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A Sectorial Approach to Labour Migration: Agriculture and Domestic Work



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Anna Triandafyllidou

Executive summary

Today more than ever, the European Union needs a comprehensive albeit differentiated approach towards legal labour migration, which responds to the varied needs of domestic labour markets and at the same time discourages effectively irregular migration. The segmented structure of domestic labour markets and the demographic deficit of Europe lead to increasing demand for a migrant labour force. This labour force is concentrated in specific sectors, such as cleaning, catering and care jobs for women; and construction, agricultural and semi-skilled manufacturing jobs for men.

Such labour shortages are better catered to by a demand-led approach that takes into account the different economic cycles of Member States, their different economies and labour markets, while at the same time responds to long-term sociodemographic processes, including:

- a. The ageing of European societies;
- b. The configuration of nuclear families without extended support networks to cover needs for care of children or elderly/disabled people;
- c. The participation of women in paid work outside the home;
- d. These trends are irreversible and persist even in periods of economic downturn or weak growth.

A flexible albeit proactive regulatory framework that would allow for demand and shortages to drive recruitment of migrant workers, while also being adaptable to territorial and sectorial variations, would be optimal. Of course, the thorny issue also needs to be addressed of how to match flexibility with worker protection from exploitation, setting up a clear and realistic set of rights and duties for both employer and employee. A framework sectorial approach can be tested in niche sectors such as domestic work or agriculture, complementing existing directives regulating training, research, students, intracompany transferees, high-skill migrants and seasonal employment.

Introduction

This policy paper is based on a number of previous studies¹ on irregular migration and irregular work in Europe. Here I am focusing specifically on two sectors where demand for migrant labour has been high and where the risk of irregular employment is pervasive. In addition, these are sectors that have not benefitted from a sectorial approach such as the highly-skilled sectors covered by the Blue Card Directive, or the directives covering intracompany transferees, researchers or paid trainees, with the exception of the seasonal employment directive, which is expected to address agriculture work shortages but not domestic or care work.

¹ Triandafyllidou and Bartolini, 2016; Triandafyllidou and Marchetti, 2013; 2015; Triandafyllidou 2013.

The two sectors are of course different in terms of their integration in international migration patterns and the global economy. Migrant domestic and care work has developed in what has been termed as global care chains.² Relevant research has documented how migrant women from less affluent countries move to those more affluent ones to fill gaps in social welfare and increased needs of care. While social robotics are in the process of creating machines with sufficient artificial intelligence to work as carers of old people, young children or people who are not self-sufficient, the path for such an invention becoming commercialised is still long and hence there seems to be no structural competition between technological innovation and international migration for domestic and care work employment.

By contrast the agricultural sector is much more susceptible to technological developments and to automated processes of cultivation, irrigation or harvesting and packaging. Thus in this sector migrant labour may be seen to serve the interests of unscrupulous employers, interested in maximising profits and reluctant to invest in technological change for their crops. In other words facilitating migration may be seen as counterproductive, impeding technological innovation. However, the demand for (migrant) labour force in agriculture has largely persisted in Europe despite technological advances and the lack of legal migration channels has contribute to problems of (severe) exploitation of both non EU citizens and intra EU migrants in those agriculture sectors where production is most intensive, and the products small in size and delicate (e.g. strawberry, tomato, mushroom and other small fruit cultivations and greenhouses).

Taking these structural issues into consideration this policy paper puts forward some concrete proposals for a proactive approach to sectorial labour migration.

Domestic and care work

According to the International Labour Organization³, 80 per cent of migrant domestic workers are concentrated in high-income countries (9.1 million of the 11.5 million estimated). The increase of paid domestic work in many European and Organisation for Economic Co-Operation and Development societies is associated with the increasing labour market participation of (native) women. Their greater flexibility and availability to work outside the home depend in the abstract on the provision of care and domestic services by someone else. Especially in countries where there is low male participation in reproductive roles and household chores, the availability of cheap, irregular work to provide for domestic and care works at home has allowed more women to find paid employment outside the home.⁴

The turn towards paid care, however, has also been caused by ageing societies, along with the restructuring of long-term care provision. Different countries have opted for different solutions to these contrasted pressures (of increased care needs and welfare cuts) in relation also to their previously existing regimes, which ranged from systems that largely relied on the non-paid assistance of family members (particularly women), as in Italy or Spain, to publicly-provided assistance, as in Belgium, Slovenia or the Czech Republic.

In a recent study on Italy, the Netherlands and the United Kingdom, Van Hooren⁵ argues that different welfare systems lead to different types of migration, care arrangements and specific “care markets”. Thus, she finds that the Italian familistic care regime, which provides cash allowances to families without controls on how they spend the funds, provides incentives for the emergence of a “migrant-in-the-family” model of care, whereby families become employers of migrant care workers. In the British care regime, where care is increasingly transformed into cash payments, a double market emerges, with more affluent families that resort to the private market for paid care and less affluent families that use care allowances to cover food or transportation costs and directly provide care to the elderly person, only in a few cases with the help of a paid care worker.⁶ As the Government of the United Kingdom checks how the allowances are spent, hiring an irregular migrant care worker is not an option. In the case of the Netherlands, care services are provided by the public welfare

2 Hochschild, 2000.

3 ILO, 2015.

4 Ambrosini, 2013.

5 Van Hooren, 2012.

6 Van Hooren, 2012: 141.

system and there is thus no market for privately purchased personal care services, with a very low demand for migrant care workers.⁷

Within the overall reorganization of care regimes, there has been a notable shift in the State's view of users, transformed from service recipients to customers who actively consume a service.⁸ This reflects the households' need for greater flexibility in the support provided by the welfare State, but also an overall shift towards a neoliberal understanding of citizenship which cuts across both familial and State-centred welfare regimes.

Indeed, in a larger study on the care sector⁹, find that Germany, Austria, Italy and Spain rely mainly on migrant care workers at home, while the Netherlands, Norway, Sweden and the United Kingdom tend to rely more on the formal sector and on services provided by public or private entities. The distinction between familistic regimes leading to migrant-in-the-family, and liberal regimes leading to migrant-in-the-market models can also be partially explained in the case of Austria and Germany by the limited public resources, the public preference for cash programmes, and the segregation of migrants in low-skilled jobs.¹⁰

In Italy and Spain, the scarcity of cash-for-care programmes is complemented by a notable level of undocumented flows and informal work arrangements.¹¹ Da Roit and Weicht¹² find that segregated labour markets and the presence of irregular migrants are sufficient factors leading to a migrant-in-the-family model even in the absence of generous cash-for-care benefits. At the same time, they find that, in the absence of uncontrolled cash benefits and of a large informal economy, a migrant informal care model can arise, as in the case of the Netherlands, France, Sweden and Norway. At the same time, these conditions are not enough per se, as in the case of the United Kingdom, which is characterized by a strong presence of the private sector and formal care arrangements through private providers.

The emergence of informal migrant work in the care sector is hence shaped by a combination of factors: the overall public expenditure on formal care services, the presence or absence of uncontrolled cash-for-care programmes, and the presence or absence of irregular migrants or indeed of migrants who can afford to work without a formal contract (European Union citizens, naturalized or with a permanent permit, third country nationals whose permits are linked to their spouses, and all those who do not necessarily need to prove they are employed in order to keep/renew their residence permit).

In addition to these dynamics, migrant domestic workers face specific language and cultural barriers to access information on administrative procedures, labour laws and rights which facilitate indirectly their informal employment. They tend to be more isolated from peers, service providers and the host society in general, limited in their freedom of movement. Live-in immigrant domestic workers are probably more at risk of exploitation, abuse and lack of access to fundamental rights (privacy, dignity and freedom), but live-out immigrant workers may also suffer the same if they are in the position of irregular resident.¹³ Moreover, this is a particularly gendered area of irregular employment for migrant workers, and it attracts both irregular migrant women (often but not always working in live-in arrangements) and regularly residing migrant women who have no other work opportunities besides care or domestic work.¹⁴

7 Van Hooren, 2012: 142.

8 Shutes, 2012.

9 Da Roit and Weicht, 2013.

10 Da Roit and Weicht, 2013: 479.

11 See also León and Pavolini, 2014.

12 Da Roit and Weicht, 2013: 481.

13 European Union Agency for Fundamental Rights, 2011; Triandafyllidou, 2013.

14 Triandafyllidou, 2013.

Ideas for change

The brief analysis above shows that there are several features of domestic/care work and challenges related to it shared by different countries, and that there can be new avenues for proactively regulating the sector and combatting irregular employment.

First, there is a need to open up legal migration channels for workers in the care and domestic sectors, where demand is high and local supply is low. Such openings would generally be easy to pass, being more favourably seen by public opinion than others.¹⁵ They could be regulated through bilateral agreements (between specific countries of origin and destination) or through regional agreements (for instance, between a number of European Union countries and one or more countries of origin).

There is a need for these workers to have a migration status not tied to their employers, to avoid exploitation in a context of growing privately-funded care markets. We may encounter in such cases formal contracts that do not correspond to real working conditions and wages, as the employers have the upper hand and can threaten the employees with discontinuing the work and making them lose their migration status.¹⁶ Thus, there is a need to create overarching guidelines, perhaps at the level of the United Nations, on what safeguards a bilateral or regional agreement on migration for domestic/care work should include. The United Nations could play an important role here by either pushing for the ratification of the relevant ILO Convention concerning decent work for domestic workers (C189 – Domestic Workers Convention, 2011 (No. 189)), or for taking the main elements of this Convention and using them as a blueprint.

Care work regulations need to strike a balance between protecting the workers and responding to the needs of employers for practical and affordable care arrangements. For instance, in Austria, the legalization of rotational 24-hour care work, with significant flexibility to agreed free time and shifts, has allowed citizens of the European Union (for example, from Slovakia or Bulgaria) who were previously informally employed to have legal contracts and full social protection rights.¹⁷ The regulation of this type of work as self-employment kept it practical and affordable for families, but left migrants to their own devices, as they had little bargaining power over work and pay (which was eventually decided by employers/families and placement agencies).

Flexibility in the migrant labour arrangements in the domestic and care work sectors must be coupled with migrant workers' access to labour rights and social protection, not only on paper (because of the existence of a formal contract), but in their actual working conditions and salaries. This is a policy challenge in terms of commitment and enforcement, as private homes are workplaces that are difficult to control. Thus, rather than enforcement, there is a need for implementing periodic monitoring (e.g. once a year) by labour inspectors of registered contracts; or, for instance, there could be ad hoc random monitoring visits. Families as employers would have to accept such a periodic control and do everything possible to facilitate this.

The role of trade unions is also of paramount importance in providing for legal counselling to both migrant domestic workers and the households employing them.

Agriculture

Agriculture in several European countries has been characterized by a declining local or primary labour market and an increasing demand within a secondary labour market for temporary hard and low-pay work. Natives are increasingly reluctant to engage in agricultural work, because of the low prestige and low pay associated with it, and of the general internal migration to urban areas. This situation has opened up opportunities for migrant workers, both regular and irregular, who have found in agriculture a source of income for survival along with hope for later upward mobility to other sectors. As a matter of fact, locally considered meagre wages may still be higher than in origin countries (even in the case of migrants from Central and Eastern Europe).

¹⁵ Triandafyllidou and Marchetti, 2013; Ambrosini, 2013.

¹⁶ Cangiano et al., 2009: 2; Shutes, 2012.

¹⁷ Österle and Bauer, 2015.

The connection with commercial networks, agro-entrepreneurs, intermediaries and the final consumers pushes for lowering the prices of vegetables and fruits at any costs and with difficult traceability of products. The dynamics of irregular employment in agriculture are thus shaped by a number of factors that include but are not confined to labour migration management. Agriculture is a sector characterized by difficult working conditions, low prestige and low pay. It is a sector where work is mainly seasonal and requires a supply-and-demand mechanism that is ultra-flexible. People need to be available on call, can be easily dismissed, work under adverse conditions, and have little possibility of upwards mobility, as labour costs are kept low.

Today's agriculture is characterized by intensive pressures to keep production costs low to be competitive. Large corporations in the retail and agrifood sectors push for low prices to maximize their own benefits and, given the large volume of products that they can absorb, they can impose their conditions on producers. Producers are faced with some costs that are irreducible, such as the increasing need to mechanize the sector, the cost of water and energy for production, and the cost of fertilizers, seeds and feed. Thus, squeezing the cost of labour appears almost a necessary choice, particularly to smaller producers. The swings of national and international food markets do not encourage long term investments in mechanised production when they can recruit among the most vulnerable strata of the migrant population a plentiful and inexpensive labour force. Indeed, in this context, migration policy plays an important role by restricting channels for legal labour migration with a secure status, thus creating a plentiful, young male labour force with an irregular or insecure legal status, that is available for work – and exploitation.¹⁸

In Northern Europe – Ireland, the United Kingdom, Germany and the Nordic countries – the demand for labour in agriculture has been largely met through intra-European migration from the new Member States. While this migration was linked to seasonal contractual employment, recent research has shown that employment was formally legal but actually exploitative and irregular, often involving substandard conditions in terms of working hours, low wages and safety conditions. Potter and Hamilton¹⁹ document how mushroom pickers coming from the new Member States worked initially without papers, either because they were unaware of needed documentation or because they trusted their employers' promises of later regularization. Even in case of regular workers, they are often unaware of their rights and accept payslips not in line with their actual pay, the quantity of mushrooms picked and the overall conditions of work.

In Southern Europe, migrants employed in agriculture are predominantly from Africa and the Balkans, and are extensively employed in seasonal work. Seasonal work permits often involve complex bureaucratic procedures and their terms are abused both by the employer and the prospective migrant.²⁰ The quota system applied in Italy and Greece is actually not aligned with the real needs in cultivations which are mostly seasonal and not always foreseeable, but always higher than what the formal entry quotas permit.

In addition, there is a plentiful, flexible migrant labour force with irregular or insecure migrant status. This labour force involves young men from sub-Saharan Africa, North Africa or South-east Asia, who are rejected asylum seekers or asylum seekers with their applications pending, or over-stayers of seasonal permits. Various forms of exploitation and precariousness are constantly reported by non-governmental organizations and third-sector associations.²¹

However, this is only part of the story, as what is often observed – in the United Kingdom²² but also, for instance, in Italy or Spain²³ – is that irregular work in agriculture is provided by European Union citizens and often by young women who are subject not only to exploitation but also to sexual abuse.²⁴

18 Rigo, 2016; Amnesty International, 2012.

19 Potter and Hamilton, 2014.

20 See Maroukis and Gemi, 2011, on Greece; Amnesty International, 2012 or Cillo and Toffanin, 2014, on Italy.

21 See the latest reports from Italy by Caritas, 2015; MEDU, 2015.

22 Potter and Hamilton, 2014.

23 Cillo and Toffanin, 2014; Rigo, 2016.

24 Palumbo, 2015.

Ideas for change

Reversing this trend of exploitation and irregular work in agriculture requires not only a change in migration policy, but also wider measures related to the wider agrifood sector and to regulation of the labour market:

- a. Enforcement of employment legislation, controls, inspections, verification of contracts, working conditions, accommodation and actual pay²⁵: Whistle-blowing is not sufficient, as migrant workers, including intra-European Union migrants, are often unaware of their rights;
- b. Intensified controls of large retailers and the agrifood businesses, where a corporate responsibility policy is important: Supermarket chains should be pushed to use ethical supply sources and to check subcontractors and producers²⁶;
- c. Licensing and proper monitoring of cooperatives and gang-masters of different types, to make sure that cooperatives are not exploitative intermediaries in disguise: Naturally, there is a need here to distinguish between the role and regulation of such intermediaries in different countries and different labour regulation systems;
- d. Better regulation of seasonal employment in agriculture through the enforcement of bilateral agreements that are simple and easy to respect by both employers and workers: This is particularly the case where seasonal migrant work involves neighbouring countries (e.g. Greece or Italy and their Balkan neighbours, and Spain and Morocco). Positive examples have been implemented in the past in Spain.²⁷

Where agriculture is embedded in multifunctional economies of rural regions which involve also construction and tourism industries, this is likely to produce models that are in the longer run viable both for rural regions and for migrants. As Kasimis, Papadopoulos and Pappas²⁸ argue in reference to the case of Greece, migrants can become important supporters of overall aged populations, especially in mountainous areas. However, here too the role of the State is important in protecting the labour rights of migrant workers, thus ensuring that they have an incentive to stay and settle. Pressures such as those described above of compressing wages and engaging in exploitative labour lead to a higher turnover of workers and an attraction of always-new irregular migrants, making agriculture an ugly but necessary step for labour market insertion for (rejected) asylum seekers, vulnerable European Union citizens and irregular foreign residents.

Concluding remarks

European labour markets are highly segmented; they are characterised by a structural demand for a migrant labour force not only in selected high-skill sectors, but also in specific low-skill sectors where demand is constant and supply is often provided through irregular work. A proactive approach seeking to address demand through bilateral or regional agreements could be beneficial. Such framework agreements would provide for the main conditions for entry and employment. They should be flexible and seek to strike a balance between the needs of employers and the protection of migrants.

As a rule of thumb, it is important to keep migrants independent from specific employers, even if they may be tied to employment in a specific sector. There is also a need of constant monitoring of the agreements and schemes to avoid exploitation and abuse, and to ensure that migrant workers effectively have access to the agreed rights. Overall, such schemes should not be confined to temporary or seasonal migration, but should regulate entry and employment for initial periods of two or more years. They could then be integrated into general frameworks for migration shifting to long-term residence. There is already a critical mass of scholarly and policy analysis of both sectors – agriculture and domestic/care work – on which a sectorial regulation framework can be based, provided there is political will.

25 Scott, Craig and Geddes, 2012.

26 Potter and Hamilton, 2014; daSud, Terra! and Terrelibere.org, 2015.

27 González Enríquez and Reynés Ramón, 2011.

28 Kasimis, Papadopoulos and Pappas, 2010.

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