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Commissioner for Agriculture

Brussels, 19.06.2020
ARES(2020) 23412

Dear Ms Duminicioiu and Mr Pacheco Frias,

Thank you for your letter of 30 April 2020 sent on behalf of Members of the Coordinating Committee of the European Coordination Via Campesina and other signatories on urgent measures in Europe for rural workers in the context of COVID-19.

The letter has been addressed, among others, also to Commissioner Schmit and he asked me to reply you also on his behalf related to topics of our competence.

I fully agree with your assessment that workers in the agricultural sector played an essential role in guaranteeing food supply during the difficult Covid-19 situation.

The mobility restrictions introduced by the Members States revealed the high reliance of the agricultural sector on seasonal workers coming often from another Member State or from a third country. The European Commission therefore adopted two Communications on 30 May that provided guidance to Members States about crossing of the internal borders including for those EU seasonal workers that perform critical harvesting, planting or tending functions¹ and on authorizing seasonal workers in agriculture to enter the EU².

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¹ [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0330\(03\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0330(03)&from=EN)

² [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020XC0330\(02\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020XC0330(02))

The Joint Research Centre of the European Commission published, on 04/06/2020 a technical report³ entitled “Meeting labour demand in agriculture in times of COVID- 19 pandemic” which brings more clarity on the size, composition and situation of the seasonal workforce in agriculture.

Respecting Fundamental rights of agricultural workers

Fighting labour exploitation, including of foreign workers, is a policy objective and a priority for the Commission and the EU as a whole. I would like to stress that the vast majority of EU farmers, with the support of the Common Agricultural Policy, are producing high quality and price affordable food while respecting both high environmental and labour standards.

The Charter of the Fundamental Rights of the European Union, protects human dignity (Article 1), prohibits slavery and forced labour (Article 5) and ensures the right to equivalent working conditions for EU citizens and for regular resident third country nationals (Article 15). The EU legal migration Directives⁴ provide that third-country workers who are holders of a residence and work permit should be treated equally with national workers with regard to working conditions. Seasonal workers should also benefit from accommodation that ensures them an adequate standard of living, and they should be provided with effective mechanisms to lodge complaints against their employers. The Employer Sanctions Directive⁵ obliges Member States to provide for criminal penalties to sanction the employment of third country nationals in an irregular situation who are subject to “particularly exploitative working conditions.

Let me point out that it is primarily for Member States to ensure proper enforcement of the above provisions, and to act concretely on the ground to prevent and fight exploitation. For example, Italy, where, several cases of labour exploitation have been reported, adopted on 20 February 2020 a national plan to tackle labour exploitation in agriculture⁶.

Providing basic services to workers in rural areas and in the agricultural sector

As you have emphasised, agricultural activity generally takes place in rural areas, territories that often face insufficient basic services and infrastructures. Seasonal agricultural workers, farmers and in general rural population face the same challenges of accessing the working place, accessing basic health services or finding a quality accommodation. The COVID-19 revealed the vulnerability of those situations and even aggravated it, due to the new sanitary and social distancing requirements.

The Common Agricultural Policy (CAP) supports the development of basic services in rural areas. It is important to recall that while the CAP can complements national, regional, local interventions, it is the Members States who decide the extent to which they will use CAP funding for developing basic services in rural areas.

³ <https://publications.jrc.ec.europa.eu/repository/handle/JRC120800>

⁴ Notably The Seasonal Workers Directive (2014/36/EU) or the Single Permit Directive (2011/98/EU).

⁵ Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally-staying third-country nationals (2009)OJ L168/24.

⁶ <https://www.lavoro.gov.it/priorita/Documents/Piano-Triennale-contrasto-a-sfruttamento-lavorativo-in-agricoltura-e-al-caporalato-2020-2022.pdf>

I would like to take this opportunity to inform you about the European Commission initiative to develop a long term vision for rural areas in close consultation with people living in rural areas, local and regional authorities. As a first step, an online public consultation is planned for next autumn, where your opinion would be very valuable.

Providing decent living conditions and access to social protection for agricultural workers

Let me assure you that access to decent housing for all, including agricultural workers, is a key social principle in the EU. While housing policies remain a matter of national competence, the EU supports Member States' efforts in improving access to housing of good quality, at a decent price, and in a safe environment, particularly for the most vulnerable and socially excluded, as recognised by both the Charter of Fundamental Rights¹ and by the European Pillar of Social Rights⁷.

The Commission will also support Member States in ensuring access to social protection for all, including seasonal workers. As part of the follow-up of the Recommendation on Access to social protection⁸, it organises mutual learning activities and works towards the establishment of a monitoring framework, which will pay due attention to the situation of seasonal workers.

Protecting the health and safety of agricultural workers

More than ever, the protection of health and safety of citizens, and especially those who make sure that the rest of Europeans have food on their tables, is of paramount importance. President von der Leyen has repeatedly insisted that 'the health and safety of our citizens comes first'. I fully subscribe to these words and, as in my various exchanges with Ministers, I continue to underline that all workers are entitled to the same level of safety and health protection.

Let me recall that Member States are responsible for the strict application of the existing national provisions transposing EU rules on occupational safety and health (OSH). This is the case for the general obligation for employers to assess occupational risks and put in place adequate preventive and protective measures. Employers should also review their existing risk assessment and the protective measures in presence of new risks to which workers are exposed and should provide specific related information, as well as personal protective equipment or hygiene products, when necessary.

The EU has taken numerous steps to support Member States and employers in this regard, including the publication by the European Agency for Safety and Health at Work of the COVID-19 guidance for the workplace⁹, which assists employers in dealing with occupational safety and health aspects in the context of preventing the spread of COVID-19 at the workplace.

As most of the EU countries are preparing or implementing detailed plans for the progressive return to work with the view of controlling the pandemic and reopening the economy, on 24 April 2020 the EU Guidance for a safe return to the workplace was published¹⁰. This EU

⁷Principle 19 of the Pillar: https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetaryunion/european-pillar-social-rights_en

⁸ Council Recommendation of 8 November 2019 on access to social protection for workers and the self-employed, OJ C 387, 15.11.2019, p. 1–8

⁹ https://oshwiki.eu/wiki/COVID-19:_guidance_for_the_workplace#See

¹⁰ <https://osha.europa.eu/en/publications/covid-19-back-workplace-adapting-workplaces-and-protecting-workers/view>

Guidance, is available in all the EU national languages and is a result of close cooperation between the Commission and the European Agency for Safety and Health at Work (EU-OSHA). It also contains links to national guidance on specific sectors and occupations, including agricultural sector.

As regards seasonal workers, I would also like to recall that under EU law, mobile workers have the right to equal treatment with national workers regarding their conditions of work and employment, including the health and safety requirements with which their employers must comply. Member States should communicate to the employers the necessity to provide for adequate health and safety protection.

As regards centralised purchasing of protective equipment, I would like to highlight that the Commission launched four different calls for tender for medical equipment and supplies⁶. In addition, the Commission has been promoting with Member States the setting up of a strategic stockpile of medical equipment, including masks and gloves, which will be made available to the Member States most affected by the health crisis. The Commission has also proposed the reactivation of the emergency support regulation, with a proposed budget of €2.7 billion, and the instrument under this regulation will enable the Commission to procure directly on behalf of the Member States.

The EU is continuously supporting Member States in their efforts to promote, ratify and implement ILO conventions. Since its relatively recent adoption in 2001, the ILO Safety and Health in Agriculture Convention No 184 has been ratified by 18 countries, six of which are EU Member States, and we will continue promoting its wide adoption. Particularly important in the current context are the provisions regarding the development of national policies on safety and health aimed at eliminating, minimizing or controlling hazards in the agricultural working environment, coupled with appropriate inspection systems and proper risk assessments, in order to adopt preventive and protective measures for all workers, including temporary and seasonal workers.

Finally, I would like to point out that the Farm to Fork Strategy, adopted on 20 May 2020, recognised the essential role and situation of agricultural workers and recognised that “the considerations of workers’ social protection, working and housing conditions as well as protection of health and safety will play a major role in building fair, strong and sustainable food systems.” highlighting that it will be particularly important to mitigate the socio-economic consequences of the COVID19 impacting the food chain and ensure that the key principles enshrined in the European Pillar of Social Rights are respected, especially when it comes to precarious, seasonal and undeclared workers.

The additional funding and instruments proposed by the European Commission to face the consequences of COVID-19 in the agricultural sector are also good opportunities for Members States to improve the labour conditions of workers in the agricultural sector.

Yours sincerely,

[e-signed]

Janusz WOJCIECHOWSKI