

Conditions de vie au travail des travailleurs agricoles saisonniers et migrants, impact du travail illégal

GENERAL CONCLUSIONS AND FINAL DOCUMENT

The report submitted on the occasion of the Steering Committee meeting held in Rome, at the end of May 2011, offered possible food for thought including the following:

- It is not possible to take into account the skills and the experience and this is the reason why salaries are low for workers coming from other member States. A significant number of workers from Eastern Europe have higher vocational skills but in a different sector and the seasonal work over a period of years entails a downgrade in their professional career and prevents them from finding a more stable job
- The right to training should be extended, in order to offer a qualification in agriculture and an upgrading
- AGRIPASS should be developed and used at a greater extent ;
- Language difficulties are recurrent and cultural aspects related to migrant workers should be taken in duly consideration;
- The Union membership should be eased and really acknowledged;
- A European statute of immigrant workers, men and women, should be created; and career paths should be securized by rights portability
- Relations between countries of origin and host countries should be intensified;
- To contrast illegal work and illegal hiring of farm labourers for very low wages through an agent, these practices should be dealt with as criminal offences, and a statute of victims should be created.
- The development of temporary work agencies and service providers within the framework of the European Directives on detached workers should be monitored and strictly defined.
- Trade union membership must be the objective of a partnership network at a transnational level

As a result of these discussions the following elements emerged :

- AGRIPASS can be completed with the introduction of a certain number of topics;
- The number and variety of these topics require a responsibility-taking at all levels:

Conditions de vie au travail des travailleurs agricoles saisonniers et migrants, impact du travail illégal

- National level- first of all- with the involvement of the Partner Union organizations;
 - Cross border level, with the establishment of some partnerships aimed at signing agreements between countries (union membership, support of immigrant workers) ;
 - European level, as these topics concern the entire European territory
- Priorities need to be established in order to avoid possible dispersions.

The discussions have shown also that there are some strong expectations in terms of control. The rigueur or the budgetary constraints are usually evoked to explain these kinds of limitations; however we do believe that this kind of attitudes is profit-bearing oriented: what studies have been made to state that these checks stand for a cost and would not allow profits?

There is also the issue of quality controls (that is "go well beyond the mere formalities to effectively ensure compliance with rights) being required by a large number of representatives, as well as the need to organise them through a mandatory agreement among all stakeholders. From this viewpoint, a joint statement can be a starting point for a more structured union demand action.

Finally, the work carried out by migrant seasonal workers is often synonymous with illegal work: let us remember the study, in 2007/2008, on the "off the book work" carried out by EFFAT. A very strong idea was presented during the conference: the possibility of organizing checks with the "European labor inspectors."

The following presentation summarises the debates of the October conférence in Rome and the final meeting of the Steering Committee, in November 2011. It is an action plan on five points, since the item on the trade union chart needs to be more deeply examined.

Training: the right to education is recognized throughout the European territories, but there are clear cut differences regarding its enforcement within the Member States, and above all, certain behaviours adopted by some companies are above the law.

It is in view of the above that a charter should be drawn up, where training would be a topic among all the others.

On the other hand, the 2002 agreement on vocational training (completed in accordance with Article 139 of the Treaty) can be considered as a starting point to launch a discussion from. This agreement entails several points: organization of vocational training, skills assessment, validation of professional experience, transparency of diplomas, qualifications and skills booklet.

AGRIPASS : despite being recognized by all as being a useful tool, the following is needed:

- Make it effective within the Member States, develop the tools and ease their dissemination. In this regard IGABAU, in partnership with the « CEEC Institut », developed a project concerning a set of recommendations on the

Conditions de vie au travail des travailleurs agricoles saisonniers et migrants, impact du travail illégal

development of AGRIPASS and the Register of agricultural trades ¹. The results of the project produced 12 recommendations, mainly concerning the development of tools and their dissemination.

- Integrate the comments resulting from this project whose content mainly concerns the following:
 - The drawing up of a guide of activities of the seasonal/migrant worker enhancing the experience acquired so as to facilitate a formal recognition)
 - The establishment of a right to skills assessment, a right to vocational training
- Make it more accessible even through Internet. The « paper » version can evolve and become a chip which could allow every worker to have access to information he/she needs or update his/her data on a real time basis.

Partnerships : the Bulgarian and Spanish examples are interesting and paves the way for a partnership that needs to geographically expand and include the issue of the union membership of migrant seasonal workers. Future works should focus on the implementation of a partnership agreement by EFFAT, the coordination and animation of a network. The debate should also focus on possible solutions to make the union membership compatible with a precarious working environment and the portability of rights and obligations.

Label or card: There are quite a few practices, but also many resistances about the results. For this reason, the idea must be maintained and developed, and a communication campaign can be therefore helpful in this regard.

Statute of the worker: It is undoubtedly the most significant issue resulting from the project. The establishment of rights must be organised at European level in order to assure their portability. Such a portability must also be assured by an harmonisation of the existing rights, especially as far as social security is concerned. The ongoing evolutions on non European Union seasonal workers make it even more necessary to elaborate a single European framework on the rights of migrant seasonal workers.

Taking into consideration parent responsibility, to guarantee equality and diversity

The exercise of educational responsibilities, when parents are away is an important issue to be faced. Many children are left to grand-parents or by themselves, for ex. In Romania where public authorities are not in a position as to fill the educational deficits or to face the risks of social isolation.

This opens a new field of reflection on the complex issue of the organisation of professional paths of migrant workers and their family responsibilities.

The specific conditions of migration (precarious work, insecurity, isolation) make women and foreigners even more vulnerable. A generalisation of the plans for

¹ AGRI-TRANS : AGRI-TRANS: Transparency in agricultural vocational training - European standards using the example of livestock farming, (pig farming)

Conditions de vie au travail des travailleurs agricoles saisonniers et migrants, impact du travail illégal

equality, the prevention of sexual harassment, the management of cultural diversity and the fight against racism and xenophobia must be considered as priorities.

These themes, often recalled in the discussions most often fall under the responsibility of the European Federation EFFAT, but some aspects can be dealt with at a national or groups of countries level.

Preparation by the Member States of the works on illegal work and penal crime . loss or reduction of CAP subsidies for those enterprises which violate union rights.

Agripass : the Agripass topic can integrate various elements set out by the Partners and national organizations do play an important role on various aspects.

EFFAT ROLE	ROLE OF NATIONAL ORGANIZATIONS	COMMENTS
<p>At first, the role of EFFAT must go in the direction of an actual implementation, and integration of other aspects:</p> <ul style="list-style-type: none"> - A feasibility study, aimed at creating a kind of e-passport (card) that would integrate working rights (employment contract), social rights (in the broadest sense: health insurance, accident insurance, pension), training (in relation to other rights acquired by the employee, the qualifications obtained Language Learning). <p>This set of points refers to the idea of a welcome pack whose content had been formulated in the questionnaires.</p> <p>The balance of skills and the recognition of professional skills The recommendations produced by IGABAU</p>	<p>The 2002 training agreement was assessed as to its application. The following seems to prevail:</p> <ul style="list-style-type: none"> - In most Member States before 2004, the agreement is not popular, and may appear to be difficult to be implemented without prior completion of the existing national arrangements. For this reason, this Agreement may become a driving force to allow harmonization of skills at a European level. <p>The national partner organisations of the project must engage in this direction, which must then be extended to all Member States.</p> <ul style="list-style-type: none"> - In all the other States, joined after 2004, but especially those entering after 2007, it is not known, and therefore not enforced. In many countries, the life-long learning mechanisms are 	<p>Due to confidentiality reasons, the integration of adherence to a national organization cannot be included in the Agripass system.</p> <p>Conversely, the idea of having an AGRICULTURAL EFFAT card can be studied in close relation with the Agripass system. There are different opinions between employers and union organizations and we do believe AGRIPASS tool is to enable the portability of social rights. This theoretical aspect will be faced with language difficulties (such as how to use a right to education whenever the language of the host country is unknown) which need to be taken in duly consideration in future actions.</p>

Conditions de vie au travail des travailleurs agricoles saisonniers et migrants, impact du travail illégal

	<p>still insufficient. <i>The 2002 agreement needs to be enhanced both by the European federation and national organizations.</i></p>	
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Union membership / partnership: the unionization of migrant seasonal workers is a real challenge for both workers and trade union organizations, as far as the European cohesion is concerned. The idea is based on the creation of a European charter of membership in the agricultural sector and **the development of partnerships on the basis of the model submitted by Bulgaria for instance.**

EFFAT ROLE	ROLE OF NATIONAL ORGANIZATIONS	COMMENTS
<p>EFFAT could become the coordinator in close partnership with national union organisations.</p> <p>Effat would elaborate a partnership agreement among the different organisations and would start a debate on a set of common rules.</p> <p>Effat could also coordinate and animate the partnership network.</p> <p>Also the issue of the sharing of the resources should be dealt.</p>	<p>The partner countries of this project must establish a written partnership agreement to facilitate the creation of this card.</p> <p>The issue of collection and distribution of contributions paid by its members must be studied more, taking into account the federal rules. The agreement should also envisage the fees for legal defence.</p>	<p>The resources to be allocated for the organisation of migrants are a complex issue, since the precarious work, the mobility and low salaries make it difficult to retrieve these resources from migrant contributions.</p>

LABEL/CARD : this topic will not find a definite solution in this project, considering the high number of different viewpoints.

EFFAT ROLE	ROLE OF NATIONAL ORGANISATIONS	COMMENTS
<p>The idea is not new and is full of uncertainties and issues that must be better studied.</p> <p>However, this label or card can be discussed informally, at first, with</p>	<p>There are various cards and /or labels in different countries.</p> <p>The idea of a review can go forward towards a comprehensive study carried out by all the countries and trade unions</p>	<p>Discussions on CSR must go on without forgetting that the respect of workers' rights cannot become an option for companies, to gain more value vis-à-vis consumers.</p>

Conditions de vie au travail des travailleurs agricoles saisonniers et migrants, impact du travail illégal

employers at European level, then be presented in the sectoral social dialogue committee. The idea of CSR must also be further studied and discussed within the sectoral committee on employment.	(and neighbouring organizations, Partner) and serve as a basis for a discussion that EFFAT could organize	
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Statute of the seasonal worker / migrant:

The statute of a migrant seasonal worker seems to be a necessity, even more so with the enforcement of the future directive on seasonal employment of non Eu workers.

Additional notes : first of all, we remind you all the need for accurately measure the role and importance of the temporary labour companies or <<agencies>>, by means of a specific study. Such a study has to qualify, from a cross border standpoint, what is the difference between these <<agencies>> and the servicesqcompanies. It must also include illegal recruitment practices.

On the basis of the Spanish proposal, seasonal working contracts should be turned into permanent working contracts, considering the recurring nature providing a permanent aspect to the job for a set of reasons.

In this regard, it is worth mentioning an EFFAT study carried out in 2008/2009. We highly recommend to review this study with the activities being implemented by Spain as well as other organizations that have focused on this specific topic. A second proposal would be to ease communication, in particular the possibility of effectively enabling the portability of rights. Being a complex issue further discussions at a cross border level are needed.

The conference enabled to focus on some priorities and two main points:

1. Unionisation and partnership agreement
2. « statute » with a clearly defined content (this term only indicates the topic) of the seasonal worker

The « Agripass » topic is common to many organisations in various Member statesq organisations : EFFAT urged a co-financing at the Commission, so as to specifically deal with the topics proposed in the following conclusions being drawn up.

Conditions de vie au travail des travailleurs agricoles saisonniers et migrants, impact du travail illégal

- Finally, to conclude, let us all remember that the dissemination of results of this project is one of the pillars of the working plan and in particular:
- That the development and results of this project are to be largely disseminated, in particular on the Partner sites of the project, as envisaged by the working programme.
- Disseminate these results to the European institutions (including the DG Justice and Home Affairs)
- Dissemination of a <<guide>> easing the Exchange of information. This guide was presented on the occasion of final meeting of the Steering Committee.