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MIGRANT AGRICULTURAL WORKERS FROM THIRD COUNTRIES



Report presented by the GEOPA

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On July 3 and 4, 2000 the GEOPA organized a seminar in Santa Cruz de Tenerife on the issue of non-EU migrant agricultural workers.

Participants to the seminar

The seminar gathered together 23 representatives of national agricultural employers' organizations from 12 EU countries as well as one representative of the Slovene agricultural organization, under the chairmanship of GEOPA President Mr. Von Schnurbein (see attached list of participants).

The participants were welcomed by Mr F. Jiminez, President of ASAJA-Tenerife, who stressed how important the problem of migrant workers was for Spain and Tenerife.

The following people also attended the seminar:

Mr. Wilms, member of the EU Social and Economic Committee;
Mr. Hunt, Director of ILO in Spain;
Mrs Pozas, Director for Migrants at the Spanish Labour Ministry
Mr. Aguilar, Secretary General of FTT-UGT

Mr. Miguel Arias Canete, Spanish Agriculture Minister, honored us with a visit during the seminar.
Mr. J. Ott, representative from DG Social Affairs in the European Commission had been invited to make a presentation on the EU policy on the migration of workers.
Mrs. M. Hautala (DG Employment) who was supposed to replace him also had to send her apologies.

Mr. Arias Canete's presentation

Welcomed by GEOPA Vice-President Mr. Bohorquez, Mr. Arias Canete warmly congratulated the GEOPA on its initiative of holding a seminar in Tenerife. He pointed out that it was of paramount importance in the Canaries archipelago to employ a very high number of farmers and agricultural salaried workers to cultivate bananas in order to encourage the population to stay on the islands. He stated that the Spanish government set great store by maintaining agriculture in the Canaries. In fact, in his capacity as national minister, he had come to Tenerife on that day to chair a coordination meeting of agriculture ministers of the 17 Spanish communities.

He indicated that the problem raised by manpower from third countries was a source of great concern for the Spanish government. Spain was part of the Schengen area and was one of the outer borders of the European Union. The Spanish government was very aware of its responsibilities in this respect. The economic and social situation in Maghreb countries gave rise to massive immigration to Spain in often dangerous and dramatic conditions which had to be addressed. The question now raised was how to control and regulate these migration movements.

Mr. Wilms's introductory presentation

Mr. Wilms, a member of DGB (German organization of employees' trade unions) and member of the EU Economic and Social Committee (ESC), presented the opinion adopted by the ESC on May 24,

2000 (doc. NAT/051), of which he was the rapporteur. He indicated that in the ESC opinion, entitled "Elaboration of an initiative aimed at establishing a regulatory framework for the employment of migrant agricultural workers from non-EU States", the lack of reliable statistics on the employment of salaried workers in the European agricultural sector was deplored. Social partners were urged to set up "observatories" which would record and analyze migration movements among the agricultural workforce from third countries.

This being said, the ESC noted that seasonal work was part and parcel of agricultural work and that, for various reasons, the seasonal jobs offered attracted many applicants from the south and east of the European Union. In Germany over 200,000 Polish seasonal workers were now introduced in the country every year, whereas the figure for 1988 was only 10,000. The ESC would thus like:

- on the one hand, for migration movements to be organized in such a way as to avoid the entry of illegal workers;
- on the other hand, for work conditions and the social cover of migrant seasonal workers to be truly identical to those of national workers.

Mr. Hunt's introductory presentation

Mr. Hunt, in charge of the International Labour Office in Madrid, set the issue of intra-European migrations within the general context of relationships between developed countries and developing countries:

on the one hand, a working population of around 45 millions in the world was employed in a different country from its own and accompanied by as many family members. These population movements generated political problems;

on the other hand, trade globalization, particularly for agricultural products, raised the issue of social dumping, which must be dealt with at the level of the relations between the ILO and the WTO.

Mr. Aguilar's presentation

The FTT-UGT Secretary General noted that as elsewhere in Europe, Spanish agriculture was regularly faced with problems linked to a lack of workers. The issue of the employment of foreign seasonal workers was therefore raised.

A collaboration agreement between the government, employers and trade unions set up a recruitment procedure for Moroccan workers and around 40,000 seasonal immigrants were legally employed in the agricultural sector. But there were as many immigrants in an illegal situation. A plan to regulate migration movements was introduced by the previous government as well as a procedure for legalizing the situation of illegal workers. The FTT-UGT was afraid this policy might be questioned by the current government. Seasonal immigration, in particular, needed to be organized. Foreign workers should only be admitted if they signed a contract of employment before leaving their country of origin, which would make it possible to control their return at the end of the contract.

However, the problem of employment should be dealt with as a whole:

- Agricultural salaried workers should be offered comparable salaries, working conditions and services to those in force in other production sectors.
- Seasonal workers should be provided with decent accommodation. Over 150,000 Spanish workers moved within the country to work for seasonal campaigns. Employers should accept to finance the rehabilitation of workers' accommodation and build at least 40,000 new lodgings.

- Work inspection should be reinforced and employers infringing labour legislation should be penalized, particularly by means of a temporary suspension of CAP subsidies.

Work of the seminar

The national preparatory reports drawn up by GEOPA members before the Tenerife meeting structured discussions between the participants to the seminar and enabled them to make a number of observations:

- agriculture needs a seasonal workforce;
- the lack of a seasonal workforce is noted everywhere;
- there is growing pressure from illegal immigration;
- there is no harmonized legislation on seasonal immigration.

These observations led the participants to formulate three series of proposals:

- harmonizing immigration policies;
- authorizing and organizing seasonal immigration;
- preparing for the free movement of workers from CEECs.

First section: OBSERVATIONS

First observation:

Agriculture needs a seasonal workforce

Most agricultural work is made up of seasonal work: ploughing, sowing, harvesting, at different times of year.

Problems occur when seasonal work generates seasonal jobs. These jobs have always existed. As long as wheat was reaped with a scythe, farmers needed a whole army of harvesters. No further back than thirty years ago, tens of thousands of workers were required for hoeing sugar beets. These jobs have disappeared with the arrival of combine harvesters and sophisticated sowers.

Other seasonal work can be mechanized. In many vineyards, machines for grape-picking are now used.

Machines for picking apples or peaches exist as prototypes and the day will come when they are brought into service. In the meantime, a lot of seasonal work still needs to be done by hand.

Moreover, a very high number of seasonal jobs need to be filled at the same place over the same period. The wine harvest lasts from 8 to 15 days, but all the wine growers from a particular vineyard harvest and press the grapes on the same dates. One region is favourable to the cultivation of asparagus, while another is good for producing strawberries or apricots. To enable their small- or middle-sized agricultural holdings to survive, many farmers from the same small region have embarked on the same production, created a processing and marketing cooperative, built up a customer base or even managed to be granted an *appellation contrôlée* or to have a brand image linked to a specific rural region. They all need seasonal workers at the same time.

Agricultural seasonal work is therefore unavoidable and farmers find it unacceptable to be accused of making jobs "precarious".

Second observation:

The lack of a seasonal workforce is noted throughout the EU

Farmers from all the different European Union countries note nowadays that they can no longer find all the seasonal workers that they need. This observation is equally valid for countries such as Spain which traditionally export seasonal workers. Thousands of Spanish agricultural workers still continue to migrate to France or other north European countries every year, but in the meantime, seasonal jobs are not filled in some Spanish regions.

The causes of this situation have been pinpointed. They were indicated at the Conference on Employment in European Agriculture, organized in April 2000 in Saint-Raphaël (F) by the European Commission (DG Employment) and the Social Dialogue Committee for the Agricultural Sector. Here is a brief list of such causes:

– Demography and rural exodus. The family workforce has disappeared. There are less and less agricultural families than in the past; children are educated until they are 18 or over, then look for a job elsewhere, while the farmer's spouse has a salaried or non-salaried occupation; moreover, generations no longer live under the same roof.

Generally speaking, rural exodus has depopulated the countryside. Men and women willing and ready to hold down a formal, short-time salaried job at their neighbour farmer's are no longer to be found in our villages.

– Nature of agricultural seasonal jobs. If the local and family workforce has disappeared, recruitment should be done elsewhere, that is in the cities. This raises the problem of transport of these salaried workers, and of the provision of meals and collective accommodation. These constraints are not easily accepted by job applicants. Moreover, the jobs concerned are physical and performed outdoors, sometimes in the rain or in hot weather. City inhabitants are no longer adapted to such conditions.

– Salaries and competition of minimum wage payments. Agricultural seasonal jobs are usually low-qualified jobs. They are consequently remunerated, as a rule, at the level of the national minimum wage or at the minimum contractual rate, so they hold little attraction for job seekers.

Employers cannot afford offering higher salaries than the minimum wage set by regulations or collective agreements. Owing to the indirect wage costs imposed by labour legislation or collective agreements (costs for overtime, paid holiday, premiums, etc.) and by social security legislation (employers' contributions), remuneration for harvest work represents 40%, 50% or even 60% of the selling price of fruit and vegetables from an agricultural holding.

In several European countries, governments have taken steps to encourage the maintaining of jobs in low-qualified activities, particularly via partial exemptions from employers' contributions for "low salaries". But the basic problem is not solved, that is the distribution of added value between producers and consumers and, in the middle, mass marketing.

The low attractiveness of the salaries offered is made even worse by the relative importance of the allowances, benefits and other minimum social security payments which the unemployed – and, more generally, the non-working population – are entitled to. This is another basic problem, which it is not relevant to develop here.

– Difficult organization of the labour market. It would be possible to remedy, at least in part, the shortfall in workforce by a better organization of the labour market. The insufficiencies of public employment services have been underlined everywhere.

The St Raphaël Conference was an opportunity for highlighting various initiatives taken by the social partners. Depending on countries, they set up equal opportunities bodies, whose purpose is:

- on the one hand to seek potential applicants for agricultural jobs by informing them about the nature of available jobs and working conditions as well as by organizing adapted training for them;
- on the other hand, to analyze the jobs offered by farmers, establish quantitative and qualitative forecasts and organize the connection between employers and job applicants. In some cases, initiatives are taken to organize the work year of seasonal workers by enabling them to do various seasonal periods with several employers during the same year.

These efforts have given encouraging results and should be better supported by public authorities.

However, the lack of seasonal manpower remains a reality and, with the recovery experienced in terms of economic growth, the problem is likely to worsen quickly. It should be accepted that the notions of full employment and unemployment no longer have the same meaning today as a few years ago. An unemployment rate of 5% or 6% of what is called the working population is probably unavoidable, which means that with an unemployment rate of 8% or 9%, it is difficult to provide for seasonal, low-qualified jobs and this observation is not just valid for agriculture.

Third observation:

Increasing pressure from illegal immigration

While in our European Union countries, job seekers are increasingly reluctant to be employed in the agricultural sector, this is not the case for thousands of workers from Central and Eastern European countries, Maghreb, black Africa, Asia, etc., who are trying to penetrate our territories.

This situation should obviously be attributed to the great poverty characterizing those countries. Differences in lifestyle with Western Europe are huge and the level of remuneration likely to be had in our countries is an irresistible attraction. For carrying out agricultural work for two weeks, the salary paid may amount to three to four times the monthly salary to be expected in the country of origin.

Illegal immigration is organized by real mafias, which perform an inadmissible racket. This traffic leads to terrible dramas, as recent events have shown us in the Detroit of Gibraltar or in Dover.

The illegal seasonal immigration of agricultural workers, who mainly come from neighbouring countries, takes less traumatic forms. One needs only get a three-month touristic visa under the pretext of visiting members of one's family living abroad for scores of years, or a training session certificate issued by existing or fictional school establishments or universities, or even to claim to be going on a pilgrimage.

A professional activity carried out by a foreigner illegally entered in a country or with a touristic visa is severely blamed in principle in all EU countries. Employers are liable everywhere to very heavy fines, sometimes accompanied with a jail sentence or other complementary penalties. However, the GEOPA was unable to collect reliable information on the number of sanctions effectively taken in the various Member States.

Although there is no question of accusing national authorities with being laxist, a general malaise is clearly perceptible. The States are reluctant to carry out massive expulsions and large-scale regularization operations are sometimes organized. This was recently the case in France and is currently being done in Spain, Belgium and Austria; it seems to be envisaged in Portugal. In such cases, illegal workers have greater chances of being regularized if they can prove they have effectively been on the national territory for several months or years, that is if they have been able to survive thanks to undeclared illegal work. The agricultural sector which, at certain periods of the year, has an urgent need of manpower to save crops, is one of the ways of access for these workers.

The job offers for low-qualified employed spurned by our fellow citizens create an "opening", but it is not enough to account for this phenomenon. Another factor is the demographic decline in Europe, which is today a reality which everyone is slowly becoming aware of.

Fourth observation:

There is no harmonized regulation of seasonal immigration

Introduction procedures

Legal provisions in force in the EU Member States organize the introduction procedure for non-EU seasonal workers according to a pattern which seems to be the same everywhere, save a few exceptions:

- employers who want to introduce a foreigner has to apply for an authorization with a local authority linked, depending on the country concerned, to the labour ministry, the public department for employment or another body;
- before granting authorizations, the authority checks whether the job offers cannot be met on the national labour market;
- when authorizations are issued, workers are recruited in their country of origin by the embassy or the consulate.

Immigration policies

Among the 12 Member States represented at the seminar, the GEOPA noted that the above-mentioned procedures made it possible to introduce a number of seasonal workers without too much difficulty in five States: Italy, Spain, Portugal, Sweden and Finland.

On the other hand, no work permit was granted in Belgium and Denmark (except for students), whereas in France, the number of permits was extremely limited in relation to the number of potential jobs.

In the United Kingdom, it is fairly easy to employ students who come in great numbers for a linguistic stay. In fact, there is no introduction procedure as such. Employers only have to apply for a certificate entitling them to employ foreign students.

In Germany, Austria and Greece, possibilities of employing foreign seasonal workers are easily granted:

- in Greece almost all seasonal agricultural work is carried out by foreigners, mainly Bulgarians, Albanese and ex-Yugoslavs;
- in Germany the impressive flow of foreign seasonal workers mostly comes from Poland. The government is now trying to bring down a little the number of permits granted;
- in Austria, employers are allowed to directly employ seasonal workers from CEECs, mainly Hungarians. Workers may stay up to six months, but only 8,055 foreign seasonal workers (1999 figures) may be present at any one time in the country, which creates a bottleneck at the time of grape-picking.

In only three countries, employers have to pay a fee for financing recruitment operations: Germany (61 euros), Austria (70 euros for other foreigners than those from CEECs), France (ranging from 130 to 400 euros according to the length of the contract of employment). In Finland, it is foreign workers who have to pay a fee (134 euros).

Working conditions

In all the EU Member States, legislation prohibits any discrimination between foreign workers and national workers. In fact, when minimum salaries set by legal provisions or collective agreements are relatively low, foreigners are systematically remunerated at the minimum level, whereas real salaries of national workers are sometimes superior.

In Germany, it seems that employers' social security charges are below usual standards in case of employment of a foreign seasonal worker.

Finally, it should be noted that:

- a written contract of employment has to be signed with seasonal workers in Germany, Italy, France and Belgium;
- accommodation has to be provided in the United Kingdom, Italy, Sweden and France.

Statistics

The GEOPA has been able to establish the following table, indicating in the 12 Member States:

- the number of permanent agricultural salaried workers;
- the number of seasonal workers;
- among seasonal workers, the number of non-EU migrant seasonal workers.

Certain indications are approximate, owing to the lack of adequate official statistics in a number of countries. This table is thus given with reservations. In any case, it perfectly illustrates the lack of harmonization of national policies for seasonal immigration.

**EVALUATION
OF THE NUMBER OF MIGRANT AGRICULTURAL SEASONAL WORKERS**

COUNTRY	Possibility of introducing seasonal workers	Number of permanent salaried workers	Number of seasonal workers	of which: non-EU workers	Fee (euros)	Compulsory contract of employment	Compulsory accommodation
Greece	Easy	20,000	100,000	100,000	-	-	-
Austria	Easy	28,759	?	25,100	70	-	-
Germany	Easy	195,100	299,200	200,00	61	YES	-
United Kingdom	Fairly easy	145,000	73,000	9,956	-	-	YES
Italy	Possible	92,654	824,067	43,783	-	YES	YES
Spain	Possible	162,000	650,000	37,785	-	-	-
Portugal	Possible	32,500	27,800	600	-	-	-
Sweden	Possible	?	?	5,565	-	-	YES
Finland	Possible	3,000	40,000	2,000	134 ⁽¹⁾	-	-
France	Difficult	250,000	800,000	7,523	130 to 400	YES	YES
Denmark	Very difficult	128,385		900	-	-	-
Belgium	Impossible	15,375	50,250	0	-	YES	-
Holland	Very difficult	85 900	1 000 000	200	-	YES	-

⁽¹⁾ Fee owed by salaried workers.

Second part: PROPOSALS

First proposal:

Harmonizing immigration policies

The huge differences between immigration policies in the various European Union Member States are intolerable for agricultural employers. They result in competition distortions between agricultural farmers, which totally contradicts the Common Agricultural Policy. The problems faced by European agricultural employers are the same everywhere, particularly the fact that they all find it difficult to recruit seasonal manpower at local level. It is therefore abnormal for some to have the possibility of looking for all the salaried workers they need outside the frontiers of the Union, while others are in the impossibility of doing so.

This competition distortion is specific to the agricultural sector. The other trades using seasonal workers are to be found in the service sector, mainly in tourism. Enterprises in that sector only compete with one another within the same country, not from one country to another.

Article 63 of the EC Treaty introduced by the Amsterdam Treaty now provides for harmonization between immigration policies. This article lays down that the Council may unanimously agree on:

– measures concerning the immigration policy in the following areas:

a) conditions of entry and residence, and standards on procedures for the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunion;

b) illegal immigration and illegal residence, including repatriation of illegal residents;

– measures defining the rights and conditions under which nationals of third countries who are legally resident in a Member State may reside in other Member States.

The GEOPA proposes, on the basis of this article, that the European Union should develop a common immigration policy for seasonal agricultural workers.

Second proposal:

Allowing and organizing seasonal immigration

The common policy which the GEOPA would like to be established consists in allowing and organizing the seasonal immigration of agricultural workers.

Agricultural employers are aware that it is primarily important to give work to local manpower. There is no question of favouring immigrants to the detriment of local manpower. However, if local manpower is unavailable, it is essential to allow immigration.

The employment of migrant seasonal workers will enable the European Union to reach three objectives:

- enabling European farmers to develop their crops while being assured of having enough workers at their disposal to harvest them. The inability to harvest owing to a lack of manpower is, unlike hail for example, an insurable risk or a disaster that can be compensated for by the State;
- giving work to the national manpower employed in processing industries and marketing structures for agricultural production;
- avoiding that as a desperate measure, farmers might be tempted to employ illegal foreign workers.

The common policy advocated by the GEOPA should be developed at three levels:

1. An easily accessible introduction procedure. National authorities should be able to forecast the lack of local manpower and allow the introduction of foreigners without delay in such a case. The administrative formalities required from employers should be reduced to a minimum to avoid that excessive administrative constraints might be used as a pretext for underhand work.

2. Effective non-discrimination between national and immigrant manpower. The objective is to avoid that national legislation or collective agreements might directly or indirectly allow a discrimination to the detriment of migrant seasonal workers as regards the level of remuneration or social rights. Concurrently, it should be avoided that in the light of equal work and equal

qualifications, it might be more advantageous for employers from a financial point of view to employ a migrant seasonal worker rather than national workers.

3. Efficient organization of the return of immigrants. Provisions should be taken to ensure that foreign workers do go back to their country at the end of the seasonal job for which they were allowed to immigrate. Regular agricultural employment should not be used as an open door for illegal entry.

Third proposal:

Preparing for the free movement of CEEC workers

Several Central and Eastern European countries will join the European Union in the coming years. This is the case, in particular, for Poland and Hungary, where the working population occupied in the agricultural sector is still very high: 25% in Poland, 10% in Hungary.

Adherence to the Treaty establishing the European Community will directly result in the extension of the Common Agricultural Policy to CEECs. This is inevitably lead to a very significant diminution in the number of agricultural jobs in those countries. It would be unacceptable for those workers not to be allowed to free circulate in Europe to carry out their professional activity, particularly seasonal agricultural work.

The common policy advocated by the GEOPA should include two stages:

1. Before CEEC membership, a simplified introduction procedure. The common policy which the GEOPA would like to be established regarding the introduction of migrant agricultural workers should make it easier as an immediate priority to employ seasonal workers from candidate countries. This policy would be an excellent transition to final membership. It would enable workers from those countries to discover the agriculture of the European Union, its production techniques and its work methods.

2. When CEECs join the EU, the free movement of workers should be immediately allowed. A "transitional period" for implementing this fundamental principle in the Treaty would not be acceptable for agricultural employers. It is not up to the GEOPA to take a stand on the opportuneness of the implementation of such a transitional period for other production sectors, but it is clear that the implementation of the Common Agricultural Policy cannot be dissociated from the free movement of agricultural workers.

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