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Report on mobile seasonal workers and intra-EU labour mobility

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Abbreviations and acronyms

CIDOB	Barcelona Centre for International Affairs
ELA	European Labour Authority
EU-LFS	EU Labour Force Survey
EURES	European Network of Employment Services
OECD	Organisation for Economic Cooperation and Development
NACE	European Classification of Economic Activities
OSH	Occupational safety and health
PES	Public employment service
TCNs	Third-country nationals

Definitions

Accommodation and food service activities (NACE code I)	<p>These refer to economic activities based on the NACE sectoral classification system. 'Accommodation' includes activities in hotels and similar accommodation, holiday and other short-stay accommodation, camping ground, recreational vehicle parks and trailer parks, other accommodation. 'Food services' refers to food and beverage service activities in restaurants and mobile food service activities, event catering activities, other food service activities and beverage serving activities¹. Data from other national sources may refer to slightly different definitions.</p> <p>Together with agriculture, this is one of the two main sectors of seasonal work in the EU.</p>
Agriculture, forestry, and fishing (NACE code A)	<p>These refer to economic activities based on the NACE sectoral classification system. Accordingly, 'agriculture' refers to crop and animal production, hunting and related service activities and includes: growing of non-perennial crops, growing of perennial crops, plant propagation, animal production, mixed farming, support activities to agriculture and post-harvest crop activities, hunting, trapping and related services activities; 'forestry' includes: silviculture and other forestry activities, logging, gathering of wild growing non-wood products, support services to forestry; 'fishing' includes: fishing and aquaculture². Data from other national sources may refer to slightly different definitions. For purposes of improved readability, this sector is often referred to as 'agriculture' only.</p> <p>Together with accommodation and food service activities, this is one of the two main sectors of seasonal work in the EU.</p>
Central and Eastern Europe	<p>This definition – created for the purpose of this report – encompasses Bulgaria (BG), Croatia (HR), the Czech Republic (CZ), Estonia (EE), Hungary (HU), Latvia (LV), Lithuania (LT), Poland (PL), Romania (RO), Slovakia (SK) and Slovenia (SI). This encompasses 11 of the 13 countries which have joined the EU since 2004 (Cyprus and Malta being the remaining two). In this report, this is used interchangeably with 'Eastern Europe'.</p>

¹ Eurostat (2008), 'NACE Rev. 2: Statistical classification of economic activities in the European Community', Publications Office of the EU, Luxembourg, pp. 243-246.

² Ibid, pp. 93-105.

Country of origin	'Country of origin' generally indicates the country in which a person was born, or otherwise that which they lived in before coming to their current country of residence. In the case of non-resident seasonal workers, it indicates the country in which they are ordinarily resident (cf. 'country of residence' below).
Country of residence	The country in which a person habitually resides. According to Regulation (EC) No 862/2007 on Community statistics on migration and international protection ³ , 'usual residence' means 'the place at which a person normally spends the daily period of rest (...) or, by default, the place of legal or registered residence'. In this report, persons are counted as 'residents' of a certain country if they have resided there for at least 12 months or intend to do so. This is in line with common measurement standards, as the EU-LFS and the Eurostat migration statistics only capture persons who stay, or intend to stay, in a country for one year or more ⁴ .
Cross-border worker	EU and EFTA citizens who are employed or self-employed in a country other than their country of residence. 'Cross-border workers' are thus a broad category which includes frontier workers, posted workers and seasonal workers. In this report, seasonal workers are the only group that is discussed.
Eastern Europe	Cf. 'Central and Eastern Europe', above.
Intra-EU seasonal worker	EU citizens who carry out seasonal work in another Member State for a limited period without changing their habitual place of residence. The concept of Intra-EU seasonal workers was the subject of a 2021 ad hoc report on intra-EU labour mobility ⁵ .
Mobile worker	An EU citizen who works in a Member State other than the country of origin, independent of the duration of that work and the country of residence; or a cross-border worker, (see definition above).
Nationals	Any person holding citizenship and living in the reported country of residence.
Public employment service	Public employment services which connect jobseekers with employers in EU countries. On an EU level, national public employment services collaborate within the European network of Public Employment Services ⁶ .
Seasonal worker	Work carried out on a temporary basis in a sector where labour demand varies across the year. For the purposes of this report, this refers chiefly to agriculture and tourism. Seasonal workers may refer both to intra-EU seasonal workers (see definition above) and third-country nationals carrying out seasonal work in the EU based on a work permit, as set out in Directive 2014/36/EU ⁷ . This report will distinguish between EU seasonal workers and third-country seasonal workers. If no such distinction is made, the text is to be taken as referring to the general concept of seasonal work.
Seasonal Workers Directive	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.

³ 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

⁴ See Eurostat (2018), 'EU Labour Force Survey Explanatory Notes (to be applied from 2017Q1 onwards)', Eurostat, Luxembourg.

⁵ Fries-Tersch, et al. (2021), 'Intra-EU Mobility of Seasonal Workers: Trends and Challenges', European Commission (DG EMPL), Brussels.

⁶ This was established through Decision 573/2014/EU of 15 May 2014 on enhanced cooperation between Public Employment Services (PES).

⁷ Directive 2014/36/EU (the Seasonal Workers Directive) of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers.

Temporary Protection Directive

Council 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.

The Temporary Protection Directive was implemented following the conflicts in the former Yugoslavian countries to coordinate future situations involving mass displacement of persons into the European Union. The Directive was triggered for the first time in March 2022 because of the Russian war in Ukraine.

1. Introduction

Key Findings

EU seasonal workers over time

- Seasonal work in the EU has a long history that can be traced back to post-war guest worker programs. The main countries have changed over time, but since the 1990s, Romania and Poland have been the most significant countries of origin of EU seasonal workers. Before their accession to the EU, bilateral seasonal work agreements were put in place to facilitate this form of mobility.
- The visibility of EU seasonal workers in statistics and literature has decreased since the eastward expansion of the EU. By the time citizens of the new Member States gained freedom of movement, residence or work permits were no longer needed. This meant that registration requirements for these workers practically disappeared and hence there are no accurate statistics on the number of EU seasonal workers thereafter.
- While estimates seasonal workers differ widely, reasoned estimates suggest a range from around 650 000 – 850 000 intra-EU mobile seasonal workers in agriculture, food services and accomodation, with significant variation across Member States. Thereby the share of EU seasonal workers relative to third-country nationals appears relatively steady over time in many cases.

Key challenges faced by EU seasonal workers

- EU seasonal workers face many of the same challenges as seasonal workers from third countries in terms of lacking knowledge or information on their rights, precarious work situations, and poor working conditions. Intermediaries, such as temporary staffing agencies add another potentially problematic layer to the situation of seasonal workers for example by threatening to withdraw employment offers in case of non-payment.
- Considering the legal protection provided by the seasonal workers directive, third country nationals recruited under these conditions are formally entitled to adequate accomodation, whereas for all other seasonal workers, the provision of accomodation is not regulated at EU level. This, together with more stringent registration upon entry, can lead to instances where third-country seasonal workers are better protected; however, there are other examples of third-country seasonal workers experiencing a more difficult situation, and being unable to leave exploitative situations.
- A recurring issue are the challenges to ensure sufficient enforcement and resources for e.g. labour inspections and trade unions to assess the working situation of seasonal workers and put in place remedial measures or sanctions.

The impact of the war in Ukraine on EU seasonal work

- Ukraine is the largest country of origin for seasonal workers from third countries, based on work permit data under the Seasonal Work Directive.

Since the implementation of the Directive, a large majority of Ukrainian seasonal workers are employed in agriculture in Poland.

- Russia's war of aggression against Ukraine has led to increased refugee streams, mainly of women and children. Those with a more traditional profile of seasonal workers – i.e. men of working age – have generally remained in Ukraine.
- While it is too early to say definitively, there are strong indications that seasonal work flows from Ukraine to the EU – and Poland in particular – will remain disrupted, and that seasonal workers will have to be found elsewhere.

Knowledge about mobile seasonal work

- While the risks of seasonal work are rather clear and well reported, reliable figures on seasonal work are not available. The average duration of seasonal work contracts is also for most countries not known, thus allowing for massive over- as well as under-estimation of the related problems.

Mobile seasonal workers play an important role in the European labour market by increasing the supply of labour in times of the year when there is more work than the domestic market can supply workers for. This allows sectors that are marked by strong seasonality – notably agriculture, hospitality and tourism – to bolster their staff with workers from another country if they are not able to allocate all their work using only domestic applicants.

The COVID-19 pandemic entailed severe interruptions of labour mobility in the European Union, including for seasonal workers. Additionally, the pandemic highlighted the precarious position that many seasonal workers find themselves in because of e.g. lack of knowledge of their rights in the country of work, poor working conditions or sub-standard, crowded accommodation. Since then, several initiatives have been launched to improve the situation of seasonal workers or otherwise highlight their position:

- In 2020, the Commission published guidelines on how Member States were to act in relation to seasonal workers in the context of the pandemic⁸. The guidelines emphasised the rights of seasonal workers in terms of fair and equal treatment, the importance of ensuring adequate occupational safety and health (OSH), and the importance of decent living conditions (including in the provision of accommodation).
- A 2021 study commissioned by DG EMPL of the European Commission investigated the conditions of seasonal workers in the EU and how these were aggravated by the pandemic⁹. This report is a follow-up to the study.
- In 2021, the European Labour Authority (ELA) launched the 'Rights for All Seasons' campaign¹⁰ to raise awareness of seasonal workers' rights, obligations of employers, and the availability of counselling services. The campaign was

⁸ Communication C(2020) 4813 on Guidelines on seasonal workers in the EU in the context of the COVID-19 outbreak. This communication complements the broader Communication C(2020) 2051 on Guidelines concerning the exercise of the free movement of workers during the COVID-19 outbreak.

⁹ Fries-Tersch, et al. (2021).

¹⁰ <https://www.ela.europa.eu/en/campaigns/rights-for-all-seasons>

carried out in collaboration with the European Commission, the European Platform tackling undeclared work, the EURES network, social partners and Member States.

This report expands on previous work by focusing on areas of seasonal work that have received comparatively little attention. First, the **focus is on intra-EU seasonal workers**. As they enjoy freedom of movement in the EU, and as the Seasonal Workers Directive¹¹ directly concerns third-country nationals who do not have this freedom, this group has received comparatively little attention. Second, the report adopts **a longer time frame** to analyse the situation of intra-EU seasonal workers beyond the confines of the COVID-19 pandemic. While the pandemic highlighted the working conditions and precarity of seasonal workers, it was not the beginning of these issues: seasonal workers have been an important part of the EU labour market in a longer time span. To the extent possible, the report therefore takes a longer time perspective stretching back to the 2000s and the time of Eastern enlargement of the EU.

Overall, the focus of the study is **how intra-EU seasonal workers' conditions have changed over time**. Key questions therefore include how the position of seasonal workers has changed in terms of rights and conditions, both in the short term since COVID-19 and in a longer, ten-year perspective; whether the number of seasonal workers (and hence their importance for the economy) has increased; the main risks and challenges faced by seasonal workers, and what ongoing work is addressing these issues. A final section considers how and whether the war in Ukraine has affected seasonal work in the EU.

The report is structured as follows. **Section 2** discusses the methodology of the report, first by establishing a definition of seasonal workers and then by briefly laying out the research approach. Focus will be on desk research and interviews with experts and stakeholders. **Section 3** discusses the evolution of EU seasonal workers' situation since the 1990s, considering both developments on an EU level and adding additional information from six focus countries. **Section 4** then develops briefly on the number of EU seasonal workers over time (informed mainly by qualitative estimates), challenges faced by seasonal workers in terms of e.g. working and living conditions, and finally the effect of Russia's war of aggression against Ukraine on seasonal work in the EU. **Section 5** summarises and concludes the results of the study.

¹¹ Directive 2014/36/EU (the Seasonal Workers Directive),

2. Methodology

This section provides a definition of how seasonal workers are understood throughout the report and how research will be conducted. More specifically, it also identifies the main case study countries that will be studied to draw broader, EU-level conclusions, and discusses the stakeholders that will be targeted as part of the research.

2.1. Definition of seasonal workers

In this report, mobile seasonal workers are defined in the same manner as in the 2021 report on intra-EU seasonal work¹². This means that seasonal workers are defined as those who:

- Work on a **(1) seasonal basis on fixed-term contracts**,
- In a **(2) sector characterised by seasonality** (separately identified as mainly encompassing agriculture and accommodation and food services), and do so
- In a **(3) Member State other than that of their citizenship**.
- Finally, this report and the 2021 predecessor have seasonal workers with **(4) EU nationality** as their main focus – however, seasonal workers are often taken to refer to third-country nationals. Throughout the report, the terms ‘EU seasonal workers’ and ‘seasonal workers from third countries’ are therefore used to distinguish the two groups. Where ‘seasonal workers’ are discussed without further specification (e.g. in relation to work conditions), the statement can be taken as being applicable to both groups.

This operational division follows that used in legislation, communications and academic texts elsewhere, and with the exception of the nationality provision, the definition is essentially that of the Seasonal Workers Directive. The different aspects are briefly developed upon below.

Working on a **seasonal basis on fixed-term contracts** separates seasonal workers from regular workers, mobile or not. The exact duration of such contracts may vary, and for third-country nationals there are extensive provisions in the Seasonal Workers Directive and elsewhere laying down the provisions on visa applications and allowed time of stay. EU seasonal workers are not subject to these time requirements, but are also understood to spend time in the country of work for a limited period of time as the seasons require.

The **sectors characterised by seasonality** are generally identified as agriculture and hospitality and tourism¹³ (in the remainder of this report mentioned as ‘accommodation and food services’¹⁴). Agriculture is marked by seasonality as activities such as planting, harvesting, etc. require more labour than the year on average. For accommodation and food services and the tourism industry more broadly, seasonality follows the time of the year where e.g. weather conditions or cultural activities make the destination more

¹² Fries-Tersch, et al. (2021).

¹³ E.g. Directive 2014/36/EU (the Seasonal Workers Directive), Stipulation 13.

¹⁴ This terminology is based on the Nomenclature of Economic Activities (NACE) which identifies different economic sectors for the purposes of classification and data collection. For more information, see Eurostat (2008).

appealing for tourists, requiring more labour. These sectoral definitions are purposefully broad as Member States themselves define what constitutes a sector or activity with seasonal variation. This has led some academics to criticise the notion of ‘seasonality’, noting that there for instance is an extensive part of European agriculture which works to provide previously seasonal goods in the ‘off-season’¹⁵. This can vary significantly between countries, and is therefore not explored in-depth in this report.

The focus of this report is on *mobile* seasonal workers; i.e. workers who move for the purpose of performing seasonal work temporarily from one Member State to another. This generally implies that the place of residence in the originating Member State is maintained.

Finally, the **nationality** aspect merits a brief further discussion as the focus on EU seasonal workers goes beyond. The Seasonal Workers Directive states that a seasonal worker is ‘a third-country national who retains his or her principal place of residence in a third country and stays legally and temporarily in the territory of a Member State to carry out an activity dependent on the passing of the seasons, under one or more fixed-term work contracts concluded directly between that third-country national and the employer established in that Member State’¹⁶. Earlier legislation, such as Regulation 1408/71, also explicitly identify seasonal workers as third-country nationals¹⁷, as does much academic and grey literature since the 2010s¹⁸.

However, some recent publications have expanded the scope of seasonal workers to also acknowledge the significant presence of EU nationals in the labour force. This is for instance the case with the European Labour Authority’s (ELA) ‘Rights for all seasons’ campaign in 2021 which sought to increase awareness of EU seasonal workers’ rights and entitlements¹⁹. Various publications on seasonal work from the European Commission and the European Parliament during the COVID-19 pandemic also expand the scope to include EU nationals²⁰.

2.2. Research process

The research process had two main steps: one focusing on the EU level and another which focuses in on four significant countries of destination for seasonal workers (Germany, France, Italy, and Spain). Interviews were also carried out for Poland, due to its significance as a country of destination for Ukrainian seasonal workers (discussed further in Section 4.4). On both EU and national level, desk research was carried out in the form of a literature review. Sources included grey literature from research institutions, EU publications, and academic research. While a long list of stakeholders was contacted, interviews with a more limited number were then carried out to complement the findings and fill in any emergent gaps in knowledge²¹.

¹⁵ Medland (2016), ‘Misconceiving “seasons” in global food systems: The case of the EU Seasonal Workers Directive’, *European Law Journal*, 23.

¹⁶ Directive 2014/36/EU (the Seasonal Workers Directive), Art. 3(b).

¹⁷ Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community. However, at the time of that Regulation, most current Member States were still third countries as they had not yet joined the EU.

¹⁸ This follows the Fifth and Sixth Enlargements of the EU in 2004 and 2007, where most Central and Eastern European Member States were added. From the early 2010s, nationals of these Member States no longer required work permits in the rest of the EU, at which point it was no longer possible to separately identify them in official statistics on seasonal work. This is discussed further in Sections 3 and **Error! Reference source not found.**

¹⁹ European Labour Authority (ELA) (2021), ‘Action Plan on Seasonal Workers: Summary’, ELA, Bratislava, pp. 1-5.

²⁰ European Parliament resolution 2020/2664 of 19 June 2020 on European protection of cross-border and seasonal workers in the context of the COVID-19 crisis; Communication C(2020) 4813, ; Council Conclusions (11726/2/20) of 9 October 2020 on Improving the working and living conditions of seasonal and other mobile workers.

²¹ The interview guide used for this stage of the research can be found in Annex C.

Interviews focused on stakeholders either active in seasonal work sectors (i.e. trade unions and employer organisations in agriculture and accommodation and food services), researchers and NGOs active in the area, and labour inspectors. The interviews that were carried out in the process are summarised in Table 1.

Table 1: Interviews carried out with stakeholders in sectors or activities linked to seasonal work

Geographical unit	Stakeholder and type
EU level	Senior representatives of the European Federation of Food, Agriculture and Tourism Trade Unions (EFFAT) . National representatives of COPA-COGECA , the agricultural employers' and industry organization, for France, Italy, and Spain.
France	Researcher at French National Centre for Scientific Research (CNRS) . Representative of trade union Force Ouvrière and sectoral division Fédération Agriculture (FGTA) .
Germany	Representative of the German Farmers' Association . Researcher from Council of Experts on Integration and Migration (SVR) . Professor from Universität Göttingen .
Italy	Representative of NGO Caritas in Foggia , a significant seasonal work destination. Representatives of trade unions FLAI-CIGL, UILTuCS, and FIPE . Professor at University of Bergamo .
Poland	Labour inspector from Polish State Labour Inspection . Representative of All-Poland Alliance of Trade Unions (OPZZ) . Representative from Ministry of Family, Labour and Social Policy (written) .
Spain	Labour inspector from the National Anti-Fraud Office of the State Agency for Labour and Social Security Inspection . Researcher at Barcelona Centre for International Affairs (CIDOB) . Researcher at the Spanish National Research Council (CSIC) .

On the EU-level, the focus of research was to update and complement the findings of the previous report on seasonal workers and intra-EU labour mobility. Key questions included how the status of seasonal workers has developed over time and how EU policy has developed to better address their situation and the challenges they face. The report

also provides tentative estimates of the number of seasonal workers in the EU over time, while recognising the lack of comparable and complete data in this matter²².

The research on national level complements the EU-level findings by adding further information from significant countries of seasonal work. Through desk research and interviews with researchers and stakeholders, additional qualitative evidence from these countries helps illustrate how the situation of seasonal workers has changed over time.

²² The lack of EU – or generally even country-level data – on intra-EU seasonal workers has its roots in freedom of movement, which means that EU seasonal workers do not generally need to register in the country where they carry out seasonal work. As they are only there temporarily, they are also generally not captured by recurring surveys such as the EU-LFS, which rely on annual sampling. The data limitations are extensively discussed in Fries-Tersch, et al. (2021). This is discussed further in Section 4. **Error! Reference source not found.**

3. Seasonal workers in the EU over time

This section discusses the background of EU seasonal workers since the 1990s. A broad categorisation is made into four eras beginning with, in turn (1) the opening of borders between East and West Europe following the fall of the Berlin Wall; (2) the Eastward expansion of the EU in the 2000s; (3) the increased integration of EU labour markets following the implementation of the Lisbon Treaty in 2009; and finally (4) developments during and after the COVID-19 pandemic. Throughout, the chapter focuses on seasonal workers who are from countries that are currently part of the European Union, even if they were third countries at the time (as were the Central and Eastern European countries in the 1990s).

3.1. Opening of Central and Eastern Europe in the 1990s

Seasonal workers have been part of the European labour markets for a long time. In the decades following the Second World War, countries including France and Germany made extensive use of 'guest worker' programmes to fill the need for seasonal labour²³. This continued in various forms in the second half of the 20th century, and with the easing of East-West border restrictions in the 1990s after the fall of the Berlin Wall, also started incorporating seasonal workers from Central and Eastern European countries.

Between 1993 and 1995 labour agreements were signed between the then-European Community and ten Central and Eastern European countries to ensure non-discrimination, establish terms of social security coverage, and terms of employment and allowed economic activity²⁴.

The possibly most notable example is Germany, where a seasonal worker programme was set up in 1991, and in force until the late 2000s, to allow workers from Central and Eastern European countries to work for up to three months in agriculture, building or catering²⁵. Germany is not the only country to have a history of seasonal work from Eastern Europe in the 1990s and 2000s, however, with a significant number also headed for the Mediterranean countries.

3.2. Eastward expansion of the EU in the 2000s

In the 2000s, Member States expected to draw on seasonal workers from the countries joining the EU in 2004, especially those in the east (Czechia, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia) and 2007 (Bulgaria and Romania). In many instances this had already been the case in the 1990s (with for instance a substantial amount of Polish seasonal workers in Germany) and EU integration was expected to further formalise the relationship²⁶.

However, even with the accession of the Central and Eastern European countries that made up a significant portion of seasonal workers in Europe, concerns about shrinking labour forces and demographic ageing led to a perceived need of attracting additional

²³ Castles (1986), 'The Guest-Worker in Western Europe - An Obituary', *International Migration Review*, 20(4).

²⁴ Garnier (2001), 'Foreign workers from Central and Eastern European countries in some OECD European countries: Status and social protection' in *Migration Policies and EU Enlargement: The Case of Central and Eastern Europe*, Paris, OECD, p. 134.

²⁵ Castles (2006), 'Guestworkers in Europe: A Resurrection?', *International Migration Review*, 40(4), p. 750.

²⁶ Ibid.

seasonal workers from third countries. On an EU-level, this discussion gained traction with the 2004 Green Paper on 'An EU approach to managing economic migration'²⁷, an attempt to agree on a common EU approach to potentially sensitive areas of immigration that previously had been difficult to reach agreement on²⁸.

The recommendations of the Green Paper led to the 2005 Policy Plan on Legal Migration²⁹, which in turn proposed a directive on the conditions of and residence of seasonal workers from third countries to ensure that their rights were respected. The Policy Plan stated that third-country seasonal workers generally were not expected to come into conflict with EU workers, due to difficulties in recruiting domestically for seasonal sectors³⁰.

3.3. Treaty of Lisbon and the Seasonal Workers Directive

In the early 2010s nationals from Central and Eastern European Member States progressively gained the right to travel and work in other Member States without prior registration or visas. It is at this point that it is no longer possible to identify EU seasonal workers in statistics. It is also where the discussion of seasonal work in the EU starts focusing more on third-country nationals, in part due to the implementation of the Seasonal Workers Directive.

The Seasonal Workers Directive, proposed to harmonise Member States' legislation on unskilled migration, with three 'global objectives' upon its implementation³¹:

- To respond to seasonal fluctuations in the economy and offset labour shortages faced in specific industries, economic sectors and regions;
- To contribute to preventing illegal migration as well as exploitation and poor working conditions for seasonal workers from third countries; and
- To contribute to the development of third countries.

3.4. COVID-19 and beyond in the 2020s

As discussed in the 2021 report on intra-EU seasonal work, the COVID-19 pandemic severely hindered flows of seasonal work in the EU³². Closed borders and restrictions cut off many ordinary labour flows, and in accommodation and food services commerce itself was severely restricted as a result of lockdowns. As many border closures also applied along the EU's internal borders this affected seasonal workers regardless of their nationality.

Some measures were put in place to ensure an adequate supply of seasonal workers, mainly in response to concerns from the agricultural sector. EU actions to facilitate this included guidelines from the Commission which established seasonal workers in

²⁷ Communication COM/2004/0811 on the Green Paper on an EU approach to managing economic migration.

²⁸ Tóttós (2014), 'The Past, Present and the Future of the Seasonal Workers Directive', *Pécs Journal of International and European Law*, 2014/I.

²⁹ Communication COM/2005/0669 on the Policy Plan on Legal Migration.

³⁰ *Ibid.*, Art. 2.2.2.

³¹ Medland (2016), p. 161; Staff Working Document SEC/2010/0887 accompanying the Proposal for a Directive on the conditions of entry and residence of third-country nationals for the purpose of seasonal employment; Zoeteweij (2018),

³² Fries-Tersch, et al. (2021).

agriculture as 'critical workers' whose passage should be facilitated as far as possible³³, and calls from the European Parliament and the European Council to protect seasonal workers and ensure adequate conditions³⁴.

With the challenges faced by many seasonal workers highlighted so clearly during the pandemic, there have been several EU-level publications and initiatives aiming at improving conditions. One high-profile example, targeted specifically at seasonal workers, is the ELA campaign 'Rights for all seasons'. The campaign had three core objectives, as set out in its accompanying Action Plan³⁵:

- Encourage greater participation and involvement from all Member States and social partners, especially in disseminating information and effectively enforcing current guidelines and safeguards;
- Enhancing EU-level cooperation and coordination between Member State administrations and social partners in carrying out joint activities in different fields; and
- Maximising the impact of information and enforcement activities through coordination and synchronisation of ongoing efforts.

These goals are also supported through the European Pillar of Social Rights Action Plan, adopted in 2021, which encourages public authorities and social partners to cooperate to 'protect the rights of mobile workers, including seasonal workers'³⁶. A review of poor working conditions and undeclared work during the COVID-19 pandemic has called for additional work by ELA to clarify the relationship between OSH administrations and inspectorates, both in Member States and on the European level, to enhance protection regimes³⁷.

The conditions of seasonal workers in agriculture were also recognised in the development of new Strategic Plans for the EU Common Agricultural Policy (CAP): following several amendments adopted by the European Parliament as part of the negotiations for the 2023-2027 CAP, new provisions on social conditions were added. The proposed system of social conditionality aims to protect the rights of workers in the agricultural sector, including intra-EU seasonal workers, by making European farmers' income support and rural development funding dependant on their ability to provide key social and employment rights information to their workers in order to ensure their safe working conditions, e.g. by providing agreed working conditions in writing³⁸.

³³ Communication C(2020) 4813, This advice mainly concerned agricultural seasonal workers, as the accommodation and food services sector saw heavily depressed labour demand during the pandemic as a result of lockdowns and restrictions on daily activities.

³⁴ European Parliament resolution 2020/2664, ; Council Conclusions (11726/2/20), .

³⁵ European Labour Authority (ELA) (2021).

³⁶ European Commission (2021), 'European Pillar of Social Rights Action Plan', European Commission, Brussels.

³⁷ De Wispelaere and Gillis (2021), 'COVID-19 and the fight against undeclared work: Lessons learned and to be learned', *HIVA Discussion Paper*, HIVA - KU Leuven, Leuven.

³⁸ European Commission (2022a), 'Factsheet: A Greener and Fairer CAP', European Commission (DG AGRI), Brussels.

4. The evolution of EU seasonal work

This section develops on themes relating to EU seasonal workers in three sections. It begins with a brief discussion on the extent to which the level and composition of the seasonal labour force can be estimated, and to what extent national data are available. In doing so, difficulties in measurement and estimation are also recounted. Second, some key challenges faced by EU seasonal workers are discussed: lack of information or knowledge regarding their rights, occupational health and safety (OSH), and an overall precarious working situation. Finally, consequences of the war in Ukraine on seasonal work in the EU is discussed.

4.1. Estimating the number of seasonal workers in the EU

While qualitative studies indicate that most harvest work on farms in Western Europe is carried out by seasonal workers³⁹ there is no regular monitoring of EU seasonal workers' movements as they (1) benefit from freedom of movement in their capacity as EU citizens and (2) often remain in the country of work only for a limited time, and may move within the country's territory in that period.

To get around this issue, the 2021 report on intra-EU seasonal workers combined data sources from employment statistics, social security registries and sectoral associations to estimate the number of seasonal workers, arriving at an estimate of 650 000 – 850 000 intra-EU mobile seasonal workers in the two key sectors (agriculture and accommodation and food services)⁴⁰.

This report does not replicate or repeat this effort. Instead, a discussion follows for four significant countries of destination – France, Germany, Italy and Spain – and the extent to which stakeholders and researchers are able to provide estimates on the number or share of EU seasonal workers.

France

In France, the Ministry of Labour publishes annual statistics on the number of seasonal workers in various sectors. However, there is no way of disaggregating this data according to nationality or regular country of residence of the workers. The most recent data reports 1.07 million individual seasonal work contracts in force between April 2018 and March 2019⁴¹.

However, this data does not refer to individual seasonal workers, but *employment opportunities*. As seasonal work is limited to shorter periods of time, the actual number of individual seasonal workers is therefore lower, with many taking on more than one contract each season. Table 2 shows, for each seasonal sector, the average number of

³⁹ Martin (2016), 'Migrant Workers in Commercial Agriculture', International Labour Office (ILO), Geneva; Augère-Granier (2021), 'Migrant seasonal workers in the European agricultural sector', *EPRS Briefing PE 689.347*, European Parliamentary Research Service (EPRS), Brussels.

⁴⁰ A series of assumptions underpin these estimates. The estimated lower bound assumes that most seasonal workers are in the eight key destination Member States (Austria, Belgium, Czechia, France, Germany, Italy, the Netherlands and Spain). The upper bound assumes that a substantive additional number of seasonal workers are found outside of these countries. For more information, cf. Fries-Tersch, et al. (2021).

⁴¹ Dares Travail (2019), 'Quelle place occupe l'emploi saisonnier en France ?', *Dares Analyses*, 57, Ministry of Labour of France, Paris. The publication notes that the number of agricultural seasonal workers may be under-estimated due to the presence of a simplified procedure in agriculture for declaring employment contracts (Tesa); this is a separate dataset than the one these estimates are based on.

days per contract and the average number of contracts per worker and season. The table also presents a tentative estimate of the number of individuals holding seasonal contracts in each sector in 2018-2019; this is done by dividing the number of contracts with the average number of contracts per worker and season.

Table 2: Average number of days on seasonal contract and average number of seasonal contracts per seasonal worker by industry in France, 2018-2019

Economic sector	Avg. days per seasonal work contract	Avg. contracts per worker and season	Number of contracts 2018-2019	Estimated number of individuals
Agriculture excl. grape harvest	73	1.6	270 000	174 000
Grape harvest	44	1.5		
Accommodation	84	1.5	180 000	120 000
Catering and restaurants	80	1.4	200 000	143 000
Entertainment and leisure	61	2.1	140 000	67 000
Other sectors	57	1.8	280 000	156 000

Note: The data does not allow for a disaggregation of nationalities and therefore refers to *all* seasonal workers, including French nationals and third-country nationals. The estimated number of individuals is arrived at by dividing the number of individual contracts by the average number of contracts per worker. Due to rounding, sector estimates are not equal to the total estimate.

Source: Dares Travail (2019).

As noted, aggregates by nationality are not available for this data. In interviews with stakeholders, it has also not been possible to arrive at an estimate of what share of seasonal workers are foreign, or European; however, the main EU countries of origin (in addition to the third countries of Morocco and Tunisia) are identified as Bulgaria, Spain, Poland, Portugal and Romania⁴².

A few numerical estimates have been identified through ad hoc sources, e.g. with Spanish trade unions estimating that circa 15 000 Spanish workers annually travel to France for the grape harvest⁴³. It is estimated that many of these Spanish workers are originally from Latin America, but residing permanently in Spain for purposes of work⁴⁴. Older data, from when work permits were still required, indicate circa 8 000 Polish seasonal workers in agriculture in 2005⁴⁵. However, it is not certain that these data sources are comparable, and whether they still paint an accurate picture of seasonal workers in France in the 2020s.

⁴² Estimates provided in interview with Copa-Cogeca, the European agricultural trade union.

⁴³ Union General de Trabajadoras y Trabajadores (UGT) (2022), *Cerca de 15.000 trabajadores y trabajadoras se desplazarán este año a la vendimia francesa* [Online]. Madrid, UGT. Available online: <https://www.ugt.es/cerca-de-15000-trabajadores-y-trabajadoras-se-desplazaran-este-ano-la-vendimia-francesa> [Accessed 13 January 2023].

⁴⁴ Interview with inspector from Spanish Labour Inspection Office.

⁴⁵ Plewa (2010), 'The Politics of Seasonal Foreign Worker Admissions to France, 1974-2010', *EUI Working Papers*, 2010/63, European University Institute, Florence.

Germany

Most seasonal workers in Germany arrive from other EU countries, with Poland being the main country of origin⁴⁶. The significance of this exchange can be seen already in the 1990s, when new bilateral seasonal worker schemes were set up after the fall of the Iron Curtain. The last available data on seasonal worker permits in Germany for these schemes is for the reference year 2010-2011, after which the data ceases to exist: for this year there were 285 995 permits issued to workers from EU Member States, 60 % of which were for Poland⁴⁷.

While the end of seasonal work authorisations for Eastern European workers presents the same difficulties as for other countries, administrative data can fill some of the gaps. Using data on seasonal workers' employment history from the Federal Employment Agency (Bundesagentur für Arbeit), one study concluded that the number of seasonal workers had increased steadily in 2012-2015; it further estimated that there was an annual average of 146 000 seasonal workers in the hotel and restaurant industry and 44 000 in agriculture in 2016. This represents an average of 8.4 % and 12.4 % of the total work force, respectively⁴⁸. However, these are annual averages, and the proportion is higher in peak months: ca. 16 % in September for hotel and restaurants and 26 % in May-June for agriculture.

Table 3: Nationality of seasonal workers in Germany (%), average of 2012-2016

Country of origin	Agriculture		Hotels and restaurants	
	Non-seasonal workers	Seasonal workers	Non-seasonal workers	Seasonal workers
Germany	85.4	29.9	77.0	76.3
EU-15 and EFTA	0.9	0.5	5.6	4.9
EU-12	11.9	67.0	4.6	5.7
Other Eastern European countries	0.6	1.6	3.2	3.3
Rest of the world	1.2	1.1	9.6	9.8

Note: EU-15 includes the Member States of the European Union prior to 2004. EU-12 includes the Member States that joined from 2004 onward (Bulgaria, Cyprus, Czechia, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, and Slovenia). The timing of the data means that Croatia is included in the category 'Other Eastern European countries'.

Source: Späth et al. (2018), pp. 14-15.

Demographically, seasonal workers are more likely to be male, and are generally younger than non-seasonal workers. In terms of origin, about two-thirds of seasonal workers in agriculture in 2012-2016 are from Eastern European Member States, while in

⁴⁶ Open Society Foundation (2020), 'Are agri-food workers only exploited in southern Europe? Case studies on migrant labour in Germany, the Netherlands, and Sweden', Open Society European Policy Institute (OSEPI), Brussels; Castles (2006), p. 750; OECD (2004), 'Trends in International Migration 2003', OECD, Paris.

⁴⁷ Bundesamt für Migration und Flüchtlinge (2009), 'Migrationsbericht 2010 des Bundesamtes für Migration und Flüchtlinge im Auftrag der Bundesregierung', Bundesamt für Migration und Flüchtlinge, Berlin. Data on permits for 1993-2010 by country of origin is shown in Table 4 in Annex B.

⁴⁸ Späth, et al. (2018), 'Operationalizing seasonal work in Germany', *IAW Diskussionspapiere*, No. 131, Institut für Angewandte Wirtschaftsforschung (IAW), University of Tübingen, pp. 9-13.

hotel and restaurants three-quarters are German⁴⁹. Overall, differences between seasonal workers and the rest of the workforce are more significant in agriculture than in hotels and tourism. The exact proportions are shown in Table 3. Based on these estimates, there were an average of 29 700 EU seasonal workers in agriculture in 2012-2016, and circa 15 000 in the hotel and restaurant sector.

However, these estimates build on statistical assumptions and processing, and have not been regularly replicated; the last identified estimate is therefore for 2016. A comparison can be made with earlier research findings, however: for instance, a much higher proportion of seasonal workers were employed in agriculture in 2000, while in 2016 the absolute number of seasonal workers in hotels and tourism was higher⁵⁰. Additionally, estimates from the German statistical agency Destatis further indicates that the proportion of seasonal workers in agriculture has remained steady since 2016 at circa one-third (although this data does not disaggregate by nationality)⁵¹.

Italy

Italian agriculture – along with that of several other Mediterranean countries – has a well-documented need for seasonal, foreign labour, who in many instances have replaced local workers in low-paid and manual jobs⁵². While there are no specific estimates on the number of seasonal workers, public data from the National Social Security Institute is available on the number of fixed-term contracts in agriculture. In 2020-2021, it is estimated that there were a total of 287 000 foreign workers on such contracts, 104 000 of whom were from EU countries (the remainder being third-country nationals). The dominant country is Romania (73 000), followed by Bulgaria (8 000) and Poland (7 000)⁵³. Overall, involvement of EU seasonal workers is perceived to have decreased since 2014⁵⁴.

For tourism an estimated 246 500 workers arrived from abroad in 2021, making up circa one-quarter of the labour force⁵⁵; this share has remained relatively steady since 2021⁵⁶. No disaggregation by nationality is possible, but with a decreasing share of Italian workers in tourism-related jobs due to perceived poor pay and working conditions, the number of EU workers in the sector is expected to increase⁵⁷.

Spain

As elsewhere, Spain lacks detailed data on EU seasonal workers. The most reliable data is available through the national statistical institute, which allows for a disaggregation of the number of foreign workers by sector, nationality aggregate and quarter. This indicates that there was an annual average of 56 000 EU workers in agriculture in 2022, down from just over 70 000 in 2018-2019 and constituting ca. 6-7 % of the total

⁴⁹ Ibid, pp. 12-15.

⁵⁰ D ietz (2002), 'East west migration patterns in an enlarging Europe: The German case', *The Global Review of Ethnopolitics*, 2(1), p. 37.

⁵¹ Destatis (2021), 'Fast ein Drittel aller Arbeitskräfte in der Landwirtschaft waren 2019/2020 Saisonarbeitskräfte', *Pressemitteilung*, N 028.

⁵² Nori and Farinella (2020), *Migration, Agriculture and Rural Development*, Cham, Springer Open, p. 42; Mostaccio (2021), 'Le conseguenze della pandemia sui lavoratori immigrati in agricoltura, tra decisioni politiche e interessi economici', *Cambio: Open Lab on Covid-19*, Firenze University Press, Florence.

⁵³ INPS (2021), *Cittadini stranieri per condizione prevalente* [Online]. Rome, National Social Security Institute of Italy (INPS). Available online: <https://www.inps.it/osservatoristatistici/1059/o/464.in>

⁵⁴ Ibid.; Caruso (2022), 'Ghetti rurali e profughizzazione del lavoro bracciantile nell'orto d'Italia', *Mondi Migranti*, 2.

⁵⁵ Federalberghi (2022), 'Osservatorio sul Mercato del Lavoro nel Turismo', XIV Rapporto, Federalberghi and FIPE (Federazione Italiana Pubblici Esercizi), Rome.

⁵⁶ Interview with trade union FLAI-CGIL, active in agriculture and food processing.

⁵⁷ Interview with FIPE, employers' organisation in accommodation and food services.

workforce⁵⁸. However, an important caveat is that there is no way to disaggregate this data by individual nationality or seasonality, or by nationality aggregate and province (which would allow for a targeting of the main provinces for seasonal work).

From 2002, Spain has used a quota system for recruiting agricultural seasonal workers ('GECCO'). In 2007, at its peak, the GECCO system admitted 40 000 agricultural workers; during the economic crisis the quota was reduced to 2 000, with recruitment instead focusing on individuals already present in Spain⁵⁹. Until their citizens gained freedom of movement in the EU, this was the main system under which seasonal workers from the new Eastern European Member States were admitted, with Romanian workers in particular taking up opportunities (although the dominant group, making up ca. 75 %, was Moroccan workers⁶⁰).

While admittances of third-country nationals remain regulated, no procedures such as labour market demand tests are done for European workers. Hence, many employers in the main agricultural destinations of Huelva and Lleida (where 43 % and 86 % of agricultural workers, respectively, are non-Spanish⁶¹) have redirected recruitment efforts to Eastern Europe, and Romania in particular; this began following the reduction of GECCO quotas in 2008⁶² and in many cases builds on employment relationships from the time when work permits were required⁶³.

4.2. Key challenges faced by seasonal workers

The 2021 report on seasonal workers and intra-EU labour mobility identified a range of challenges faced by EU seasonal workers. While that report was focused at least in part on the challenges highlighted (and in some cases aggravated) by the COVID-19 pandemic, the broad issues identified remain of relevance in this report. Broadly these can be sorted into three categories, discussed below: lack of information or knowledge of rights, an overall precarious working situation in terms of labour rights, contracts, and job security, and OSH. The three challenges are linked: a lack of information contributes to the precarity of work, which in turn may make workers accept sub-optimal working conditions for fear of dismissal or retribution.

The following sections proceed by illustrating the relevance of the issue for seasonal workers; considering evidence on an EU level and from the four countries of focus; and concluding whether the situation of seasonal workers has improved both in the longer term since the 2010s, and in the shorter term following the COVID-19 pandemic.

Lack of information or knowledge of rights

In order to make full use of the rights afforded to them, EU seasonal workers must be able to receive information on their rights in a format and language they understand. A

⁵⁸ National Statistics Institute of Spain (INE) (2022), *Active population by nationality, sex and economic sector* [Online]. Available online: <https://www.ine.es/jaxiT3/Tabla.htm?t=4075&L=1>. The data for 2008-2022 is shown in Table 5 in Annex B.

⁵⁹ Interview with researcher at CIDOB (Barcelona Centre for International Affairs). Hooper (2019), 'Spain's Labour Migration Policies in the Aftermath of Economic Crisis', Migration Policy Institute Europe, Brussels.

⁶⁰ Interview with researcher at Spanish National Research Council.

⁶¹ Güell and Garcés-Masareñas (2020), 'Agricultural seasonal workers in times of Covid-19 in Spain', *ADMIGOV Deliverable 3.3*, CIDOB, Barcelona, p. 34.

⁶² Molinero Gerbeau (2018), 'La privatización de los programas de migración temporal en España como efecto poscrisis', *Anuario CIDOB de la Inmigración*, 2018.

⁶³ Molinero Gerbeau, et al. (2021), 'On the Social Sustainability of Industrial Agriculture Dependent on Migrant Workers. Romanian Workers in Spain's Seasonal Agriculture', *Sustainability*, 13(3).

failure to provide this information may result in mistreatment of workers, acceptance of sub-par working conditions and ultimately an inability to seek compensation for poor working circumstances. The importance of accurate information on working conditions has been recognised on an EU level through Directive 2019/1152, which – while targeted at workers more generally, rather than only seasonal workers – strengthens the right of workers to receive a written statement of their rights when starting employment⁶⁴.

As temporary or transient workers in a country, seasonal workers are at risk of not having full knowledge of their rights, and information on where to turn in case of mistreatment or poor working conditions⁶⁵. This has been identified as a problem in all four focus countries to various degrees (largely depending on language compatibilities between countries of work and origin; for instance, with Romanian workers in Italy being able to some extent to understand instructions due to linguistic similarities), although it is not clear how widespread the issue is⁶⁶.

On an EU level this problem has been recognised and, most prolifically, tackled by the ELA in their 2021 campaign 'Rights for all seasons'. The centrepiece of this campaign is a website which details the rules in each Member State for the benefit of both seasonal workers and employers who want to ensure that they are following existing rules⁶⁷. This allows seasonal workers to seek out the information themselves from a trusted source rather than relying on employers. If employers are the main conduits of information, there is a risk of increasing the dependence of seasonal workers and leave them open to misinformation⁶⁸.

National examples also exist of directed information efforts: for instance in the summers of 2021 and 2022 the Spanish Ministry of Labour and Social Security conducted a mass mailing campaign of more than 100 000 letters outlining preventive measures to protect workers who are exposed to high temperatures⁶⁹, while in Germany the trade union-coordinated Faire Mobilität platform receives federal funding since 2020⁷⁰. In France, the situation is approached through the provision of clear pictograms rather than text when communicating safety rules and measures⁷¹.

Precarious working conditions

In Eurofound's definition, precarious work can be characterised by insecure employment (in terms of temporary or fixed-term contracts), lack of entitlements towards e.g.

⁶⁴ Directive 2019/1152 of 20 June 2019 on transparent and predictable working conditions in the European Union. This updates and clarifies the provisions of Directive 91/533/EEC (the Written Statement Directive) of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship.

⁶⁵ Fries-Tersch, et al. (2021), pp. 48-50; Bogoeski (2022), 'Continuities of exploitation: Seasonal migrant workers in German agriculture during the COVID-19 pandemic', *Journal of Law and Society*, 49.

⁶⁶ Germany: Bogoeski (2022). France: Interview with Copa-Cogeca. Italy: Interview with Caritas Foggia. Spain: Interview with inspector from Spanish Labour Inspection Office.

⁶⁷ European Labour Authority (ELA) (2022), *Rights for All Seasons – Campaign on Seasonal Workers* [Online]. Bratislava, ELA. Available online: <https://www.ela.europa.eu/en/campaigns/rights-for-all-seasons> [Accessed 9 January 2023].

⁶⁸ Adamczyk, et al. (2022), 'Ukrainian Migrants in Poland and the Role of an Employer as the Channel of Information during the COVID-19 Pandemic', *Sustainability*, 14(5338), p. 13.

⁶⁹ Redacción El Salto (2022), 'Inspección de Trabajo suma a la hostelería e industria en su campaña de envío masivo de cartas sobre calor y riesgos laborales', *El Salto*. Available online: <https://www.elsaltodiario.com/laboral/inspeccion-trabajo-suma-hosteleria-industria-campana-envio-masivo-cartas-prevencion-olas-calor>.

⁷⁰ Faire Mobilität (2023), *Über uns* [Online]. Berlin, DGB. Available online: <https://www.faire-mobilitaet.de/ueber-uns/+co++aad7ecc8-efae-11e1-8a24-00188b4dc422> [Accessed 7 February 2023].

⁷¹ Interview with Copa-Cogeca.

unemployment pay, and relying mainly on vulnerable or low-income employees⁷². As documented in the 2021 report on intra-EU labour mobility and seasonal work and elsewhere, seasonal work is characterised by all three of these components⁷³. One of the reasons that employers turn to mobile seasonal work is due to difficulties in recruiting local seasonal workers if the salary or working conditions are not desirable⁷⁴. Seasonal workers risk being considered as easy to substitute if they are perceived to be underperforming or 'difficult': as many seasonal workers have low incomes, dismissal may have grave economic consequences for them, leading to an increased risk of exploitation. As discussed above, they are also at greater risk of lacking full information about their rights.

An extreme example of agricultural seasonal workers' precarity is found in southern **Italy**, informal and unsecure employment in agricultural sectors has been characterised by the 'caporalato' ('gang master') system, whereby intermediaries coordinate the relationship between seasonal workers and farm owners. The widespread exploitation in the system has led to it being classified as a criminal enterprise⁷⁵, but it is nevertheless prevalent: various sources estimate 100 000-200 000 workers being mistreated under the system (although a larger number may be employed through it)⁷⁶.

While this mainly concerns seasonal workers from third countries, EU seasonal workers (mainly Romanians, to a smaller extent Bulgarians) are a substantial part of the Italian agricultural labour force. Several studies have documented how they, too, can become dependent on the goodwill of employers, and often face discrimination or exploitation⁷⁷. In addition to this, 'grey work', where loopholes in legal devices are used to give an exploitative working relationship an impression of legality, is also used⁷⁸. Some efforts have been made to combat this system, including through national plans toward social integration⁷⁹, but stakeholders indicate that little progress has been made⁸⁰.

In **Spain**, a report from Caritas estimates that in 2018 in the agriculture sector around one-quarter of workers were irregularly employed⁸¹. As the attention of agricultural industries in the Spanish regions of Lleida and Huelva has turned towards Eastern Europe, recruitment has been characterised by a 'privatisation' of the process. While the official recruitment of third country seasonal workers (living outside the EU) is overseen by the state, EU recruitment is handled by private businesses and staffing agencies: as they are directed at EU citizens with freedom of movement, the actors thus face less oversight than if they were recruiting third-country nationals⁸².

⁷² Eurofound (2018), *Precarious work* [Online]. Dublin, Eurofound. Available online: <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/precarius-work> [Accessed 13 January 2023].

⁷³ Fries-Tersch, et al. (2021); Samek Lodovici, et al. (2022), 'Revaluation of working conditions and wages for essential workers', *Study requested by the EMPL Committee*, European Parliament (DG IPOL), Brussels.

⁷⁴ Nori and Farinella (2020). The study concerns agriculture in the Mediterranean countries, but the conclusion applies also to seasonal work more broadly.

⁷⁵ Ibid, p. 50.

⁷⁶ Osservatorio Placido Rizzotto (2020), 'Agromafie e Caporalato - V Rapporto', FLAI-CIGL, Rome.

⁷⁷ E.g. Corrado (2017), 'Migrant crop pickers in Italy and Spain', Heinrich Böll Foundation, Berlin; Corrado (2018), 'Is Italian agriculture a 'pull factor' for irregular migration - and if so, why?', Open Society European Policy Institute (OSEPI), Brussels; Palumbo and Corrado (2020), 'COVID-19, Agri-Food Systems, and Migrant Labour: The Situation in Germany, Italy, the Netherlands, Spain, and Sweden', Open Society European Policy Institute (OSEPI), Brussels.

⁷⁸ Caruso (2022); Oliveri (2015), 'Giuridificare ed esternalizzare lo sfruttamento. Il caso dei lavoratori immigrati nella vitivinicoltura senese' in Rigo (ed.) *Leggi, Migranti e Caporali*, Pisa, Pacini Editore.

⁷⁹ Italian Ministry of Labour and Social Policy (2020), 'Piano triennale di contrasto allo sfruttamento lavorativo in agricoltura e al caporalato 2020-2022', Italian Ministry of Labour and Social Policy, Rome.

⁸⁰ Interviews with Caritas Foggia and trade unions FLAI-CIGL and FIPE-UILTUCS.

⁸¹ Caritas (2020), 'Vulneraciones de derechos laborales en el sector agrícola, la hostelería y los empleos del hogar (edición actualizada 2020)', *Caritas Estudios e Investigaciones*, 20, Cáritas Española Editores, Madrid.

⁸² Molinero Gerbeau (2018).

While there are some examples of improvements – for instance the Italian strategies against caporalato; a 2022 law change in Spain which abolishes ‘unjustified fixed-term contracts’ in agriculture and strengthened the capacities of trade unions and labour inspectorates⁸³; and employment agencies in Germany no longer being allowed to charge incoming seasonal worker for the facilitation of the job offer⁸⁴ – seasonal workers remain precarious, and many issues that were present in the 1990s and 2000s persist⁸⁵.

Occupational safety and health among seasonal workers

Precarious workers are overall at a higher risk of poor OSH conditions than the rest of the labour force, often lacking recourse or alternative employment⁸⁶. This leads to an increased risk of a dependence situation, where workers feel unable to leave a situation that may be either exploitative or outright dangerous for them. OSH challenges are particularly grave for agricultural workers who are more exposed to heavy machinery, weather and elements, and at risk of repetitive stress injuries from hard physical work.

The COVID-19 pandemic worsened this situation: despite the public emergency many seasonal workers were classified as essential, and hence kept working. This both worsened OSH risks in terms of both risking exposure to the virus, increasing workloads, and restricting seasonal workers’ movements (often to over-crowded and subpar housing)⁸⁷. This meant that those EU seasonal workers that were able to enter other EU countries during the pandemic did not always benefit from the protective measures that the rest of the population experienced⁸⁸.

However, many of the issues highlighted during the pandemic are more long-standing, and all four focus countries have repeated incidences of poor OSH and living conditions among seasonal workers in addition to the general risks of precarious and hard labour:

- **Germany**, the working conditions of seasonal workers have been criticised for non-transparency of working rights, physical isolation, and a lack of adequately resourced oversight bodies, all of which worsened during the pandemic; this is further aggravated by a lack of adequate resources for inspections⁸⁹. While the quality of housing for seasonal workers has improved, the pandemic made it clear that it in many cases remains insufficient⁹⁰.
- **France**: Especially during the pandemic, seasonal workers face difficulties relating to poor housing conditions, with employer-provided housing often not being up to required standard. Adequate monitoring is difficult due to the geographic spread of workplaces and due to inadequate safety trainings⁹¹.

⁸³ For a summary of changes, cf. Rürup (2022), ‘A knife-edge vote against precariouness’, *International Politics and Society (IPS)*, Friedrich-Ebert-Stiftung (FES), Berlin. Available online: <https://www.ips-journal.eu/work-and-digitalisation/on-a-knife-edge-spain-reforms-its-labour-legislation-5701/>.

⁸⁴ Interview with representative from the Council of Experts on Integration and Migration (SVR).

⁸⁵ Interview with representatives from EFFAT.

⁸⁶ E.g. Underhill and Quinlan (2011), ‘How Precarious Employment Affects Health and Safety at Work: The Case of Temporary Agency Workers’, *Relations Industrielles*, 66(3); Marucci-Wellman (2018), ‘Precarious employment and occupational injuries in the digital age – where should we go from here?’, *Scandinavian Journal of Work, Environment and Health*, 44(4); Côté, et al. (2021), ‘A rapid scoping review of COVID-19 and vulnerable workers: Intersecting occupational and public health issues’, *American Journal of Industrial Medicine*, 64(7).

⁸⁷ Palumbo and Corrado (2020); Rasnača (2020), ‘Essential but unprotected: highly mobile workers in the EU during the Covid-19 pandemic’, European Trade Union Institute (ETUI), Brussels; Güell and Garcés-Masareñas (2020).

⁸⁸ Fiałkowska and Matuszczyk (2021), ‘Safe and fruitful? Structural vulnerabilities in the experience of seasonal migrant workers in agriculture in Germany and Poland’, *Safety Science*, 139.

⁸⁹ Bogoeski (2022).

⁹⁰ Interview with researcher from the University of Hohenheim.

⁹¹ Interviews with Copa-Cogeca, trade unions FO and FTGA, and researcher from the French National Centre for Scientific Research.

- **Italy:** Many agricultural seasonal workers – especially from Romania – are provided with sub-standard housing, which may be very isolated and of poor quality⁹². Overall the (regionalised) inspection regime lacks resources, and is therefore inefficient in preventing abuses of the system⁹³.
- **Spain:** Housing and living conditions among agricultural seasonal workers in Huelva and Lleida have been harshly criticised as variously ghettoised and slum-like, including by the UN special rapporteur on extreme poverty⁹⁴. Additionally, workers recruited outside of the state work permit system (e.g. through direct recruitment in Romania) risk facing worse conditions than third-country nationals recruited under the provisions of the seasonal workers directive, as employers are not obliged to provide accommodation in that circumstance⁹⁵. Some improvements in terms of hygiene and standard of housing came by as a result of the pandemic, but there is no guarantee that these improvements will remain in place over time⁹⁶.

Overall, there are few indications that the conditions of EU seasonal workers have significantly improved either in the short or longer-term, with interviewed stakeholder noting the lack of significant and sustained progress in the sector⁹⁷. However, there are recent developments whose effect may not have been felt yet: for instance in Germany in the form of employers having to ensure insurance for their seasonal employees⁹⁸ and in Italy in the form of the three-year plan against the caporalato system⁹⁹.

4.3. Comparing risks faced by EU and third-country seasonal workers

This report, like its predecessor, has highlighted the complexity of gathering insights on EU seasonal workers in comparison to either seasonal workers generally, or third-country seasonal workers arriving under the Seasonal Workers Directive. This section proceeds by comparing the evidence from literature review and stakeholder interviews to assess the extent to which the challenges faced by EU and third-country seasonal workers are shared, and where risks differ.

Lack of information or knowledge of rights

This is a risk that affects both EU seasonal workers and seasonal workers from third countries: being able to take in available information and gain further knowledge on labour rights is more likely a result of required language skills and familiarity with the system, than of country of origin. For instance, Romanians in Italy are more likely to understand at least rudimentary instructions due to linguistic similarities; likewise, third-country workers from Latin America in Spain or from parts of northern and western Africa in France share a language with the majority population¹⁰⁰.

⁹² Interviews with Caritas Foggia and trade union FLAI-CIGL.

⁹³ Caruso (2022).

⁹⁴ Office of the United Nations High Commissioner for Human Rights (OHCHR) (2020), 'Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Spain, 27 January – 7 February 2020', OHCHR, Geneva.

⁹⁵ Interview with researcher from CIDOB.

⁹⁶ Interview with inspector from Spanish Labour Inspection Office.

⁹⁷ Interview with representatives from EFFAT.

⁹⁸ Interview with expert from the Council of Experts on Integration and Migration (SVR).

⁹⁹ Italian Ministry of Labour and Social Policy (2020).

¹⁰⁰ Interview with Caritas Foggia.

There is also a question of previous familiarity and experience of working in the country: seasonal workers from third countries have in some instances been reported as being better organised and unionised than EU counterparts, due to having worked in the country for longer and having had the time to build up networks and connections¹⁰¹. This will vary depending on local circumstances.

One difference between EU and third country seasonal workers is that the former may have a larger body of information available to them through e.g. EU institutions, bodies and agencies or national authorities in the country of residence: rights they hold as citizens of the EU will be similar in different Member States, and less *ad hoc* information may be required. Overall, however, information is directed jointly to seasonal workers, rather than differentiated by origin. Two exceptions may be mentioned: first, seasonal workers who are also nationals of the country, and therefore are more likely to both know the language and be aware of institutional arrangements. Second, illegally employed third-country nationals are more vulnerable to lacking information as they are not part of the regularised workforce, and thus more difficult to reach.

Precarious working situation

The precarious status of many seasonal workers takes slightly different expressions for EU and third-country seasonal workers. Of the publications that explicitly compare the situation of the two groups, conclusions on the more precarious group differ depending on source material and theoretical framework. Due to the qualitative nature of many of the studies, much evidence is location-specific or anecdotal.

On the one hand, a study comparing the experience of Tunisian and Romanian seasonal workers in agriculture in the southern Italian region of Sicily found that EU citizenship status afforded greater belonging and security for seasonal workers¹⁰². Seasonal workers from third countries also face additional precarity and insecurity where they are dependent on a third party for their employment contract. This can take different forms. Where employment is gained through illegal intermediaries, as in Italy's caporalato system, workers are very directly at risk of discrimination and exploitation: undocumented workers are particularly vulnerable, as they may be more dependent on their employer and are more likely to lack the means to move jobs¹⁰³.

While EU seasonal workers have freedom of movement, they may also be at risk of being exploited by employers or staffing agencies. This risk also applies to local seasonal workers, although the level of precarity may be comparatively lower than for movers as they are resident in the country, and thus may qualify for e.g. unemployment payment or retraining opportunities in case they leave the employment. In the context of Italian agriculture, unscrupulous actors have found that irregular recruitment of EU seasonal workers may carry fewer risks, as it does not put the recruiters at risk of prosecution for aiding irregular migration¹⁰⁴.

Additionally, social security contributions can be avoided by falsely classifying seasonal workers as 'worker members' of cooperatives, which are under a different tax regime¹⁰⁵.

¹⁰¹ This example, comparing Romanian seasonal workers to Tunisian counterparts in Sicily, Italy, is documented in Corrado (2018), p. 9.

¹⁰² Urzi and Williams (2016), 'Beyond post-national citizenship: an evaluation of the experiences of Tunisian and Romanian migrants working in the agricultural sector in Sicily', *Citizenship Studies*, 21(1).

¹⁰³ Corrado (2017); Nori and Farinella (2020); Mostaccio (2021); Council for Agricultural Research and Economics (CREA) (2020), 'Migrazioni, Agricoltura e Ruralità', CREA, Rome.

¹⁰⁴ Corrado (2018); Palumbo (2016), 'Trafficking and labour exploitation in domestic work and the agricultural sector in Italy', European University Institute, Florence.

¹⁰⁵ Nori and Farinella (2020), pp. 56-57.

This has also been found in the Spanish context, where third-country nationals who arrive under the GECCO framework are sometimes better protected than their EU counterparts, as the third-country labour migration is subject to more stringent checks and monitoring than the EU counterpart¹⁰⁶ (although this regime, too, has been criticised for lacking adequate resources¹⁰⁷).

Overall, there are thus different situations where EU and third-country seasonal workers are more vulnerable. In both instances, however, a lack of sufficient resources and routines for labour inspectorates were noted by interviewed stakeholders in all four focus countries, with adverse impacts for both groups.

Occupational safety and health among seasonal workers

Overall, seasonal workers face many of the same risks and challenges regardless of their country of origin: work hours are often long and may be physically arduous, OSH and ergonomic considerations may be overlooked or ignored, training and crucial information may be missed out on if the workers do not know the language and as there is no longer-term relationship. In agriculture specifically, risks associated with hard labour and exploitation are shared with mobile EU workers¹⁰⁸ (and conditions for undocumented workers, who make up a significant portion of Italy's agricultural labour force, are even more dire¹⁰⁹).

The issue of inspections lacking resources and capacities has consequences also for OSH. Here too, the situation that seasonal work provided by third-country workers who officially entered the EU for this purpose is more strictly monitored may lead to a more adverse situation for EU mobile seasonal workers. In Italy, it has been documented that Romanian agricultural workers often accept 'substandard or even abusive' working conditions for fear of losing a valuable income source¹¹⁰. A 2015 article investigating sexual and labour exploitation of Romanian women working in agriculture in Sicily makes the point that 'EU citizenship does not automatically protect migrants from such abuse', and that abuse remains a very real possibility for poor individuals who lack alternative sources of income¹¹¹.

However, that is not to say that third-country seasonal workers overall are well-protected. Many seasonal work establishments in both tourism and – more significantly – in agriculture are dispersed and at times isolated, further complicating OSH inspections and ensuring safety. Both EU and third-country seasonal workers are thus at risk of workplace injury, and it is difficult to indicate that either group is more well-protected¹¹².

Overall, what is common for seasonal workers, regardless of nationality, is that those with fewer resources are more likely to undertake unsafe or exploitative labour if it constitutes an improved income situation compared to their home country¹¹³. As has been illustrated, the populations that are most at risk vary both within the EU and within individual countries, and neither group has a systematically more advantageous position.

¹⁰⁶ Interview with researcher at the Spanish National Research Council.

¹⁰⁷ Corrado (2018), p. 24.

¹⁰⁸ Palumbo, et al. (2022), 'Migrant Labour in the Agri-Food System in Europe: Unpacking the Social and Legal Factors of Exploitation', *European Journal of Migration and Law*, 24.

¹⁰⁹ Augère-Granier (2021); Hooper and Le Coz (2020), 'Seasonal Worker Programmes in Europe: Promising practices and ongoing challenges', Migration Policy Institute Europe (MPI), Brussels; De Wispelaere and Gillis (2021).

¹¹⁰ Corrado (2018).

¹¹¹ Palumbo and Sciarba (2015), 'Vulnerability to Forced Labour and Trafficking: The case of Romanian women in the agricultural sector in Sicily', *Anti-Trafficking Review*, 5.

¹¹² Fiałkowska and Matuszczyk (2021).

¹¹³ Faleri (2020), *Il lavoro agricolo. Modelli e strumenti di regolazione*, Torino, Giappichelli.

4.4. Seasonal workers in Eastern European Countries in the context of the war in Ukraine

Ukrainian seasonal workers in the EU

The significance of Ukrainian seasonal workers in Polish agriculture can at least in part be traced to simplified rules of granting work permits which came into place in 2006 to guarantee a sufficient supply of labour in the sector¹¹⁴. Since 2014 Poland has been the main destination for Ukrainian workers, with a noticeable increase since 2013¹¹⁵. This status has been further entrenched by reforms in 2018 when amendments to Polish employment legislation made registration for seasonal work permits easier and afforded additional advantages to countries from the six countries of the Eastern Partnership¹¹⁶ (and mainly Ukraine)¹¹⁷.

Under the Seasonal Workers Directive, permits for seasonal workers can be granted for up to nine months. Statistics for Ukrainian seasonal workers are available for the period 2017-2021. The 2021 figures are shown in Figure 1. While there are significant fluctuations for many countries and not all have reported data for 2021, Poland is consistently the main country of destination, hosting circa 68 000 Ukrainian seasonal workers in 2021 according to Eurostat data. The Polish Statistical Institute's Demographic Yearbook of 2021 gives an even higher figure, indicating that there were circa 135 500 seasonal work permits given out to Ukrainian nationals in 2020 – almost 99 % of all permits¹¹⁸.

However, this data may underestimate the number of Ukrainian seasonal workers in Poland for three reasons: seasonal workers are expected to often apply for a standard (rather than seasonal) work permit; some nationalities do not need to apply in the first place; and many seasonal workers are expected to be in Poland illegally¹¹⁹. For a quantification, the official number of Ukrainians living in Poland in 2019 was ca. 180 000; however, location-based mobile data showed that in March 2020, at the start of the COVID-19 pandemic, there were over 1.2 million Ukrainians in Polish territory¹²⁰.

¹¹⁴ Natale, et al. (2019), 'Migration in EU Rural Areas', Publications Office of the European Union, Luxembourg, pp. 37-38. These simplified rules also apply to seasonal workers from Armenia, Belarus, Georgia, Moldova and Russia.

¹¹⁵ Józwiak and Piechowska (2017), 'Crisis-driven mobility between Ukraine and Poland: What does the available data (not) tell us', *CMR Working Papers*, No. 99/157, Warsaw, Centre of Migration Research (CMR).

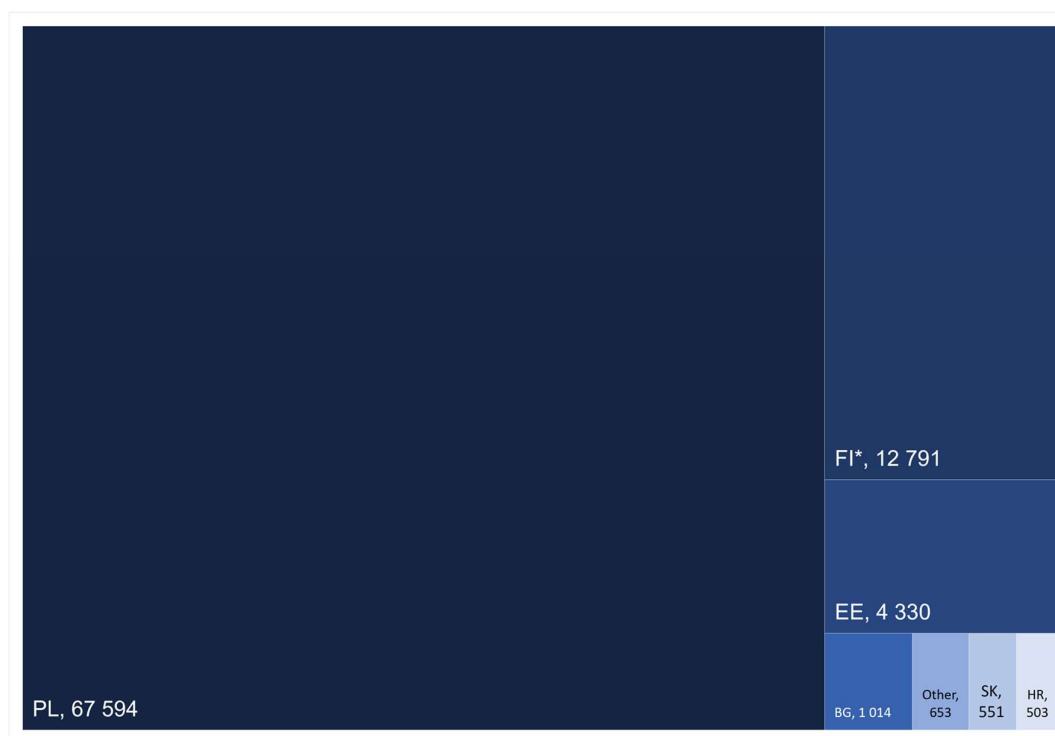
¹¹⁶ The Eastern Partnership is a joint venture between the EU, the External European Action Service and six non-EU Member States: Armenia, Azerbaijan, Belarus (although their status is currently suspended as a result of international sanctions), Georgia, Moldova and Ukraine.

¹¹⁷ Yeleyko and Kravetska (2020), 'Labour Migration from Ukraine to Poland: Current State and Further Perspectives', *Studia Europejskie - Studies in European Affairs*, 24(3); Józwiak and Piechowska (2017).

¹¹⁸ Statistics Poland (2021), 'Demographic Yearbook of Poland 2021', Statistics Poland, Warsaw, p. 463. The reason for this discrepancy is not entirely clear and is beyond the scope of this report to investigate, but may have its roots in the fact that Eurostat data on seasonal work authorisations does not cover certain categories, including authorisations for less than three months; - Furthermore Poland knows two different Seasonal Work Permits: a national one and the one based on the EU-Directive; cf. Kalantaryan, et al. (2020), 'Meeting labour demand in agriculture in times of COVID-19 pandemic', Publications Office of the European Union, Luxembourg, pp. 6-7.

¹¹⁹ Schwabe (2021), 'Effect of COVID-19 crisis on labour migration: The Polish case' in Ambroziak (ed.) *Poland in the European Union: Report 2021*, Warsaw, SGH Publishing House, p. 62.

¹²⁰ Ibid.

Figure 1: Seasonal work permits for Ukrainian workers, all durations, 2021¹²¹

Note: The category 'Other' encompasses data from Lithuania, Latvia, France, Italy, Portugal, Slovenia, Spain, Romania and Hungary. For reasons of data availability, data from Finland, Latvia, Portugal, and Romania is from 2020.

Source: Eurostat data on authorisations issues for seasonal work by economic sector, sex and citizenship [MIGR_RESSW2] (2022a), Milieu calculations.

Consequences of the war for seasonal work in the EU

As a consequence of Russia's war of aggression against Ukraine, the EU has taken several actions in solidarity with Ukraine. While it is beyond the remit of this report to discuss the full set of sanctions and actions taken by the EU in response to the situation¹²², some of these actions relate specifically to the situation of Ukrainian workers (and by implication seasonal workers) in the EU:

- In early March, the Temporary Protection Directive¹²³ was activated following a unanimous decision by the Council¹²⁴. The Directive aims to facilitate a quicker decision on asylum; provide a residence permit for the entire duration of the protection (1-3 years); and access to employment, accommodation, social welfare, medical care and education. It also ensures that concerned persons can

¹²¹ The available data for all Member States in 2017-2021 is shown in Table 6 in Annex B.

¹²² For a summary, see Council of the European Union (2022a), *EU response to Russia's invasion of Ukraine* [Online]. Available online: <https://www.consilium.europa.eu/en/policies/eu-response-ukraine-invasion/> [Accessed 20 December 2022].

¹²³ Directive 2001/55/EC (the Temporary Protection Directive) 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.

¹²⁴ Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection.

move freely in other EU countries for 90 days within a 180-day period after a residence permit is issued.

- The Commission's Communication on welcoming those fleeing the war contains a dedicated section on access to jobs. It states that Ukrainians arriving in the EU should enjoy equal treatment in terms of pay and working conditions; that they should be supported in accessing the labour market; and also be able to access vocational training¹²⁵.
- Through EURES and ELA, a pilot 'EU Talent Pool' was established for Ukrainian refugees in Croatia, Finland, Latvia, Poland, Slovakia and Spain, allowing Ukrainian refugees to apply for work through the EURES job portal¹²⁶.

With the war still ongoing, it is not possible to yet make a certain prediction of what the long-term effects for EU agriculture will be. However, it is clear that Polish agriculture is heavily dependent on seasonal workers from Ukraine specifically, as evident during the pandemic when concerns were raised over a lack of workers¹²⁷.

While Poland is the most significant destination of Ukrainian agricultural workers, some other Member States have also investigated the effects of the conflict. In Finland, a survey carried out by the Ministry of the Interior found that 4.8 % of working Ukrainians in the country were seasonal workers on farms. With circa 15 000 Ukrainians carrying out agricultural seasonal work in Finland annually, the survey concludes that the harvest season may have contributed to more positive employment rates of Ukrainians in Finland, but that they may struggle to find similar work in the off-season¹²⁸.

Overall the war is expected to have a significantly negative effect on the supply of seasonal work, with around 98-99 % of seasonal workers usually coming from Ukraine¹²⁹. The Ukrainian refugees that have arrived in Poland do not match the profile of seasonal workers or labour migration more broadly: while many seasonal workers in agriculture are men with prior experience of such labour¹³⁰, most temporary protection notices have been granted to women¹³¹, and almost half of Ukrainian refugees registered in Poland by May 2022 were children aged 0-18¹³². There are many additional reasons, including trauma and a transient living situation, which may prevent refugees from taking up employment¹³³.

Additionally, 800 000 Ukrainians are estimated to have left Poland for Ukraine. This group mainly comprises men of working-age who have returned to in some way participate in the Ukrainian defence forces¹³⁴. Voluntary movement in the opposite

¹²⁵ Communication COM(2022) 131 from the Commission on Welcoming those fleeing war in Ukraine: Ready to meet the needs.

¹²⁶ EURES (2023), *EU Talent Pool Pilot* [Online]. Brussels, European Commission. Available online: https://eures.ec.europa.eu/eu-talent-pool-pilot_en [Accessed 7 February 2023].

¹²⁷ Yeleyko and Kravetska (2020), p. 137.

¹²⁸ Svyarenko and Koptsyukh (2022), 'The situation of Ukrainians in Finland who fled the war: Survey results', *Publications of the Ministry of the Interior 2022:34*, Ministry of the Interior of Finland, Helsinki, pp. 24-25, 48n13.

¹²⁹ European Migration Network in Poland (2020), 'Attracting seasonal workers from third countries and their protection in Poland', Polish Ministry of the Interior and Administration, Warsaw.

¹³⁰ Cf. e.g. Kępińska (2013), 'Gender Differentiation in Seasonal Migration: The Case of Poland', *Journal of Ethnic and Migration Studies*, 39(4); Fiałkowska (2019), 'Remote fatherhood and visiting husbands: seasonal migration and men's position within families', *Comparative Migration Studies*, 7(2); Vasylytsiv, et al. (2020), 'Trends and Characteristics of the Migration From Ukraine to Poland: The Aspect of Rural Areas and Conclusion for State Migration Policy', *Wiś i Rolnictwo*, 186(1).

¹³¹ Eurostat (2022b), *Decisions granting temporary protection by citizenship, age and sex - monthly data [MIGR_ASYTPFM]* [Online]. Available online: https://ec.europa.eu/eurostat/databrowser/view/MIGR_ASYTPFM.

¹³² Duszczak and Kaczmarczyk (2022), 'The War in Ukraine and Migration to Poland: Outlook and Challenges', *Intereconomics*, 57(3).

¹³³ Adamczyk, et al. (2022).

¹³⁴ Otto Workforce (2022), *Kto zastąpi ukraińskich mężczyzn na polskim rynku pracy?* [Online]. Available online: <https://ottoworkforce.com/pl/kto-zastapi-ukraińskich-mężczyzn-na-polskim-ryнку-pracy> [Accessed 13 January 2023].

direction is also inhibited, with men aged 18-60 prevented from leaving Ukraine¹³⁵. Altogether, Polish authorities therefore expect that the number of seasonal workers from Ukraine will decrease significantly at least in the short term; to fill this gap, additional recruitment efforts have been directed at seasonal workers from e.g. Turkey, Nepal, India, Uzbekistan, Georgia, Philippines, Moldova, Guatemala¹³⁶.

¹³⁵ Following the introduction of martial law in Ukraine on 24 February 2022, Ukrainian males aged 18-60 were banned from leaving the country for the duration of martial law, with reference to the military emergency.

¹³⁶ Interview with trade union OPZZ and written feedback from the Ministry of Family, Labour and Social Policy.

5. Summary and conclusions

Evolution of EU seasonal work over time

Seasonal workers have a long history in the labour market of the European Union, with guest worker programmes in the post-war era acting as a predecessor to today's system. The main countries of origin have varied over time, and their comparative importance remains difficult to authoritatively establish in the face of incomplete statistics and limited data gathering. Nevertheless, in addition to the third-country nationals that may apply for seasonal work permits based on the provisions in the Seasonal Workers Directive, a substantial number of seasonal workers originate from EU Member States, especially in Eastern Europe, with Poland and Romania being the most significant countries of origin in absolute numbers from an EU perspective.

The lack of data prevents a clear assessment of how the number of seasonal workers has evolved over time. Some approximations are possible, e.g. by considering data on employment by sector, fixed-term contract, and nationality, but even data of this kind is difficult to come by and is not routinely published. What is clear from both literature review and interviews with stakeholders is that EU seasonal workers remain an important source of labour in many Member States, and that employment relationships (in legitimate establishments) often go back many years. Qualitatively, a tentative conclusion is thus that the proportion of EU seasonal workers in relation to third-country seasonal workers has remained relatively steady over time. However, in relation to nationals, the importance of foreign seasonal workers has increased in both tourism and agriculture, with many nationals finding salaries or working conditions insufficient (especially after the COVID-19 pandemic).

Key challenges faced by EU seasonal workers

The main challenges faced by seasonal workers are well-covered in literature and were extensively elaborated upon in e.g. the 2021 report on intra-EU labour mobility and seasonal work. These challenges received increased attention through the COVID-19 pandemic and the conditions faced by both EU seasonal workers and those from third countries are being discussed both nationally and on the EU level. The main challenges concern the following:

- **Lack of information or knowledge of rights:** Having access to information in a language and format that is accessible is crucial for workers to be able to claim the rights they are due according to EU and national law. Where this is not available it can result both in subpar training – and thus a higher risk for accident or injury at work – and workers accepting conditions that are unsafe or illegal. It also increases the dependency of seasonal workers on employers.
- **Precarious working situation:** Many seasonal workers are in a tough economic situation, and therefore willing to take work that may be low-paid, insecure or poorly regulated. This means that their labour may be considered as substitutable by unscrupulous employers, and as many seasonal workers lack bargaining power or social and professional networks in the country of work, they have limited means to address this situation. Additionally, inspection entities often lack requisite resources to target and investigate poor conditions.

- **Occupational safety and health:** Seasonal work, especially within agriculture, is often subject to long hours and heavy workloads. The most evident measures to address this situation came during the COVID-19 pandemic, where many countries put into place stronger health and safety regulations to protect workers, including in seasonal sectors. However, there are indications that these regulations were not always fully adhered to by employers, and that many seasonal workers suffered higher OSH risks during the pandemic; additionally, long-standing problems with subpar, crowded or unsafe accommodation were aggravated by social isolation and distancing measures. Here too a lack of resources for inspectorates make the situation more difficult.

Overall, assessments by stakeholders is that limited progress has been made to address these issues. In the area of information the ELA campaign on seasonal workers' rights has provided a portal for easily accessing information digitally, and in both Germany and Spain there is evidence of some directed information campaigns. However, issues relating to precarity and OSH remain significant, and have affected seasonal workers since the 1990s and 2000s.

While there are individual examples of improvements, the situation overall has not improved much, and while some measures relating to e.g. working conditions and quality of accommodation were put in place during the pandemic, it is too early to judge whether they will have a lasting effect. Overall, a lack of sufficient resources for relevant inspection entities is a recurring issue.

Comparing EU and third-country seasonal workers' situations

While EU seasonal workers benefit from an EU citizenship, and with it, freedom of movement and work within the Union, they share many challenges with seasonal workers from third countries. Problems of worker exploitation, lack of adequate information on rights, and poor working and living conditions in seasonal sectors are well-documented, and whether EU citizens or not, many seasonal workers may lack the resources to contest an unfair working situation. Like third-country nationals, EU seasonal workers may also be dependent on third parties such as temporary staffing agencies to find seasonal work and may in that case be placed in a vulnerable position.

However, substantial variation both between and within EU Member States should be acknowledged. There are instances where third-country seasonal workers are put in a much more disadvantageous position due to a lack of information or recourse or being blackmailed – or even trafficked – by exploitative employers. In other examples, similar situations are documented also for EU seasonal workers, especially Romanian workers active in Spanish or Italian agriculture: private recruitment schemes and staffing agencies can operate with little oversight, as they do not risk accusations of facilitating illegal migration from third countries.

Overall, the thing that EU and third-country seasonal workers have in common is that they generally are low-income or in poverty, and that taking seasonal work abroad – even if exploitative or unsafe – appears sufficiently advantageous due to higher salaries than in the home country. Pressure stemming from cost efficiency and small margins also means that many employers appear to consider stricter safety regimes and improved labour conditions as too costly.

The impact of the war in Ukraine on seasonal work in the EU

Ukraine is the largest third country of origin of seasonal workers in the EU, at least in terms of the number of granted seasonal work permits. The most significant destination of Ukrainian seasonal workers is Poland, reflecting pre-existing bilateral agreements on seasonal work exchanges from 2006, i.e. pre-dating the Seasonal Workers Directive. After Poland, the most significant destination in terms of seasonal work authorisations are Finland and Estonia. Several evaluations and academic texts note the importance of seasonal labour from Ukraine for Polish agriculture in particular.

Large refugee streams have come as a consequence of the war, with most Ukrainian refugees headed for Poland and other countries in Eastern Europe. While exact assessments differ depending on the data source, sources uniformly agree that refugees mainly are women and children aged 0-18.

In addition to the severe effects of trauma following war and dislocation, which in themselves make it less likely that refugees may integrate in the labour market in the short term, this demographic differs from the general composition of the agricultural seasonal labour force: men of active working age with previous experience of agricultural work. While it is difficult to quantify the extent, many Ukrainian men resident abroad have returned to fight in the war; additionally, a presidential decree has prevented men aged 18-60 from leaving Ukrainian territory for the duration of martial law.

Although it cannot yet be quantified, and the conflict at the time of writing remains at an active stage, it means that it is likely that Poland and other countries dependent on seasonal workers from Ukraine will need to satisfy this demand from other sources, either domestically or from other third countries.

Annex A: List of sources

Laws and regulations

- Directive 91/533/EEC (the Written Statement Directive) of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship.
- Directive 2001/55/EC (the Temporary Protection Directive) 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.
- Directive 2014/36/EU (the Seasonal Workers Directive) of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers.
- Directive 2019/1152 of 20 June 2019 on transparent and predictable working conditions in the European Union.
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- Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection.
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Annex B: Data annex

Table 4: Seasonal workers by country of origin in Germany, 1993-2010

Year	Country of origin (1 000s)										Total
	USSR	YU	PL	HR	SK	CZ	HU	RO	SI	BG	
1991	13	32	79				4				129
1992	28	37	137				7	3			212
1993			144	7	8	12	5	4	1	0	181
1994			137	6	3	4	2	2	1	0	155
1995			171	6	5	4	3	4	1	0	193
1996			196	6	6	3	4	5	1	0	221
1997			202	6	6	2	4	5	0	0	226
1998			209	5	6	2	3	6	0	0	232
1999			205	5	6	2	3	7	0	0	230
2000			229	6	8	3	4	12	0	1	264
2001			243	6	10	3	5	18	0	1	287
2002			260	6	11	3	4	22	0	1	307
2003			272	5	10	2	4	25	0	1	319
2004			287	5	9	2	3	27	0	1	334
2005			279	5	8	2	2	33	0	1	330
2006			236	5	7	1	2	51	0	1	303
2007			229	5	5	1	2	57	0	1	300
2008			194	4	4	1	2	77	0	3	285
2009			188	4	4	1	2	93	0	3	295
2010			177	5	4	1	2	102	0	4	294

Note: Blank cells indicate that no permits were issued in the year. Figures of 0 indicate that less than 1 000 permits were issued. Non-EU country abbreviations USSR and YU refer to the Union of Socialist Soviet Republics (the Soviet Union) and Yugoslavia, respectively.

Source: Bundesamt für Migration und Flüchtlinge (2009), Table 2-45.

Table 5: Annual average of all workers and those of EU nationality in Spanish agriculture (1 000s)

Year	Total	EU	Share of EU (%)
2022	926	56	6
2021	980	55	6
2020	947	56	6
2019	983	73	7
2018	1 003	71	7
2017	1 034	80	8
2016	1 017	76	7
2015	990	81	8
2014	1 001	77	8
2013	1 011	82	8
2012	1 021	65	6
2011	986	58	6
2010	1 002	66	7
2009	982	58	6
2008	960	53	6

Source: INE (2022), Milieu calculations.

Table 6: Seasonal work permits for Ukrainian workers, all durations

Country of work	2017	2018	2019	2020	2021
BG		6 821	8 252	1 809	1 014
EE	924	2 468	4 366	2 892	4 330
ES	42	13	11	8	9
FI			13 286	12 791	
FR					68 (e)
HR		105	292	85	503
HU	4	21			3
IT	192	202	141	48	
LT	57	225	542	120	401
LV	118	157	169	75	
PL			45 915	76 904	67 594
PT			135	34	
RO			22	4	
SI	1	7	71	3	11
SK		962	1 619	320	551
Total	1 338	10 981	74 821	95 093	74 484

Source: Eurostat data on authorisations issues for seasonal work by economic sector, sex and citizenship [MIGR_RESSW2] (2022a), Milieu calculations.

Annex C: Interview guide

Project background

Milieu Law and Policy Consulting SRL (Milieu) is a consultancy based in Brussels, providing legal and policy analysis to European Union clients. As part of the Network of Experts on Free Movement of Workers and Social Security Coordination, Milieu delivers services to the European Commission's Directorate General of Employment, Social Affairs and Inclusion (DG EMPL) under Contract VC/2021/0197, 'Advice on intra-EU mobility and social security coordination – Lot 2: Statistics and compilation of EU level and national data.

The contract includes the production of ad hoc reports as requested by DG EMPL. The present questionnaire is being presented in connection with a specific request to analyse *topical issues relating to intra-EU labour mobility and seasonal workers*. This will build on a previous report in 2021 on seasonal work during the COVID-19 pandemic¹³⁷, and will expand on some topical issues relating to seasonal workers in key sending and receiving Member States. As in the preceding study, the sectors of focus are **agriculture** and **accommodation and food services**, as these have the largest number of seasonal workers, which in many cases may be mobile.

Note that except for the final section of the guide, the study concerns seasonal workers of EU nationality.

Among the stakeholders contacted are, depending on the national circumstances:

- Academic or thematic experts in the area;
- Trade unions (either general or in the specific sectors);
- Employer organisations; and
- Other stakeholders such as NGOs or specialists in the field of seasonal workers.

Contributions will not be attributed to individuals, but to the organisations that they represent. At all times, interviewees and respondents maintain the right to withdraw their consent to information processing.

¹³⁷ Fries-Tersch, Siöland, Jones, Mariotti and Malecka (2021), '[Intra-EU mobility of seasonal workers: Trends and challenges](#)', Brussels, European Commission (DG EMPL).

Questionnaire – National stakeholders

National legal framework on seasonal workers

What institution or agency is in charge of monitoring affairs relating to seasonal workers or their working conditions in your Member State (if any)?

Is there any ongoing procedures or debates relating to additional legislation relating to seasonal workers or their working conditions in the near future?

Did the COVID-19 pandemic lead to any new regulations or legislation relating to seasonal workers or their working conditions?

In your judgment, has the situation for seasonal workers (in either agriculture or accommodation and food services) in terms of work conditions improved over the past 10 years? If so, how?

The development of seasonal work over time

Is your Member State still experiencing the effects of the pandemic in 2022, e.g. in terms of the availability of seasonal workers?

In your experience, has the amount of seasonal workers from other EU countries increased in your country (both in the short term, but also over a longer period of time – say over the past 10 years)?

If so,

- (a) What are the main nationalities of seasonal workers in your country?**
- (b) Has this changed over time?**
- (c) Which sectors are they mainly active in?**
- (d) Is there anything more you want to add on the development of seasonal work in your country over time?**

Which sectors and businesses in your country are most dependent on seasonal workers? Are any of them experiencing particular issues in recruiting? If so, do

these problems apply just to seasonal workers or also to broader issues in recruitment?

In your experience, has the war in Ukraine had effects on either the number of seasonal workers in your country, or their composition (i.e. the countries where they are from)?

Health and safety of seasonal workers

What health and safety risks do seasonal workers face in your Member State, compared to the labour force in general? Have these risks changed in light of the COVID-19 pandemic? Why? Are there specific risks depending on sector, i.e. whether in agriculture or accommodation and food services?

This question also concerns living arrangements that are specific for seasonal workers, e.g. health and safety risks they may face in accommodation provided by the employer.

Have you noticed differences across sectors (i.e. agriculture and food services/hospitality including restaurants, hotels, and similar accommodation) on health and safety risks affecting seasonal workers? Have these risks changed in light of the COVID-19 pandemic? Why?

Has the COVID-19 pandemic impacted the enforcement of health and safety measures applying to seasonal workers (e.g. less inspections)? Have you noticed differences across sectors (i.e. agriculture and food services/hospitality including restaurants, hotels, and similar accommodation)?

What measures have been taken to mitigate the health and safety risks faced by seasonal workers, either generally or as a result of the pandemic? Who is in charge of monitoring these measures?

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