhance mechanisms for identifying and combating trafficking, provide provisional assistance measures for victims, and establish a dedicated Operational Committee. **DE** mentioned the challenges of identifying the victims and welcomed EU-level cooperation through EMPACT and Joint Action Days (JADs). **DE** and **HR** also mentioned the significance of closer cooperation and training opportunities provided by the ELA and CEPOL. **CY** echoed the difficulty in proving labour exploitation and shared as best-practice the establishment of a Memorandum of Cooperation between police and labour inspectors

⁽³⁾ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA.

⁽⁴⁾ COM/2021/171 final.

⁽⁵⁾ the Criminal Law Bill on Sexual Offences and Human Trafficking 2023.

for joint inspections. **ES** outlined its national plan against forced labour, including the creation of a new criminal offense related to forced labour, specialised training for labour inspectors, and improved cooperation between inspectorates and other authorities. **BE** indicated using a multi-disciplinary approach, including a stronger cooperation between inspectors and law enforcement, the introduction of an "aggravated economic exploitation" offense, and improved victim protection.

Closing remarks

COM underlined that more needs to be done to enable third-country seasonal workers to make use of their rights and enforce their rights. Exchanges showed how important close cooperation and regular exchanges on this matter are, notably to address the lack of adequate and satisfactory working and living conditions. In this regard, it is essential to bring closer employers and workers to find efficient solutions, notably concerning labour law, health, and safety at work or social protection.

The rise in trafficking for labour exploitation and the significant number of undetected victims is also alarming. Legislation alone is insufficient; effective prevention, training, and awareness measures are crucial. **COM** recalled the pivotal role of labour inspectorates in detecting and investigating trafficking in human beings. Collaboration with law enforcement, judicial authorities, and EU Agencies, particularly Europol and the ELA, is vital for successful cross-border cases, ensuring effective prosecutions and convictions of traffickers.

6. List of participants

Member States	
ALL (27)	
European Social and Economic Partners	
EuroChambers	
SMEunited	
SGI Europe	
BusinessEurope	
ETUC	
COPA-COGECA	
EFFAT	
EU Institutions and Agencies	
ELA	

FRA
EUROPOL
COM
COUNCIL
EP
Others
IOM
PICUM