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Committee on the Environment, Agriculture and Local and Regional Affairs

Agriculture and illegal employment in Europe

Draft recommendation¹

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1. The Assembly is concerned over the many cases of non-compliance with the social legislation on employer-employee relations, particularly affecting foreign labour in the agricultural sector. It recalls a variety of work on the subject, notably its Recommendation 1767 (2006) and Resolution 1521 (2006) on mass arrival of irregular migrants on Europe's Southern shores, its Resolution 1501 (2006) and Recommendation 1748 (2006) on working migration from the countries of eastern and central Europe: present state and perspectives, and its Recommendation 1618 (2003) on migrants in irregular employment in the agricultural sector of southern European countries.

2. The Assembly recalls the European Convention on the Social Protection of Farmers (ETS 83) and especially Article 3 stipulating that "Each Contracting Party shall ensure to farmers, the members of their families and, where appropriate, their paid employees, social protection comparable to that enjoyed by other groups of the population [...]". It also recalls International Labour Office Convention 184 and Recommendation 192 concerning safety and health in agriculture, adopted in June 2001, and the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families which came into force in March 2003.

3. For the last ten years or so, the lean production system has affected fruit and vegetable supply, and international pressure for liberalisation of the agricultural markets is constant. The consequences are dramatic for producers, unable to contend with the influx of low-priced products, and the general tendency is for small farmers to be supplanted by large agri-food groups. The rush to achieve the lowest prices directly affects employees in these sectors who must adapt their work to the trend of the market at the risk of losing their livelihood, and labour has now become the adjustable variable.

4. Agriculture is not the only economic sector in Europe to be heavily dependent on the exploitation of undeclared labour, often made up of foreign illegal entrants, but fruit and vegetable production is the only intensive agricultural sector and, though mechanised, needs to use manpower in large quantities. The use of undeclared labour is now a characteristic of agriculture, most of all in seasonal activities. This situation creates economic advantages and distortion of competition benefiting the less law-abiding entrepreneurs,

¹ Adopted by the Committee on 14 December 2006.

and its concomitant is the abuse or the total denial of agricultural workers' social rights.

5. The Assembly is aware that the problem affects the entire continent and goes beyond the domestic powers of States. International pipelines for illegal manpower trafficking are developing by taking advantage of the vulnerable state in which migrants seeking work find themselves, being prepared to go to any lengths for a chance of better living conditions for themselves and for their families in their countries of origin, and by playing on the differences in the respective national legislation and the absence of any European regulations in the matter.

6. The Assembly has found that illegal employment can unfortunately take exploitative forms which it condemns as repugnant to a modern society, to human rights and to the values upheld by the Council of Europe.

7. The Assembly considers that all agricultural workers, whether permanent or seasonal, are men and women entitled to respect and human dignity. Consequently, the same rights as other workers should be secured to them by the application of national and international legislation in the sphere of labour law.

8. To end the regulatory disparity, conditions of employment in agriculture should be made subject to a binding legal framework suited to the different situations of workers, whether permanent or seasonal, foreigners or nationals. This would also make it possible to stimulate the often deficient national supply of manpower. This legal framework should be accompanied by sanctions applicable to offenders and by appropriate, effective means of supervision.

9. For this purpose, the Assembly recommends that the Committee of Ministers draws up a recommendation inviting member states:

9.1. to draw up and implement collective labour agreements for agriculture, governing seasonal work in particular and taking into account the specificity of the sector and the pace of work which it demands, defining the social security provision, wages, normal working time, overtime and housing conditions, while ensuring that the arrangements for renewing contracts are supervised by an independent body in order to avert any kind of pressure on employees;

9.2. to provide for the progressive acquisition of rights by the holders of renewed work permits, including the right to extended residence, family reunion and retirement pension;

9.3. to set up stringent, effective systems of supervision in respect of these rules, carrying prompt and dissuasive sanctions against breaches of labour law;

9.4. to establish better transfrontier co-operation to combat the rings engaged in manpower trafficking, by developing especially the network of national contact centres for the improvement of information on migration, which might be extended to states not belonging to the Union so as to co-ordinate the instruments used against the rings and their illegal manpower pipelines;

9.5. to conclude readmission agreements between host countries and countries of origin for irregular migrants, backed by specific education and training programmes and by economic co-operation and development schemes in the countries of origin;

9.6. to organise in co-operation with the agricultural trade organisations and the labour unions large-scale information campaigns on agricultural occupations, and to promote training and recruitment of local manpower while establishing proper working conditions in a spirit of respect and recognition for the work performed;

10. The Assembly also recommends that the Committee of Ministers instructs the European Committee for Social Cohesion (CDCS):

10.1. to consider drawing up an additional protocol to the European Convention on the Social Protection of Farmers, setting up a monitoring mechanism for the Convention;

10.2. to draw up an additional protocol to the above-mentioned Convention, dealing with the social protection of seasonal workers in the agricultural sector.

11. Furthermore, the Assembly invites member states not yet having done so to:
 - 11.1. to sign and/or ratify the Convention on the Social Protection of Farmers (ETS 83);
 - 11.2. to sign and/or ratify International Labour Office Convention 184 concerning safety and health in agriculture and implement the related Recommendation 192;
 - 11.3. to sign and/or ratify the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
12. Finally, the Assembly invites the national and European trade unions to further and uphold the rights of seasonal workers, particularly in the agricultural sector.