



## ► ILO Brief

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# Seasonal Migrant Workers' Schemes: Rethinking Fundamental Principles and Mechanisms in light of COVID-19

The adverse impacts of COVID-19 in the world of work are tracked by the [ILO](#) showing that 81 per cent of employers and 66 per cent of own-account workers live and work in countries affected by recommended or required workplace closures, with severe impacts on incomes and jobs. As of 22 April 2020, it is estimated that global working hours will decline by 10.5 percent in the second quarter of 2020 (compared to the last pre-crisis quarter), which is equivalent to 305 million full-time jobs. No accurate estimates are available on the impact on migrant workers, however, [the full and partial closure of borders is affecting more than nine in ten people](#). The pandemic provides an opportunity to revisit traditional understandings of 'migration and development' that have guided much of the policy thinking in the last

decades, and this is particularly relevant for seasonal agriculture worker programmes. This piece reviews the policy measures adopted by industrialized economies to address the noticeable shortage of **seasonal migrant workers in agriculture** following the lockdown and closure of borders in response to COVID-19. The pandemic has exposed the [role of migrant workers in the agricultural sector](#) and their essential contribution to host societies and economies; yet their working and living conditions leave much to be desired. The note provides initial thinking into how seasonal migrant workers' schemes could be redesigned, after the pandemic, to fully embrace a human-centred approach in line with the needs of labour markets and the economy.

## ► Seasonal migrant workers: A historically grown reality

The impacts of COVID-19 in agriculture are vast and span many countries. Ensuring the continued functioning of global and national food supply chains will be crucial in [securing food supply](#), preventing a food crisis in countries that are already experiencing food and nutrition security challenges. In many parts of the world, the international movement of migrant agricultural and horticulture workers has been historically governed through 'seasonal foreign worker programmes', administered by one or two government agencies with the aim of providing temporary visas for migrant workers during the planting and harvesting seasons.

It is vastly developed in Canada through the Seasonal Agriculture Worker Program (SAWP), in the United States

through the H2-A Program, and in the context of the European Union (EU) it is guided either by the EU's free movement provisions or by the [EU Seasonal Workers Directive](#), which fixes the criteria and requirements for the admission of seasonal workers from non-EU countries.

Many countries in the Asia-Pacific region, such as Australia, New Zealand, and the Republic of Korea, have also extended their programmes in this area in recent years. For example, in December 2019 the Republic of Korea passed legislation to create a [new visa](#) allowing stay for up to five months for foreign workers in the agriculture and fisheries sector.

Workers normally come from less affluent neighbouring States or more remote developing countries, and in some cases governments enter into bilateral labour migration arrangements to govern these flows (the SAWP in Canada allows for this through a list of countries from Latin America and the Caribbean). These seasonal agriculture programmes are part of 'temporary migration schemes', and the ILO has recognized their [prominent role in the migration landscape as well as the challenges](#) they pose in securing human rights for migrant workers. For example, a temporary migrant having entered a country under a foreign worker scheme is likely, by definition, to be working within specific parameters

that can lead to unequal treatment with national workers.

The outbreak of COVID-19 and the subsequent measures taken have strained countries historically reliant on migrant workers in horticulture and agriculture. Supply chains have been disrupted and claims over 'food security' have been raised. These have been particularly acute in [Europe](#). Amidst this context, agriculture workers have been re-labelled '[essential workers](#)' subject to lifting of travel bans and other exceptional measures. The following section reviews some of the measures that might provide 'short-term relief' to labour shortages. However in the longer run a reframing of existing seasonal foreign workers programmes appears warranted.

## ► Short-term responses: Mitigating labour shortages

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### Tapping into the national workforce

Farmers across Europe rely heavily on seasonal migrant workers and in the spring of 2020 were concerned that they would not be able to bring in their harvests or plant new crops because of lockdowns and closed borders. Blocks on transport mean that people from outside the region cannot travel at all and those within Europe are often required to go into 14 days of quarantine upon arrival in the destination country, and another 14 days upon return to their home country. For this reason, and for fear of infection, many seasonal migrant workers who could afford it preferred to stay at home, leading farmers and their associations in destination countries to call for help from their governments.

In Spain, which is the European Union's biggest exporter of fruit and vegetables, the representative agricultural organizations [Asaja, Coag and Upa](#) [requested urgent help by the European Commission](#). Every region was concerned, according to the president of Spain's largest farming association, Asaja. For example, in the Andalusian province of Huelva, only about 7,000 of the 19,000 Moroccan seasonal migrants who normally work there had arrived before Morocco closed its border. Asaja considered the pandemic a "total disaster" for Spanish agriculture, which had started with Russia announcing that they would no longer import Spanish agricultural goods.

Some 90 percent of Italy's agricultural workers are seasonal, with the majority coming from Romania.

The president of the Italian agriculture association Confagricoltura made it known that [some 250,000 workers would be required](#) to maintain vineyards and reap the spring and summer harvests across the country. Italy's Agriculture Minister proposed that unemployed people should help farmers.

In Germany, which relies on about 300,000 foreign seasonal workers each year, there was growing concern that white asparagus and other crops would spoil in the fields, while seedlings could not be planted, potentially leading to food shortages later in the year. In late March, the German Ministry of Agriculture launched a website called The Land Helps ([www.daslandhilft.de](#)) to link farmers with volunteers willing to help out on a short-term basis. The target groups were in particular people whose workplaces had closed and who were unable to telework and students whose exams had been cancelled. Similarly, in France where about [80 percent of the agricultural labour force is foreign](#), the Agriculture Minister called for a "shadow army" of workers from the cities to 'save' harvests across the country. France was reporting a shortage of agricultural workers estimated at some 200,000 people, as seasonal workers from Morocco, Tunisia, Poland and Romania no longer arrived and French workers stayed at home sick or caring for children.

Farmers are often unhappy to rely on a workforce coming from the cities who have no prior experience nor knowledge about the basics in harvesting or planting particular crops. Indeed, many asparagus growers in Germany and [Switzerland](#) voiced complaints that their new local farm hands destroyed more than half of the harvest in some fields. Many

were also sceptical that city dwellers would respond as agricultural work is known to be tough and tiring. France counted some [150,000 volunteers](#) within a few days following the Minister's appeal, however this is largely attributable to the extremely strict confinement regulations in the country, and many of the volunteers were reported to have left their temporary workplace after only two or three days of work in the fields.

In the United Kingdom, the farm sector sought to [recruit 80,000 seasonal workers](#) for the harvest. As this deemed difficult, the British Growers Association launched the campaign '[Pick for Britain](#)' aiming to connect workers whose jobs have been displaced by COVID-19 to apply. According to the recruitment agency Totaljobs, [as of early April 2020, there was a registered 83 percent increase in applications for farming roles](#). Efforts to attract the local workforce were complemented by a national campaign called 'Feed the Nation' in alliance with a group of [labour recruiters](#).

In Australia, where the agriculture sector is also highly dependent on temporary migrants (either through seasonal schemes or holidaymakers) the travel bans meant that many would not arrive for the harvest. [Australian workers who lost their jobs in the airline industry \(e.g. pilots\) were reported to do farm work](#), however, the President of Australia's National Farmers Federation (NFF) stated publicly that in general Australians preferred to stay with their families due to lockdown measures. In turn, the [New Zealand Kiwifruit Growers Inc. reported that some businesses had a workforce of up to 90 percent New Zealanders](#), compared to the industry average of 50 percent in the 2019 season.

## Migration policy changes

### ► Visa extensions and exceptional admissions

In early April 2020, the Ministry of Agriculture and the Ministry of the Interior in Germany agreed on the limited entry of urgently needed harvest workers from abroad. Despite the COVID-19 pandemic, some [80,000 seasonal workers from Eastern Europe](#) were expected to enter Germany in April and May, up to 40,000 per month. They would travel to Germany by chartered planes and the government guaranteed that workers would be subject to strict entry and hygiene regulations to prevent the COVID-19 virus from spreading. Moreover, until 31 October 2020 seasonal workers will be allowed to work in short-term employment for [up to 115 days per calendar year](#) without social security coverage.

Before, this was only possible for up to 70 days. The UK also followed exceptional [measures to allow Romanian workers to harvest and train UK-hired workers](#). The Italian Ministry of Labour [extended the work permits of migrants](#) and opened a "green corridor" with Romania. However, this seemed insufficient to cover labour demands and created strong reactions from anti-immigrant parties.

The [Australian](#) Government made temporary changes to visa arrangements "to help farmers access the workforce they need to secure Australia's food and produce supply during COVID-19". The Seasonal Worker Programme and the Pacific Labour Scheme have allowed extension of stay for up to 12 months to work for approved employers, who should also provide care and accommodation taking into account COVID-19-related measures to mitigate risk of contagion. Working Holiday Makers (WHMs) who work in agriculture and food processing will be exempted from the six-month work limitation and are eligible for further visas to keep working in these sectors considered 'critical', if their visas expire in the next six months.

In [New Zealand](#), the Ministry for Primary Industries considers horticulture and viticulture 'essential services' associated with food production. Thus, during the COVID-19 Alert Period (established to Level 4 in the country), seasonal workers are 'essential workers' including those picking and packaging horticultural and viticulture produce for local and export markets. Their temporary visas due to expire from 2 April to 9 July 2020 will be automatically extended until 25 September 2020. They are also entitled to government funding if they fall sick, have to isolate themselves while working in New Zealand (from the start date of their contracts) or if they cannot work because of the business affected by the lockdown. Employers can apply for wage subsidies to pay their foreign seasonal workers, and workers have access to the Essential Workers Leave Support.

In the United States, the [Administration 'paused immigration' for 60 days on 22 April 2020, while providing exceptions to some categories of workers](#), including farm workers. Previously, the [Department of State](#) temporarily suspended routine visa services at all US embassies and consulates as of 20 March 2020. All workers applying for H2-A agriculture visas who traditionally have to go through an in-person interview process, including new applicants and returning H2-A workers, were exempted. This exceptional measure aims to secure the supply of migrant workers in different states as requested by many farmers associations and growers. A [new temporary measure announced on 15 April 2020](#), allows H2-A workers who are already in the United States to change employers and stay beyond

the three-year-maximum allowable period. The Administration further announced [plans to reduce migrant workers' salaries and minimum wages](#).

Meanwhile in [Canada](#), the recruitment requirements for labour market impact assessments in key occupations related to agriculture and agri-food sectors have been waived until 31 October 2020 and these applications will be prioritized for processing.

Temporary entry measures and visa extensions were accompanied with guidance on adaptation of workplace practices to the new realities of COVID-19. For example, the European Commission, in a Communication dated 30 March 2020, offered '[Guidelines concerning the exercise of the free movement of workers during COVID-19 outbreak](#)'. With regard to seasonal workers, particularly in the agricultural sector, Member States were asked to exchange information on their different needs at technical level and to establish specific procedures to ensure a smooth passage for such workers, in order to respond to labour shortages as a result of the crisis. The Commission underlined that seasonal workers in agriculture might perform critical harvesting, planting and tending functions and where this was the case, Member States should treat those persons as 'critical workers' (as defined in the Guidelines) and communicate to the employers the necessity to provide for adequate health and safety protection.

### ► Status changes for migrants: Plans of regularization and resorting to asylum seekers

In late March 2020, [the Portuguese government regularized all migrant workers](#) and asylum seekers in all sectors of the economy in providing them with a temporary residency permit so that they could have access to health care services. Similarly,

on 20 May 2020 Spain introduced an [extension of residency and work permits for foreigners](#) in the context of the declared COVID-19 Emergency, which [could lead to regularization pathways](#).

In Italy, a decree with urgent measures to support workers and the economy during the COVID-19 crisis provided for the formalization of national and migrant informal economy workers in the agriculture and domestic work sectors. For migrant workers, who are over-represented in these two sectors, the decree foresees that those whose permit expired after the end of October 2019 can obtain an initial six-month renewal, which can be subsequently extended if they enter into a formal employment relationship. The same permit is granted to any migrant worker in these two economic sectors – including those who have never had any – upon the request of employers who commit to enter into a formal employment relationship with these migrant workers ([Article 103 of decree no. 34 of 19 May 2020](#)).

In turn, some French regions also relied on [asylum seekers as harvest helpers](#) (such as the Département Seine-et-Marne), offering contracts and at least the minimum wage. However, some refugee advocates saw these arrangements as forms of forced labour while more conservative activists complained about the presence of these asylum seekers in France in the first place. In Germany, following lengthy political debates and an agreement between the Ministry of Agriculture and the Federal Employment Agency, specific groups of [asylum seekers without a work permit were allowed to take up agricultural jobs](#) in the period 1 April - 1 October 2020. Additionally, non-EU-migrant workers ("third country nationals") in the hotel and gastronomy sectors, where businesses had completely shut down, were granted the right to work in agriculture without having to apply for a change in their permit.

## ► Common challenges and entrenched inequalities

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This preliminary review shows that in many contexts and, with differences, the re-labelling of food-related and agriculture workers as 'essential' has allowed three types of short-term measures: i) tapping into the national workforce, ii) exceptions in travel bans as well as extensions to visas and work permits that are 'temporary'; and iii) regularization plans and resorting to asylum seekers despite the fact that in certain

countries this status does not allow them to work. Governments have been quick to react to mitigate the potential impacts of labour shortages that would affect their food systems and businesses. However, these measures have not come without challenges.

In cases where migrant workers cannot cross borders and return to their usual seasonal destinations, it is not automatic that local workers will fill the jobs

as the country cases in Europe reviewed here have shown. The lack of 'suitable workers' for agriculture brings back an old debate on the nature of 'skill' and who a 'low-skilled or unskilled worker' is. This pandemic shows that for a long time, seasonal agriculture workers have not been fully rewarded for their contribution to society in terms of earnings, social protection, and challenging working conditions, including hours of work and occupational and health protections. This has vast implications for the design of temporary schemes and also for integration prospects of these seasonal migrant workers. Existing approaches in the law and practice of a number of countries tend to overlook the real labour market integration needs of these workers. As shown in [ILO research](#), migrant workers in agriculture and the rural economy often experience discriminatory treatment.

In addition, the health risks associated with the coronavirus mean that many agricultural enterprises have to make adjustments in workplace practices – how migrant workers plant, pick crops and work and live together while maintaining a safe distance – to avoid the risks of contagion and to protect the health of migrant workers. Quarantine measures have been put in place, and in some contexts compulsory testing has been introduced. Workers in this sector have experience in being exposed to pesticides and are at the risk of high incidence of work-related accidents. Therefore, it remains vital that safety and health at work is guaranteed while ensuring adequate living conditions. For example the National Farmers' Federation (NFF) of Australia has issued a [Workplace Guide](#) that contains basic advice on managing the impacts of COVID-19 on farming workplaces, including relevant work health and safety and industrial relations considerations.

In the United States, the majority of agriculture workers are immigrants and lack many of the legal protections that workers in other sectors have. This puts them and their families' health and well-being in danger as they are also excluded from paid sick leave since food and farm companies have been exempted from the [Families First Act](#). Due to their undocumented status, many cannot access free COVID-19 testing, even though this has been challenged in some states, [such as Florida](#). On 20 April 2020, the Centres for Disease Control and Prevention issued [Safety Practices Guidance for Critical Workers](#), including agriculture workers.

Growers and farmers need to ensure that these are fully implemented.

News reports from Germany illustrate how dependent seasonal migrant workers are on the goodwill of their employer in respect of safe workplace and living arrangements. The news show Panorama in a broadcast of 23 April 2020 titled "[The harvest is safe but the harvest helpers are not](#)" exposed practices ranging from cramped living quarters and non-observance of distancing measures in transport to the fields to lack of protective equipment such as masks. These practices create [unfair competition](#) for those who respect the rules. For example, a grower from Lower-Saxony who had part of his harvest crews lodge in nearby youth hostels and hotels to provide for safe housing and who installed additional sanitary containers in his fields, faced additional costs of EUR 1.2 million. Some abuses can only be detected through labour inspection, showing how vital these services have become during the pandemic.

Migrant workers are also faced with the 'work or lose your income dilemma' meaning that they might still have to work even if the COVID-19 related workplace security conditions are not put in place.

Gender dynamics are likely to be impacted as well: While the majority of farm work is carried out by men, women migrant agriculture workers perform key activities for certain crops and in packaging houses. In Italy, [data for 2015 showed that 42 percent of irregular farm workers were women](#), who are usually overrepresented in unpaid and seasonal work. Women migrant farm workers often labour under the same harsh conditions as men: [10 or 12-hour days in unsafe and inadequate conditions for a daily wage of EUR 15 to 25](#). They face an additional risk, because agricultural workers usually live on the farms, in contexts of isolation and poorly maintained housing. These conditions are often accompanied by sexual harassment and abuse. It is yet too early to evaluate the impact of COVID-19 on these entrenched practices.

Seasonal migrant workers make important contributions to the development of agriculture systems and economies, and yet, they have been exempted from many protections and their prospects for skill development are limited. Under tight regulatory migration regimes, they have experienced structural inequalities and [COVID-19 threatens to deepen them](#). In the following section we provide initial thoughts on how to counter such a risk.

## ► Towards the future

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In many industrialized countries, agricultural work has been considered 'low-status work' that requires no skills and is low paid. In some cases, agricultural workers are also [excluded from the general protections of labour law](#). Thus, many local workers have shunned agricultural jobs which, in turn, opened employment opportunities for migrant workers.

The COVID-19 pandemic clearly has put agriculture with its inherent risks and specific skill needs in the spotlight of international attention. Agricultural work, along with health and care work and certain functions in retailing and transport have been labelled 'essential work', suggesting a social valorisation of agricultural work.

Agriculture is highly subsidized in many rich countries and subsidies could be restructured to provide better working conditions for farm workers instead of rewarding output only. As shown, migrant workers are a fundamental part of this sector and should therefore benefit from pay rises and any other betterments, if and where these occur. The pandemic should become an opportunity to redesign seasonal foreign worker schemes. To this end, the principles and mechanisms outlined below should be observed.

*Embedding the structural contribution of seasonal workers in national policy design:* The pandemic is highlighting the historical structural reliance of developed nations' food production systems on seasonal agriculture workers. Hence, there are economic incentives to align migration laws (which regulate entry and stay of foreign workers) with labour laws (which govern the rights of workers) and with the needs of labour markets and the economy in general. A 'whole of government' approach is advocated whereby labour migration is integrated into broader thinking on industrial, education, labour market, taxation and welfare policies to provide sustainability to these essential workers. In this realm, [the ILO has launched a COVID-19 strategy response based on four pillars](#): i) stimulating the economy and employment, which includes fiscal and monetary policies while extending financial support to sectors; ii) supporting enterprises, jobs and incomes, with an emphasis on extending social protection (including to migrant workers), implementing employment retention measures and providing financial and tax relief to enterprises in need; iii) protecting workers in the workplace; and iv)

relying on social dialogue for solutions. International labour standards and fundamental principles and rights at work provide a strong basis for these [solutions and policy designs](#).

*Skill retention, training, and recognition:* Agriculture workers develop specific technical skills and expertise that are learned 'on the job' and may be specific to a given farm or crop. These skills are often unrecognized, therefore, a change of perspective is needed towards a social valorisation of agriculture work ('upgrading' its social status in line with the essential contribution that these workers make), and to facilitate the recognition of prior learning might play a positive role in retention. Public Employment Services (PES) could play a facilitating role in this process.

*Towards more cooperation across borders and policy coherence:* The institutional design of these schemes can provide further spaces for coordination with origin countries and put in place monitoring mechanisms of migrant workers' living and working conditions. The development of rights-based approaches through bilateral labour migration agreements could potentially reduce the power imbalances between origin and destination countries. Recognizing these workers as essential implies the need to address their exemption from labour laws and fostering further coherence between (im) migration and employment regulations.

*Addressing unequal wages in the agriculture sector:* The recognition that agriculture workers are 'essential' further implies addressing the historical low wages in the sector, as well as the inequality in rural wages between men and women. [Several wage systems coexist](#) including hourly, piece rate, incentive pay and monthly salaries, creating imbalances in workers' earnings. In some contexts, minimum wage legislation extended to migrant workers in the sector could be the starting point to begin to address imbalances.

*Strengthening social dialogue mechanisms and representation:* In reviewing labour market needs and adjusting seasonal migrant workers' schemes accordingly, workers' and employers' organizations need to be consulted in the design and implementation. Agriculture workers should be granted access to representation mechanisms.

## ► More information

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This brief was prepared in the context of the ILO's global response to the COVID-19 crisis. For more information, please contact Fabiola Mieres ([mieres@ilo.org](mailto:mieres@ilo.org)) and Christiane Kuptsch ([kuptsch@ilo.org](mailto:kuptsch@ilo.org)), Labour Migration Branch, Conditions of Work and Equality Department.

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