



Advancing Alternative Migration Governance



Covid-19 and Seasonal Migration in Europe: A Comparative analysis of Poland, Spain, The Netherlands and Germany

D3.5

Patrycja Matusz & Eirini Aivaliotou

2021



This project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement No 822625. The content reflects only the authors' views, and the European Commission is not responsible for any use that may be made of the information it contains.



Publication information

You are free to share and adapt the material if you include a proper reference.

Suggested citation: Matusz, P. & E. Aivaliotou (2021) *Covid-19 and Seasonal Migration in Europe: A Comparative analysis of Poland, Spain, The Netherlands and Germany*, ADMIGOV deliverable 3.5, Warsaw: Uniwersytet Wroclawski (Uwr), DOI. 10.5281/zenodo.8219007. Available at URL <http://admigov.eu>

You may not use the material for commercial purposes.

Acknowledgments

This paper has been written by Patrycja Matusz & Eirini Aivaliotou and peer-reviewed by Berta Güell, Blanca Garcés-Mascareñas and Jeroen Doomernik.

The views presented are those of the author(s) and do not necessarily represent the views of the institutions with which they are affiliated.

Any enquiries regarding this publication should be sent to us at: Patrycja Matusz, patrycja.matusz@uwr.edu.pl

Table of Contents

<i>Abstract</i>	4
1. Introduction	5
1.2 Objectives and key research questions	6
1.3 Methodological approach	7
1.4 Structure of the report	8
2. Circular and seasonal migration across the EU	10
2.1 Policy and legal frameworks in retrospective	14
2.2 The impact of COVID-19 on seasonal migration in agriculture	24
2.3 National policy responses	30
2.4 Recruitment mechanisms	36
2.5 Working and living conditions	41
3. Good practices and policy recommendations	45
4. Conclusions	51
References	56
Annex: joint sample of interviewees	60

Abstract

The deliverable for Work Package 3 (WP3) of the Advancing Alternative Migration Governance project (ADMiGOV) is a comparative report, which focuses on the circular and temporary migration schemes of four Member States of the European Union (EU). The research focuses on agricultural sector that was affected heavily by the outbreak of COVID-19. It was conducted in the following countries: Germany, the Netherlands, Spain and Poland. The research analyses the data using terminology found in the ADMiGOV inception documents and provides a 'bottom-up' perspective with semi-structured interviews with local stakeholders in the sector. Its main objective is to explore the policies and their implementation on the ground. In particular the focus was put on the impact of a global pandemic on seasonal workers employed in the agricultural sector. In addition, the research identifies "good practices" using the indicators provided by the Sustainable Development Goals 2030 (2015) and the New York Declaration (2016) as well as loopholes disturbing an effective collaboration between employers and employees of the sector. The findings show that seasonal workers are essential for the food security of the EU and disruptions of their inflows can significantly affect the EU economies and supply chains. Unequal pay of workers as well as lack of a harmonised system of payments, living and working conditions are among the most urgent issues to be addressed. The implementation of mechanisms in the following areas is needed: recruitment processes, monitoring of the living and working conditions, abuses and discrimination.

Key words: agriculture, Covid-19, circular and temporary migration, semi-structured interviews

1. Introduction

This deliverable for Work Package 3 (WP3) of the Advancing Alternative Migration Governance project (ADMiGOV) explores the circular and temporary migration schemes of the Member States of the European Union (EU). A particular focus has been placed on agriculture as one of the most hit sectors due to the outbreak of the COVID-19. More specifically, this report illustrates and reflects on the results derived from fieldwork conducted in Germany, the Netherlands, Spain and Poland. The research is structured as such, it analyses the data, using terminology found in the ADMiGOV inception documents and uses a 'bottom-up' perspective. Namely, the empirical data were gathered based on actors involved in the day-to-day practices related to temporary migration rather than in the formulation of laws, prescriptions, policies, principles or strategies.

This comparative analysis is based on national reports from the aforementioned EU countries and has as principal objectives to analyse the practices and policies of temporary migration in the last decades and subsequently to explore the impact of the global pandemic on agricultural seasonal workers using the four case studies and empirical data collected from research on the ground. In other words, the empirical data aims to allow the researchers to eventually distinguish between the existing so-called "good practices" that shall be fostered and maintained and separated from the downfalls in the systems and possible loopholes, which allow employers and other organizations to bend the national laws and regulations in the disperse of the temporary workers. Concerning the common understanding around 'good practices', the WP3 follows the Sustainable Development Goals 2030 (2015) and the New York Declaration (2016) as indicators. Overall, a multi-perspective approach from Eastern, Western and Southern Europe can prove beneficial for a successful overview of the current state of temporary migration in the EU and what follows next.

The unexpected outbreak of the COVID-19 in the midst of the research project brought into the surface very vibrant case studies, as circular and temporary migration is

profoundly based on the terms of limited stay at the host country and the return after the termination of the contract, back to the country of origin of the employee. Restrictions on movement in 2020 became a catalyst to the entire EU temporary migration policies. In addition, agriculture, which is the focus of all the reports, vastly relies on the arrivals of foreigners for the well-fare of the farms. Hence, the global pandemic managed to emphasise the role of temporary migrants in agricultural production in different EU states and what happens when they are lacking or reduced significantly.

1.1 Objectives and key research questions

The COVID-19 related crisis and the closure of borders very much affected the mobility of seasonal migrants. The European agriculture highly depends on these categories of migrant workers, hence, the EU states have been confronted with the needs for adaptation of divers strategies in order to react timely on this urgent matter.

In the light of this context, WP3 entails 4 main objectives:

- To analyse how seasonal labour demands are covered in a context of closed borders, thus how policies, regulations and practices linked to the governance of temporary and circular migration schemes in the field of agriculture, have changed under a context of emergency due to COVID-19 across Europe.
- To examine how the pandemia has affected the working and living conditions of seasonal workers.
- To identify and collect practices at the national and transnational level to address seasonal labour demands in response to the temporarily closure of borders.
- To analyse different country responses and how these have worked in practice to address seasonal labour demands from a cross-country perspective, by covering different geographic areas of Europe (East, South and West).

- To provide policy recommendations to improve the governance of temporary and circular migration schemes in the field of agriculture at a national and EU level.

In order to reach these objectives a set of key questions were posed:

- What kind of national responses have there been towards labour markets and labour demands in agriculture during COVID-19?
- How did the lockdowns impact the seasonal workers' rights, with a focus on their labour and living conditions?
- Which were the national responses towards labour markets and labour demands during COVID-19?
- Which is the role of diverse stakeholders (i.e. employer organisations/trade unions/recruitment agencies/NGOs/public administrations) in the management of temporary migration and agricultural schemes?

1.2 Methodological approach

In order to structure the fieldwork and set common objectives, WP3 researchers collaborated on a common field guide, which helped setting common directions and the scope of the research. All researchers managed to adjust the fieldwork, during the pandemic, according to the national regulations on movement, either with face-to-face or digitally conducted interviews. The research was implemented by different research teams with a shared understanding of:

- **Research techniques:** Research would rely on qualitative methods to generate data through in-depth semi-structured interviews. In some cases, this was complemented by the review of press articles, considering the difficulties faced with national lockdowns and social distancing. Meeting with interviewees and observing farms became incompatible for some time with the national and global restrictions.

- **Target group:** representatives of public institutions (ministries of labour, governmental agencies, municipalities), employers' organisations (general or specific, working in the agricultural sector), employers (from agriculture), trade unions, recruitment agencies, migrant networks, NGO's, experts (researching on labour migration).
- **Definition of temporary migrants:** The team remains open to all the potential groups that may fit under the category of temporary workers. This will allow the researchers to better comprehend previous temporary migration schemes and compare them with the period of the COVID-19 and the possibly new agreements that emerged during that time.

All in all, the manner in which interviews were conducted, the specific stakeholders that were interviewed and the particular research questions were left deliberately open-ended for the researchers to customise according to the national needs. Each team was able to make autonomous decisions upon the mode of the research, which seemed more fit considering the unprecedented circumstances, however, this has also posed certain limitations in the compatibility of the findings and their subsequent comparison.

1.3 Structure of the report

The comparative report is structured as such that in the second section all the practices, policies and legal frameworks from the countries under research are analysed. Providing an overview of what has changed throughout the last decades, addressing previous ongoing issues and how these were tackled, and if these are currently implemented and functioning properly.

Then a focus is placed on the COVID-19 and how the pandemic impacted temporary migration schemes, which alternatives were offered and how each of the countries responded towards their own labour demands. National policy responses follow as each

of the countries have different needs in agriculture from mechanized to more labor-intensive.

Finally, the recruitment strategies, working and living conditions are a crucial part of the report, in order to emphasise the similarities and differences between the EU Member States. Significant attention was paid to the violation of migrants' rights, including abuses within the working place; since agricultural seasonal work has already been referred to as one of the most precarious jobs when it comes to workers' rights.

The third section aims to present practices which were found in all case studies. The ADMiGOV project takes seriously the Sustainable Development Goals 2030 (2015) and the New York Declaration (2016). For this reason, it promotes exemplary cases when temporary migration is beneficial for the governments, the migrants and the host community. Temporary migration is usually portrayed as a win-win-win situation between the government, the employers and the employees. Yet, adverse practices halt this chain and become a burden to any possible positive improvement. Passetti analyses how "migration governance" is based on how things function and how organisation and steering of the procedures is part of the governance. The positive migration governance which yields good results, has an instrumental approach described by Woodrow Wilson (1887) and Max Weber (1946) with the notions of efficiency and effectiveness. Values such as participation, transparency, accountability, consent, fairness, and equity seem to be key for a successful migration governance. On top of the instrumental and normative approaches, Passetti adds the importance of sustainable development regarding good governance. Hence, the ADMiGOV project takes very seriously the principles set by the New York Declaration (NYD), the following Global Compacts on Migration and Refugees, and the Sustainable Development Goals (SDGs). Namely, good governance is a multi-phased system consisting of various actors, resources, policies, and practices. Based on that knowledge the WP3 analysed and conducted qualitative research in an attempt to spot and highlight the good practices that shall be maintained and reinforced.

In order to present more realistic and applicable policy recommendations, these have been split according to different time frames. Short-term recommendations could be applied in the upcoming agricultural campaigns for 2021-2022, while mid-term and long-term proposals refer to actions in the upcoming years.

Finally, the report concludes with some final remarks about the similarities and differences between the cases presented.

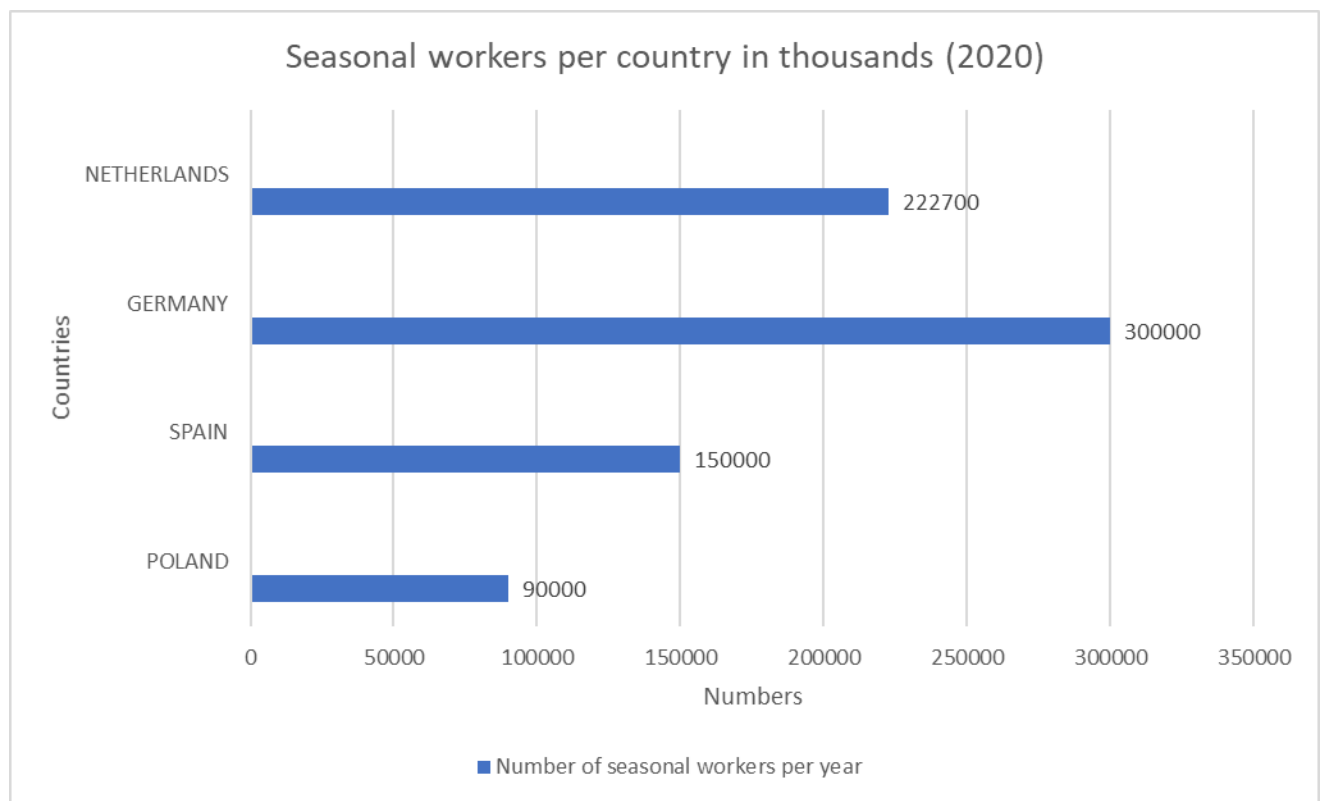
2. Circular and seasonal migration across the EU¹

The EU Member States are in need of migrant workers to meet the labour shortages in diverse sectors of economies, while paradoxically there are very limited legal opportunities for low-skilled migrants to migrate and work in the EU. The states depend on migrant workers in sectors such as agriculture, hospitality and tourism. In 2016 temporary workers accounted for 42% of salaried workers in annual work units in agriculture in the EU 15 (Eurostat, 2022).

Seasonal work is significantly related to agriculture, where work is very labour-intensive and needs to be done in a timely manner due to the harvesting limitations. The agriculture in all Member States underwent the process of outflows of local workers and increased demand in foreign labour force. Among all Member States, Germany, France, Italy, Spain and Poland employ the highest number of seasonal migrants in the agricultural sector. The European Commission's 2018 EU agricultural Outlook predicted that the process of outflow from agriculture would continue until 2030, which would impact the demand in foreign workforce. Table 1, illustrates the seasonal workers per case study of this report in thousands.

¹ This section is based on the national reports of WP3 of the ADMIGOV project, which have been written by each national research team.

Tables 1: Seasonal workers per country in thousands



Source: Marie-Laure Augère-Granier (2021). Migrant seasonal workers in the European agricultural sector. [online] Available at: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689347/EPRS_BRI\(2021\)689347_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689347/EPRS_BRI(2021)689347_EN.pdf).

Each EU Member State developed and implemented their own temporary migration schemes, dependent on the needs of the domestic labour markets, related to their broader migration governance and their relations and bilateral agreements with the migrants' countries of origin. On the EU level migrant workers can be divided into two categories: internal movers (from other citizens of other Member States) or third-country nationals (citizens from countries outside the EU). Due to the regulations on free movement of workers, citizens of the EU Member States are entitled to full equal rights as local workers. Their rights are based on collective and individual labour agreements of the particular Member States. In some cases (Germany and the Netherlands) seasonal workers are employed in other Member States and sent to another EU Member State from their employer- temporary work agency.

On the EU level the rights of seasonal workers are covered by the Seasonal Workers Directive in 2014 (Directive 2014/36/EU). It regulates employment conditions, age, safety measures etc. The Directive was meant to harmonise the rights of seasonal migrants. It addressed the living and working conditions, which remain challenging for many employers. It also regulates the length and conditions of stay of seasonal migrants in the EU Member States. On the EU level for a long time, this was a step towards regulations on seasonal migrants' rights. The adaptation was an important step towards harmonisation of this area, however the implementation of this Directive is still ongoing, and it is difficult to predict how effective it will be in addressing the challenges of the EU labour migration. The Seasonal Workers Directive aims at: helping meet demand for seasonal migrants, acting against irregular migration and employment; protect the rights of migrants; develop the win-win situation for countries of origin.

The President of the European Commission designated a Commissioner for migration, Dimitris Avramopoulos, giving a new migration policy a priority in its program, based on four components legal migration, protection against irregular migration and development of international protection.

Member States are responsible for the implementation of this Directive to their national schemes regulating labour market and recruitment of seasonal workers. Some EU Member States, as selected for this study, Germany and the Netherlands have a long experience in labour migration, to include seasonal migration. These two countries, recruit seasonal migrants mainly from other Member States (internal migration) Poland, Romania, Bulgaria etc. This internal movers, as citizens of the EU have access to the same rights as local workers. However, this category faces in some regards similar challenges in working and living conditions, as the seasonal migrants from third countries. In contrary to Germany and the Netherlands, Spain and Poland recruit seasonal migrants from countries outside the EU. Poland issues the most permits to Ukrainians, and Spain to citizens of Morocco.

Table 2. Seasonal workers' nationality.

COUNTRIES	SEASONAL WORKERS' NATIONALITY		
POLAND	UKRAINIAN		
SPAIN	MOROCCON	ROMANIAN	
GERMANY	ROMANIAN	POLISH	
NETHERLANDS	ROMANIAN	POLISH	BULGARIAN

Source: Marie-Laure Augère-Granier (2021). Migrant seasonal workers in the European agricultural sector. [online] Available at: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689347/EPRS_BRI\(2021\)689347_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689347/EPRS_BRI(2021)689347_EN.pdf). [Accessed 29 Jan. 2022].

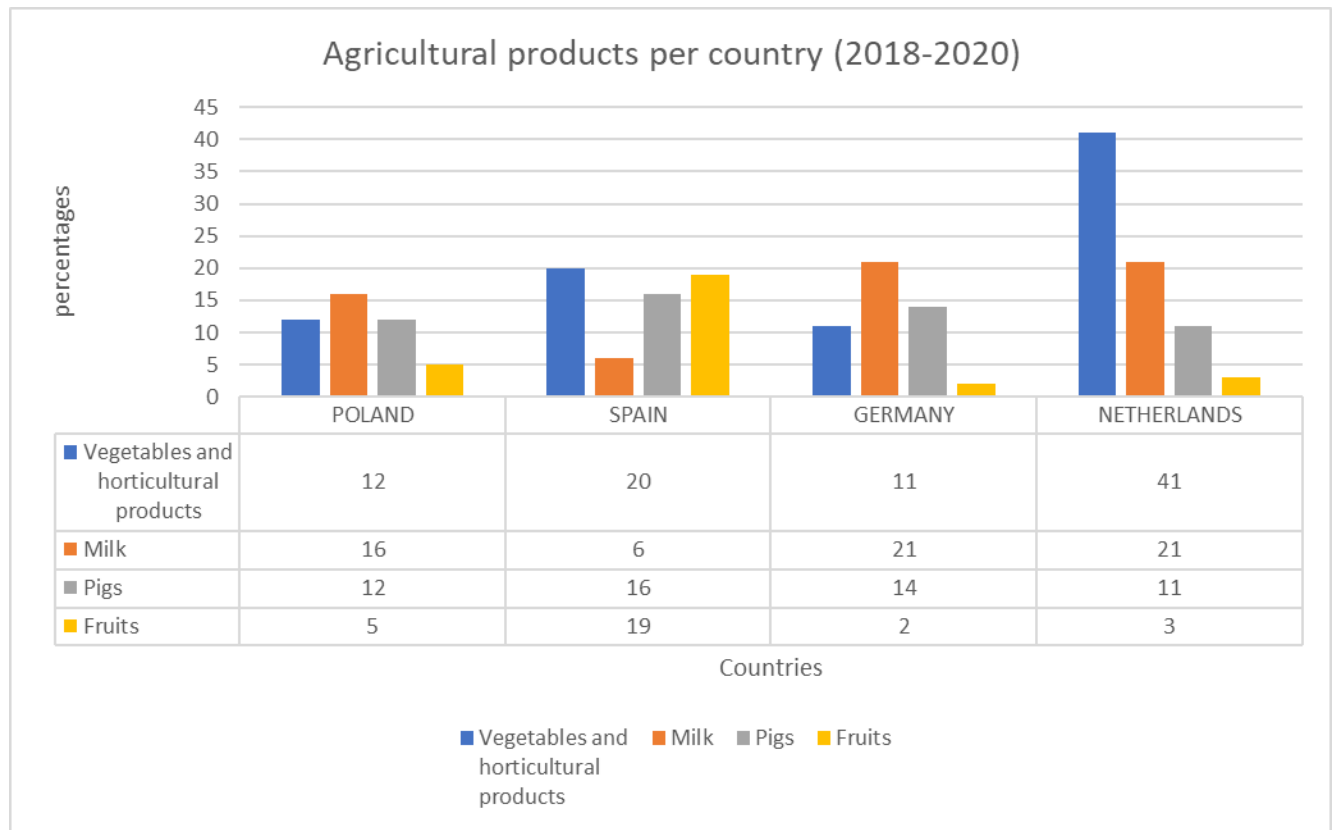
Before presenting the development of seasonal migration regulation in selected EU Member States, it is worth mentioning that the main objective of any labour market migration policy is an interplay of supply and demand in the labour market. In the process of searching for labour migrants for the employers, the recruitment regulations and its costs are crucial. In order to meet the fluctuating seasonal needs employers need to be able to recruit quickly, and it means flexible regulations and procedures. If the procedures are too complicated, time consuming or unpredictable both employers and migrants may choose an informal economy, which means many risks for all parties involved.

Table 3: Seasonal agricultural goods per country

COUNTRIES	SEASONAL AGRICULTURAL GOODS
POLAND	Soft fruit (berries and strawberries) and apples
SPAIN	Strawberries and tomatoes
GERMANY	Strawberries and asparagus
NETHERLANDS	Strawberries, asparagus, and mushrooms

Source: Eurostat (2021). Agricultural production - crops. [online] ec.europa.eu. Available at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Agricultural_production_-_crops#Vegetables [Accessed 29 Jan. 2022].

Table 4: Most harvest agricultural goods per country



Source: European Commission (2021). Agriculture and Rural Development Statistical Factsheet. [online] Available at: https://ec.europa.eu/info/sites/default/files/food-farming-fisheries/farming/documents/agri-statistical-factsheet-pl_en.pdf. [Accessed 29 Jan. 2022].

As the research unravels, it becomes obvious that seasonal migration can be a very important source of income not only for migrants, but also for their families and local communities. Implementing fair seasonal migration schemes might lead to the benefits not only for the countries of destination, but also for the countries of origin. This approach might help to integrate the labour market and economic development. However, many Member States still frame their seasonal migration schemes as the way of meeting labour shortages solely.

2.1 Policy and legal frameworks in retrospective

As mentioned above, there are quite limited opportunities for the legal labour migration into the EU, however, the seasonal migration is an exception in this system. In almost all Member States there are some regulations allowing employers recruitment of migrant workers in such sectors as agriculture, tourism, constructions, horticulture etc. In some states these sectors are predominantly dependent on migrant workers.

On the one hand the challenges on the labour markets are similar in all Member States, on the other hand, there are still very little initiatives aiming at the development of common EU strategies addressing these collectively. We do have a set of 28 separate national labour market policies, and related to these migration regulations, with highly divers regulations on living and working conditions, including regulating salaries.

The difficulties in accessing the EU labour market for selected categories of migrants, connected with the demand for labour in many sectors of the economy, encourage the irregular migration and regular overstays. It is interesting to look at the developments of labour migration regulation in the selected case studies.

In each section we start with the states with the longest experiences with labour migration, representing Western Europe, the Netherlands and Germany, followed by Spain representing Southern Europe, and we finish with Poland, which represents the new Member States, being in a fast-forward process of transforming from emigration into immigration countries.

The selected cases represent 3 main groups of geographical locations, the historical developments of labour migration regulations. The cases are diver in terms of the length of labour migration experiences, categories of migrants (internal mobility versus migration of TCN), the sectors in which migrants are employed. The selected cases differ also in terms of recruitment practices. In the Netherlands, Germany and Spain the recruitment procedures seem to be more standardised, in contrast to Poland, where recruitment is based on more informal channels of existing migratory networks.

In order to understand the differences between the selected cases, it is necessary to underline also the structural differences on the labour market, institutions responsible, migration governance etc. This, however, goes beyond the aim of this report.

Germany

Germany represents one of the states with the longest history on labour migration. Germany's seasonal work programmes in agriculture date back to the late 19th century. At that time seasonal workers came mainly from Poland. This seasonal migration was reintroduced after the German reunification in 1991. The main seasonal workers in Germany once again were from Poland and other Central-Eastern European countries. It is interesting to look at the development of labour migration regulations which led to today's approach of the German government. In recent years Germany has opened up its economy to migrants from all over the world (see e.g. the government's website Make it in Germany) provided these bring needed formally recognized skills. The origin of this approach lies in the Red/Green government (1998-2005) and more precisely the call of then-Chancellor Schröder for the introduction of a German Green Card system, which endeavours to attract highly skilled foreign workers for the IT-sector. During the same year *the Unabhängige Kommission Zuwanderung* (better known as the Süßmuth Commission after its chair Prof. Rita Süßmuth) was asked to propose a modernisation of the German immigration policies, which until then had been drafted with the understanding that Germany is not a country of immigration. Labour immigration policies therefore always had the objective to limit the permanent settlement of foreign workers. In subsequent years, in sharp contrast with the past, the goal was to facilitate settlement and integration. In March 2020 the *Fachkräftezuwanderungsgesetz* (Law on the recruitment of skilled workers) came into force, which omits almost all restrictions for any third country national with professional skills, vocational or college training, who seeks and subsequently finds a job in Germany.

The German Statistical Office states in its national economic review as of 2018 that the German economy greatly benefits from immigration, notably from new Member States,

as well as from third-country nationals arriving as refugees (Statistisch Bundesamt 2019: 33). Parallel to this policy for skilled foreigners, lays the possibility for asylum seekers to take up employment (after the first three months of their paper procedures). Exempted from this option are asylum seekers stemming from safe countries of origin (presently: all West Balkan states as well as Ghana and Senegal). Should subsequently their application be rejected but their return cannot be effectuated, they can be issued with a tolerated status (*Duldung*). Such a status does not hold any rights but does protect individuals against deportation as well as detention for illegal residence (which is criminalised under the German law). Normally this status is to be renewed every six months, but it may also be issued for shorter periods. This is done at the discretion of the *Ausländerbehörde* (a local office akin to the aliens' police or immigration office) (Eule 2018). When they are in possession of ID-papers or can demonstrate that they have none because of reasons beyond their control, tolerated persons can seek/accept employment or enter into vocational training (which often includes on the job training). For a long time German agriculture is dependent on seasonal migrants. The official statistical data for a long time underestimates the role of seasonal migrants, they presented workers recruited through official agencies based in Germany, but they did not include agencies operating in other states. For the agricultural sector starting from mid 90s the informal channels of recruitment played an important role. Seasonal migrants started to come back to the same employer and become circular migrants. It is very often the pattern that seasonal migrants develop good relationships with their employers and return for each season at the same place (OECD 2019). This situation is beneficial for the employers, cause even if the seasonal workers in agriculture are considered as low-skilled, they need to have certain skills and previous experience. Germany has used the historical connections to benefit from Polish seasonal workers, mainly in agriculture and tourism. There is no doubt that recruitment of Polish migrants was easy for German employers. It is worth mentioning, that even if the seasonal migration was an exception, the free mobility of Polish citizens was delayed by Germany till the maximum of seven years after accession. This example shows that EU Member

States tend to use temporary migration schemes in order to avoid long term migration. Temporary migration seems to be more beneficial and less costly from the states' point of view. In the last five years when the inflow of Ukrainian migrants came in Poland, it became rather intense between the two countries, German authorities implemented some regulations attracting skilled workers from this group to access the German labour market. This competition for migrant workers between Member States seems to be an intriguing subject for further research.

The Netherlands

Same as Germany, the Netherlands represents the group of Western European countries with the longest history in labour migration. After WWII labour migrants came to the Netherlands mainly from former colonies and the Mediterranean region. The majority of these 'guest workers', who in theory came to the Netherlands for temporary employment, settled down and never returned to their countries of origin.

From the mid-1980s refugee migration to the Netherlands gained considerably in importance, forming a new category of migrants. The Netherlands saw the arrival of asylum seekers from war-torn former Yugoslavia. Others came to find a safe place from Iran, Somalia, Eritrea, Afghanistan, Iraq and Syria. People from these countries of origin taken together number 330 thousand. In 2013 the Dutch government introduced its *Law on a Modern Migration Policy* with the aim to simplify rules for regular (i.e. non-asylum based) admissions. Whereas earlier labour migration had been considered as something that was exceptionally allowed, it now had been made part and parcel of this Modern Policy. The aim was not to return to the low-and unskilled labour immigration from before 1973. Instead, the policy is geared towards highly skilled (college level) workers and entrepreneurs. Mid-skilled and lower skilled workers had meanwhile freely become available from the Central and Eastern European countries that had joined the European Union in 2004. Its citizens did not immediately have the freedom to work in the Netherlands (this had to wait until January 2007, and for Romanian and Bulgarian workers even seven years longer, i.e. until 2014). In this respect the Dutch government

was more hesitant than those of Sweden, Ireland and the United Kingdom which had immediately opened up their labour markets for workers from these new Member States. As Kremer (2016) observes, the Netherlands was suffering from a “guest worker” trauma whereas at the same time the demand on the Dutch labour market was no longer for the type of workers who were recruited in the 1960s. And, indeed, expecting the same outcome –a part of the population that experiences difficulties integrating – would not have been merited.

Meanwhile, labour migration from third countries for other than ‘knowledge workers’ remains severely restricted. All such admissions are regulated by the *Wet Arbeid Vreemdelingen* (WAV) (Law on Aliens’ Employment). The general rule is that an admission serves the needs of an employer (i.e. is demand driven). Nevertheless, a growing segment of the permits is supply driven while serving the *Knowledge Migrant scheme* which allows recently graduated persons to remain in the country for a year whilst looking for employment, including the option to start a company. This option is also available to someone who has graduated from a selected foreign university (e.g. one of the top 200 as published by the Times Higher Education World University Rankings). Admissions from abroad must fill a vacancy which cannot otherwise be fulfilled from the labour force already present within the European Economic Area (EEA). Depending on the precise nature, employers may or may not be required to demonstrate they have undertaken recruitment efforts within the EEA. Normally the permit to work and reside is valid for an initial one year period. After five years, the migrant is completely free to remain and take on any job. Until then the permit limits them to a particular type of employment and employer.

It is also possible for entrepreneurs to operate in the Netherlands. In such a case a business plan has to be submitted for evaluation by the *Netherlands Enterprise Agency* (Raad voor Ondernemend Nederland) (RVO). The *Immigration and Naturalization Services* (IND), which administers the application, bases its decision on the RVO’s verdict regarding the viability of the proposal and its added value for the Dutch economy. Similar rules apply for those who want to start up a new business. A permit allows the

applicant to remain in the country for a year during which the business can be created and developed. It is mandatory to have a sponsor (facilitator) who is certified by the RVO. In case third- country nationals are being seconded to provide services in the Netherlands by an employer based in another EU member state, this should be reported to the *Employee Insurance Agency (UWV)* of the Ministry for Labour and Social Affairs (SZW). There is anecdotal evidence of growing numbers of Ukrainian nationals, who have a Polish work permit and are hired by a Polish firm and they operate in the Netherlands.

The Netherlands and Germany seemed to follow the same path, when it comes to the countries of origin of the seasonal workers. Both countries managed to cover their labour shortages by recruiting workers from new EU Member States. In both cases, the recruitment agencies seemed to play an important role. The seasonal workers have been very often employed by the agency and only outsourced to the farmers in Germany or the Netherlands.

Spain

Contrary to Germany and the Netherlands, Spain started to transform into an immigration country much later, together with other Southern European countries. Due to the importance of agriculture in Spain, the demand for seasonal workers has been growing very fast, and made this sector highly dependent on migrants.

The development of migration policy in Spain is related to the regulations on the labour market. In spite of frequent changes in the law (in 1985, twice in 2000, in 2001 and 2003) and the regulations that came in their wake (in 1986, 1991, 1996, 2001 and 2004), immigration policy (with the exception of family reunification and asylum) has always been based on the notion that immigration had to fit in with 'the specific needs' of the labour market. This means, first of all, that the entry of foreigners is bound to a specific employment offer. Employers, therefore, determine both the possibility of entry and the characteristics of the new immigrants. Second, speaking of 'a job offer that is not covered' also implies that official approval is only given for job offers that have not been

filled by Spanish citizens, members of the European Community, or authorised residents. The aim is to ensure that national (or authorised) workers are not displaced by foreigners. While these two principals have remained constant, the order in which they have arisen and the nature of the job offers have been changing (Garcés-Mascreñas, 2012).

The passing of the *Organic Law on Foreigners* (Ley Orgánica de Extranjería, LOE) in 1985 laid the foundations for these two principals in linking concession of the work permit with the presentation of a job contract and the 'non-existence of unemployed Spanish workers in the kind of work proposed' (Article 17). This system, known as Régimen General (General Provisions), neither ordered nor promoted labour immigration but authorised the contracting of a specific foreign worker after assessing the situation of the national labour market.

With a view to guiding low-skilled migration through legal channels and breaking with the stringency of the Régimen General, the government (still PSOE-led) established an annual labour immigration ceiling after 1993. This second mechanism or quota system enabled the contracting of a predetermined number of foreign workers in a specific economic sector and province. The advantage of this, in comparison with the Régimen General, was that the job offers presented under the heading of the quota system did not have to be evaluated in the light of the labour market. In other words, the needs of the labour market were determined prior to the offer of employment, and hence the employer supposedly gained in terms of certainty and speed

After 2002 the quota system came to be the legal framework for contracting seasonal workers in the countries of origin. Preference had to be given to those countries with which the Spanish Government had signed an agreement (Morocco, Colombia, Ecuador, Romania, the Dominican Republic, Poland and Bulgaria and later on Mauritania and Ukraine). However, the criteria for determining the distribution of the quota remained in the hands of the employers. It is the employers who, on presenting a generic offer of work, 'propose' the country where contracting will take place. In practice, this dual framework (existence of bilateral agreements and employers' decisions) turned out to

be contradictory: the reasons of state for choosing some countries over others (through bilateral agreements) did not always coincide with the demands of the employers. This disparity between the state's choice and that of the employers was particularly evident with the bilateral agreements signed with countries like Gambia (2006), Guinea Conakry (2006), Cape Verde (2006), Mali (2006) and Senegal (2007).

In contrast with Germany and the Netherlands, Spain relies on seasonal migration with a majority of workers from third countries, having said that there is a growing number of workers from new Member States, who before the countries' accession into the EU, they used to be circular migrants, mainly in the agricultural sector.

Poland

Currently in Poland, there is no migration policy that could define some short-and long-term goals. However, it can be said that the Polish authorities opened the labour market for foreigners on a comparable scale, perhaps, to the influx of migrants to Western Europe in the post-war era. Developments in migration policies in Poland were the result of the European integration. Many instruments of migration governance were established as a result of top-down approach (EU-national) rather than as a need for a real action. The implemented solutions and the opening of the Polish labour market was the result of Polish interests in Eastern neighbouring countries. Poland together with Sweden initiated the project of EU's Eastern Partnership, which was linked to a simplified procedure of mobility of citizens of these countries.

A combination of economic growth and massive outflows of Poles to other Member States after the EU accession impacted the demand for foreign workers and led the employer organisations to lobby during the opening of the labour market. The system of work permits, which is one of the main instruments of migrants' access to the labour market of host countries, has been greatly simplified in Poland. *The declaration of the intention to entrust work to a foreigner* system introduced in Poland allowed entrepreneurs to employ migrants without the need to apply for a work permit. This procedure was to enable seasonal and circular migrants in Poland, in sectors struggling

with labour shortages. As Duszczuk (2012, p.149) emphasised, ‘before the introduction of the declaration system, in the years 2004–2006 the interest of employers in legally employing seasonal foreigners was marginal’. The procedure allows employers to recruit foreigners for a period not exceeding 6 months within a 12-month period on the basis of the declaration. Citizens of Armenia, Belarus, Moldova, Russia, Georgia and Ukraine are allowed to use the simplified procedure in order to access the Polish labour market.

In Poland, the conditions of arrival and residency of foreigners are regulated by the *Foreigners Act* (12 December 2013). According to this Act, every person who does not have Polish citizenship is a foreigner. Every foreigner in Poland needs a valid document enabling them to enter and reside in Poland. The employment of foreigners in Poland is regulated by the *Promotion of Employment and Labour Market Institutions Act*. Third-country nationals are able to work in Poland, if they reside legally on the territory, but they need to hold a work permit, if they are not able to work based on the declaration of the intention to entrust work to a foreigner. Poland has opened the labour market for foreigners by introducing solutions that resulted in a mass influx of migrants. It was a response to the growing demand for foreign workers, first in agriculture, then in all sectors of the economy. The aforementioned declaration of the intention to entrust work to a foreigner.² This procedure is available to citizens of Armenia, Belarus, Georgia, Moldova, Russia and Ukraine, who can work up to nine months in Poland without holding the work permit. By 2006 due to the economic growth, there was an outflow of Poles from the local labour market, demographic changes in the population structure increased the demands for labour migrants. During the first stage of the influx, the agriculture sector had the highest number of declarations of the intention to entrust work to a foreigner registered.

² Regulation of the MRPiPS from 7 December 2017 on issuing of a work permit for a foreigner and entering of the declaration on the intention to entrust work to a foreigner in the register of declarations Dziennik Ustaw Rzeczypospolitej Polskiej. (2017). [online] Available at: <http://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20170002345/O/D20172345.pdf>. [Accessed 21. Nov.2020]

Overall, stemming from all the case studies it appears that the national migration regulations are built on demand driven objectives. Each country aims to cover labour shortages with temporary migrants. In the cases of the Netherlands and Germany it can be noticed a preference on EU nationals while in the case of Spain third-country nationals are playing a significant role. When it comes to Poland, the Eastern Partnership seems to be a strong source for covering labour demands.

It can be noticed as well that traditional welfare states like the Netherlands and Germany have more restrictive admission policies than Spain and Poland. Apparently, a “guest worker” trauma circulates in both cases, while Poland for the past decade is experiencing a transformation from an emigration to an immigration state and does not share similar fears just as yet.

Finally, in the cases of Germany and Spain there are obviously contrasting interests between the government and the employers when it comes to the migration policies. The employers in both countries wish for more liberal laws and diversity of workers while the governments have a more hesitant stance on the topic.

2.2 The impact of COVID-19 on seasonal migration schemes in agriculture

The COVID-19 pandemic has impacted worldwide the mobility of people. The declared by many states emergency and the closure of national borders, prevented seasonal migrants from arriving for the seasonal agricultural period. Closed borders and blocks of transport impacted the ability of workers from outside the EU to come to their destinations of seasonal work.

On the 16th of March 2020, the European Commission recommended restrictions on travels, which was followed by all Member States. These all were catastrophic as they happened shortly before the most intense period of the year considering agriculture in the EU Member States. A combination of the rapid changes along with the worries about the security of the EU food supply pushed the governments to take ad hoc decisions to ensure a safe supply chain.

The fears related to spreading of the virus and the growing numbers of introduced restrictions, such as 14 days quarantine upon arrival in the destination country, and the same 14 days after return to the country of origin, justifies the decision of a bulk of seasonal migrants to stay at home, in a period of uncertainty at a type of migration, where months are counted strictly and return is part of the contract.

A coordinated common EU response was advocated with a suggestion for more flexibility and resilience within the EU states (European Council, 2020). The national governments started to adopt tailor made solutions to allow seasonal workers to come and work in agriculture.

It is important to look at the responses of the governments in the selected countries of this report. Spain is the biggest exporter of fruits and vegetables in the EU. In the Andalusian province of Huelva, only 7 000 of the 19 000 Moroccan seasonal workers, who in the normal circumstances work there, arrived, due to the difficulties with the closed borders. This situation was a real risk for the Spring and Summer harvests in the region.

In Germany, which recruits about 300 000 seasonal workers every year, the risk that some vegetables, especially asparagus, would not be harvested and strawberries will not be collected on time and go to waste. As it was said before, farmers relying on seasonal workers circulating each year at the same destinations were not easily replaceable with local workers. Lack of experience and necessary skills in the fields proved a major burden for their employment. The pandemic inevitably initiated the debate about the role of the seasonal migrants in the agriculture of the EU Member States. It seems that the existing regulations very often overlook the contribution of this category of migrants to the economy and society and that the unprecedented circumstances changed the way that EU citizens see seasonal workers. It became clear that their presence is vital for the survival of the EU agricultural sector. During these debates, it also became apparent that the living and working conditions of the migrants are not ideal and in some cases comes in pair with discrimination and marginalisation in the local community where they work.

The European Commission in its Communication from 30th March 2020, presented *Guidelines concerning the exercises of the free movement of workers during COVID-19 outbreak*. In this document Member States were asked to exchange information about their needs, and develop specific regulations allowing seasonal workers to come. The EC underlined the necessity to protect seasonal workers' health, by providing appropriate equipment such as masks and gloves. The protection of seasonal migrants was very important not only for their own health but also the local communities where they operate. Knowing that migrant workers are working and living together in densely populated housing made their sanitary protection a challenge for farmers across the EU. In the majority of cases the quarantine measures were implemented, together with compulsory testing. However, the implementation of protection measures depended on farmers, and their commitment to these procedures. Social distancing has been a challenge not only in the fields but also in transport and accommodations.

The analysis of the implemented changes in the procedures by the Member States showed that there were some common solutions such as: exceptions in travel restrictions for seasonal workers, extensions of visas and temporary work permits, attempts for regularisation to asylum seekers, in countries in which this status does not allow them to work. There were many regulations implemented in the area of protections, however, in everyday practice there were many problems with protective equipment for migrant workers. The very competitive business and the dependency on migrant workers in the agriculture put a pressure on national authorities to act quickly, in order to secure the harvests.

Germany

As it was already said, German agriculture strongly depends on seasonal migrants. In April and May 2020 despite the COVID-19 about 80 000 of workers were expected in Germany. It means up to 40 000 per month. The associations of farmers put pressure on the German government to implement the extraordinary regulations to support inflow of migrants in times of general restrictions and closed borders. On the one hand, the

German government pointed out that seasonal workers would be subject to strict entry and hygienic regulations, in order to protect the members of the community from spreading the virus. On the other hand, the authorities tried to find solutions to cover as fast as possible the domestic labour demands.

The *Verband Süddeutscher Spargel-und Erdbeerbauer* (VSSE) (Association of Asparagus and Strawberry Farmers) estimates 80% of its seasonal workers to hail from Romania and 10% from Poland, whilst the remaining are Hungarian, Slovenian, Croatian and Bulgarian nationals, who by the way might well be living in neighbouring non-EU countries. More precise data, e.g. numbers of seasonal workers, are not available (Lechner 2020: 15). Many of those who normally arrive every year were hindered by travel restrictions imposed at the onset of the COVID-19 pandemic.

Allowed was the arrival of 40 thousand workers in both April and May, as it was mentioned before (Initiative Faire Landarbeit 2020). However, the quota was not exhausted because **recruitment proved problematic** (Schneider and Götte 2020: 7). The VSSE (2020) reported in May it lacked 28 percent of workers. The restrictions were lifted in June. Citing the VSE Schneider and Götte note that the additional costs incurred for the employers by the pandemic had been 880 euros per worker (airfares and higher lodging expenses).

Undoubtedly, the pandemic highlighted that Germany needs to redefine its temporary migration schemes in order to be more prepared for unpredictable situations like these. Migrant workers seemed to be a fundamental part of the German economy, not only in agriculture but also in other sectors such as the health and care sector or tourism.

The Netherlands

Based on data derived from statistics, Netherlands show a sharp drop in labour migrants, who are directly employed by a business and who were subsequently replaced by Dutch workers. This decline is also observed among those who are employed by temp agencies but where there is no replacement by Dutch workers. These observations are limited to the period between the initial lockdown in March and June 1st. When

asked about the consequences of the pandemic for workers in the agricultural sector our respondents observe that the supply of labour was not in any serious way affected and business was neither, due to the closing of restaurants and other catering companies which presumably made the demand for agricultural products drop, domestically as well as elsewhere in Europe which made exports decrease substantially (Siegmann and Quaedvlieg 2020:12). This may help explain why the agricultural sector did not experience labour shortages, comparable with Germany or Spain in the same period of time.

There were many challenges in implementation of the protection measures. Enforcement of hygiene standards and distancing requirements appear not have been first on all governmental minds: “While some municipalities fined employers for violations of COVID-19 prevention measures, in Westland, a global hub of greenhouse horticulture, the municipality announced that, in order to guarantee food security, controlling the transportation conditions for workers offered by employment agencies was not a priority.” (Siegmann and Quaedvlieg 2020: 13). The costs for protective equipment for the employers working in a very competitive business were seen, in many cases, as an unnecessary cost. Hence, the employers tried to reduce costs related to the hygiene standards.

Spain

Spain, as already mentioned, has the biggest agriculture sector from all four selected cases in this research. The country was hit intensely during the first wave of the COVID-19 pandemic. The implemented closure of borders put the agriculture business under risk of huge losses in production.

In Huelva, the pandemic resulted in a 20% reduction of production and only 250,000 tons of strawberries were harvested due to labour shortages and the reduction of consumption linked to the difficulties of distribution outside Spain. Nonetheless, strawberries in Spain generated a value of 565 million euro (January-September 2020), somewhat less than the 595 million euro of 2019 (the whole year), according to FEPEX.

The closure of borders incurred an economic expenditure related to the recruitment process of the Moroccan women that could not come. The government initiated dialogue with other countries to explore the possibility of undertaking a recruitment process. Potential candidates are in Latin America (e.g. Honduras, Peru, and Colombia) and in Eastern Europe (e.g. Moldavia). Actually, these negotiations are not new; employers' associations have been asking the government to widen the list of countries for some years already, but the pandemic has accelerated this process.

Poland

In Poland seasonal workers are employed in all sectors of the economy, not only in agriculture. Services, construction, household, care business are the sectors where temporary and circular migrants find employment. Poland did not face the challenges similar to Spain, Germany or the Netherlands, as lack of workers caused by the closed borders.

A restriction that mainly influenced the situation of migrants in Poland was the closure of restaurants, cafes and hotels, where migrants are mainly employed. Many companies and production companies reduced or stopped their operations. Even when migrants did not lose their jobs right away, in a lot of cases it eventually happened. It should be noted that the majority of Ukrainians working in Poland are short-term migrants (working for six to nine months). Another reason why Ukrainians left Poland was rather rigid procedure that do not allow them to change employer. It became evident during the pandemic that this procedure needs reviewing even after the end of the pandemic. The experts also pointed to the chaos that took place at the Polish-Ukrainian border in the first stage of the Ukrainians' departure.

Temporary migration has its characteristic about the concrete period of stays and the departure back to the country of origins. If that is delayed for an unknown period of time then that creates a complete new chaos of who needs to return and when. In Poland the dysfunctionality of the centres for processing migrants' papers was amplified after the end of the first lockdown with a lot of migrants not knowing what to do and

what is their status at a given time. The pandemic has shown even more clearly the weakness of the system of certificates and permits for seasonal work as these are issued to a specific employer.

In a study by the NBP from July 2020, companies reported a decline in revenues in March and April. However, the surveyed companies declared that they were highly unlikely to lay off people, whether the employees are native Poles or migrant workers. The entrepreneurs declared that leaving their employees would lead to higher recruitment and training costs. The employers were rather inclined to change the organisation of working time, suspend recruitment and new job offers. Workers also declared their willingness to employ migrants when the uncertainty related to the pandemic comes to an end.

To sum up, the countries facing the most complex difficulties in recruitment of seasonal workers in the time of pandemic were those with the biggest agricultural sector, Spain and Germany. Seasonal workers are considered essential because they perform critical occupations in harvesting. These are the examples of activities which can't be postponed, because they cause big losses. In the Netherlands and Poland, the impact of the pandemic was less for a short time period. But in all cases the level of uncertainty for employers and migrants was very high.

To guarantee the recruitment of seasonal workers and prevent critical sectors such as agriculture from major losses, the governments need to introduce preliminary measures. The next paragraph discusses the national responses during COVID-19.

2.3 National policy responses

As it was already discussed, the unexpected outbreak of the pandemic of COVID-19 put a pressure on the temporary and seasonal migration schemes of the EU Member States. The situation and the challenges differ in each country, due to the level of dependency on seasonal workers. Nevertheless, some potential bottlenecks can be identified. The unexpected situations such as a pandemic, cause the infeasibility of the arrival of

potential migrants in the destination countries, but it might also impact the rushing back home of migrants working already.

One of the challenges mentioned by migrants in the time of the pandemic was access to information about the quickly shifting restrictions and regulations. Proper information and communication are crucial during such crises as of COVID-19. The governments together with the local authorities should be responsible to provide updated information addressing the most important questions, in the languages of migrants. Migrants were confronted with questions about the lockdown measures, changes of legislation, legalisation of expired documents, possibilities of getting back home, even the simplest regulations such as the working hours of shops and hospitals. In the communication strategies, authorities should search for the cooperation with the NGOs and other stakeholders working with migrants. Any kind of communication channel should be updated and organised in the FAQ section, in order to avoid overload of questions and repetitions.

The success of the seasonal migration, especially in the time of crisis, is related to the recruitment of the right candidates. Employers need to be able to recruit quickly and with simplified procedures, in order to adapt to the changing circumstances. Delays in recruitment or in the visa/work permit procedures might have a very negative impact on the economy. Recruitment can go through the informal channels such as migratory networks, or through more formalised procedures involving public recruitment agencies or other institutions related to labour market, or private recruitment or outsourcing companies. The priority is a quick and flexible respond towards the employers' needs and the guarantee of the protection of the migrants' rights.

The regular seasonal migration schemes seemed to be not very flexible. One example of it, is the linkage of the work permit to only one particular employer. It is very restrictive and does not protect either the employer or employee in case that they wish to end their collaboration. Even if the employee's visa is valid, the individual cannot work somewhere else. Temporary measures implemented in the time of pandemic have introduced some more flexible solutions, visa extension and the possibility of changing

the employer, which shows that there were some improvements and some of the ad hoc solutions addressed pre-existing problems.

The Netherlands

Like in most other developed economies, COVID-19 induced restrictions have had major consequences, and this is still the case. As far as migrant workers are concerned, we partly rely on what the media report and this suggests labour migrants have been seriously affected in their health and safety. Reports about the working conditions in slaughterhouses, meatpacking and distribution centres showed cramped working conditions resulting in high infection rates. The daily *De Volkskrant* (Dirks 2020) reported how the local government of the city of Rotterdam (located close to the Westland, a region with a high concentration of greenhouses) assists Polish workers and their families who become homeless because of lacking income and abusively high rents. It is reported moreover that many migrants have never registered with the municipality. This is likely to complicate applying for unemployment benefits (to which one should add that these benefits might not suffice to pay the excessive rent for an informally occupied apartment). The informal nature of a rental agreement may be the reason why people are not recorded in the population register: the landlord might be found out. Figures from Statistics Netherlands show that out of nearly 179 thousand Polish workers less than half (77 thousand) are recorded in the municipal population register (out of twelve thousand Bulgarians eight thousand are registered, Romanians respectively 23 and eleven thousand, figures for 2017). Registering is mandatory for anyone remaining for four months or longer

The same *Volkskrant* report mentions working conditions in the greenhouses to be in violation of COVID-19 rules: maintaining a minimum distance of 1.5 meters between workers is largely being ignored. The NGO FairWork (working on anti-trafficking) reports of workers who lost all resources because they were unexpectedly terminated at their job. These people asked for help with very basic issues like where to get food and a roof

over their heads. There is no reason to believe agricultural workers were particularly hit (the examples given were of hospitality and household related employment).

In the case of the Netherlands, the losses of jobs and the consequences linked to this, seemed to be the most challenging problem in the time of COVID-19. We have to underline that in this case we have different categories of seasonal migrants, namely internal movers from new Member States, who are in a slightly better state when it comes to legislation about migration than third-country nationals.

Germany

In the Spring and Summer of 2020 attempts were noted to mobilize asylum seekers in order to replace the seasonal workers that normally arrive from Poland (30%) and Romania (65%) (Der Spiegel 2020). The *Verband Süddeutscher Spargel und Erdbeerbauer (VSSE)* (Association of Asparagus and Strawberry Farmers) estimates 80% of its seasonal workers to hail from Romania and 10% from Poland, whilst the remaining are Hungarian, Slovenian, Croatian and Bulgarian nationals, who by the way might well be living in neighbouring non-EU countries. More precise data, e.g. numbers of seasonal workers, are not available (Lechner 2020: 15). Many of those who normally arrive every year were hindered by travel restrictions imposed at the onset of the COVID-19 pandemic. A survey this Summer among asparagus and berry farmers showed that replacing experienced seasonal workers with domestically available workers such as unemployed people, asylum seekers, students and others was only a partial success. It turned out to be very difficult to keep workers in the fields who were new to this type of heavy labour. Fifty-nine percent of unexperienced workers left the job early. In seventy percent of those cases this was because of physical difficulties. The speaker of the VSSE, which organized the survey, remarked that asylum seekers did not differ from Germans in this respect. The experience is that only people, who have serious financial needs are willing to do this type of job. In other words, substituting workers who could not travel to Germany because of COVID-19 restrictions proved to be problematic.

Spain

This year with the pandemic, workers have been submitted under much more stress with the excuse that there was not enough labour demand due to the non-arrival of Moroccan women and the fewer Eastern European workers. The positive side is that with the fear of being infected and pass it on the rest of the family, workers have complained more about working conditions, which was not so usual years before. This has also been amplified with the presence of workers from other economic sectors (e.g. hospitality) that were impressed in witnessing the bad labour conditions in agriculture. Since these had a more eventual work relationship, they were less afraid of the potential consequences of lodging complaints and engaging in social criticism with organisations like *Jornaleras en Lucha*. In Lleida, CCOO managed to file a complaint against an employer on behalf of a group of 17 Spanish workers, but this had side effects for the foreign workers of the same company, who were dismissed thereafter.

During the months of lockdown, inspections were telematic, asking farmers to send all the required information (e.g. payslips, shifts, the names of the workers, pictures of the workers with face masks or gloves). According to many interviewees from trade unions and the Third Sector, this did not help in identifying irregularities and in the end the number of inspections may have been lower than what was initially planned. However, after much pressure from the organised civil society and the representation of the poor working conditions in the media, in May the Minister of Work in Madrid (Yolanda Díaz from the left-wing party *Podemos*) ordered more labour inspections in the whole country. Farmers and employers' associations felt very attacked by the media and the government (after being called racist and responsible for having workers under conditions of semi-slavery) they even asked for the Minister's resignation. Yet, thanks to this ministerial order more labour inspections took place (with the body of inspectors of Madrid) and more irregularities were uncovered. In the case of Huelva, this has been especially relevant, as until there haven't been inspectors from outside the province, irregularities have not been reported. According to some interviewees this may point to

some inefficiency or even some degree of collaboration between the body of inspectors of Huelva and the entrepreneurial sector.

Huelva seems to have been more affected than Lleida, as it also had less time to look for alternatives in the midst of the campaign and the early stages of COVID-19. In relation to the working conditions, the pandemic has made the structural problems more visible and vulnerabilities have become greater. Besides the usual issues such as underpayment or irregularities in hiring practices, workers have been put under much more stress. This has accelerated situations of conflict that in some cases have led to dismissals after complaints by workers.

Poland

There is this problematic situation, where Poland has almost into a fully-fledged immigration country, however, the government's attitude illustrates an ignorance of this fact. Most of the information about new regulations related to the COVID-19, are published in Polish and then it takes several days until clarifications are given in other languages. Particularly, in periods of crises like this of a pandemic, this can be nerve-breaking for the temporary migrants, who might misunderstood some regulations and find themselves unconsciously going against the lockdown laws. It is estimated that in the first two months of the COVID-19 pandemic (March–April), over 200,000 people left Poland, which means a 10 % drop. Ukrainian migrants particularly feared of being unable to return to their country and took spontaneous decisions, which was partially due to the mismanagement of the Polish government as the distribution of new regulations was done in a way that migrants could not feel safe.

Due to the introduction of restrictions because of the epidemic, the consequences of which were difficult, especially for small and medium-sized enterprises, the Polish government prepared legislative changes which were to provide economic support. The introduced laws were called the 'anti-crisis shield'. As a result of pressure from entrepreneurs employing migrants, e.g. agricultural unions or associations of the processing and meat industries, anti-crisis shields also included solutions for migrants.

Entrepreneurs were very afraid of the Ukrainians leaving, knowing that most of them cannot be replaced with Polish workers. Solutions introduced by the Polish government to alleviate the effects of the lockdown included several provisions related to foreigners living and working in Poland. The most important provisions of the 2 March 2020 Act that stipulates the deadline for the submission of residence permits applications. Implementation of this impacted the decision of seasonal workers to stay in Poland or to return after a short back home trip.

To sum up, the national governments confronted with the pandemic of COVID-19 tried to develop and implemented some ad hoc regulation, to address the needs of employers in agriculture.

- Extending the work permits of seasonal workers already on site (Spain and Poland)
- Issuing work permits for asylum-seekers (Germany)
- Changing status (student visa to work-related visa)
- Organising chartered planes for necessary workers (Germany)

All these solutions were implemented ad hoc, in order to solve the problems related to foreign labour migrants supply due to COVID-19.

2.4 Recruitment mechanisms

As it was already mentioned above, there are diverse strategies of recruitment implemented by the EU Member States based on formal or informal practices, involving public and private actors. In the recruitment procedures the level of flexibility is important for employers to react quickly enough in changing circumstances. Recruitment can be linked to the pre-departure support. The pre-departure measures can be provided in cooperation with the country of origin and destination. It might be a good way to educate migrants about their labour rights, and the EU official standards set for the living and working conditions. The pre-departure support linked to recruitment might also give the employers the chance to find the right workers for particular occupations. Pre-departure support might as well include the cooperation of

divers stakeholders such as international organisations, NGOs of various kinds, as well as private recruitment companies.

In this recruitment the protection of rights of seasonal workers remains the priority for all participants of this process.

Germany

In contrast to the Netherlands recruitment and employment of Central and Eastern European workers through officially registered temp agencies is considerably less significant. On 30 June 2019 a total of 895.176 temp workers were employed on the German labour market (Agentur für Arbeit 2020). Of those 57 percent were foreign nationals. Looking at the sector agriculture, forestry, husbandry and horticulture we see comparatively even much smaller numbers: 5.107 of which 2.033 foreign workers (Ibid.). These figures do fluctuate with the seasons but do not suggest significant hiring of foreign workers: for 2019 the highest number of employed people stood at 5.256 (July) and the lowest at 3,398 (December). Hence, we could be tempted to conclude temp agencies do hardly or not at all play a role in agricultural seasonal work. However, this depends on one's understanding of the nature of such agencies. Furthermore, workers who are employed for less than 70 days (per annum) do not pay towards unemployment insurance and pension funds. The statistics cited are only enumerating workers who are insured. We do know the approximate overall number of seasonal workers to be 286.3009(2016) (Schneider and Götte 2020: 4). Fifty-five percent of those are male and 45% female workers (Op cit.). Of those working in agriculture (Landwirtschaft) next to these seasonal migrants, the work is being done by 449 thousand family members and 205 thousand permanently employed foreign workers (Heuser and Hammer 2020).It is normal practice for employers to directly employ their seasonal workers and to maintain a long term relationship with them individually and their networks. However, there are also intermediaries who take on a role otherwise a temp agency might perform for those who are not already known to an employer nor part of such network.

Mainly Bulgarians and Romanians. The desire to be able to hire from non-EU countries is also voiced by the speaker for the VVSE. He specifically identified the Westbalkanregelung (see below) as a suitable and as yet not fully functional tool for this. Plans for bilateral agreements with West Balkan states as well as Georgia are also welcomed as it is expected that labour supply from EU Member States gradually dries up. Already in the past decade it was in evidence how Polish workers, who traditionally were the seasonal workers on the German fields, made way for Bulgarians and Romanians. The resulting competition for those seasonal workers who are willing to come might improve hiring practice as Schneider and Götte were told by the Association of East German Asparagus and Berry Fruit Growers: “Facing a scarcity of potential workers, employers with a sustainable strategy and a good network aim to recruit independently by offering work to labourers from previous years.” (2020: 8).

The Netherlands

Their recruitment either is by “traditional” connections between certain locations in Poland, Bulgaria and Romania and Dutch farmers. This then mainly serves harvesting crops from the fields –typically seasonal work. Or recruitment is through intermediaries (i.e. temp agencies). “Polish migrants are most often recruited through employment agencies in Poland that are local offices of Dutch companies or Polish agencies collaborating with Dutch agencies (Siegmann and Williams 2020).

It is estimated that 275 thousand workers are employed via temp agencies and another 49 thousand directly by growers/farmers (Siegmann and Williams 2020). The Aanjaagteam (2020) stresses that temp agencies can be very decent and service oriented employers. It recalls one example of an agency that guarantees migrant workers a fixed income during their initial stay. Why this is a considerable benefit becomes clear once we learn that normal practice is that workers are hired on a so-called “zero-hour contract”. This means they are entirely reliant on the demand for their labour. Obviously, this means that in case of any disruption in a business operation the worker immediately loses their income.

Once temp workers have been employed for a certain amount of time their position should become more secure and rights are accrued. In order to avoid this from happening, the worker is re-hired through another agency which legally brings them back to square one. They remain in phase A, which is the term used for a contract in which one has no income when sick or in the absence of work.

Spain

Temping agencies are becoming a common actor to recruit workers in the agriculture, especially since the crisis of 2008 and the labour reform of 2012. Since then, banks put more restrictions to financially support campaigns and farmers and companies look for alternatives. Temping agencies offer the possibility to fund campaigns and comply with the payments of workers, Social Security and the Tax Office (hacienda) on time. Moreover, their job facilitates the recruitment process and allows more flexible arrangements, according to the needs of the production, which depending on the climate may suddenly change.

The first difference is in the profile of workers hired through GECCO: men from Colombia in Lleida and women from Morocco in Huelva. The process of selection undertaken by the national agency of labour promotion in Morocco (ANAPEC) follows very specific criteria: women between 25 and 45 years old of rural areas with few socioeconomic resources and family responsibilities in order to ensure their return once their work contract finishes. Women from urban areas or very young women might not fit in this ideal type, since they do not have so much experience, may be more empowered and pose a greater risk of remaining in the country illegally. As a member of the sub-delegation of the government affirms, the key of success of GECCO is in the selection process and more time should be invested to undertake a better choice.

In terms of profiles, the great majority of people in the settlements come from Sub-Saharan countries many of whom (at least in Lepe and surroundings) work in the sector of citrus, not red fruits. Maghrebians (especially from Morocco and to a lesser extent from Algeria) are the second biggest group, but there are also some migrants from

Rumania, Latin America and even some local poor individuals from Spain. According to the last census in 2017, 70% of people have a legal residence permit, although this percentage only applies to men and it could vary significantly.

Poland

The circular migration in Poland is shaped by the labour market dynamics and driven by mainly migratory networks and private recruitment agencies. Migrants are an important element of the Polish labour market. In recent years, a clear change in the length of stay of migrants in Poland can be noted. It seems that short-term migration (seasonal and circular) are starting to transform into medium-and long-term migration. According to the data collected by the National Bank of Poland (NBP), men are the largest group of migrants and most of them come from Ukraine. When it comes to the age, the structure is very diverse. There are people who are over 45 years old as well as people who are under 25 and whose first-time employment is in Poland. Migration in Poland is predominately motivated. The economic crisis in Ukraine led to a large outflow of labour migrants in Poland. Very low wages, high unemployment and no stability were the main push factors, which encouraged these migration waves. Ukrainian emigration tends to be medium-to low-skilled. The education level of the migrants is lower than the average in Ukraine: only 16% of migrants had higher education, compared to 48% for the country as a whole. Men represent 70% of Ukrainian labour migrants. Only migration to Italy has a different gender composition, with 71% of migrants to Italy being women. Half of Ukrainian migrants originate from rural areas, as regards the age composition, the cohorts of 30-40 years and 40-50 years are the most strongly represented, with each of them accounting for 26% of the total number of migrants, compared to just 14-15% of the total Ukrainian population (Pieńkowski, 2020, p. 34).

The recruitment of temporary migrants in Poland is based mainly of private companies, similiary as in the Netherlands. There are as well outsourcing agencies operating in this area. In this case they recruit and employ migrants, and send them to work for the particular employer. Due to the high inflow of migrants in the last years to Poland, there

are a well-established migratory network existing, there are providing information to the potential migrants and support the newcomers with the necessary information about opportunity structure and procedures.

Same as in Poland in the Netherlands, and partly in Germany private recruitment agencies seem to play an important role. Contrary, in Spain the recruitment of temporary migrants is mostly controlled by the government through GECCO.

2.5 Working and living conditions

Undeniably, in all four case studies the working and living conditions were a much discussed part of the interviews and what stood out was that COVID-19 may have bolstered some bad habits, but certainly that is an ongoing problem with or without the pandemic. The lack of information before the departure of the labour migrants and during their arrival, sets them vulnerable to wage cuts, dismissals with no particular explanation, working conditions that put them under risk and unsanitary housings (ILO, 2020). Legal advice seems to be sparse and the fact that the seasonal workers do not speak the language of the employers makes it difficult for them to question the contracts and the quality of the working and living conditions. The German Ministry of Labour along with trade unions collaborate on a project called “Fair Mobility”, where foreign temporary workers are advised to not sign any document sent to them by their employer, if they do not have a fully understand them. Advisory boards are also available to explain the German labour market and among them expected working hours, payments and according to labour law standards, treatment at the workplace (Mobilität, 2021). Similarly, the European Labour Authority established in 2019, aims to assist foreign workers for desired fair working and living conditions. The ADMiGOV empirical research, however, showed that besides these existing attempts, the seasonal workers struggled to find information about the COVID-19 restrictions and did not receive the sanitary conditions promised, nor received better transport and housing conditions in 2020.

Germany

In Germany for three meals a day the workers are charged ten euros. The actual cost is not more than 8,37 euros. Workers are told their housing costs are equivalent to twelve euros while it actually costs no more than 3,85 euros. Eventually, each worker is charged almost ten (9,78) euro more for facilities they have no alternatives for. Generally, the Union reports instances of sub-standard employment conditions such as underpayment, overly long hours and poor housing conditions for which abusive deductions from wages are made. Often workers are not fully informed about their wages and hours because of language problems, which also causes them to sign contracts they cannot read and fully understand. In the slaughterhouses and meat packing industries major scandals arose because of many CEE workers being infected with COVID-19 while at work. Contact restrictions and hygiene standards were systematically disregarded (Schneider and Gotte 2020: 7). In June a further scandal arose over a plant of the Tönnies Company in Gütersloh (North Rhine Westphalia) where a majority of its staff were found to be infected. The town it stands in came to a lock-down. The plant was largely staffed by Bulgarian and Romanian nationals. Tackling the issue was frustrated by the fact that often it was not known where these resided as they appeared to be unregistered.

Overall, it is apparent that low pay, bad sanitation, limited knowledge about the workers' rights and low housing conditions standards are problems that do not solely appear in the case of Germany but in all four researched cases.

The Netherlands

Our interviewees and the Aanjaagteam convey a unanimous picture of the problematic housing situation in which the majority of migrant seasonal workers in the Netherlands find themselves. The principle may be solid, the practice is less so. In case that the worker is employed via a temp agency this normally means the agency arranges the housing. By law, they have to offer housing but the employee is free to find their own accommodation. Dutch law permits a maximum of 25 percent of the official minimal

wage to be withheld in order to cover the housing costs. The Dutch minimum wage lies around ten euros per hour, slightly dependent on the amount of weekly working hours. Actual wages tend not to deviate much from this minimum (see graph 4 for an illustration). If the employer arranges a health care coverage, these costs can also be deducted. Basic health coverage in the Netherlands costs about one hundred euro per month. When asked, the largest Dutch trade union (FNV) utters reservations about these package deals for the principle ought to be that a worker has the autonomy to spend his wages freely.

As housing and insurance are tied up to the employment, losing one's job can easily mean instant homelessness and problematic access to healthcare. "As a consequence, migrant workers are vulnerable and do not trust to stand up for themselves and do not dare to report abuses." (Aanjaagteam 2020: 15). The position of labour migrants is different from that of a Dutch employee. Regulations are geared towards independently acting citizens who know their way on the Dutch labour market and in society at large and who are able claim their rights by going to court or get assistance from their trade union if employers treat them unfairly (Ibid.). This fear of reporting abuse for fear of losing one's job is also observed by the anti-trafficking NGO Fair Work with whom we spoke for this project. These are general observations, however, that may not necessarily be a major issue in agriculture.

The sources at our disposal tend to report bad practices rather than providing examples of good or excellent employment and housing conditions. We should expect that these do exist, if employers depend on the annual return of their seasonal workers and cannot rely everytime on newcomers provided by temp agencies. A report in 2019 by the Trade Union for Construction-Agriculture -Environment (Bauen-Agra-Umwelt) and PECO-Institut provides a very enlightening illustration of how employers save/earn from deducting unfair sums from the wages they pay their seasonal workers. The sums are relatively small but add up to considerable amounts.

Spain

Accommodation for agricultural workers appears to be a big problem in Spain, especially in the South. Whereas it has always been a matter of concern, in the last years the situation has worsened. This has to do with the expansion of harvested land and the recruitment of more workers, together with the inefficiency of governance mechanisms related to the organisation of agricultural campaigns. In Huelva the problems seem to be more manifest in the proliferation of informal settlements and in Lleida they are more related to issues of substandard housing, crowded flats and homelessness, even if this also affects the south of Spain.

In Huelva, prior to the crisis, there was no actor that centralised this service like in Lleida, so the initiatives of accommodation relied on the initiative of employers, NGOs or local governments since the very beginning. The Foundation of Foreign Workers of Huelva (FUTEH) could contribute in identifying problems of housing and try to mediate, but it was not in charge of building lodgings. Along with this privatisation, the public funding to maintain or improve housing for agricultural workers has been affected and there seems to be confusion on the budget lines dedicated to this concept. While the regional government affirms that City Councils can apply for such funding, these affirm that there is no open call. This reflects again one of the multiple conflicts of competences between administrations.

Besides the legal framework of GECCO, collective bargaining agreements also refer to housing and living conditions of agricultural workers. In Lleida, according to the collective bargaining agreement related to agriculture and livestock (*convenio agropecuario*) those workers who live further than 75km, must be accommodated at the expenses of entrepreneurs. Yet, 10% discount can be applied to payslips for accommodation costs (supplies of water, gas and electricity), whilst respecting the rise of the minimum wage (SMI). However, in practice there seems to be some margin of discretion among employers and this is not always respected. In Huelva, there is no such obligation and according to the collective agreement it is rather just a recommendation, up to the good will of business owners. It does state that accommodation must be free,

but it does not specify anything about the costs of supplies. Yet, several interviewees affirm that those entrepreneurs who offer housing tend to apply a discount for such costs as in Lleida.

Poland

Sanitation in the farms is questionable in some cases, the sanitary conditions in some rural areas can be in a bad shape, putting especially during the COVID-19, migrants' lives under risk. As it was already said the simplified procedure allow migrants to enter Poland and work legally. In case of some sectors such as agriculture, domestic services or construction, locals and migrants in some cases work irregularly. Due to the high cost of employment (taxation, social security obligation) employers tend to abuse the workers and their labour rights. Some Ukrainian migrants reported they were forced to work, their passports were taken from them, and the employers did not pay them monthly, but promised to pay them by the end of their period of stay, knowing that they have to leave the country. Many migrants are employed by the private employment agencies based on the civil law contract (Polish: *umowa zlecenie*), which prevents such migrants from the full access to social benefits. The employment contract includes certain notice periods, holiday leaves, sick pay, benefits, and allowances for overtime work, which can be claimed in court. The contractors' civil law contracts not entitled to any of the above-mentioned rights.

Work undertaken by migrants is characterized by longer hours (often over 40 hours a week). Migrants are employed on the basis of short-term employment contracts. Employers cite the lack of Polish employees willing to work as the main reason for employing migrants. Because the system of gaining access to the labour market is easy, most migrants work legally. Working conditions do not differ from those for local workers. Generally, migrants work in sectors that require manual and shift work, often with significant overtime. When it comes to accommodation, in large cities, migrants often live in shared rented apartments and this rental is commercial in nature. In Poland, access to social housing is very difficult, therefore migrants do not stand a

chance to use such housing. The situation is different in small towns, where discrimination and marginalisation of migrants is seen more often.

3. Practices and policy recommendations

The Interreg Europe started in 2017 and promoted constructive dialogue between the EU states with a significant focus on the “good practices”. Innovation, better collaboration between stakeholders and new ideas and solutions seem to yield after sharing good practices between the Member states. This initially was introduced for cities and businesses but it expanded as an idea for all sectors, where research can bring valuable results to be shared (Interreg Europe, 2021). The good practices for the ADMiGOV project add to the notion of the dialogue the indicators of sustainability, efficiency and effectiveness and facilitation of all participating actors. Considering these, noticing and monitoring a policy or/and a practice that benefits all and is responding well with disruptions and unexpected occasions like this of the pandemic can be very tricky as all good practices observed by the WP3 researchers seem to apply to some of the indicators but not to all simultaneously. Having said that, continuous sharing of data, experiences from national policies and practices can create a valuable database that can boost the triple win effect in temporary migration, boost the EU agricultural production and foresee similar future crises.

Germany

Next to this openness for skilled foreigners there is the possibility for **asylum seekers to take up employment** (after the first three months of their procedure). Exempted from this option are asylum seekers stemming from safe countries of origin (presently: all West Balkan states as well as Ghana and Senegal). Should subsequently their application be rejected but their return cannot be effectuated, they can be issued with a tolerated status (Duldung). Such a status does not hold any rights but does protect against deportation as well as detention for illegal residence (which is criminalized under German law). Normally this status is to be renewed every six months but it may also be

issued for shorter periods. This is done at the discretion of the *Ausländerbehörde* (a local office akin to the aliens' police or immigration office) (Eule 2018). When they are in possession of ID-papers or can demonstrate that they have none because of reasons beyond their control tolerated persons can seek/accept employment or enter into vocational training (which often includes on the job training). Again: people stemming from safe countries of origin cannot. These may, however, enjoy education. By the end of 2019 202.387 aliens benefitted from a toleration. Of those approximately twenty percent were employed. If the tolerated person fulfils further conditions signifying integration into German society, through further training or already possesses desirable skills, regularization is possible. During the first half of 2020, 739 aliens (including spouses and children) received a residence permit on these grounds (Deutscher Bundestag 2020: 27). Migrant can furthermore receive a permit because it has been established their return remains impossible to facilitate. This has happened to 54.420 persons (Op cit: 22).

The main route into Germany for workers without formal skills (a minimum of two years of vocational training) is through the West Balkan Regulation. This WBR was created in 2015 and came into force 1 January 2016 allowing access to the German labour market for citizens of Albania, Bosnia-Herzegovina, North-Macedonia, Montenegro, Serbia and Kosovo. It was evaluated in 2020 by the Institute for Employment Research (IAB) (Brücker et al. 2020a,b). On the basis of this evaluation the government decided to prolong the WBR which was set to expire by the end of 2020. The WBR's purpose was two-fold: to effectively curb asylum migration from the West Balkan region (by defining these countries as safe countries of origin) and to satisfy growing German labour market needs. Unlike existing labour immigration rules, no proof of formal qualifications is necessary. However, a visa is required. The issuing of the visa requires a pre-arranged employment contract and a labour market test by the Federal Employment Agency (Bundesagentur für Arbeit) in order to establish whether the vacancy might be filled by an EU-national or a refugee, who then would have priority.

The Netherlands

In 2013 the Dutch government introduced its Law on a Modern Migration Policy with the aim to simplify rules for regular (i.e. non-asylum based) admissions. The policy facilitates the movement mostly of Eastern European temporary migrants and in some cases functions well for the coverage of the labour needs of the country.

In terms of effects on (un)employment among labour migrants in the agricultural sector some data are available. This is a consequence of the creation of a so called **Aanjaagteam** (loosely translated as boost team) in May 2020 by the Dutch Cabinet. The Team was created in response to reports of such incidents as mentioned above and the government wanted an inventory of practices, experiences of labour migrants and advice for future policies. The Team itself subsequently ordered a report on the development within the agricultural sector. From this report we learn, among other things, how the employment through 2020 developed, compared to previous years. A large part of the employment in this sector involves temp agencies. The Netherlands has 14 thousand of such agencies as the sector was deregulated some decades ago. Some are large and solid employers but there are also less serious and even criminal agencies (Aanjaagteam 2020). The latter tend to be small operations.

Spain

In Catalonia, Unió de Pagesos is the actor which has traditionally been involved in the management of temporary workers' schemes together with trade unions (CCOO and UGT) and the Spanish government to bring contingents from Latin America, Eastern Europe, Morocco and –from 2005 to 2008–Senegal (Gualda, 2012). It was the first union in whole Spain that started the process of temporary labour workers schemes in Colombia in the late 1990s. Before the economic crisis of 2008, Unió de Pagesos (through its foundation Pagesos Solidaris) used to manage the intermediation of 12,000 or 13,000 workers to be hired by different farmers and cooperatives, including those who came under GECCO and those living in Spain. Yet, the crisis brought about a

dramatic rise of unemployment and national workforce was set as a priority. This resulted in a reduction of funding, which made the service of labour intermediation almost disappear. In the last years, it has only managed a pool of 2,000 or 3,000 workers in whole Catalonia, of which between 300 and 500 come from Colombia (only repeaters). In the collective imaginary of employers and some politicians, there is still the perception that GECCO in Catalonia was (and still is) an exemplary policy in terms of governance of temporary workers. At the time Unió de Pagesos was in charge of the service of labour intermediation it seemed easier to adjust supply and demand with real numbers and better control the needs of accommodation. The union was able to coordinate with the main Councils and farmers of the area of Baix Segrià (Seròs, Aitona, Alcarràs...) and solve any problems that could emerge. The reduction of formal quotes from 2008 led to the privatisation of GECCO (Molinero, 2018), where employers' associations maintained the recruitment outside Europe, but this was arranged privately with nominal contracts. In this new scenario public administration lost control of the recruitment process and the decentralised nature of temporary workers' schemes was accentuated.

In Huelva, the projects of AENEAS (2004-2006) and MARES I & II (2010-2013) that took place as an initiative of the City Council of Cartaya and the EU to implement temporary workers' schemes were also regarded as **a good practice** and a model of circular migration. It complied with the three principles of this policy: fulfilment of economic needs, control of illegal immigration and co-development. Moreover, the creation of the Foundation of Foreign Workers of Huelva (Fundación de Trabajadores Extranjeros de Huelva, FUTEH) in 2007 contributed to the selection process and in the accompaniment of Moroccan women during their stay in Spain. This Foundation counted with 18 Moroccan mediators and offered services of translation and training, including Spanish lessons and topics such as the importance of returning home, health and hygiene, sex education, living together, use of pesticide products and intercultural mediation.

Temping agencies are becoming a common actor to recruit workers in the agriculture, especially since the crisis of 2008 and the labour reform of 2012. Whereas some are

small and do not count with many resources, others struggle to provide personal assistance and get more involved in the management of workforce, such as Sendas Gestió in Lleida. This agency appears to be a good practice in terms of arranging services of transport, revising accommodation with decent standards, elaborating an observatory of lodgings or assisting workers individually, especially in cases of illness. With the pandemic, they have also helped them in arranging the sick leaves' benefits when they needed it.

During the pandemic the negotiation with the national government, several actors participated: AFRUCAT, ASAJA, the sub-delegation of the government in Lleida, the mayors of the most affected towns (Aitona, Alcarràs, Seròs...) and the main trade unions. Since there was a unified commission between the Ministries of Agriculture, Transport and Health, it was relatively easy to get the approval of this certificate. Agricultural workers were considered essential workers and the government allowed their mobility without specifying any limitations between autonomous communities or provinces.

Poland

In 2017, another liberalisation of the regulations on the movement of people from Ukraine to Poland was introduced. On 11 June 2017, the provisions on visa-free travel for short-term stays of up to 90 days in the Schengen area entered into force. Visa-free travel applies only to Ukrainian citizens who have biometric passports. Regulations authorize residence but do not authorize work. Employment regulations fall under national legislation. Very often, the liberalization of the visa-free regime is seen as a gateway to an uncontrolled influx of migrants. However, in the case of Poland, the system of **the declaration of the intention to entrust** work to a foreigner facilitates easy access to the labour market. Access to visas for Ukrainians coming to Poland **was also good practice** because the introduction of visa-free travel did not result in a sharp increase in the number of migrants. Moreover, the declaration has been deemed as a successful mechanism.

4. Conclusions

In almost all Member States in the EU many sectors of labour market depend on seasonal migrants, coming from other Member States or from third country nationals. Some states have a long experience in the development and implementation of employment-based migration, however, there are still many challenges that need to be addressed on all levels of governance. The EU Member States have developed very complex and diversified policies, using a variety of tools. Labour migration is strongly related to the economic priorities and needs, and seasonal migration seems to be the answer, which does not involve many costs for the states authorities. In theory seasonal migration should be beneficial for all parties involved, creating a win-win-win situation.

In order to achieve this, there are still a lot of initiatives that must be taken, in order to identify emergency challenges mainly in living and working conditions of seasonal migrants. Temporary migrants are vulnerable groups prone to marginalization, discrimination and gender-related violence. Women are exposed in several cases of sexual abuses. The housing and transport to the farms conditions are not always promising with cases of homelessness or substandard housing. Inadequate inspections, loopholes in the system and policies that themselves are not holding tight contribute to the aforementioned.

To work on the changes in temporary migration schemes, the EU Member States need to engage in constant dialogues, cooperation and exchange of good practices. The question how to most effectively implement such policies, should be also discussed on the EU level. The European Commission has taken steps to harmonise seasonal migration, but this is only the beginning of this process.

The COVID-19 pandemic, which was a shock for all Member States, showed the fundamental role of seasonal migrants for agriculture across the EU. Restrictions related to coronavirus, impacted the mobility, which put agriculture under risk of increase of

production costs and therefore in prices. At the same time the crisis put a pressure on the governments to re-design temporary migration schemes.

As it was mentioned in the report the selected cases are diverse in terms of the structure of labour market, categories of seasonal migrants, recruitment procedures etc. However, there are some similarities in the challenges faced by migrants and employers that need attention from the national and EU institutions.

- the pandemic highlighted the reliance of food productions in the EU Member States from seasonal migrants. The development of the initiatives and changes in this area should be included in a broader concept of migration governance, including not only economy and labour market, but also fiscal policies, welfare policies, health care, education and integration measures.
- the development of common European labour standards, including the principal rights at work for seasonal migrants working in the Member States.
- the pandemic proved that seasonal migrants have developed skills and experiences, which are very often unrecognized and underestimated. Seasonal workers are not easily replaced by the local workers without experiences in the fields.
- a pressing issue is the unequal pay mainly in the agriculture. There are very diverse systems implemented in the EU Member States, hourly, weekly and monthly salaries. There is a pay gap between men and women. Extension of minimum wages on the seasonal workers might be a good step towards harmonisation in this area.
- living and working conditions of seasonal migrants should become a priority. There is need for more inspections and monitoring mechanisms implemented by national governments. However, there is space for dialogue on the EU level on how to work on the harmonisation of standards, and secure coherence between migration and employment regulations.
- seasonal workers are vulnerable to any kinds of abuses and discriminatory practices, there should be a system of monitoring and detecting of any violations

of the seasonal migrants rights. The system on the one hand should be based on inspections, on the other on supporting workers, by providing information of their rights in the destination country, as well as predeparture information about rights and services/ institutions available.

- the bilateral agreements should be right-based, guaranteeing the basic rights of seasonal workers, and their protection. The agreements should work on the principle of win-win-win situation, protecting migrants, and through their work reducing the imbalances in way of living between country of origin and destination.
- another area which needs particular attention is the recruitment processes. In many countries recruitment is based on informal channels, which are effective and connect potential migrants with the employers. However, there is a risk in this kind of informal recruitment, because it might be difficult to monitor. The recruitment institutions should be local or region-oriented, due to the better access to local employers and understanding of all needs.
- after the COVID-19 pandemic national authorities should be aware of the need for more flexible procedures, which enable quick reactions of labour shortages in the agriculture and food sector.
- one of the limitations presents in many seasonal migration schemes in the EU Member States, is the work permit linked only to one employer. As the pandemic showed these solutions limit the flexibility of workers and employers. This is also particularly important for detection of abuses. Seasonal workers are very often afraid of reporting the abuses in the work places, because their work permit is linked to this particular employer.

Analysis of seasonal migration schemes clearly showed that COVID-19 pandemic should be a good moment to redesign existing models, analyze the strengths and weaknesses. The demands on the labour market are similar in all Member States, it is why the governance of this area needs a deeper partnership between Member States, the EU

institutions and country of origins. Seasonal migration can be beneficial for all parties: employers, migrants, countries of destination and country of origin.

Recommendation

Short-term:

- Increase of inspectors, who are responsible for the monitoring of the working and living conditions and the uphold of national laws and EU regulations
- Temping agencies, private organisations, employers and other middle-men, who bend the national laws should be inspected with scrutiny for any kind of violations
- Cooperation between all actors involved in agriculture should be promoted and better communicated during the campaigns before the peak agricultural seasons
- Easy access of temporary migrants to health care and social services

Mid-term:

- Promote and reward good practices, share them in a database and have annual discussions between Member States for their circulation around the EU
- More trainings for employers related to working rights, discrimination and social inclusion
- Improve the living and housing conditions for migrants
- Reinforce social services that work with labour rights, customise social services provided in areas with high volumes of seasonal workers

Long-term

- Regulate irregular migration and minimise grey areas of the economy
- Collect data more systematically and well documented for each sector of agriculture, namely different data for arable, pastoral and mixed farms
- Create an EU body that regulates temporary migration only and not migration in general

- Start preparing policies for more mechanised chains of production
- Develop more analytical tools to collect data on seasonal migrants, including a database that will monitor the migrant's length of stay, recruitment organisation, legal status, as well as gender, age, nationality and migratory paths
- Revision of the Directive 2014/36/EU on seasonal migration, giving migrants the possibility to change employers (important in the time of unexpected changes on labour market, and protecting migrants in case of abuse or exploitation). This will also help with unreasonable firings and losses of jobs. This way the migrants will not suddenly have to leave the country of destination.
- To develop a common system of monitoring the temporary agencies, subcontractors and other intermediaries, who can possibly misinform or misguide migrants into signing contracts that they do not fully comprehend.
- To implement a system of licence for all recruitment organisations contracting seasonal migrants, to promote a common understanding of migrants' working and living right and prevent all forms of violations and mistreatments.
- To protect the rights of EU citizens working as seasonal migrants in other Member States against any form of exploitations
- To develop a system supporting institutions with lawyers with experience in labour law and human rights advisors
- Creating safe, legal and flexible legal channels regarding the labour sectors in need of foreign workers. Legality of movement and stay to be prioritized
- To promote trainings for members of divers group involved in supporting seasonal migrants, NGOs, trade unions, recruitment agencies, inspectors etc on all forms of labour abuses and exploitation
- Promoting national campaigns considering raising awareness on the rights of seasonal migrants
- To develop apart from national also regional programs on assistance and protection of seasonal migrants, with a special role given to trade unions and NGOs operating in this area

- Providing constantly information for seasonal workers in different languages, offering translators and intepreters for private consultations

References

- AUGÈRE-GRANIER, M.-L. (2021). *Migrant seasonal workers in the European agricultural sector - Think Tank*. [online] www.europarl.europa.eu. Available at: [https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI\(2021\)689347](https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2021)689347) [Accessed 30 Jun. 2021].
- Aanjaagteam Bescherming Arbeidsmigranten. (2020). Geen tweederangsburgers. Aanbevelingen om misstanden bij arbeidsmigranten in Nederland tegen te gaan OP, 30 oktober 2020.
- Brücker, H., M.Falkenhain, T.Fendel, M.Promberger, M.RaabandP.Trübswetter (2020a) Evaluierung der Westbalkan Regelung: Register Datenanalyse und Betriebsfallstudie IAB Forschungsbericht 544. Nürnberg: Institut für Arbeitsmarkt und Berufsforschung.
- Brücker, H., M.Falkenhain, T.Fendel, M.Promberger and M.Raab. (2020b). Hohe Nachfrage und gute Arbeitsmarktintegration, IAB-Kurzbericht 16/2020. Nürnberg: Institut für Arbeitsmarkt und Berufsforschung.
- Duszczuk, M. (2012). *Polska polityka imigracyjna a rynek pracy*. Warszawa: Oficyna Wydawn. Aspra-Jr.
- Dirks, B. (2020) 'De huisbaas jat de post en hangt de zielepoot uit' in De Volkskrant 3 December.
- Der Spiegel. (2020). *Corona in the Slaughterhouse: The High Price of Cheap Meat*. [online] www.spiegel.de. Available at: <https://www.spiegel.de/international/business/corona-in-the-slaughterhouse-the-high-price-of-cheap-meat-a-ad16d0df-c1c8-4f82-93df-573fdc2c8bd6> [Accessed 30 Jun. 2021].
- Deutscher Bundestag. (2020). Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Ulla Jelpke, Dr. André Hahn, Gökay Akbulut, weiterer Abgeordneter und der Fraktion DIE LINKE. –Drucksache 19/17236 –Zahlen in der Bundesrepublik Deutschland lebender Flüchtlinge zum Stand 31. Dezember 2019 Berlin: Deutscher Bundestag (Drucksache 19/19333).
- European Commission. (2015). *Press corner*. [online] European Commission - European Commission. Available at: https://ec.europa.eu/commission/presscorner/detail/en/IP_15_4956 [Accessed 30 Jun. 2021].
- European Commission. (2017). *Seasonal Workers Directive 2014/36/EU*. [online] Together Against Trafficking in Human Beings - European Commission. Available at: https://ec.europa.eu/anti-trafficking/eu-legislation/seasonal-workers-directive-201436eu_en [Accessed 30 Jun. 2021].
- European Commission (2021). Agriculture and Rural Development Statistical Factsheet. [online] Available at: https://ec.europa.eu/info/sites/default/files/food-farming-fisheries/farming/documents/agri-statistical-factsheet-pl_en.pdf. [Accessed 29 Jan. 2022].

- European Council. (2020). *COVID-19: EU support to agriculture and fisheries*. [online] www.consilium.europa.eu. Available at: <https://www.consilium.europa.eu/en/infographics/covid-19-agrifish/> [Accessed 30 Jun. 2021].
- Eule, T. (2018). 'The (surprising) nonchalance of migration control agents' in *Journal of Migration and Ethnic Studies*, Vol. 44(16), pp. 2780-2795.
- Eurostat (2021). *Agricultural production - crops*. [online] ec.europa.eu. Available at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Agricultural_production_-_crops#Vegetables [Accessed 29 Jan. 2022].
- Eurostat (2022). *Agricultural labour input statistics: absolute figures (1 000 annual work units)*. [online] [Europa.eu](http://ec.europa.eu). Available at: https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=aact_ali01&lang=en [Accessed 31 Jan. 2022].
- European Labour Authority (2021). Home | European Labour Authority. [online] www.ela.europa.eu. Available at: <https://www.ela.europa.eu/en> [Accessed 31 Jan. 2022].
- Federal Statistical Office. (2019). *Benefits for asylum seekers in 2018: number of people entitled to benefits declined by 12%* [online] Available at: https://www.destatis.de/EN/Press/2020/10/PE20_384_12411.html [Accessed 30 Jun. 2021].
- Fortuna, G. (2020). *Food security is no longer an issue in the EU, says Commissioner*. [online] www.euractiv.com. Available at: <https://www.euractiv.com/section/agriculture-food/news/food-security-is-no-longer-an-issue-in-the-eu-says-commissioner/> [Accessed 30 Jun. 2021].
- Garcés-Mascareñas, B. (2012). *Labour migration in Malaysia and Spain: Markets, citizenship and rights*. Amsterdam: Amsterdam University Press.
- Gualda, E. (2012). 'Migración circular en tiempos de crisis. Mujeres de Europa del Este y africanas en la agricultura de Huelva.' *Papers: revista de sociología*, 97(3): 613-640.
- Heuser, O. and Hammer, T. (2020). *Wer die Spargel- und Erdbeerernte rettet*. [online] www.spiegel.de. Available at: <https://www.spiegel.de/wirtschaft/service/saisonarbeiter-in-deutschland-wer-die-spargel-und-erdbeerernte-rettet-a-b557bb06-a520-44d2-a8cf-9627a0a47733> [Accessed 2 Feb. 2021].
- ILO. (2016). *Non-standard employment around the world Understanding challenges, shaping prospects*. (n.d.). [online] . Available at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_534326.pdf. [Accessed 21 Nov.2020].
- ILO (2021). *COVID-19 - Tackling the jobs crisis in the Least Developed Countries*. [online] www.ilo.org. Available at: https://www.ilo.org/emppolicy/pubs/WCMS_766463/lang--en/index.htm. [Accessed 30 Jun. 2021].

ILO (2020). Fair employment conditions for migrant workers in the EU—How to provide better support services for migrants? [online] www.ilo.org. Available at: https://www.ilo.org/budapest/whats-new/WCMS_757579/lang--en/index.htm.

Interreg Europe (2021). Exchange of good practices as a source of inspiration for new solutions for regional policy. [online] Interreg Europe. Available at: <https://www.interregeurope.eu/policylearning/news/1835/exchange-of-good-practices-as-a-source-of-inspiration-for-new-solutions-for-regional-policy/> [Accessed 31 Jan. 2022].

Klawitter, N, Lüdke, S and Schrader. (2020b). *The Systematic Exploitation of Harvest Workers in Europe*. [online] www.spiegel.de. Available at: <https://www.spiegel.de/international/germany/cheap-and-expendible-the-systematic-exploitation-of-harvest-workers-in-europe-a-b9237b95-f212-493d-b96f-e207b9ca82d9> [Accessed 30 Jun. 2021].

Kremer, M. (2016). Sociale zekerheid ‘migratie-proof’ in: P. van Lieshout (ed) Sociale (on)zekerheid. De voorziene toekomst Amsterdam: Amsterdam University Press, pp.133-161.

Lechner, C. (2020). Anwerbung und Arbeitsbedingungen von Saisonarbeitern Studie der deutschen nationalen Kontaktstelle für das Europäische Migrationsnetzwerk (EMN)Nürnberg: Bundesamt für Migration und Flüchtlinge.

Marie-Laure Augère-Granier (2021). Migrant seasonal workers in the European agricultural sector. [online] Available at: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689347/EPRS_BRI\(2021\)689347_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689347/EPRS_BRI(2021)689347_EN.pdf). [Accessed 29 Jan. 2022].

Molinero, Y. (2018). ‘La privatización de los programas de migración temporal en España como efecto poscrisis’. *Anuario CIDOB de la Inmigración*, p. 284-306. DOI: doi.org/10.24241/AnuarioCIDOBInmi.2018.284

Molinero, Y. and Avallone, G. (2018) ‘Migration and labour force needs in contemporary agriculture: what drives states to implement temporary programs? A comparison among the cases of Huelva, Lleida (Spain) and Piana del Sele (Italy)’. *Calitatea Vietii*, XXIX(1): 3-22.

Mobilität, F. (2021). Fair Mobility. [online] www.faire-mobilitaet.de. Available at: <https://www.faire-mobilitaet.de/en> [Accessed 31 Jan. 2022].

Narodowy Bank Polski. (2020). *Badania ankietowe imigrantów w aglomeracji warszawskiej (2019-2020)*, Warszawa: Departament Statystyki NBP. [online] Available at: <https://www.nbp.pl/home.aspx?f=/publikacje/migracyjne/migracyjne.html>. [Accessed 5 Dec. 2020].

OECD. (2019). *International Migration Outlook 2019*. Oecd Publishing; Editions Code-10-15.

Pasetti, F. (2019) *Measuring 'good' migration governance in turbulent times, a critical state of the art*. AdMiGov Deliverable 7.1, Barcelona: CIDOB.

Pieńkowski, J. (2020). *The Impact of Labour Migration on the Ukrainian Economy*, European Economy, Discussion Papers 123, European Commission https://ec.europa.eu/info/sites/info/files/economy-finance/dp123_en.pdf. [Accessed 5 Dec. 2020].

Minich, R and Kravchuk, P (2021). *Publications - Prague Process*. [online] www.pragueprocess.eu. Available at: <https://www.pragueprocess.eu/en/migration-observatory/publications/document?id=212> [Accessed 30 Jun. 2021].

Schneider, J. and Götte, M. (2020b) 'Germany' in L. Palumbo and A. Corrado (Eds) *A Covid-19, Agri-food systems, and Migrant Labour. The situation in Germany, Italy, the Netherlands, Spain, and Sweden* Open Society Foundations pp. 6-8.

Siegmann, K.A. and Quaedvlieg, J. (2020). *The Netherlands'* in L. Palumbo and A. Corrado (Eds) *Covid-19, Agri-food systems and Migrant Labour. The situation in Germany, Italy, the Netherlands, Spain, and Sweden* NP: Open Society Foundations, pp. 12-14.

VSSE (Verband Süddeutscher Spargel und Erdbeeranbauer) *Trotz Corona-Chaos bewältigen Anbauer die Spargelernte* www.vsse.de. [online] Available at: <https://www.vsse.de/> [Accessed 2 Feb. 2021].

Annex: joint sample of interviewees

Interviews in the Netherlands

1. Imke van Gardingen (Federatie Nederlandse Vakbeweging, FNV)
2. Leo van Beekum (Federatie Nederlandse Vakbeweging, FNV)
3. Peter Loef (Glastuinbouw Nederland) interviewed twice
4. Erik Kaemingk (Greenports Nederland)
5. Jeroen Voorveld (ABU)
6. Steve Fok (LTO Nederland)
7. Frank van Gool (OTTO Workforce)
8. Jeroen Vijlmans (VHG)
9. Ton Schoenmaekers (VNO/NCW)
10. Joep Thönissen (Vereniging Huisvesters Arbeidsmigranten)
11. Jasper Dalhuizen & Martin Slaats (Ministries of Agriculture/ Employment and Social Affairs and members of the Aanjaagteam)
12. Anna Ensing (FairWork)
13. Helena Kosec (FairWork)

Interviews in Germany

1. Thomas Wilhelm (NGO Tür an Tür, Augsburg)
2. Dr. Mariella Falkenhain (Institut für Arbeitsmarkt Berufsforschung, IAB, Nürnberg)
3. Miriam Raab (IAB, Nürnberg)
4. Michael van der Cammen (Agentur für Arbeit, Nürnberg)
5. Simon Schumacher (Verband Süddeutscher Spargel-und Erdbeerbauer, Bruchsal)
6. Franziska Schreyer (IAB, Nürnberg)
7. Dr. Carola Burkert (IAB, Hessen)
8. Georg Sieglen (IAB, NRW)
9. Dr. Susanne Worbs (Bundes Amt für Migration und Flüchtlinge, BAMF, Nürnberg)
10. Prof. Dr. Birgit Glorius (TU Chemnitz)

Interviews in Poland

Code of interview	Organisation / Institution	Area
INT-Policy 1	Mayor of Wrocław's Plenipotentiary for Residents of Ukrainian Descent	Policy
INT-NGO 1	Foundation <i>Nasz Wybór</i> (Our Choice)	NGO
INT-Policy 2	City Council of Wrocław	Policy
INT-Economy 1	Visa and Work Agency	Economy
INT-Research 1	Centre for Migration Research University of Warsaw	Expert
INT-Policy 3	Social Welfare Centre Warsaw	Policy
INT-NGO 2	Caritas Poland	NGO
INT-NGO 3	Nomada Association for Multicultural Society Integration	NGO
INT-Policy 4	Ministry of Family and Social Policy	Policy
INT-Policy 5	Department of Civil Affairs and Citizens, Lower Silesian Governor's Office	Policy
INT-Research 2	Warsaw School of Economics	Expert
INT-Policy 6	Wrocław Centre for Social Development	Policy
INT-Policy 7	Regional Employment Office	Policy
INT-NGO 4	Multiculturalism and Integration Observatory	NGO
INT-NGO5	Foundation <i>Dom Pokoju</i>	NGO

Interviews in Spain

Code of interview	Organisation / Institution	Area	Province
ST-LL1	Subdelegation of the Government in Lleida	Policy	Lleida
ST-LL2	Delegate of the Catalan Government in Lleida	Policy	Lleida
ST-LL3	City Council of Lleida	Policy	Lleida
ST-LL4	Temping agency Sendas Gestión	Economy	Lleida
ST-LL5	Employers' association AFRUCAT	Economy	Lleida

ST-LL6	Agrarian union Unió de Pagesos	Economy	Lleida
ST-LL7	Employers' association ASAJA	Economy	Lleida
ST-LL8a and ST-LL8b	Trade union CCOO	Trade union	Lleida
ST-LL9	Citizen Plataform Fruita amb Justícia Social	Social	Lleida
ST-LL10	Càritas Lleida (charity)	Social	Lleida
ST-LL11	Red Cross	Social	Lleida
ST-LL12	Foundation Pagesos Solidaris	Social	Lleida
ST-LL13	Assosiation Arrels Sant Ignasi de Lleida	Social	Lleida
ST-LL14	Activist, member of Casa Nostra Casa Vostra	Trade union	Lleida
ST-HU1	Subdelegation of the Government in Huelva	Policy	Huelva
ST-HU2	General Direction of Coordination of Migration Policies in Andalusia	Policy	Huelva
ST-HU3a and ST-HU3b	Provincial Government of Huelva	Policy	Huelva
ST-HU4	Mayor of Lepe	Policy	Huelva
ST-HU5	Mayor of Lucena del Puerto	Policy	Huelva
ST-HU6	Freshuelva	Economy	Huelva
ST-HU7	Frutas la Tinajita S.L.	Economy	Huelva
ST-HU8	Trade Union Sindicato Andaluz de Trabajadores (SAT)	Trade union	Huelva
ST-HU9	Trade Union CGT	Trade union	Huelva
ST-HU10	Activist, Jornaleras de Huelva en Lucha	Social	Huelva
ST-HU11	NGO Mujeres 24 Horas	Social	Huelva
ST-HU12	NGO Asisti	Social	Huelva
ST-HU13	Press La Mar de Onuba	Social	Huelva
ST-HU14	NGO Mujeres en Zona de Conflicto	Social	Huelva
ST-HU15	NGO Asociación Pro Derechos Humanos (APDHA) Huelva	Social	Huelva
ST-HU16	ASNUCI	Social	Huelva