

► ILO Brief

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Intervention Model: For extending social protection to migrant seasonal agricultural workers

Key messages

- A number of international labour standards include provisions that are relevant to migrant seasonal agricultural workers' social protection. These include the ILO [Safety and Health in Agriculture Convention, 2001 \(No. 184\)](#), which reaffirms the principle of **equality of treatment** between agricultural workers and workers in other sectors, in access to social security; the [Employment Promotion and Protection against Unemployment Convention, 1988 \(No. 168\)](#), which states that they should enjoy **protection from unemployment**; and the [Social Security \(Minimum Standards\) Convention, 1952 \(No.102\)](#), which calls on member States to ensure equality of treatment of non-national residents.
- Based on the principle of **equality of treatment** with respect to social protection, migrant seasonal agricultural workers should be treated no less favourably than any other workers.
- In order to adequately extend social protection to migrant seasonal agricultural workers, countries should ensure the coverage of all agricultural workers as well as seasonal workers under labour and social security laws and agreements.
- Migrant seasonal agricultural workers face **various specific obstacles** in their efforts to access social protection owing, amongst others, to the unpredictable, often informal and temporary nature of their work, which may prevent them from meeting the minimum requirements for certain benefits, even though they contributed to the relevant schemes. Other obstacles include complex administrative procedures, a lack of enforcement and monitoring, as well as a lack of information and representation.
- Policy measures for the extension of social protection coverage to these workers and their families include:
 - the **conclusion and enforcement of social security agreements** that ensure equality of treatment and the portability of acquired rights and rights in the course of acquisition across countries;
 - the **inclusion of social security provisions in temporary workers programmes or bilateral labour agreements**;
 - the adoption of flexible **unilateral measures** by the country of origin and/or the country of destination. These measures should ensure equality of treatment and allow these workers to meet the qualifying conditions and minimum requirements of the scheme. They can include: allowing them and their family members to remain affiliated in the country of origin, the retroactive payment of missed contributions; the totalization of non-consecutive periods for both country of origin and destination. In addition, the provision of lump-sum payments and the reimbursement of contributions upon leaving the scheme or country can be considered;
 - **complementary measures** that address the numerous administrative, practical and organizational obstacles that these workers face due to remote workplaces, long working hours, and short stays in the country of destination.

► Why this intervention model?

Drawing from the **ILO Guide on Extending Social Protection to Migrant Workers, Refugees, and their Families** developed in collaboration with ISSA and ITCILO, the **Intervention Models** aim to provide policymakers and practitioners with succinct practical guidance on how to extend social protection to specific groups of migrant workers. The intervention model includes a brief overview of the obstacles, the international legal framework, and a set of proposed policy measures based on existing country practices and international labour standards.

► Introduction

Who are migrant workers?

A migrant worker is “a person who migrates or who has migrated from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant worker” (Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). In statistical terms, “international migrant worker” refers to “all persons of working age present in the country of measurement”, whether or not they are usual residents or non-resident foreign workers (ICLS 2018). The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their families, 1990 defines a migrant worker as “a person who is to be engaged or has been engaged in a remunerated activity in a state of which he or she is not a national”.

Who are migrant seasonal agricultural workers?

Approximately three billion people – close to half of the world’s population – live in rural areas and play a significant economic role in the majority of countries. Close to 28 per cent of the global workforce is employed in the agricultural sector, which includes activities in agriculture, hunting, forestry, and fishing (ILO 2019). Overall, work in this sector is heavily seasonal with a high demand for labour during planting, harvest, and seasons of high fish migration, alternating on a yearly basis with periods of little or no work. Jobs in the agricultural sector are also characterized by low wages and physically demanding work under difficult working conditions making them unattractive, especially among young people and in particular in developed economies. This leads to the frequent use of casual and seasonal workers, many of whom are migrants.

In 2019, about 7 per cent of the total international migrant workforce were employed in agriculture (ILO 2021a) as compared to 11 per cent in 2013 (ILO 2015). These migrant workers are often temporary migrants who work in host countries for a limited period of time, after which they are expected to return to their country of origin or move to another country. The ILO defines “seasonal workers” as “[...] workers who hold explicit or implicit contracts of employment where the timing and duration of the contract is significantly influenced by seasonal factors such as the climatic cycle, public holidays and/or agricultural harvests” (ILO 1993, para. 14(g)). Most seasonal migrant workers are low-skilled and come from countries with lower levels of economic development, which are often neighbouring or geographically near to the destination country, although there are exceptions.



Why extend social protection to migrant seasonal agricultural workers?

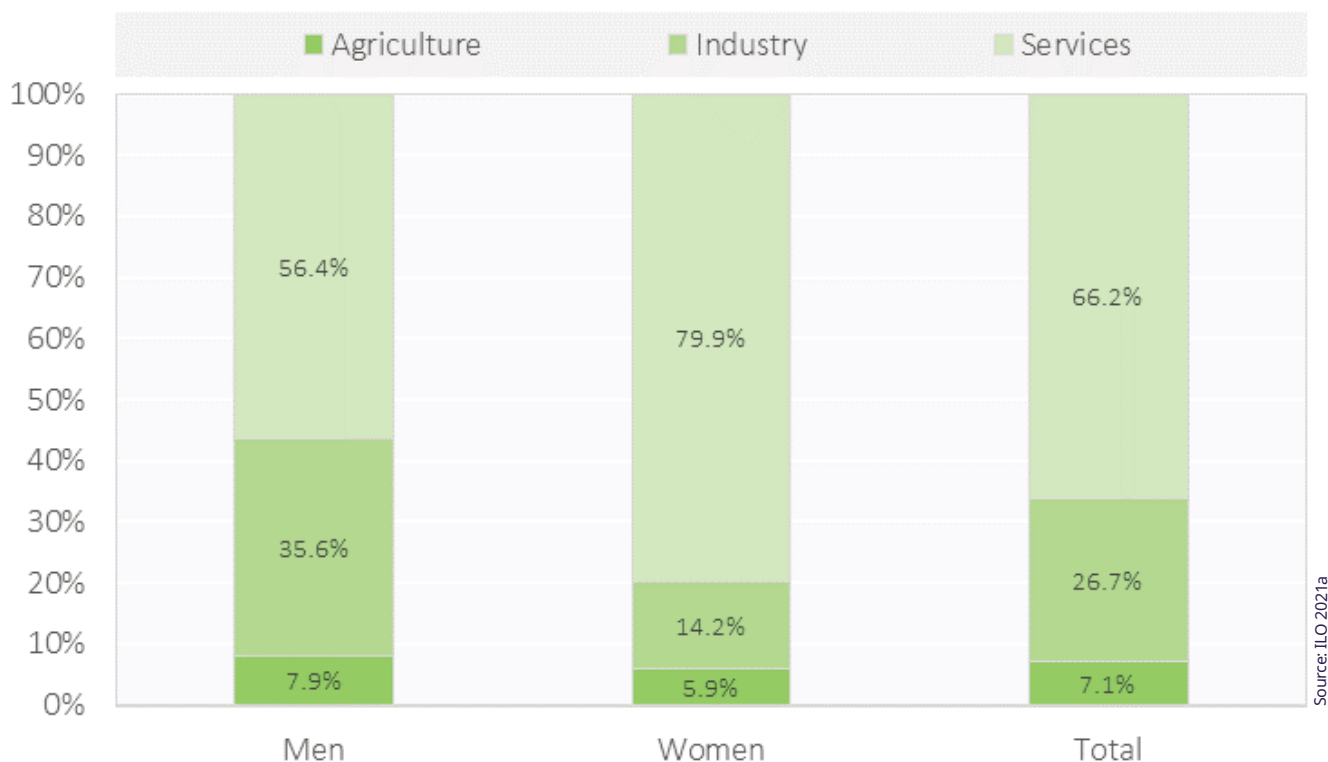
Workers in the agricultural sector often face high risks of injury and illness owing to the hazardous, and physically demanding nature of their employment. They may lack access to adequate personal protective equipment, water, sanitation and health facilities, and face difficult working conditions including poorly designed tools and exposure to extreme weather conditions (ILO n.d.). Additionally, many agricultural workers are excluded from labour and social protection laws. Moreover, as these workers depend on the income earned over a few months for the entire year, if sick or incapacitated during this period, this may lead to disastrous consequences (ILO 2021b).

Social protection is a human right as well as a social and economic necessity. By extending social protection coverage to migrant workers and their families, governments not only mitigate poverty, inequality, vulnerability, and income insecurity across an individual's life cycle but also promote inclusive growth, social cohesion and sustainable development, as reflected in the 2030 Agenda for Sustainable Development.

Extending social protection to seasonal agricultural migrant workers has many advantages:

- Including migrant workers in social protection creates a **level playing field with other workers** by reducing unfair competition and the perverse incentive to recruit migrant workers as cheap and unprotected labour, potentially avoiding a race to the bottom. This is of importance, given that migrant seasonal agricultural workers often face repeated violations with regards to their working hours, living conditions, remuneration, and occupational safety standards.
- It provides protection **against economic and social risks**, reducing their vulnerability and enhancing their resilience, employability and productivity.
- It contributes to improving their **health status** as well as that of their family members remaining in the country of origin or when returning back home.
- It reduces **public health risks**, including the transmission of communicable diseases.
- It contributes to **stronger and financially healthier social security systems** by spreading risk across a larger pool of members and enhancing the financial sustainability of these schemes since migrant workers are often net contributors over their lifetime. It also reduces pressure on tax-funded social protection mechanisms in countries of destination, or in countries of origin.

Figure 1. Global distribution of migrant workers, by broad branch of economic activity



► Conventions and Recommendations

Many international labour standards guarantee social security rights to agricultural and migrant workers, including migrant seasonal agricultural workers.

[The Safety and Health in Agriculture Convention, 2001 \(No. 184\)](#) requires that workers in agriculture be provided with coverage against occupational injuries and diseases, invalidity and other work-related health risks through an insurance or social security scheme providing coverage at least equivalent to that enjoyed by workers in other sectors (Art. 21). These provisions are also relevant for migrant workers.

[The Employment Promotion and Protection against Unemployment Convention, 1988 \(No. 168\)](#) calls on member States to ensure equality of treatment for all persons protected, without discrimination including on the basis of nationality. It further states that each member State shall endeavour to adapt the qualifying period to the occupational circumstances of seasonal workers with respect to unemployment benefits. As such, C168 includes provisions that are relevant to migrant seasonal agricultural workers' social protection.

ILO social security standards include, in their scope, seasonal workers and point to the need to adapt benefit conditions to their conditions of employment. [The Maintenance of Social Security Rights Convention, 1982 \(No. 157\)](#) encourages the conclusion of bilateral or multilateral social security conventions, which specify the categories of persons to which they are applicable. These categories must comprise at least employees (including, as appropriate, frontier workers and seasonal workers), as well as the members of their families and their survivors, who are nationals of one of the member States concerned or who are refugees or stateless persons resident in the territory of one of these States.

Ratifications

Of the 187 ILO Member States, 21 have ratified C184 as of January 2022.



Table 1. Key instruments relevant to migrant seasonal agricultural workers' social protection

Key instruments	Number of ratifications (Jan. 2022)
R204 Transition from the Informal to the Formal Economy Recommendation, 2015	-
R202 Social Protection Floors Recommendation, 2012	-
C184 Safety and Health in Agriculture Convention, 2001	21
C181 Private Employment Agencies Convention, 1997	37
C169 Indigenous and Tribal Peoples Convention, 1989	24
C168 Employment Promotion and Protection against Unemployment Convention, 1988	8
C157 Maintenance of Social Security Rights Convention, 1982	4
R151 Migrant Workers Recommendation, 1975	-
C143 Migrant Workers (Supplementary Provisions) Convention, 1975	28
C118 Equality of Treatment (Social Security) Convention, 1962	38
C110 Plantations Convention, 1958	12
C102 Social Security (Minimum Standards) Convention, 1952	60
C97 Migration for Employment Convention (Revised), 1949	53
R17 Social Insurance (Agriculture) Recommendation, 1921	-

► Obstacles, barriers, protection gaps and challenges

Migrant workers are a heterogeneous group. Their migration status, type of employment contract, duration of stay, skills set, income level and demographic characteristics, as well as the industry or sector in which they work, influence their access to comprehensive social protection. In the case of migrant seasonal agricultural workers, these characteristics may exclude them from social protection by law or in practice.

► **Legal barriers** to accessing social protection include:

- The exclusion of agricultural workers from labour and social security laws: In many countries, all or some categories of agricultural workers are legally excluded from social protection systems, which contributes to a high level of informality in the agricultural sector. This is also true for migrant workers, who tend to be found disproportionately often in weakly protected agricultural employment, including seasonal and casual work.
- An inability to meet the minimum requirements or eligibility conditions (minimum number of months or years of contributions) for social security benefits in the country of employment even when migrant seasonal agricultural workers are covered by legal frameworks. This is often due to the short and unpredictable duration of their employment and high labour mobility.
- A lack of access to social protection for the dependents of migrant workers. Given that family reunification is often not allowed, the dependents of migrant seasonal agricultural workers usually remain in the country of origin, where they risk being excluded from the social security system given that the main breadwinner does not work in that country.
- A lack of multilateral or bilateral social security agreements covering these workers across some or all of the nine branches of social security.

► **Practical barriers** to accessing social protection include:

- a lack of information in appropriate languages and knowledge about the social security system and their rights;
- an absence of social networks and a lack of organization;
- a lack of documentation including employment contracts, and/or lack of an identifiable employment relationship;
- low and fluctuating income;
- administrative barriers due to remoteness of the workplace (such as a lack of services, difficulty to register and access payment of benefits);
- a lack of enforcement: lack of labour inspection and difficulty accessing appeal and redress mechanism;
- a lack of trust as migrant workers as well as employers may want to avoid paying social security contributions if they believe they cannot expect benefits in return, whether real or perceived. This perception might be based on misconceptions, a lack of information and/or bad communication, but it can also be based on poor or limited trust in the system or the institutions.

► How to extend social protection to migrant seasonal agricultural workers?

To extend social protection to migrant seasonal agricultural workers, it is important to ensure that national agricultural workers are covered by national labour and social security laws, as this is a precondition to extending social protection to agricultural migrant workers. Furthermore, any policy measures for migrant workers in general should also consider the specific challenges and obstacles that migrant seasonal agricultural workers may face with regard to social protection.

To address the obstacles faced by migrant seasonal agricultural workers, States can opt for various policy measures which are **not mutually exclusive** (ILO 2021c).

Measures

1. **Coverage of labour and social security legislation** should be extended to all workers including agricultural workers.
2. **The conclusion and enforcement of social security agreements** (bilateral/multilateral) to ensure the portability of rights and totalization of contribution periods.
3. **The inclusion of social security provisions in bilateral labour agreements (BLAs) and temporary workers programmes.**
4. **The adoption of unilateral measures by countries of origin or destination.** These can include the following:
 - the establishment of national social protection floors in countries of origin and destination;
 - the possibility for migrant workers and their families to remain affiliated in the social security system of the country of origin;
 - the exemption of the requirement to be affiliated to the social insurance scheme in the country of employment if already covered in the country of origin;
 - the incorporation of flexibility into the design of social security schemes to ensure that migrant seasonal agricultural workers can meet the qualifying conditions and minimum requirements.
5. **Complementary measures** should be considered to address the numerous administrative, practical, and organizational obstacles faced by migrant seasonal agricultural workers. Such measures can include:
 - information and services taking into account their often-remote work location, long hours of work, short stay in the country, and other obstacles as described above;
 - outreach programmes using mobile units to facilitate access to information, registration, and payment of social security benefits in remote rural areas;
 - increasing the number of local offices in remote rural areas; and
 - facilitating social security access through digital services.

► How to extend social protection to migrant seasonal agricultural workers?

Examples:

- The 2007 bilateral social security agreement between **France and Morocco** explicitly includes seasonal workers in its scope of application and covers all nine branches of social security, including old-age benefits.
- In **Canada**, the 1966-launched Seasonal Agricultural Worker Programme (SAWP) facilitates the temporary seasonal employment of foreign workers through a system of bilateral labour agreements between Canada, Mexico and 11 Caribbean countries. Seasonal agricultural workers from these countries can be employed for a maximum period of eight consecutive months in a year for on-farm activities. Throughout this time period, they contribute to Canada's Pension Plan and the Employment Insurance plan. As part of the latter, they may be eligible for maternity/paternal, sickness, and compassionate care benefits, if applicable.
- In **France**, seasonal migrant workers contribute to and benefit from the social security system on the same terms as nationals. The minimum contribution period for unemployment benefits is 24 weeks over a two-year period.
- In **Colombia**, nationals working abroad may remain affiliated as independent workers under the General Pension System. This can be particularly relevant for migrant agricultural seasonal workers, allowing them to ensure that their family members back home remain protected.
- Regarding access to social security, the [EU Directive 2014/36/EU](#) on the conditions of entry and stay of third-country nationals (nationals of non-EU countries) for the purpose of employment as seasonal workers recognizes their right to equal treatment with nationals of host Member States. However, the Directive does not cover unemployment and family benefits and is limited with regard to tax benefits, education, and vocational training.



► Extending social protection to migrant seasonal agricultural workers: a three-step-process

The below step-by-step process and checklist draws on the [Social Protection Floors Recommendation](#), 2012 (No. 202) para. 14 (see box 2) and the ILO guide on [Social Protection Assessment Based National Dialogue](#) (ABND).

The ABND Guide provides guidance on how to identify social protection gaps, set priorities and develop national social protection strategies to extend coverage and strengthen social protection systems, in line with [ILO's two-dimensional strategy](#) that aims to guarantee at least a basic level of social protection to all (social protection floors) and progressively higher levels of protection. These strategies may include: i) the improvement of the scheme in terms of benefit level or scope; ii) the creation of new social protection schemes; iii) the expansion of existing schemes to new groups or categories of workers.

The ILO recommends the development of inclusive and comprehensive social protection strategies and schemes. Below an example of the steps that can be followed to extend social protection to migrant seasonal agricultural workers within such a framework.



Step 1: Set up coordination and implementation arrangements

- Identify the key stakeholders (such as the Ministry of Labour, other relevant Ministries, workers' and employers' representatives (e.g., farmers' organizations), agricultural cooperatives, social security institutions, labour inspectors, non-governmental organizations/civil society organizations, academia);
- Create a tripartite working group to drive the situational analysis and consultation process (step 2 and 3 below) to develop the policy measures for the extension of social protection to migrant seasonal agricultural workers. This working group should identify its lead, working modalities and objectives. It may also be involved in the implementation and monitoring;
- It may be necessary to create technical sub-working groups as relevant (such as legal, actuarial/financial, communication, etc.) that will accompany the steps below and report back to the tripartite working group;
- Identify potential technical and financial partners.

Step 2: Undertake a situational analysis

A situational analysis aims to provide a comprehensive overview of the social protection landscape in a country and a better understanding of the characteristics and needs of migrant workers, coverage levels and the obstacles they face accessing social protection. It is an essential step to inform the decision-making process and policy reforms.

- Conduct the desk review of available information and carry out interviews and focus group discussions including with seasonal agricultural workers (migrant and nationals), selected employers, and other relevant key stakeholders identified under step 1;
- Take into account gender considerations in the data collection process, interviews and subsequent analysis;
- Collate the information gathered in a situational analysis report that should include at least the following information:
 - demographic profile of the targeted population, labour migration and social security statistics, administrative records (including information on gender, age, country of destination, migration and employment status);
 - laws and policies relevant for (migrant) seasonal agricultural workers' social protection coverage (such as information on social security schemes by branch; existing restrictions to coverage based on nationality and/or residence; restrictions to payment of benefits abroad; minimum qualifying periods);

- functioning and capacity of social security institutions, labour inspection and other relevant administrative bodies responsible for managing and delivering social security benefits;
 - recent actuarial studies and other relevant documents to establish current financial status of the social security schemes;
 - the number of ratifications and associated implementation of UN and ILO conventions;
 - existing social security agreements (bilateral/multilateral) that focus on or include provisions for migrant seasonal agricultural workers including information on: material and personal scope, branches covered, provisions, if any, regarding equality of treatment, export of benefits, legislation applicable, maintenance of rights in course of acquisition (totalization), and administrative assistance; as well as operative structure (decision-making bodies, consultation bodies, liaison offices);
 - bilateral labour agreements that include social security provisions, temporary seasonal agricultural workers programmes, or other relevant temporary labour migration schemes, free movement protocols, regional labour migration frameworks;
 - the practical barriers that (migrant) seasonal agricultural workers face in accessing social protection (such as a lack of information, language barriers, complex administrative procedures, discrimination).
- Review relevant national policies (such as employment, migration, education and training) to ensure coherence of the recommendations;
 - Analyse information, identify protection gaps, and propose recommendations in line with ILO standards and international good practice. This includes a legislative gap analysis to determine the extent to which national laws, regulations and practices, as applied in the agricultural sector, are aligned with international labour standards on social protection and migration.

Step 3: Consultations and development of policy measures for the extension of social protection to migrant seasonal agricultural workers

- Organize a tripartite meeting to present and discuss the findings and recommendations of the situational analysis and to identify adequate and gender responsive policy measures (see list of possible measures above) reflecting national priorities;
- Undertake a feasibility and costing study of the selected policy measures, using for example the ILO Rapid Assessment Protocol (RAP) model;
- Organize a tripartite meeting to present and discuss the findings of the RAP and to agree on the measures to be implemented, pending validation by the concerned authorities (such as parliament, ministry of labour);
- Develop a road map to support the implementation of the selected policy measures, establish a monitoring and evaluation mechanism and a communication strategy.

Box 2. Social Protection Floors Recommendation, 2012 (No.202) para. 14

When formulating and implementing national social security extension strategies, Members should:

- a. set objective reflecting national priorities;
- b. identify gaps in, and barriers to protection;
- c. seek to close gaps in protection through appropriate and effectively coordinated schemes, whether contributory or non-contributory, or both, including through the extension of existing contributory schemes to all concerned persons with contributory capacity;
- d. complement social security with active labour market policies, including vocational training or other measures, as appropriate;
- e. specify financial requirements and resources as well as the time frame and sequencing for the progressive achievement of the objectives; and
- f. raise awareness about their social protection floors and their extension strategies, and undertake information programmes, including through social dialogue.

► Checklist

This checklist can guide policymakers and practitioners in identifying the key issues and actions to consider when extending social protection to migrant seasonal agricultural workers.

Consultations/methodology

- Have you consulted current, potential, and/or returning migrant seasonal agricultural workers on the challenges they face, especially in relation to accessing social protection?
- Do (migrant) seasonal agricultural workers have representation in your country or are there restrictions in place that prohibit freedom of association and collective bargaining?
- Are there NGOs and/or CSOs providing direct assistance to (migrant) seasonal agricultural workers? And have you consulted them?
- Have you consulted with other key stakeholders (such as employers, social security administrators, recruitment agencies, representatives of one-stop-shops, labour inspectors, etc.) to assess the protection gaps and practical barriers faced by (migrant) seasonal agricultural workers both at home and in the country of destination?
- Have gender considerations been taken into account in the consultation process?

Availability of statistics/information

- Do you have access to accurate and reliable data on (migrant) seasonal agricultural workers' social protection coverage in and across countries?
- Is the data disaggregated, including by sex/gender, age?
- Is there adequate and widely disseminated information regarding the social protection programme/scheme and (migrant) seasonal agricultural worker's entitlements? Is such information present in relevant languages?
- Has a fiscal space assessment been carried out recently?

Legal and practical considerations

- Has your country ratified and implemented the key UN and ILO Conventions and Recommendations relevant for (migrant) seasonal agricultural workers' social protection?
- Does your country recognize agricultural work as work, which is covered by labour and social security laws and are these laws effectively implemented?
- Does your country have laws or policies in place ensuring that (migrant) seasonal agricultural workers have an identifiable employment relationship; receive an adequate and stable income; and/or benefit from a legally enforced minimum wage?
- Does your country have policies in place that facilitate the transition from the informal to the formal economy including for (migrant) seasonal agricultural workers?
- Concerning social protection programmes/schemes in your country:
 - Do they cover (migrant) seasonal agricultural workers, including those working in the informal economy, and for which contingencies? Is there equality of treatment between nationals and non-nationals?
 - Do they adequately consider the needs and specificities, as well as the nature and duration of seasonal agricultural work?
 - Are administrative procedures simple and easy to follow for both (migrant) seasonal agricultural workers and their employers?
 - Are these programmes and schemes gender-responsive given that women (migrant) seasonal agricultural workers experience increased vulnerabilities?
 - Do these programmes and schemes have adequately resourced inspection services that ensure effective compliance of social security institutions?
 - Are the contribution rates affordable for seasonal agricultural migrant workers and their employers?

► ILO brief

Intervention Model for extending social protection to seasonal agricultural migrant workers.

- Are there tools facilitating registration and contribution payment?
- Are there entry requirements that may be dissuading registration or contribution?
- Are there bi-or multilateral social security agreements?
 - Do they cover migrant seasonal agricultural workers?
 - Do they cover all nine branches of social security?
 - Do they include all key social security principles (equality of treatment, maintenance of acquired rights and payment of benefits abroad, maintenance of rights in the course of acquisition, applicable legislation, administrative assistance, and reciprocity)?
 - Have these agreements entered into force or is their enforcement being hindered by limited institutional capacities, a lack of training and information on the content of the agreement as well as on how to implement it, a lack of data and information exchanges, a lack of regular contact/exchange between the liaison offices, etc.?
 - Have you considered the Maintenance of Social Security Rights Recommendation, 1983 (No. 167), which provides useful guidance including on how to surmount the differences between social security systems (social insurance/providence funds)?
- Are there bilateral labour agreements or MoUs in force?
 - Do they cover migrant seasonal agricultural workers?
 - Do they include provisions on social security and which contingencies are covered?
 - Do they refer to existing social security agreements or national legislation?
 - Do these provide for equality of treatment between migrant seasonal agricultural workers and nationals?
 - Do these concretely lay out monitoring as well as complaint mechanisms for migrant seasonal agricultural workers?
 - Do they adequately ensure the exchange of information between countries?
- Has your country considered the adoption of unilateral social protection measures for nationals (migrant seasonal agricultural workers) working abroad as well as for non-nationals (migrant seasonal agricultural workers) on its territory (see Chapter 5 of the ILO Guide on Extending Social Protection to Migrant Workers, Refugees, and their Families)?
 - Are there provisions on equality of treatment and non-discrimination?
 - Are there provisions or mechanisms allowing nationals working abroad and their dependents to remain affiliated to a social security scheme or to maintain their rights thereof in their country of origin?
 - Is there a migrant specific social security scheme or an overseas welfare programme for nationals working abroad?
 - Are there provisions allowing for the payment of benefits abroad?
 - Is there flexibility in the design of the scheme and assistance with regard to qualifying conditions and minimum requirements by:
 - allowing retroactive payment of missed contributions periods?
 - incorporating flexibility or exceptions into the qualifying requirements?
 - Can workers receive lump sum payments or reimbursements of contributions when leaving a scheme?
 - Does a national social protection floor exist? Do returning migrant seasonal agricultural workers have access to social protection floor benefits?
- Have you considered complementary measures addressing the administrative, practical, and organizational obstacles faced by (migrant) seasonal agricultural workers? This could include awareness raising campaigns, outreach programmes with mobile units, translation of indispensable information related to social security schemes, increasing the number of local social security offices in rural/remote areas, facilitating social security access through digital services, greater flexibility with regards to the migrant's choice of contact for accessing social security services and benefits, as well as the implementation of complaint mechanisms, etc.

Cooperation

- Are there opportunities for enhanced cooperation (through diplomatic representation including consular services) and/or negotiations of agreements with the main countries of destination/origin?

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