

**Impact of the Seasonal  
Employment of Third-Country  
Nationals on Local and Regional  
Authorities**

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# **IMPACT OF THE SEASONAL EMPLOYMENT OF THIRD-COUNTRY NATIONALS ON LOCAL AND REGIONAL AUTHORITIES**

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## **Abstract**

This study examines the impact on local and regional authorities (LRAs) and the Committee of the Regions (CoR) of the progressive Europeanisation in the design and implementation of policies for the seasonal employment of third-country nationals (TCNs). The first section outlines the scope of the study and clarifies some conceptual issues underlying the temporary employment of TCNs in the EU. The current and future effects of Europeanisation in labour immigration policies (in both the internal and external normative dimensions) are assessed in relation to the role of LRAs in the context of the implementation of the Stockholm Programme and the Treaty of Lisbon. The study then moves on to give a brief overview of LRAs' competences in labour immigration policies. One of the innovative aspects of this report is its review of LRAs' practices in the seasonal employment of TCNs across a selection of EU member states (France, Italy, Germany, Greece, Portugal, Spain, Sweden and the UK). A main finding from this exercise is that LRAs have often been involved in assessing and addressing labour market mismatches, monitoring conditions (working, health and living standards), providing information and counselling, and contributing to education and training. In addition there are several examples of LRAs facilitating the provision of pre-departure information and the training of seasonal workers in the country of origin. The study concludes with a set of policy recommendations intended to enhance the role of LRAs and the CoR in designing, implementing and monitoring the EU's labour immigration policy, with particular attention given to policies covering the seasonal employment of TCNs.



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# **Introduction and scope of the report: The local and regional dimensions of seasonal employment of third-country nationals in the EU**

The last 40 years have witnessed heated debates about labour migration policies in Europe. It has mainly been during the last 10 years that the EU has sought to develop a common legislative framework covering some of the conditions for the entry and stay of third-country nationals (TCNs) for employment purposes. The attempts at Europeanisation in labour immigration policies have experienced profound political and legal frictions owing to, among other factors, continuing hesitations by representatives of EU member states as to the added value of having ‘more Europe’ in this domain and the decision-making procedures that until recently applied to this policy area (i.e. the unanimity rule in the Council). Another factor has been the predominant interpretation given to the principle of subsidiarity at the intersection of the shared legislative competence between the EU and its member states.

The entry into force of the Treaty of Lisbon in December 2009 offers new prospects and dilemmas for the next phase of building a common EU approach to the labour mobility of TCNs.<sup>1</sup> Except for determining the volumes of admission, the EU is now equipped with an express legal basis for developing a harmonised legislative framework in this policy area (Art. 79 of the Treaty on the Functioning of the European Union, TFEU).<sup>2</sup> Yet, the Treaty of Lisbon also gives rise to new questions concerning *the kind* of EU labour immigration policy that is going to be developed in the years to come and the multifaceted implications that such a public policy approach will have over the fundamental rights of workers and the principle of subsidiarity. The now legally binding nature of the Charter of Fundamental Rights constitutes a reminder to the EU institutions and the member states of their obligations to ensure the protection of the fundamental socio-economic rights of all workers.<sup>3</sup> Furthermore, a reinforced mechanism for the subsidiarity principle – giving the Committee of the Regions (CoR) the power to present a case before of the Court of Justice in Luxembourg when doubts exist about the compliance of EU legislative acts (regulations and directives) with this tenet – will also pose new problems for European legislators regarding ‘how far’ the EU can go when regulating in this

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<sup>1</sup> Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union, OJ C 115/73, 9.5.2008.

<sup>2</sup> Art. 79.5 states that “[t]his Article shall not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed”.

<sup>3</sup> Charter of Fundamental Rights of the European Union, OJ C 303/01, 14 December 2007.

field. The same applies to the strategies to be pursued when handling a multilevel governance approach on labour immigration, which takes into account the role and competences of local and regional authorities (LRAs).

The entry into force of the Treaty of Lisbon has coincided with the official adoption (also in December 2009) of the third multiannual programme on an Area of Freedom, Security and Justice (AFSJ) – the Stockholm Programme, under its heading of “an open and secure Europe serving the citizen”.<sup>4</sup> The Stockholm Programme complements the new treaty framework with a political agenda to follow in the next five years on EU policies, such as that on labour immigration. Here the Council has confirmed the need to continue fostering an ‘EU global approach to migration’. Based on the priorities previously adopted by the European pact on immigration and asylum,<sup>5</sup> the Council has reiterated the necessity of organising legal immigration while taking into account “the priorities, needs, numbers and reception capacities” determined by each member state (keeping to the so-called ‘national labour market requirements’) and improving labour matching (Carrera and Guild, 2008). The Stockholm Programme has also called for the European Commission to continue with the implementation of the policy plan on legal migration of 2005.<sup>6</sup> The latter foresaw the presentation of a new proposal for a directive on the temporary admission of seasonal workers, which is expected to see the light before the end of 2010. The Programme identified as another priority an expansion in the integration of labour-related provisions in the EU’s external relations with selected non-EU countries, with a view to mobility partnerships and the concept of circular migration.

This study examines the impact on LRAs and the CoR of the Europeanisation underway in the design and implementation of policies for the seasonal employment of TCNs,<sup>7</sup> especially from the viewpoint of the local and regional

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<sup>4</sup> Council of the European Union, The Stockholm Programme: An open and secure Europe serving the citizen, 17024/09, Brussels, 2 December 2009.

<sup>5</sup> Council of the European Union, European Pact on Immigration and Asylum, 13440/08, Brussels, 24 September 2008.

<sup>6</sup> European Commission, Communication on a Policy Plan on Legal Migration, COM(2005) 669, Brussels, 21 December 2005.

<sup>7</sup> The personal scope of this report mainly covers individuals falling within the category of TCNs. This concept, which has largely been developed in EU policy discourse, includes those individuals not holding the nationality of an EU member state (EU citizens in light of Art. 20 of the TFEU). Therefore, when talking about seasonal immigration or migration, and seasonal TCN workers, EU citizens on the move are in principle excluded from the scope of our study as well as those TCNs holding derivative rights because of their family relationship with EU citizens. As discussed in section 4 of this report, however, when outlining a compilation of LRA practices in seasonal migration, some of the current national programmes and regional and local policies still cover the conditions of workers coming from EU member states that joined the EU in 2004 and 2007. Moreover, seasonal workers presently fall under the General Agreement on Trade in Services (GATS), which is one of the major instruments of the WTO, but so far the state parties have not agreed on any implementing measure covering them. (Guild, 2005).

dimensions. Section 1 sets the scene by addressing key conceptual questions underlying any discussion of the temporary employment of TCNs in Europe. Section 2 assesses the progressive Europeanisation processes in labour immigration policy and their evolving ‘internal’ and ‘external’ legal and policy dimensions. Particular attention is paid to the ways in which EU policy and the CoR have framed the role of LRAs, as well as the outlook in the context of the implementation of the Stockholm Programme. Section 3 moves on to offer a brief overview of the nature and scope of LRAs’ competences over the domain of labour immigration. This is then complemented by an overview of practices on seasonal employment of TCNs involving LRAs across eight EU member states: France, Italy, Germany, Greece, Portugal, Spain, Sweden and the UK. As demonstrated, the areas in which LRAs have been more engaged so far can be divided into the following four thematic streams: first, assessing and addressing labour market mismatches; second, verifying and monitoring conditions (working, health and living standards); third, facilitating access to information and counselling, as well as education and training; and fourth, assisting the provision of pre-departure information and training for seasonal workers in the country of origin. The study concludes with a set of policy recommendations destined to enhance the role of LRAs and the CoR in designing, implementing and monitoring the EU’s labour immigration policy, with an emphasis on policies covering the seasonal employment of TCNs.



## **1. Temporal, seasonal and circular migration in the EU: Conceptual dilemmas and interests at stake**

The study of post-World War II temporary-migration programmes in Europe has been extensive. Scholarly thinking has chiefly focused on the weaknesses and policy failures that have affected programmes for temporary migrant workers (and the ‘guest worker’ systems) in countries such as Germany, Switzerland and France (Castles, 1986 and 2004). The main guiding logic of these policies was to install a ‘rotation’ principle by which migrant workers were recruited for a limited period and were offered a narrow set of rights (a very low level of working conditions and advantages) with no family reunification opportunities. The underlying presumption of these past regimes was that the ‘imported labour force’ would return to the respective countries of origin and would not settle permanently in the receiving country. The regimes were also based on the belief that by stopping foreign recruitment (especially from 1973 to 1975) and granting non-nationals few rights and prospects in the host country, those who had previously entered would end up leaving. Settlement and family reunification were instead the (unexpected) results of these policies.

Since the 1990s, the EU has experienced increasing international human mobility, and has in reaction developed restrictive immigration policies aimed at regulating the ‘permanent settlement’ of TCNs as the exception to the rule. The rule continues to be a public policy conception of migration as a phenomenon that can be controlled temporarily and one in which ‘return’ constitutes a fundamental component. The EU continues to search for innovative policy alternatives to develop an appropriate legislative framework that persists in considering a temporal approach the best option for managing the human mobility of TCNs. It is interesting to see how a recent line of academic thought has even supported the continuation and (re)introduction of temporary migration schemes by sustaining the feasibility of finding better design and enforcement of mechanisms that would avoid the past policy mistakes inherent in temporary migration programmes (Ruhs, 2003 and 2006; Schiff, 2004; and Martin, 2003). Such attempts, however, easily fall into the trap of trying to offer ‘solutions’ for the state to continue justifying the further development of controls attempting to make migration temporary, which too often conflict with the unexpected nature of lifecycles and human movements worldwide and whose relationship with the human rights of migrant workers remains at stake.

A new generation of temporary foreign-worker policies has emerged during the last 20 years in the EU (Plewa and Miller, 2005). A number of EU member states currently have seasonal migration programmes. This is the case, among others, in France, Germany, Italy, Greece, Portugal, Spain and the UK. Several of them (e.g. France, Italy, Portugal and Spain) have also introduced multi-entry permits or facilitated re-entry procedures to promote circular migration, mainly

in the area of seasonal work.<sup>8</sup> While some countries (Greece, Italy, the UK and Portugal) have adopted seasonal programmes specifically designed to facilitate the mobility of nationals from neighbouring countries to work in the agricultural sector, others have developed similar seasonal employment policies covering other sectors such as tourism and services (Groenendijk and Hampsink, 1994; Castles, 2006). The actual nature and scope of seasonal migration regimes remain heterogeneous and diverse across Europe. Still, immigration opportunities for seasonal employment are often provided in the general work-permit systems as well as through bilateral (or multilateral) agreements and memoranda between EU member states and non-EU countries, as used by Spain, France, Italy and Greece. The OECD's report, *International Migration Outlook 2009*, concludes that "virtually all legal labour migration for low-skilled jobs in OECD countries is through temporary programmes".<sup>9</sup> The emergence of new, temporary migration schemes across various EU member states has consequently been channelled to the EU level, where we can identify the progressive building of a common policy giving preference to temporary, seasonal and circular schemes of labour immigration.

## 1.1 Understanding temporary migration in the EU

What is seasonal migration employment and how is it to be distinguished from temporal and circular migration? No commonly agreed official definition as to what 'temporary migration' actually entails exists at either the international or EU level. Temporary migration policies generally seek to regulate the entry and stay of migrant workers for a given (restricted and time-bound) period, usually ranging from a minimum of three months to a maximum of five years. Temporary migration usually covers all kinds of labour sectors and skills. Ruhs (2006), for instance, has argued for following a strict definition of temporary migration programmes: "residence and employment on the basis of temporary work permit *alone* [which] does not create an entitlement to stay permanently in the host country". This conceptual framing implies that those TCNs whose work permit expires would automatically lose the right to reside regularly in the receiving country and would be expected (obliged) to return or leave the country. The concepts of 'seasonal' and 'circular' migration can be seen as sub-

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<sup>8</sup> European Commission, Workshop Report, Workshop on Circular Migration and Labour Matching, Brussels, 26 and 27 March 2009.

<sup>9</sup> See OECD (2009), p. 105. The report also states that in most OECD countries immigrants are overrepresented in temporary jobs. This is notably the case in Belgium, the Czech Republic, Greece, Finland, Hungary, the Netherlands, Norway, Portugal, Spain and the UK, where the share of immigrants in temporary employment exceeds that of the native-born by at least 50%. Furthermore, the report highlights that several OECD countries have recently introduced new programmes or have increased their use of seasonal work programmes. This is the case in Germany, which has maintained a seasonal work programme involving about 300,000 workers annually (which include EU citizens from the EU-8).

categories of the wider term of temporary migration. These last two concepts present their own characteristics, which we now turn to assess.

### ***1.1.1 Seasonal migration***

**What is seasonal migration?** Seasonal migration is a kind of temporary migration policy for the short-term employment of foreign workers that is expected to occur at only certain periods/seasons of the year. It refers to the mobility of people for the purpose of working in labour sectors traditionally understood to be ‘seasonal’, such as agriculture and tourism. The seasonality of production represents a determining factor of this category. It is also sector-specific and usually lasts less than a year. It often applies over short-term periods (between three and ten months) matching seasonal activities (sowing and harvesting in agriculture) and in the tourism sector at certain times of the year (for summer resorts or winter ski seasons).

**Who is a seasonal TCN worker?** A seasonal worker is a specific category of temporary workers. The first definition of who is included in the category of seasonal worker appears in the annex to the Council Resolution of 20 June 1994 on limitation on admission of third-country nationals to the territory of the member states for employment:<sup>10</sup> “‘Seasonal workers’ means workers who are resident in a third country but are employed in an activity dependent on the rhythm of the seasons in the territory of a Member State on the basis of a contract for a specified period and for specific employment.”

A more precise definition of ‘seasonal worker’ was inserted into Regulation (EC) No. 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community,<sup>11</sup> which in its Art. 1(c) states that

seasonal worker means any employed person who goes to the territory of a Member State other than the one in which he is resident to do work there of a seasonal nature for an undertaking or an employer of that State for a period which may on no account exceed eight months, and who stays in the territory of the said State for the duration of this work; work of a seasonal nature shall be taken to mean work which, being dependent on the succession of the seasons, automatically recurs each year.

In light of the agenda set in the policy plan on legal migration of 2005, in June 2008 the European Commission presented a (non-public) draft proposal for a

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<sup>10</sup> See Council Resolution of 20 June 1994 on limitation on admission of third-country nationals to the territory of the Member States for employment, OJ C 274, 19.9.1996.

<sup>11</sup> See the consolidated version of Regulation (EC) No. 1408/71 of 14 June 1971, OJ L 28, 30.1.1997.

directive on the admission of TCN seasonal workers to the 29<sup>th</sup> Immigration and Asylum Committee of the Council, which is analysed in detail in section 2. The notion of seasonal workers used by the initiative was the following:

Third-country nationals who retain their legal domicile in a third country but reside temporarily for the purposes of employment in the territory of a member state in an activity which is temporary by nature, such as the passing of the seasons, under one or more fixed-term contracts for a specific job.<sup>12</sup>

The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW),<sup>13</sup> adopted by UN General Assembly Resolution No. 45/158 of 18 December 1990, is one of the most important legal instruments offering a definition of ‘migrant worker’. While no single EU member state has yet ratified the Convention (see the appendix of this report for the current state of ratifications), it has been widely qualified as the most comprehensive among the international human rights treaties providing a definition of ‘migrant worker’ (MacDonald and Cholewinski, 2007). In particular, Art. 2.1 of the ICRMW states that this term “refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national”. Furthermore, it continues in paragraph 2(b) by saying that the term ‘seasonal worker’ refers to a migrant worker whose work by its character is dependent on seasonal conditions and is performed only during part of the year.<sup>14</sup>

### ***1.1.2 Circular migration: Workers in continual rotation?***

Circular migration has become a popular concept in policy and academic debates, especially during the last five years. The first time the Directorate-General for Justice, Freedom and Security (DG JLS) of the European Commission developed the concept of ‘circular migration’ was in the Communication on circular migration and mobility partnerships (COM(2007) 248) of May 2007, where it said that **circular migration is “a form of migration that is managed in a way allowing some degree of legal mobility**

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<sup>12</sup> European Commission, *Temporary Admission of Seasonal Workers – Draft Proposal*, 29<sup>th</sup> Immigration and Asylum Committee, MIGRAPOL 216, Brussels, 20 June 2008. Furthermore, Art. 11 of the draft (on “Applications for Admission”) states that the application would be considered and examined only when the TCN is residing outside the EU. This formulation would exclude those TCNs who are already ‘legally residing’ in the member state from falling within the scope of the directive.

<sup>13</sup> International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families, adopted by General Assembly Resolution 45/158 of 18 December 1990.

<sup>14</sup> Other relevant definitions include that of the European Convention on the Legal Status of Migrant Workers (Strasbourg, 24.XI.1977), under Chapter I, Art. 1, Definition, 2(e): “seasonal workers; seasonal migrant workers are those who, being nationals of a Contracting Party, are employed on the territory of another Contracting Party in an activity dependent on the rhythm of the seasons, on the basis of a contract for a specified period or for specified employment”.

**back and forth between two countries”**.<sup>15</sup> According to the *World Migration Report* published by the International Organization for Migration (IOM) in 2008, “circular migration clearly goes beyond temporary labour migration and is also used in connection with temporary or permanent return of members of the diaspora, many of whom are already settled in the host country”.<sup>16</sup> Indeed, Communication COM(2007) 248 clarified that this category would cover an array of different situations “spanning the whole spectrum of migrants”, such as those TCNs wishing to work temporarily in the EU, willing to study or train in Europe before returning, willing to acquire professional experience after their studies before returning, researchers working on research projects and unremunerated voluntary service.<sup>17</sup> This concept is also understood to cover the promotion of ‘circularity’ among legally residing TCNs (independent of their legal categorisation), enabling them to return to their country of origin for certain periods without losing their legal status in the EU, including those labelled as highly skilled migrants or long-term residents.

Therefore, **circular migration can be seen as a new policy strategy to manage temporary (or seasonal) migration so that it is recurrent (back and forth to the country of origin and facilitating multi-entry)**. One of the key policy tools in the implementation of circular migration policies at EU level has been mobility partnerships (Carrera and Hernandez, 2009). The Commission has qualified these partnerships as “the most innovative and sophisticated tool to date of the Global Approach to Migration”.<sup>18</sup> Three have been launched so far: with Moldova and Cape Verde in May 2008,<sup>19</sup> and with Georgia in November 2009.<sup>20</sup> Mobility partnerships seek to implement a managerial strategy over human mobility, which intends to keep labour immigration a seasonal or temporary phenomenon for certain categories of workers. The worker will be expected to move in never-ending circles.

### ***1.1.3 Conceptual dilemmas***

There is an inherent tension when defining or categorising the phenomenon of human mobility as ‘permanent’, ‘temporary’, ‘seasonal’ or ‘circular’. The

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<sup>15</sup> European Commission, Communication on Circular Migration and Mobility Partnerships between the European Union and Third Countries, COM(2007) 248 final, Brussels, 15 May 2007.

<sup>16</sup> See IOM (2008), pp. 302-303.

<sup>17</sup> See p. 9 of the European Commission’s Communication COM(2007) 248 final, op. cit.

<sup>18</sup> European Commission, *Mobility Partnerships as a Tool of the Global Approach to Migration*, Commission Staff Working Document, SEC (2009) 1240, Brussels, 18 September 2009, p. 4.

<sup>19</sup> See Council of the European Union, Joint Declaration on a Mobility Partnership between the European Union and Cape Verde, 9460/08 Add 2, Brussels, 21 May 2008; see also the Council Decision 13765/07 of 20 November 2007 on the Conclusion of the Agreement between the European Community and the Republic of Moldova on the readmission of persons residing without authorisation, Brussels.

<sup>20</sup> Council of the European Union, Joint Declaration on a Mobility Partnership between the European Union and Georgia, 16396/09, Brussels, 20 November 2009, p. 8.

dilemma lies in the fact that each of these labels refer to the state's intention to regulate human movements, and not so much to the nature of the act of mobility itself, which as every social phenomenon remains far too complex and 'unexpected' to be ascribed to any temporary normative categorisation. The temporal framing of migration can be understood as the attempt (or rather pretence) of the nation-state to regulate a social phenomenon in light of certain constructed economic interests and political purposes or ideological agendas. The temporary concept hides a very specific political intention by government to manage human mobility as such. The purpose is the development of a system managing *the time* or duration that a person will be entitled to move and reside for performing specific (seasonal) work. The duration of stay for work purposes is thus the object of management. The label of 'temporality' ascribes a person on the move to a certain kind of employment, characterised by labour insecurity as socially and governmentally framed by linking the worker with a lesser degree of rights and protection.

Seasonal migration programmes have been developed using the premise that they are destined for low or semi-skilled migration and the conventional wisdom that EU member states need low-skilled workers. The labelling of the workers as 'low' or 'semi-skilled' because they participate in these seasonal programmes, schemes or agreements does not recognise that many of these workers can actually be highly educated and have sound professional experience. The 'high' or 'low' label is purely determined by labour market needs and the low level of labour security associated with the work. Castles (2006) rightly argues that such labour demand is socially constructed by the poor wages, conditions and social status granted to these kinds of jobs, and if these very conditions and labour standards were to be improved, local workers would certainly be willing to take them.<sup>21</sup> As highlighted by Boswell et al. (2004, p. 15), one of the most important factors for labour market mismatches "is the unwillingness of resident workers to do certain low-skilled, low-status and low-paid work...many professions have now become associated with immigrant or ethnic minority workers, often implying a social stigma for native, or non-minority workers". **So the determining factors are not the low or semi-skills, but rather that the kinds of jobs falling within the category of 'seasonal' are simply not attractive to local/resident workers who, independent of their immigration status, are not interested in taking them (preferential mismatch). They are thus offered to foreign workers who, because of the insecurity and vulnerability of their status, will surely accept the worst working arrangements, including lower pay and difficult working conditions.**

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<sup>21</sup> Castles (2006) then continues by saying that "eliminating low-skilled work and upgrading its social status would depend on strict labour market regulation to enforce wages and conditions" (p. 761).

In addition, the underlying assumption substantiating any kind of temporary migration programme is that **the worker is supposed to leave the country of employment and return to her/his country of origin (or elsewhere) either at the expiration of the predetermined period or after the end of the specific occupational (seasonal) activity.** When the labour market need or season ends, the state is legitimately entitled to use coercive measures in order to ensure expulsion. Similar to the temporary workers model of the 1970s, most of the current temporal (and seasonal) migration programmes/systems rely heavily on the effectiveness of guaranteeing return and the capacity of the state to manage human mobility in a way that prevents any ‘unexpected’ activity, such as settlement. More specifically, the illusion of return and the dream of enforcement and active governmental intervention are envisaged as the solutions to the inherent deficits in managerial approaches, which take a temporary view of human movements for employment-related purposes. The eventuality of return also implies that the level of protection and rights offered to the temporary and seasonal worker can be less than those supposedly applying to the rest of workers.

As discussed above, the concept of **circular migration** aims at regulating human mobility as a recurrent and temporal phenomenon. Similar to the conceptual dilemmas pertaining to the regulation of temporal and seasonal migrations, the intended public goal behind circular migration schemes is **to view permanent residence, family reunion and social integration as deviations challenging the policy’s effectiveness.** The CoR has stressed that “circular migration cannot replace permanent migration, nor restrict Member States’ initiatives regarding immigrant integration policies”.<sup>22</sup> Nevertheless, permanent settlement is seen at the EU official level as a deviation from circular migration. As the Commission stated, “[i]f not properly designed and managed, migration intended to be circular can easily become permanent and, thus, defeat its objective”.<sup>23</sup>

## **1.2 Actors and interests at stake on seasonal migration**

**What are the main actors and their concerns in the debate on the seasonal employment of TCNs in the EU?** There is (at least) a quadripartite relationship of players and interests at stake when examining seasonal migration policies and their implications for the local and regional dimensions in Europe: **the workers, the employers, the LRAs and the state.** First, the relation between flexibility

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<sup>22</sup> Committee of the Regions, Opinion on a Global Approach to Migration: Developing a European Policy on Labour Immigration in Conjunction with Relations with Third Countries, CdR 296/2007, Brussels, 18-19 June 2008, para. 25.

<sup>23</sup> See the European Commission’s Communication COM(2007) 248 final, op. cit.

and labour security/protection (working conditions and access to basic socio-economic rights) is crucial for migrant workers. This is also a shared concern for trade unions, which generally aim at ensuring the maintenance and protection of these minimum labour standards (compliance with existing employment laws and regulations), and that seasonal workers are not undercutting the local labour market. Second, as for the employers ('the demand side'), the seasonality underlying the kind of employment offered is a critical factor, as it ensures 'productivity'. Third, LRAs' concerns are mainly to make sure that business activities, including seasonal ones, continue to bring development and quality of life to their communities. LRAs also guarantee that the working conditions of seasonal workers do not depress the labour market more generally and that social goods such as welfare, social security, health and safety at work are supplied (and fully complied with) in order to avoid social unrest and injustice. The question of the recognition of LRAs' role and powers to act in certain administrative areas as part of managing the seasonal employment of TCNs (e.g. at times of addressing labour market mismatches, as discussed in section 4 below) also continues to be a central issue for debate across Europe. Finally, the state, which can be subdivided into the state of destination and of origin, declares strong interests in the regulation of labour mobility driven by a logic of prevention, control or (at times) promotion.

Bearing all these concerns in mind, and while acknowledging their legitimacy from the perspective of each of the actors (and interests) involved, any assessment of the role and competences of LRAs and the CoR on seasonal migration needs to start from one premise: i.e. **the need to avoid discrimination and the de-humanisation of seasonal migrant workers in light of the high level of labour insecurity and vulnerability subsumed in seasonal employment.** In the multilevel relationship of interests outlined above, the prevailing ones have been those of the state. All too often the rights of migrant workers and the safeguarding of working conditions, as well as the contributions by other actors in these particular areas, are put aside. Castles (2006) has argued that while existing temporary migration policies in Europe might not fully constitute "a 'resurrection' of guest-worker recruitment in new guises", some of the guiding approaches of these programmes do share common features with the former systems, "especially through discriminatory rules that deny rights to migrant workers, which may lead to negative social outcomes both in receiving and sending countries".

### **Temporality and seasonality enhance the vulnerability of the worker.**

- First, this vulnerability is closely intertwined with the structural features characterising the labour sectors where seasonal employment is the most common, such as agriculture, hotels, catering and tourism. Agriculture,

for instance, has been generally considered among the most hazardous industries, where the occupational health and safety conditions are weak.

- Second, given that the work permits granted are usually employer-specific (without the possibility to resign and change employers), workers are prevented from enjoying any degree of mobility (not even in the same employment sector). This state of dependency is further increased when employment and accommodation are tied, that is to say when accommodation is provided by the employer ‘as long as’ the work relationship continues between the employer and the worker.
- Third, the access by seasonal workers to state social benefits and the applicability of the principle of equal treatment in social solidarity is often disregarded in the frame of migration for the purpose of seasonal employment. To summarise, **it is clear that the narrower the options for the workers, the wider are the possibilities for the employers to apply (abuse) unfair standards in relation to performance, conditions and terms of work, facilities and labour security.**

Another element endangering the labour security of seasonal workers is that usually **the ordinary (general) labour law standards and procedures are not applicable or enforced in practice.** This has been underlined by the IOM: “One difficulty concerns the need to ensure that national labour laws are applicable to employment sectors such as agriculture...which in some countries have been excluded, either wholly or in part, from the legal protection foreseen under these laws” (IOM, 2008, p. 307). The ILO has remarked that “[m]any migrants, especially seasonal migrants, are placed in high-risk, low-pay jobs with poor supervision. Migrant workers often accept these dangerous working conditions for fear of bringing attention to themselves and losing their jobs or being deported” (ILO, 2004, para. 208). The informality of recruitment and working practices are additional elements promoting insecurity, especially when those recruited to fill these positions do not have a regular legal status (CLANDESTINO, 2009). **While equal treatment between migrant workers and national workers in relation to working conditions and other socio-economic rights is formally provided for in various international, national and regional instruments, the ways in which these are applied in practice are far from consistent or satisfactory.** The lack of enforcement mechanisms for seasonal TCN workers and the difficulties posed by the temporal aspect of their stay (and seasonality of production associated with these jobs) further hinders efforts to ensure decent labour protection and the prevention of exploitation.

Inherent to the discussion about temporary or seasonal migration programmes is therefore a trade-off of rights that temporary migrant workers will need to face (IOM, 2008). Accepting the trade-off approach (between economic gains and restriction of basic socio-economic rights) entails accepting severe limitations to the basic human rights to which all migrant workers are in principle entitled in light of international and regional human rights instruments. **The general rule should be that temporality cannot justify exceptions or limitations in relation to basic socio-economic rights, such as those related to equal work, health and living conditions. Independent of the temporary nature of labour immigration, migrant workers are holders of fundamental human rights under, for instance, the International Labour Organization (ILO) Conventions 97 and 143,<sup>24</sup> the European Social Charter<sup>25</sup> and the ICRMW (Cholewinsky, 1997).<sup>26</sup>**

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<sup>24</sup> See the International Labour Organisation (ILO) Convention concerning migration for employment, No. 97, revised 1949, Geneva; see also the ILO Convention concerning migrations in abusive conditions and the promotion of equality of opportunity and treatment of migrant workers, No. 143, 1975, Geneva.

<sup>25</sup> Council of Europe, European Social Charter, European Treaty Series No. 163, Strasbourg, 3 May 1996.

<sup>26</sup> The drafters of the ICRMW intended to provide the broadest possible rights to migrant workers independent of their 'temporary legal status', and therefore Art. 59 contains the following provisions:

1. Seasonal workers...shall be entitled to the rights provided for in part IV that can be applied to them by reason of their presence and work in the territory of the State of employment and that are compatible with their status in that State as seasonal workers, taking into account the fact that they are present in that State for only part of the year.
2. The State of employment shall...consider granting seasonal workers who have been employed in its territory for a significant period of time the possibility of taking up other remunerated activities and giving them priority over other workers who seek admission to that State, subject to applicable bilateral and multilateral agreements.

## 2. The Europeanisation of labour immigration policy and multilevel governance

**The construction of an EU labour immigration policy is characterised by internal and external elements.** Since 1999, the EU has committed itself to developing a common internal policy covering the conditions for entry and residence of TCNs for the purpose of employment in the Union. During the last five years, these policy ambitions have been accompanied by a call to integrate labour immigration components into the EU's external relations. **Today, the legal and policy elements of discussions over the labour mobility of TCNs in Europe are increasingly at the crossroads of traditional accounts of internal affairs and foreign relations.** The EU's global approach to migration has been defined by the Council as a compendium of priority actions, seeking "to reduce illegal migration flows and the loss of lives, ensure safe return of illegal migrants, strengthen durable solutions for refugees, and build capacity to better manage migration, also by maximising the benefits to all partners of legal migration, while fully respecting human rights and the individual's right to seek asylum".<sup>27</sup> In 2006, the European Council asked the Commission to present proposals for the inclusion of migration in the EU's external relations, "in order to develop a balanced partnership with third countries adapted to specific EU Member States' labour market needs".<sup>28</sup> There is a growing consensus among EU member states about the importance and strategic implications of "maximising the benefits to all partners of legal migration" in the EU's external relations. **Providing labour immigration opportunities is becoming a fundamental foreign affairs tool in the hands of the Union when negotiating (and externalising) the EU's security agenda (e.g. cooperation on return and readmission of undocumented migrants and border controls)** (Balzacq, 2008).

That notwithstanding, the legal construction of the internal and external dimensions is still underway. At present, it would be difficult to argue for the existence of a common labour immigration law in the EU. As discussed below, both dimensions already contain specific regulatory components, but **the policy configurations continue to predominate, except with very few exceptions, over proper legal harmonisation at the EU level** (legally binding and enforceable acts upon EU member states). The EU's attempts to present itself at home and abroad as holding a common policy on labour immigration contrasts with the fact that the national level continues to have the main competences in

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<sup>27</sup> Council of the European Union, Note from the Presidency on a Global Approach to Migration: Priority Actions focusing on Africa and the Mediterranean, 15744/05, Brussels, 13 December 2005.

<sup>28</sup> Council of the European Union, Presidency Conclusions of the Brussels European Council, 14-15 December 2006, 16879/1/06, Brussels, 12 February 2007.

this domain. Moreover, while mutually distinctive, both the internal and external dimensions of the emerging EU labour-immigration policy share the following **common features**:

- 1) They attempt to base the regulation of the human mobility of non-EU nationals for employment-related purposes on a logic of temporality, which gives preference to an understanding of labour mobility as a phenomenon that can (and should) be controlled so that it is temporary, seasonal and circular.
- 2) They are fundamentally guided by a selective and utilitarian approach grounded on the perceived labour-market needs (supply and demand).
- 3) The liberty and security of the worker on the move are secondary issues of concern. Workers are rather seen as economic units or simply a labour force to be used and channelled at the service of economic and market demands. As a consequence, when they no longer fulfil this utility function, they are supposed to disappear from the state's territory.
- 4) Labour mobility has so far been dealt with at the EU level primarily from a justice and home affairs perspective (promoted among other EU institutional actors by the European Commission's DG JLS). This DG has too often focused on a control- and enforcement-oriented approach, understanding human mobility as 'immigration' and therefore ascribing movements by non-EU nationals to insecurity issues calling for and justifying repressive and preventive policy measures.

The regulation of human mobility for labour purposes continues to represent one of the most politicised and sensitive policy areas at the EU level. EU member states have often called for the principle of subsidiarity to guide discussions in this field. The principle of subsidiarity is one of the core tenets ensuring the legality of EU action and lawfulness in the use of the Union's competences. Labour immigration falls within those areas of shared competence between the EU and the member states.<sup>29</sup> According to Art. 5.3 of the consolidated version of the Treaty on the European Union (as revised by the Lisbon Treaty), the EU shall act here "only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level" (Craig and de Búrca, 2008). **So far, however, this principle has been used by EU member states to defend and preserve national interests on labour immigration, and sometimes as the panacea designed to halt further Europeanisation steps in**

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<sup>29</sup> Art. 4.2 of the TFEU states that "[s]hared competence between the Union and the Member States applies in the following principal areas...(j) Area of Freedom, Security and Justice".

**this policy area.** Art. 5.3 in combination with the Protocol on the Principles of Subsidiarity and Proportionality annexed to the Lisbon Treaty<sup>30</sup> implies safeguarding not only national interests and prerogatives, but also regional and local ones – which, as becomes evident in the following sections, have not yet materialised as regards the internal and external dimensions of labour immigration policy.

## **2.1 Internal dimensions of EU labour immigration policy: Seasonal immigration**

As a follow-up to the entry into force of the Amsterdam Treaty in May 1999 (which for the first time officially recognised shared competence between the EU and the member states on labour immigration policy) and the political call of the first multiannual programme on an AFSJ (the Tampere Programme),<sup>31</sup> in 2001 the Commission presented a proposal for a directive on the conditions of entry and stay of TCNs for the purposes of employment and self-employment (Ryan, 2007).<sup>32</sup> The horizontal approach advocated by this legislative initiative, which offered a common legal framework without distinction of the worker's status, was not welcomed by some EU member states (Carrera and Formisano, 2004). After years of high-level discussions, the Commission was obliged to withdraw the initiative in 2006, even though it had been supported by the European Parliament and other key stakeholders (such as the CoR and the European Economic and Social Committee, EESC).<sup>33</sup>

After a public consultation procedure,<sup>34</sup> in 2005 the Commission published a policy plan on legal migration,<sup>35</sup> presenting the list of actions and legislative initiatives that it intended to adopt in the years to come in the area of regular immigration. In contrast with the previous proposal, **the policy plan argued for the development of a sector-by-sector approach in the regulation of labour immigration policy.** This sectoral approach was translated into a package of **specific proposals for directives covering different categories of migrant**

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<sup>30</sup> Protocol on the Application of the Principles of Subsidiarity and Proportionality, OJ C 306/150, 17.12.2007, annexed to the Treaty of Lisbon.

<sup>31</sup> Council of the European Union, Presidency Conclusions of the Tampere European Council, 15-16 October 1999, SN 200/99, Brussels, 1999.

<sup>32</sup> European Commission, Proposal for a Council Directive on the Conditions of Entry and Residence for the Purpose of Paid Employment and Self-Employment Activities, COM(2001) 0386 final, Brussels, 11 July 2001.

<sup>33</sup> See the Withdrawal of Commission proposals following screening for their general relevance, their impact on competitiveness and other aspects, 52006XC0317(01), OJ C 64, 17.3.2006.

<sup>34</sup> European Commission, Green Paper on an EU Approach to Managing Economic Migration, COM(2004) 811 final, Brussels, 1 November 2005.

<sup>35</sup> European Commission, Communication on a Policy Plan on Legal Migration, COM(2005) 669, Brussels, 21 December 2005.

**workers and a measure providing for a common framework of rights.**<sup>36</sup> The first tangible output of this approach was the adoption by the Council of the ‘EU Blue Card Directive’ in May 2009.<sup>37</sup> This Directive aims at establishing a common, fast-track and flexible procedure for the admission of those third-country workers who meet the conditions for being deemed “highly qualified employees”<sup>38</sup> and their family members, and facilitating the ability to move to a second member state (intra-EU mobility). In addition, it is expected that the Commission will present two more initiatives before the end of 2010, one on seasonal employment and another on intra-corporate transferees.<sup>39</sup>

The failure of the 2001 proposal deeply affected *the kind* of policy strategy covering the labour mobility of TCNs that has materialised since then. **The current legislative (sectoral) agenda has actually been a consequence of the hesitations expressed by EU member states to provide common rules for admission and residence to all migrant workers (independent of their category).** It is in this context that the current EU policy agenda needs to be understood. From the viewpoint of the worker **the piecemeal legislative approach** driving the EU’s labour immigration policy **allows for differential treatment** (socio-economic rights and labour security) depending on the ‘migration category’ within which s/he might fall. The CoR stressed that “any future Community legislation should establish a comprehensive legal framework covering all immigrants into the EU”.<sup>40</sup> As the European Trade Union Confederation (ETUC, 2007) emphasised, one important argument against the sectoral approach is that “this would increase the divergence in rights for several groups of workers and may contribute to a two-tier migration policy with less or no rights and protection for the lower skilled and low-paid migrants”. A similar

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<sup>36</sup> European Commission, Proposal for a Council Directive on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State, COM(2007) 638 final, Brussels, 23 October 2007.

<sup>37</sup> Council of the European Union, Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, OJ L 155/17, 18.6.2009.

<sup>38</sup> Art. 2 of the Directive defines “highly qualified employment” as the employment of a person who is protected under national employment law for the purpose of exercising genuine and effective work under the direction of someone else for which a person is paid and for which “adequate and specific competence, proven by higher professional qualifications” is required. Higher professional qualifications can be proven by higher educational qualifications (i.e. a diploma acquired after post-secondary higher education of at least three years) or possibly by at least five years of relevant professional experience *if this is provided for by national legislation*.

<sup>39</sup> European Commission, Commission Work Programme 2010: Time to Act, COM(2010) 135 final, Brussels, 31 March 2010. The Work Programme also plans a proposal to amend Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service “to take into account shortcomings identified in the application of the existing Directive and possible extension of scope to include remunerated trainees and au-pairs placements”, p. 19.

<sup>40</sup> Committee of the Regions, Opinion on the Green Paper on an EU approach to managing economic migration, CDR 82/2005, Brussels, 7 July 2005.

position was taken by the EESC,<sup>41</sup> which was of the opinion that “if the European Council were to opt for a sectoral approach [this] would be discriminatory in nature”. **The regulation of only certain segments of the labour market will generate discrimination for those migrant workers not falling within the migration categories privileged by the legislative framework.** This is reinforced by the guiding principle driving the EU blue card system, which recognises ‘more rights’ and administrative facilities for ‘highly qualified’ migrant workers in comparison with other categories.

**The Commission is thus expected to present a new proposal for a directive on the admission of TCN seasonal workers before the end of this year.** A draft proposal of this act was prepared by the DG JLS in June 2008. That measure would seek to establish common procedural rules for granting an EU seasonal-worker residence permit, providing for a number of rights across the EU.<sup>42</sup> The concept of seasonal work used by the initiative is discussed in section 1 above. Member states would still have the possibility to examine the situation of their labour market in order to check “whether the concerned vacancy could not be filled by national or Community manpower, or by third-country nationals lawfully resident in that Member State and already forming part of its labour market by virtue of Community or national legislation”.<sup>43</sup> The draft version provided for a common EU multi-seasonal permit for seasonal workers that would permit EU member states to issue up to three permits covering up to three subsequent seasons within a single administrative act.<sup>44</sup> It would also grant a facilitated procedure for TCNs applying to be admitted as seasonal workers for the following year. A TCN who is deemed not to have complied with all the conditions during the previous stay as a seasonal worker would be excluded

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<sup>41</sup> European Economic and Social Committee, Opinion on the Green Paper on an EU approach to managing economic migration (COM(2004) 811 final), SOC/199, Rapporteur: Pariza Castaños, Brussels, 9 June 2005.

<sup>42</sup> The common residence permit would be granted for stays exceeding three months and for a period up to six months in any twelve-month period, after which the worker should return to ‘a third country’. The directive would give the possibility to member states to extend it for a maximum of nine months per calendar year. This would mean that EU member states would retain total discretion concerning the administrative documents to be issued and used for periods less than three months, which is an issue of concern. Seasonal workers falling within the scope of the directive would be entitled to equal treatment with national workers “at least” in those aspects related to the following: working conditions (pay, dismissal, health and safety at work), freedom of association, “provisions in national legislation regarding the branches of social security”, access to public goods and services (except public housing), the ability to “enter, re-enter and stay” in the territory of the EU member state, right to information, access to the entire territory of the member state and passing through other EU member states in order to exercise the other rights. (See European Commission, *Temporary Admission of Seasonal Workers – Draft Proposal*, 29<sup>th</sup> Immigration and Asylum Committee, MIGRAPOL 216, Brussels, 20 June 2008.)

<sup>43</sup> According to Art. 6.3, the regime of the directive is intended to be without prejudice to existing (more favourable) bilateral or multilateral agreements between one or more EU member states with non-EU countries. Nor does it prevent member states from maintaining more favourable provisions (ibid.).

<sup>44</sup> The Commission had stated in its May 2007 Communication on Circular Migration and Mobility Partnerships (COM(2007) 248, op. cit.) that the directive on the admission of seasonal migrants would constitute “the main measure to foster circularity [and would introduce] a multi-annual residence/work permit for seasonal migrants, allowing them to come back several years in a row to perform seasonal work” (p. 10).

from readmission as a seasonal worker “for one or more subsequent years”. A similar sanction could also be applied to employers who do not fulfil the contractual obligations.<sup>45</sup>

No express mention of the role LRAs could have, for instance in relation to labour matching, was included in the proposal. That is surprising when looking at the Communication on a Common Immigration Policy for Europe: Principles, Actions and Tools (COM(2008) 359) of June 2008.<sup>46</sup> Here the Commission underlined 10 common principles around which the future common immigration policy should be built, under the general headings of prosperity, security and solidarity. In the one dealing with “Prosperity: the contribution of legal migration to the socio-economic development of the EU”, the Communication highlighted as a key issue the need to ensure the “matching [of] skills and needs”. It explained that “immigration for economic purposes should respond to a common needs-based assessment of EU labour markets addressing all skill levels and sectors in order to enhance the knowledge-based economy of Europe, to advance economic growth and to meet labour market requirements”.<sup>47</sup> The Communication stressed that this should be done “by actively involving social partners and the regional and local authorities”, and concluded that “[i]n order to strike the right balance between labour market needs, economic impacts, social outcomes, integration policies and external policy objectives, there will be stronger coordination between the EU and the national, regional and local level[s], especially in the areas of statistics and economic, social and development policies”.<sup>48</sup>

No further details or indications have been provided since then as to the actual ways in which the European Commission plans to develop this ‘balanced’ approach and stronger multigovernance cooperation in practice. Certainly, when looking at the few legal measures that have been adopted so far and those that are in the pipeline, LRAs remain invisible. Labour immigration policy is a field in which policy discourses are difficult to reconcile with actual legislative activities. **The invisibility of the LRAs’ involvement in the development, implementation and evaluation of the EU’s internal dimensions of labour immigration policy represents yet another illustration of the weakness in**

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<sup>45</sup> The following obligations are planned for the employer in Art. 15: first, to provide evidence that the worker will benefit from accommodation “appropriate in terms of standards and price, if the seasonal worker is required to pay rent”; and second, if the contract is terminated before the original date, a duty to notify the national authorities. Interestingly, Art. 15.2 allocates financial liability (reimbursing the costs related to the return) to the employer in cases where the seasonal worker has not returned and “remains illegally in the territory”.

<sup>46</sup> European Commission, Communication on a Common Immigration Policy for Europe: Principles, Actions and Tools, COM(2008) 359, Brussels, June 2008.

<sup>47</sup> Ibid., p. 6.

<sup>48</sup> Ibid., p. 15.

**the way the principle of subsidiarity has so far been understood and applied in this policy domain.**

## **2.2 External dimensions: Integrating labour immigration into the EU's external relations**

The integration of labour migration policy into the EU's external relations is becoming a strategic feature of the EU's global approach to migration. Since 2005, there has been an increasing understanding among EU leaders that the *inclusion and facilitation* of employment-related mobility is central to the success of the EU's approach on 'migration management' in its relations with non-EU countries. The 2009 Stockholm Programme invited the Commission to submit legislative proposals before 2012 on ways to further explore the concept of circular migration and ways to facilitate the 'orderly circulation of migrants' in the context of the concerted promotion of temporary mobility (and partnership) with countries of origin (on the concept of circular migration, see section 1 above). **The global approach to migration calls for closer coordination between the EU and the national, regional and local levels and with non-EU countries, using a range of instruments<sup>49</sup> including mobility partnerships.** As noted earlier, the EU has concluded three such partnerships so far, with Moldova, Cape Verde and Georgia. Mobility partnerships have been qualified as the main strategic, comprehensive and long-term cooperation framework for migration management with non-EU countries and a key EU policy tool for developing circular migration schemes. From a legal point of view, these partnerships are joint declarations ('soft law') negotiated between the Commission – based on political guidelines from the Council and on behalf of a group of interested EU member states – and a non-EU country, under the condition that the latter demonstrates a strong commitment to cooperate with the EU on the management of irregular migration.

The CoR's Opinion on a Global Approach to Migration: Developing a European Policy on Labour Immigration in Conjunction with Relations with Third Countries<sup>50</sup> highlighted the lack of attention given to the territorial dimension in the global approach to migration and called for it to be strengthened through the involvement of LRAs.<sup>51</sup> The CoR pointed out the role that LRAs have played in relations with countries of origin and transit, in development and cooperation, and specifically in the implementation of the Aeneas, MEDA and TACIS

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<sup>49</sup> European Commission, Communication on Strengthening the Global Approach to Migration: Increasing Coordination, Coherence and Synergies, COM(2008) 611, 8 October 2008, p. 12.

<sup>50</sup> See Committee of the Regions, Opinion CdR 296/2007 (op. cit.).

<sup>51</sup> Ibid., paras. 10 and 11.

programmes.<sup>52</sup> The Opinion also underlined the role that LRAs can play “in training immigrant workers to join both European labour markets and labour markets of their countries of origin in the event of return”.<sup>53</sup> The CoR supported the ratification of the ICRMW by the member states and called for acknowledgement of

the role of local and regional authorities in international cross-border cooperation; and encourage[d] the facilitation of local and regional participation in the European Neighbourhood Policy urging local and regional authorities to work together with the regional authorities in the countries of origin, making use, to this end, of the programmes established by the European Commission and in particular the joint pilot scheme for regional cooperation between the outermost regions and neighboring third countries.<sup>54</sup>

The Committee stressed the need for considering the involvement of the towns and regions of both origin and destination in the mobility partnerships. Indeed, the EU mobility partnerships foresee as one of their chief instruments a monitoring system at the political and technical levels. Cooperation platforms have been established to ensure that coordination with the partner countries takes place on the ground. This ‘local monitoring’ is reinforced by involving headquarters (capitals and the European Commission) and diplomatic missions (embassies and European Commission delegations). According to the Commission Staff Working Document on *Mobility Partnerships as a Tool of the Global Approach to Migration*,<sup>55</sup> the implementation of the monitoring process for the mobility partnership with Cape Verde was facilitated by existing local structures, notably the Groupe Local de Suivi, which is responsible for monitoring the implementation of the special partnership between the EU and Cape Verde. The Group consists of representatives of the Cape Verdean authorities, member-state diplomatic missions and the European Commission delegation. The annexes of the mobility partnerships incorporate a list of proposed initiatives, activities and projects related to labour migration schemes (Carrera and Hernández, 2009). Some of these, as discussed in section 4, presently include the participation of LRAs in their functions and implementation.

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<sup>52</sup> Ibid., para. 9.

<sup>53</sup> Ibid., para. 12.

<sup>54</sup> Ibid., para. 29.

<sup>55</sup> European Commission, SEC(2009) 1240, Brussels, September 2009.

## 2.3 Outlook: Implementing the Stockholm Programme and involving the LRAs and the CoR

The next phase of the internal and external dimensions of the EU's labour immigration policies needs now to be read in conjunction with the third multi-annual programme on an AFSJ – the Stockholm Programme. The CoR Opinion on the Stockholm Programme: Challenges and Opportunities in view of a New Multi-Annual Programme on the EU Area of Freedom, Security and Justice<sup>56</sup> stressed the need for the CoR and LRAs to be involved in the development and application of the Stockholm Programme and its action plan. In this context, the CoR recalled that LRAs are on the frontline of the implementation of immigration policies and are the first to react to the economic and social impacts of migration flows in their areas. Paragraphs 77 and 78 of the Opinion underlined that

there is a need for greater coordination between the Union's immigration and external policies...**crucial to this task is the role of local and regional authorities, especially those that are closest to or have the strongest links with third countries, which can act as platforms for EU cooperation with third countries...**[and the CoR] considers that **local diplomacy** [needs] to be strengthened...as local and regional authorities can make a substantial **contribution to improving relations and living conditions** in cities and regions of origin and transit (emphasis added).

Finally, the CoR proposed to develop a European platform for dialogue, including local, regional and national stakeholders. The aim of the platform would be to foster a common European strategy for improving the management of labour migration in the EU, “which respects the right of Member States to determine the volume of admissions of nationals of third countries in light of labour market conditions, guaranteeing these individuals decent working conditions”.<sup>57</sup>

**The Stockholm Programme has failed to duly acknowledge and support a clear policy strategy as regards the local and regional dimensions for the next phase of the EU's AFSJ** (Carrera and Pinyol, 2009). The final text adopted makes no reference to the role and competences of LRAs in relation to immigration policy.<sup>58</sup> While the LRAs' role has often been positioned at the EU

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<sup>56</sup> Committee of the Regions, CdR 201/2009, Brussels, October 2009.

<sup>57</sup> Ibid., para. 80.

<sup>58</sup> The sole two exceptions are first, a reference under section 6.1.5 (“Integration”) as follows: “Integration is a dynamic, two-way process of mutual interaction, requiring not only efforts by national, regional and local authorities but also a greater commitment by the host community and immigrants” (p. 64). The second is in section 6.2.3 on the “External Dimension of Asylum”, where it states that

official level as crucial in respect of some AFSJ policies, this discursive official recognition has not been matched by a clear strategy in terms of substantive, financial and institutional implementation mechanisms. Taking into account the distribution of competences in some member states, and where LRAs are those responsible,<sup>59</sup> a more comprehensive understanding and application of the subsidiarity principle in the EU legal system calls for the status of LRAs to be consolidated beyond the national politics and priorities of central governments in the member states. This principle needs to be properly reflected in all EU immigration policies and laws. **The action plan implementing the Stockholm Programme<sup>60</sup> unfortunately does not address the local and regional dimension of the EU's immigration policy. Nevertheless, the policy and legislative proposals made thereunder will need to acknowledge this aspect.** This is all the more important after the entry into force of the Treaty of Lisbon, whereby the principle of subsidiarity will need to be more carefully monitored, with special attention to its application in the local and regional elements of the EU's labour immigration policies.

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the Council and the Commission [seek] to enhance capacity building in third countries, in particular their capacity to provide effective protection, and to further develop and expand the idea of Regional Protection Programmes, on the basis of the forthcoming evaluations. Such efforts should be incorporated into the Global Approach to Migration, and should be reflected in national poverty reduction strategies and not only be targeting refugees and internally displaced persons but also local populations (Council of the European Union, 17024/09, op. cit., p. 72).

<sup>59</sup> Committee of the Regions, *Study on the Division of Powers between the European Union, the Member States and Regional and Local Authorities*, carried out by the European University Institute, Brussels, 2008.

<sup>60</sup> COM (2010) 171 final

### 3. LRAs' competences in labour immigration: Current situation

#### 3.1 Towards multilevel governance on labour immigration in the EU

As discussed above, since 1999 the EU has had explicit competence in the area of labour immigration. Nevertheless, until the recent entry into force of the Lisbon Treaty, new legislation in this field could only be adopted after reaching unanimity within the Council rooms. This decision-making process has been one of the factors slowing down the functioning of the European integration machinery towards the establishment of common rules covering the conditions of entry and stay of TCNs for reasons of employment. The record of adopted measures to date, from a purely quantitative perspective, is far from optimal, with only one directive adopted so far – the EU Blue Card Directive. The situation is now expected to evolve, given that since December 2009 this policy area has been governed by the ordinary legislative procedure provided for under Art. 294 TFEU (formerly known as the co-decision procedure), that is to say with qualified majority voting within the Council, the right of initiative pertaining to the European Commission (or a quarter of the member states)<sup>61</sup> and the European Parliament becoming co-legislator. **Still, the predominance of national control and discretion over the legal framework on labour immigration is expected to persist.** The latter has been reiterated on several occasions by the various institutions, with notable emphasis in official discourses on concepts such as ‘national absorption capacities’ and a wide interpretation of the exclusive competence recognised in the new Art. 79.5 TFEU concerning the definition of ‘quotas’. For instance, the first of the five political commitments agreed by the Council in the European pact on migration and asylum, which were supposed to guide the next phase of the EU’s immigration policy, was the need to organise “legal immigration to take account of the priorities, needs and reception capacities determined by each Member State”.

The CoR has repeatedly called for acknowledgement of the position of LRAs and their competences when discussing the management of labour migration at the EU level.<sup>62</sup> **LRAs are indeed the first level of governance affected by Europeanisation processes, even though the main legislative competence in this field often remains at the national level.** The impact of labour migration

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<sup>61</sup> Article 76(b) TFEU.

<sup>62</sup> In the Opinion on the Green Paper on an EU approach to managing economic migration, the CoR “stresses the fundamental regional and local dimension of economic migration, considering its impact on local labour markets and services provided by local and regional authorities (social services, education, housing, etc.)”, CdR 82/2005, Brussels, 7 July 2005.

on LRAs can be perceived not least in the reception of so-called ‘newly arrived migrants’ and their socio-economic inclusion.<sup>63</sup> This last sphere is one in which the role of LRAs is increasingly acknowledged (at least in official discourses) by the EU (Carrera, 2009). In 2005, the CoR stressed that the role of LRAs in immigration policies was related to “[i]ntegration in civil society, based on the principle of equality of opportunity and treatment (guaranteed access to goods, services and channels of civic participation under the same conditions as citizens of the host country, vocational integration, access to housing, education, health and social services, political participation rights)”.<sup>64</sup> **LRAs, as prime providers of public services** (including fundamental rights such as health, housing and education) **are directly engaged in and affected by the national and EU regulations covering the phenomenon of labour mobility.** It is thus necessary that these policies recognise the unique position of LRAs in contributing to social cohesion and the inclusion of TCN workers.<sup>65</sup>

### **3.2 Brief overview of LRAs’ competences in labour immigration**

LRAs’ competences in labour immigration vary largely from one member state to another in the EU. The extent of their competences depends on the constitutional configurations in each country and the related level of autonomy granted to LRAs or the level of decentralisation among the different levels of governance in the national arena. A cross-country comparison of multilevel governance within the 27 member states nonetheless shows that **while the competence for defining the rules governing migration schemes often remains at the national level, the actual implementation of immigration policies is delegated to LRAs** (Tóth and Fejes, 2009). **Malta** is the only case in which LRAs do not enjoy any powers in implementing labour migration legislation, although the level of competences conferred to LRAs in some countries, e.g. **Latvia** and **Poland**, are also limited. In the **UK, Luxembourg** and **Italy** on the other hand, LRAs have significant powers. In a snapshot, LRAs’ competences in labour immigration policies can generally be summarised into three major areas. **First, they can be related to certain management aspects, such as the definition of quotas or the allocation of**

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<sup>63</sup> Committee of the Regions, Opinion on the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions – A Common Agenda for Integration – Framework for the Integration of Third-Country Nationals in the European Union, COM(2005) 389 final, CdR 51/2006, Brussels, 27 April 2006.

<sup>64</sup> Committee of the Regions, *Local and regional authorities and the immigration challenge*, Luxembourg: Office for Official Publications of the European Communities, 2005, p. 48.

<sup>65</sup> Committee of the Regions, Opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the Social Dimension of Globalisation – the EU’s policy contribution on extending the benefits to all, OJ C 164, 5.7.2005.

**migrant workers among specific labour sectors. Second, they can concern the provision of public services for migrant workers. Third, they can entail monitoring and safeguarding the conditions under which migrant workers are employed.**

**Control of the overall share of TCNs entering a given country for reasons of employment** is usually achieved through the adoption of annual quotas determining the maximum number of work permits that can be granted to TCNs countrywide or on a sectoral basis. The number and kinds of jobs open to TCNs can also be determined through lists that are revised depending on the perceived needs and shortages in the labour market. These frequently correspond to gaps and mismatches in the local labour force, which in the case of seasonal employment, have been said to reflect the lack of attractiveness of sectors such as agriculture. By way of illustration, in the **UK**, the current system takes into account regional specificities, including variations in labour market shortages and respective economic performance. In **Spain**, LRAs have a consultative role in the establishment of national quotas (*contingente*), in a procedure that involves trade unions and entrepreneurs as well as regional authorities. All demands for the labour force are processed by the autonomous communities, which then send their requirements to the ministry of labour. The ministry endorses the formal figures after consulting the Superior Council of Immigration Policies, in which all autonomous communities and ministries involved in the process are represented. The proposal must then be approved by the government. In **Italy**, regional and local governments are indirectly involved in setting annual quotas for those TCNs who are allowed to undertake either dependent (permanent or seasonal) or self-employment in the country. The following institutions are involved in establishing quotas: the president of the council of ministries; the National Council for Economics and Labour; the permanent conference on relations between the state, the regions and autonomous provinces of Trento and Bolzano (*Conferenza permanente per i rapporti tra lo Stato, le regioni e le provincie autonome di Trento e Bolzano*); the state–cities and local autonomies conference (*Conferenza Stato-città e autonomie locali*); and trade unions and organisations active in assisting TCNs. Regional and local governments participate in this process through two institutionalised fora for permanent dialogue among governmental levels (the *Conferenza permanente per i rapporti tra lo Stato, le regioni e le provincie autonome di Trento e Bolzano*, and the *Conferenza Stato-città e autonomie locali*) on the most important legislative and administrative measures of local and regional interest.

**LRAs are well placed to address the needs of migrants in particular because of their direct relationship with them through the provision of**

**public services.** In fact, LRAs' competences in connection with the integration of TCNs are considerable across several EU member states. **Supporting their reception, settlement and integration is indeed a task for which LRAs are largely responsible. Their services can range from the provision of initial reception services to ensuring access to goods and services, housing and education.** For instance, the activities falling under this heading include language courses, the provision of education and vocational training, social housing, social allowances and benefits as well as health care. LRAs' involvement varies from consultation, responsibility for the provision of public services and regulatory power to administrative entitlement. While the role and powers of LRAs in this context are narrow for example in **Latvia, Slovakia, Cyprus and Romania**, they are significant in the **Netherlands, the UK, Greece, Spain and Germany**. In **Ireland and Portugal**, there are competences solely at the regional level, while in **France, the Netherlands, Greece and Spain** competences are found at each sub-national level (Tóth and Fejes, 2009).

The **labour-market integration of TCNs** also entails various areas in which LRAs may participate. **These may notably aim at ensuring equal treatment of workers and preventing unfair competition with the local labour force.** In relation to employment conditions, LRAs are sometimes in charge of delivering or renewing labour permits, overseeing working conditions or ensuring (re-)training of workers. In **Germany**, for instance, before hiring foreign workers, employers need to submit proposed contracts to local offices of the ministry of labour, which examines wages, working conditions and potential provisions for employer-provided housing, meals and travel arrangements. In **Hungary**, labour inspection is mainly carried out by regional divisions in charge of monitoring labour conditions and occupational safety and health inspections in up to three counties. In **Austria**, labour inspection is entrusted to 19 regional inspectorates that carry out the onsite visits and evaluate both technical safety and health at work as well as working conditions.<sup>66</sup>

### **3.3 Added value of LRAs' involvement in the development of an EU labour immigration policy**

When looking at the competences and role of LRAs in most EU member states, it is clear that they **are in a unique position to ensure that the needs of all the stakeholders involved in the process of labour migration are met.** LRAs can actually be considered better placed for bridging the needs of both the receiving society, including employers and the local labour force, and the migrant workers. This implies analysing the situation of the labour market to identify

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<sup>66</sup> Information gathered through the labour inspection country profile of the ILO website (retrieved from [http://www.ilo.org/labadmin/info/lang--en/WCMS\\_DOC\\_LAB\\_INF\\_CTR\\_EN/index.htm](http://www.ilo.org/labadmin/info/lang--en/WCMS_DOC_LAB_INF_CTR_EN/index.htm)).

potential mismatches, examining the availability of the local labour force, preventing unfair competition with the local labour force, and overseeing the living and working conditions of labour migrants.

Another key dimension of the added value of LRAs' involvement could consist of **further developing interregional cooperation with third countries of both origin and transit**. As illustrated by the Centro de Apoio ao Migrante no País de Origem (CAMPO) project detailed in section 4 of this paper, such partnerships could enable better coordination with the third-country administrations responsible for employment and immigration and contribute to better data collection (on skills in the country of origin and on post-return measures) and awareness raising (as regards the legal framework for migrating, employment conditions and return aspects). These platforms for cooperation could benefit from the experience of existing structures, such as the Euro-Mediterranean regional and local assembly (ARLEM) recently set up in the context of the Union for the Mediterranean and representing the local and regional authorities of 30 countries around the shores of the Mediterranean. This permanent assembly aims at enabling exchange and cooperation among cities and regions in a variety of policy domains, including migration and integration.<sup>67</sup> Such partnerships contribute to strengthening dialogue and local diplomacy among the regions of origin, transit and destination.

Based on the experience of European LRAs, the CoR has already proposed in several opinions<sup>68</sup> the ways in which the role of the LRAs could be extended in the development and implementation of an EU strategy on labour migration. Of particular relevance for the purpose of this study, we highlight the following ones:

- 1) identifying areas of the labour market that need migrant workers and collecting information about the demands and skills lacking in EU member states;
- 2) ensuring access to basic social and economic rights (housing, education, health and social services, along with rights to political participation);
- 3) contributing to more flexible and more responsive schemes for labour migration;

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<sup>67</sup> Committee of the Regions, Opinion on the Barcelona Process: Union for the Mediterranean – implications for regional and local authorities, CdR 236/2008, Brussels, October 2008. See also the conclusions of the inaugural meeting of the Euro-Mediterranean Regional and Local Assembly in Barcelona on 21 January 2010 (retrieved from the Committee of the Regions' website:

<http://www.cor.europa.eu/pages/PressTemplate.aspx?view=detail&id=01da2561-f039-4abd-a42e-47995ffc0fc5>).

<sup>68</sup> See in particular Committee of the Regions, Opinion CdR 296/2007 (op. cit.), the Opinion on applying the global approach to migration to the borders of the EU, CdR 64/2007, Brussels, 11 October 2007 and the Opinion on strengthening the global approach to migration: increasing coordination, coherence and synergies, CdR 91/2009, Brussels, 18 June 2009 and CdR 201/2009 (op. cit.).

- 4) ensuring fair working conditions and equal treatment with the local labour force;
- 5) helping migrant workers to acquire skills and certifying them; and
- 6) establishing and funding platforms for cooperation with non-EU countries for the purpose of providing information and training for workers wishing to emigrate as well as collecting and disseminating data.

## 4. Compilation of LRAs' practices in seasonal immigration

This section presents a compilation of practices performed by LRAs in relation to seasonal migration in the EU. It does not aim at presenting a detailed overview of 'best' or 'good' practices for two main reasons. First, the criteria for defining a practice as 'good' or 'bad' are in essence highly subjective, because they would very much depend on the ideological viewpoint of the standards against which the practice should be measured (Carrera, 2008). Second, labelling a practice as good would require holding all the necessary information concerning its working arrangements, features and effects in order to conduct an independent evaluation of its efficacy – which in a majority of cases is lacking or non-public. Therefore, this section instead offers **a selection of practices that are exemplary for gaining a better understanding of the ways in which LRAs are (and could be further) involved in various activities relating to the management of migration for the purposes of seasonal employment.** The information presented in this section covers regional and local experiences from the following EU member states: **France, Italy, Germany, Greece, Portugal, Spain, Sweden and the UK.** The empirical gathering and assessment of LRAs' practices in the area of seasonal migration has allowed us to distinguish four main areas where they have been involved: **i) preventing labour market mismatches; ii) monitoring and safeguarding working, health and living conditions; iii) facilitating access to information, counselling, education and training; and iv) pre-departure information and training in the country of origin.**

### 4.1 Preventing labour market mismatches

**LRAs are often involved in the assessment and evaluation of local labour market needs.** As Boswell et al. (2004) have argued, skills and labour shortages are often not caused by an aggregate shortage of labour, but rather because of mismatch problems between labour demand and supply. Seasonal immigration is commonly seen as a tool for filling labour shortages and gaps that are not covered by the local labour force. **LRAs contribute to bridging employers' requirements with the existing national legal framework on labour migration and the number of workers available (or determined by a quota system) for filling a certain job.** They are well positioned to address labour market mismatches and to examine the nature, and to some extent the objectivity, of employers' demands for immigration, which at times do not precisely correspond with actual needs by sector and region.

In **Spain**, the Programa de Gestión Integral de la Inmigración temporera entre Marruecos y la provincia de Huelva [Integrated Management Programme for

Seasonal Immigration between Morocco and the Province of Huelva]<sup>69</sup> established an integrated system to manage the flows of Moroccan seasonal workers towards a number of municipalities in the Huelva province to meet seasonal demands in the agricultural sector.<sup>70</sup> The Programme had three main objectives: to foster legal migration for seasonal work purposes between the two regions concerned; to set up a centralised system for managing relations between employers and workers, and for providing services to the latter; and finally to ensure that workers return to their country of origin upon completion of the job. The programme established a centre for foreign workers in Cartaya (Huelva), which, among other responsibilities, was in charge of matching work supply and demand according to workers' skills and employers' needs. It is important to underline that this programme allowed for a multilevel partnership between LRAs and other relevant stakeholders, such as civil society and trade unions.<sup>71</sup>

In some of the EU member states under examination, LRAs play a consultative role in setting annual quotas of TCNs who are allowed to work with a view to seasonal employment. This is the case in **Italy**, which has so far concluded five framework (bilateral) agreements, with Tunisia (2000), Moldova (2003), Morocco (2005), Egypt (2005) and Albania (2009), covering all the seasonal activities for which there is a shortage of national workers in the country.<sup>72</sup> The Direzioni Provinciali del Lavoro (DPL) of the Italian ministry of labour and social policies are responsible for granting authorisation to Italian employers intending to employ seasonal workers who are nationals of those countries with which Italy has concluded bilateral agreements. Interested employers have to lodge the requests with the competent DPL. The DPL verifies that the conditions offered to the worker meet the standards established by the national collective work contracts applicable to that kind of activity. The DPL's decision also takes into account employers' economic capacity in relation to the number of requests

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<sup>69</sup> This programme was funded by the European Commission's Aeneas Programme between 2005 and 2008.

<sup>70</sup> For more information, see the immigration section of the website of the Ayuntamiento de Cartaya (<http://ayto-cartaya.com/inmigracion>).

<sup>71</sup> In particular, the following actors were involved: ANAPEC (Agence Nationale de Promotion de l'Emploi et des Compétences); Andalucía Acoge (ONG); Mancomunidad de Beturia (an institutionalised form of cooperation among the municipalities of El Almendro, Cartaya, El Granado, San Bartolomé de la Torre, Sanlúcar de Gadiana, San Silvestre de Guzmán, Villablanca and Villanueva de los Castillejos for their economic, social and cultural development); and Federación Agroalimentaria de Comisiones Obreras (trade union).

<sup>72</sup> See the 'Accordo tra il Governo della Repubblica Italiana e il Governo della Repubblica Araba d'Egitto di Cooperazione in Materia di Flussi Migratori Bilaterali per Motivi di Lavoro', Rome, 28 November 2005, 'Accordo tra il Governo della Repubblica Italiana e il Governo della Repubblica Moldava in Materia di Lavoro', Rome, 27 November 2003; 'Accordo bilaterale in materia di lavoro tra il Governo della Repubblica Italiana e il Governo del Regno del Marocco', Rabat, 21 November 2005; and the 'Accordo Tra il Governo della Repubblica Italiana ed il Governo della Repubblica Tunisina per l'occupazione di lavoratori stagionali', Tunisi, 5 July 2000, No information is yet available regarding the agreement with Albania.

they file for the same period, as well as the quotas of foreign seasonal workers allowed in the country every year and distributed across the regions and autonomous provinces.<sup>73</sup> Furthermore, seasonal workers who return in due time to their country of origin upon completion of the job are given priority the following year. Towards this end, the Commissioni Regionali per l'Impiego may conclude ad hoc conventions with major trade unions and employer organisations, regional and local authorities, aimed at facilitating the access of TCNs to specific seasonal positions.

**Greece** has concluded bilateral agreements covering seasonal labour immigration with Albania (1997), Bulgaria (1996) and Egypt (1984) (Kasamis, 2005). Employers wishing to employ an immigrant worker need to apply to their municipality by 30 June of each year by informing the authorities of the number and specialisation of employees they need for the following year. The municipality, prefecture (*nomarhia*) and the regional directorate for foreigners and immigration (*perifereia*) work in close collaboration with the Organisation for the Employment of the Labour Force (OAED) in controlling the Greek labour market vacancies for these positions. Following that, the OAED's report on labour market vacancies is sent to the region (*perifereia*) (Maroukis, 2009)

**France** has also concluded bilateral agreements with Morocco, Poland and Romania on seasonal immigration, mainly covering agriculture and tourism.<sup>74</sup> The national office for immigration and integration (Office Français de l'Immigration et de l'Intégration) is in charge of recruitment in the country of origin and in some cases the transportation of the migrant worker.<sup>75</sup> The DDTEFP (Direction Départementale du Travail, de l'Emploi et de la Formation Professionnelle)<sup>76</sup> is responsible for verifying that the availability of the local labour force has been assessed before an employer is able to employ a TCN. This procedure does not occur for some sectors, however, for which it is admitted that the labour force is scarce. Such positions include those in relation to seasonal agricultural employment. The overall share of TCN workers needed to fill the jobs is defined at the local level by the employers, who then transmit their requests to the immigration ministry through the DDTEFP.

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<sup>73</sup> Refer to Legislative Decree n. 286 of 25 July 1998, Art. 24 (*Gazzetta Ufficiale* n. 191 of 18.8.1998, *Supplemento Ordinario* n. 139); refer also to the Decree of the President of the Republic n. 394 of 31 August 1999, Art. 30 (*Gazzetta Ufficiale* n. 258 of 3.11.1999, *Supplemento Ordinario* n. 190).

<sup>74</sup> Décret n° 63/779 du juillet 1963 portant publication de la convention de main-d'œuvre entre la France et la Maroc du 1er juin 1963; Accord entre le Gouvernement de la république française et le Gouvernement de la République Tunisienne en matière de séjour et de travail (amended in 2000); Accord entre le Gouvernement de la république française et le Gouvernement de la République de Pologne sur la coopération dans les domaines du travail, de l'emploi et de la formation professionnelle, signé à Paris le 14 avril 1994.

<sup>75</sup> Please refer to the section on seasonal migration on the website of the Office Français de l'Immigration et de l'Intégration (<http://www.ofii.fr>).

<sup>76</sup> For further information, see the website of the French labour ministry (Ministère du Travail, de la Solidarité et de la Fonction Publique) ([www.travail-solidarite.gouv.fr](http://www.travail-solidarite.gouv.fr)).

## 4.2 Monitoring and safeguarding working, health and living conditions

**The working, health and living conditions of seasonal migrants are often found to be poor and inadequate.** Indeed, “temporary and seasonal migrants face serious housing problems and tend to cluster in makeshift accommodation or in shanty towns. There is a vicious circle linking poor housing, hazardous working conditions and social disruption, and the spread of disease among migrant workers” (ILO, 2004, para. 216). That the relationship between the seasonal workers and employers is in essence short term encourages the latter not to take responsibility for providing a safe and healthy workspace (MSF, 2008). **The role of LRAs in verifying that the conditions under which TCNs are employed for the purpose of seasonal work are consistent with working contracts and national labour laws/standards is thus crucial.** Among other ways, this can be done by making it compulsory to send the contract to the local labour offices prior to employment, as is the case in **France**. **Another responsibility is that of sending work inspectors to locations where seasonal workers are employed to assess work, health and living conditions.** For instance, the DDTEFP is the local authority (departmental level) in charge of regulating work and professional training along with authorisation. Employers need to receive an authorisation from the DDTEFP, which verifies that the relevant labour laws are respected, especially concerning contract provisions. It then gives the final assent for the seasonal worker to come to France. The local authorities are also in charge of assessing the actual working conditions.<sup>77</sup>

**Germany** has two bilateral agreements (with Poland and Albania) on seasonal employment for agriculture and tourism (*Saisonbeschäftigung*).<sup>78</sup> Employers must submit employment contracts to the local labour offices. These examine the proposed wages and working conditions, including provisions for housing, meals and travel agreements.<sup>79</sup> Another interesting initiative in Germany has been developed in the context of the project “Fair seasonal work”.<sup>80</sup> An Internet portal (seasonal-work.org) was launched to provide information on agricultural enterprises that employ individuals under fair conditions.<sup>81</sup> These are identified

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<sup>77</sup> Please refer to the section on seasonal migration on the website of the Office Français de l’Immigration et de l’Intégration (<http://www.ofii.fr>).

<sup>78</sup> See the section on seasonal migration on the website of the German Federal Agency for Work (Bundesagentur für Arbeit) (retrieved from [http://www.arbeitsagentur.de/nn\\_652/nn\\_27450/Navigation/zentral/Unternehmen/Arbeitskraeftebedarf/Beratung/Saisonbeschaeftigung/Saisonbeschaeftigung-Nav.html](http://www.arbeitsagentur.de/nn_652/nn_27450/Navigation/zentral/Unternehmen/Arbeitskraeftebedarf/Beratung/Saisonbeschaeftigung/Saisonbeschaeftigung-Nav.html)).

<sup>79</sup> Ibid. (retrieved from [http://www.arbeitsagentur.de/nn\\_27346/Navigation/zentral/Unternehmen/Arbeitskraeftebedarf/Vermittlung/Saisonbeschaeftigung/Saisonbeschaeftigung-Nav.html](http://www.arbeitsagentur.de/nn_27346/Navigation/zentral/Unternehmen/Arbeitskraeftebedarf/Vermittlung/Saisonbeschaeftigung/Saisonbeschaeftigung-Nav.html)).

<sup>80</sup> For more information, see the website of the project “Fair Seasonal Work” (<http://www.peco-ev.de/saisonorg/index.php?content=Publikationen>).

<sup>81</sup> The project has been carried out by the following stakeholders: Agrar-Umwelt, PEco and Stiftung Soziale Gesellschaft (Foundation for Social Society – Sustainable Development).

through the granting of a certificate of fair seasonal work, which is attributed to enterprises that have taken on the obligation of adhering to general social standards in the following areas: working time and leave, occupational health and safety, accommodation, appropriate income, employment contracts and participation. While in principle the initiative covers all seasonal workers coming to Germany, it is specifically targeted at those coming from Bulgaria, Poland and Romania. In **Italy**, the immigrant information centre CINFORMI (Centro informativo per l'immigrazione) is an operative unit of the Autonomous Province of Trento. Based on a convention between the Autonomous Province of Trento and the questura [police headquarters],<sup>82</sup> since 2001 CINFORMI has been responsible for receiving applications for residence permits by TCN seasonal workers (among other categories of immigrants), who must request it within eight days of their arrival.<sup>83</sup> The initiative covers all the seasonal activities for which TCN workers are needed, especially picking crops and tourism-related services (hotels and restaurants). To streamline the employment procedure, a mobile branch of CINFORMI – serving the area of Val di Non, where there is a high concentration of TCN seasonal workers employed in apple-picking – was established in the town of Cles in 2008.<sup>84</sup>

**LRAs may also play a crucial role in ensuring that the living conditions provided are adequate; this is especially relevant in those cases where the employer is in charge of the workers' accommodation.** LRAs are indeed well placed to verify that this is in line with basic standards and that it respects the fundamental rights and needs of the migrant workers. Non-governmental organisations (NGOs) are well aware of this and for this reason they tend to target LRAs to make sure health and living conditions are adequate. This is illustrated by the initiative “Health care for undocumented seasonal migrant workers” carried out by Médecins sans frontières (MSF), which has been underway in southern **Italy** since 2004 and which aims at providing free medical and psychological care to undocumented migrant workers employed in agriculture, as well as facilitating access to public health facilities. MSF has successfully encouraged regional authorities to take some measures to improve living conditions for migrants, such as providing water tanks and latrines. MSF has also recommended that, within the areas affected by the presence of seasonal workers, local institutions (i.e. community, provincial and regional

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<sup>82</sup> The convention was ratified by Decision No. 2781 of 25 October 2001.

<sup>83</sup> Another organisation involved is the Poste Italiane: the Italian post hosts the CINFORMI mobile branch at its Cles office.

<sup>84</sup> For further information, see the websites of CINFORMI and Provincia Autonoma di Trento ([http://www.cinformi.it/cinformi/index.php/it/il\\_cinformi](http://www.cinformi.it/cinformi/index.php/it/il_cinformi) and [http://www.provincia.tn.it/argomenti/politiche\\_sociali/](http://www.provincia.tn.it/argomenti/politiche_sociali/)).

administrations, prefectures and territorial health centres) guarantee minimum conditions of reception to all migrants employed in agricultural farming.<sup>85</sup>

In **Spain**, an initiative called “Pagesos Solidaris” [farmers solidarity foundation] has been managed by the Unió de Pagesos de Catalunya (the main agricultural employers’ organisation in Catalonia) since 2001.<sup>86</sup> The foundation receives and facilitates the integration of temporary seasonal migrant workers (mainly from Colombia, Morocco and Romania) by arranging suitable accommodation. The foundation manages 5,250 housing units for temporary migrants in the Catalan region. Another key area on which the foundation’s programme focuses is integrating temporary workers. Pagesos Solidaris works in partnership with various stakeholders, including local government authorities, international organisations and NGOs.<sup>87</sup> In the **UK**, the project “East Riding Migrant Engagement” (managed by East Riding of Yorkshire Council in cooperation with the Humber All Nations Alliance) aims at improving access to services for migrants, including seasonal agricultural workers.<sup>88</sup> The project concentrates on those frontline services that are most important for the migrant population, i.e. housing, health, information and education. The project’s activities are mainly based in the town of Goole. Among the specific project objectives, one deals with the development of an additional scheme for the licensing of multiple-occupancy houses, specifically targeted at migrant workers. In an additional achievement not initially foreseen by the project, in collaboration with the vicar of Goole, voluntary and community sector partners and the Humberside police, the city council was able to establish and operate a homeless drop-in centre in Goole from 5 October 2009 to 31 March 2010. The centre provided food, access to shelter during the day and support on a range of issues including documentation, housing, health and employment.

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<sup>85</sup> See the MSF website article “Italy: MSF Assists Migrant Workers Living in Appalling Conditions”, 29 September 2010 (retrieved from <http://www.doctorswithoutborders.org/news/article.cfm?id=3966&cat=field-news>) and MSF (2008)

<sup>86</sup> See Pagesos Solidaris, 2008 Activity Report (retrieved from <http://www.pagesossolidaris.org/>).

<sup>87</sup> Among others are the Catalan Federation of Development NGOs, Network of Development NGOs and other Solidarity Associations of Lleida, the IOM, Catalan Forum for Peace and Human Rights in Colombia, Network of Development NGOs of Valencia, Working Group on Solidarity of the district of Vella, Valencia, the Foundation for Solidarity and Volunteerism of the Community of Valencia.

<sup>88</sup> The project is funded by the Migration Impacts Fund, a central government fund administered by the Department for Communities and Local Government to manage the short-term impacts of migration on local communities. All the regions of England receive a proportion of the fund, which is made available to public services to promote innovative ways of managing migration-related pressures identified by local areas through their local strategic partnership and by their regional government office. The fund is paid for by increases to migrant fees; it amounts to £70 million and covers the period 2010–12.

### 4.3 Providing information, counselling, education and training

**Because of their working hours when employed in the tourism sector and their geographical location when active in agriculture, seasonal workers are often isolated from the rest of society. Access to crucial information can often be a challenge. For seasonal workers to be adequately informed of their rights and obligations, information needs to be provided at a closer level. LRAs play a role in this activity as well.** For example, the centre for foreign workers established by the Integrated Management Programme for Seasonal Immigration between Morocco and the Province of Huelva in **Spain** provided the following services among others: information and orientation for immigrant workers, matches of work supply and demand according to workers' skills and employers' needs, language courses for immigrant workers and specific courses for employers to enhance their capabilities as regards working with immigrant workers.

In the **UK**, a project on “Migration and Integration in Rural Areas” (funded by the Migration Impacts Fund (MIF) and managed by the Worcestershire Partnership and Herefordshire Partnership), brings together local government structures, public services, voluntary and charity organisations, various churches and faith groups, local migrant associations and employers. The project will support, between 2010 and 2012, the training of seasonal workers coming mainly from Bulgaria and Romania, notably by delivering English courses free of charge for migrants who do not speak English. (At the moment, there are 67 learners enrolled in these courses.) It will also support the training of teaching assistants for schools with a high number of pupils who do not speak English as their first language.<sup>89</sup> Another example is the “Welcome to Birmingham” project,<sup>90</sup> which was launched by the West Midlands Strategic Migration

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<sup>89</sup> The other objectives of the project are to establish an emergency support system to assist migrants with repatriation, for instance by providing emergency accommodation, covering travel costs and helping them to secure the necessary documents. The project also helps individuals with drug addiction to access the appropriate services (DETOX). It supports migrant worker communities and cooperates with them with a view to better identifying their problems and concerns, along with voicing them. Finally, the project helps to dispel false ideas, misunderstandings and prejudices about immigration in the UK.

<sup>90</sup> See the project description on the European Commission's website on Integration (retrieved from [http://ec.europa.eu/ewsi/en/practice/details.cfm?ID\\_ITEMS=8431](http://ec.europa.eu/ewsi/en/practice/details.cfm?ID_ITEMS=8431)). According to the information provided on the website, all service providers – such as libraries, neighbourhood advice centres and education providers – are encouraged to make use of and promote the website ([www.welcometobirmingham.org](http://www.welcometobirmingham.org)). The website contains over 100 pages of information in English as well as welcome videos and scripts in seven different languages. It can be navigated by migration status or by topic area. Whether a refugee or economic migrant, the website steers the user through many procedures and services encompassing topics ranging from employment to safety and the law. In addition, it provides links to translated information and to other relevant websites.

Partnership<sup>91</sup> and developed as a joint partnership project funded by Digital Birmingham and the Birmingham Health and Wellbeing Partnership. The main output of the project is a website to provide a one-stop, online hub of information, support and services for persons new to Birmingham and to aid their settlement in the UK.<sup>92</sup> Similarly, some of the objectives driving the above-mentioned “East Riding Migrant Engagement” project in the UK are also to improve information and counselling. For example, the project has updated existing welcome packs that offer information about where and how to access services and how to express users’ concerns. It also offers computer terminals to improve access to email and Internet services.

The Pagesos Solidaris (farmers solidarity foundation) in **Spain** gives advice to migrants on finding employment, marketing themselves and improving their language and other relevant skills. The foundation facilitates the integration of seasonal migrant workers by providing information of relevance to their stay and employment in Spain. Trade unions likewise play a central role in facilitating the dissemination of information to seasonal workers. This is also illustrated by the “*bus des saisonniers*” initiative in **France**, in which trade unions distribute information regarding labour rights to seasonal workers with the assistance of mobile units over the summer period. The bus will stop along a route through the farms at which seasonal workers are employed. The trade unionists inform workers of their rights and distribute the “*Guide des saisonniers*”.<sup>93</sup> In **Germany**, a bilingual booklet aimed at Polish seasonal workers has been developed in the scope of an initiative on information for seasonal workers (*Informacje dla pracowników sezonowych zatrudnionych w Niemczech/ Informationen für polnische Saisonarbeitskräfte in Deutschland*).<sup>94</sup> It outlines the basic legal provisions concerning the employment contract, employers’ legal obligations (including health insurance) and the national social benefit system. It also sets out the legal entitlement to paid leave, regulations on pay and taxes, the limitation periods concerning pay claims, the legal provisions for terminating a contract, the legal minimum standards to be observed by employers concerning accommodation and how trade unions can help to resolve conflicts. In **Sweden**, Kommunal, the main workers’ union, has produced a brochure on seasonal employment in six different languages (Latvian, Lithuanian, Ukrainian, Russian,

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<sup>91</sup> See the “West Midlands Strategic Migration Partnership” (retrieved from [http://www.wmlga.gov.uk/Policy\\_Areas/Migration/Migration\\_Partnership.aspx](http://www.wmlga.gov.uk/Policy_Areas/Migration/Migration_Partnership.aspx)).

<sup>92</sup> The website address is <http://www.welcometobirmingham.org.uk>.

<sup>93</sup> See the website of the Confédération Française Démocratique du Travail (<http://www.cfdt.fr/>).

<sup>94</sup> The management actors are the German Trade Union IG BAU and a Polish trade union representing employees in agriculture (ZZPR).

Polish and English). It includes information on minimum wage levels, sick leave and insurance policies.<sup>95</sup>

Access to information about rights is essential though not sufficient to ensure that the rights of migrant workers are respected. **Yet, the ability to enforce these rights and to bring them before the appropriate legal venue is a necessary element for guaranteeing that migrant workers' rights are respected.** This task is also one that is often taken up by trade unions. The European Federation of Trade Unions in the Food, Agriculture, Tourism sectors and allied branches (EFFAT) has published a brochure listing its EU members' names and contact details, as the latter provide information on collective agreements, laws and workers rights, as well as representation in the court of the country of employment.<sup>96</sup> The Collectif de défense des travailleurs saisonniers, which comprises various civil society actors such as trade unions and NGOs in **France**,<sup>97</sup> similarly helps seasonal workers to enforce their rights by providing legal assistance and counselling in litigation. Their appeal to the administrative tribunal of Marseilles enabled a farm worker from Morocco to apply for a residence permit after 23 years of being employed as a seasonal worker in France. They also carry out information and public awareness campaigns and advocacy. In **Denmark**, the United Federation of Danish Workers (3F) may also litigate on behalf of migrants. It has done so in the past for recovering settlements for underpaid work (OSCE, 2009).

#### **4.4 Interregional cooperation with non-EU countries: Pre-departure information and training**

Some interesting initiatives relating to pre-departure training and return have been envisaged under the EU mobility partnerships with Cape Verde and Moldova. In Cape Verde, a centre called CAMPO (Centro de Apoio ao Migrante no País de Origem)<sup>98</sup> was established with the funding by Europeaid, the EU Thematic Programme for Cooperation with Third Countries in the Areas of Migration and Asylum, in the framework of the Development Cooperation

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<sup>95</sup> See "Working in Sweden" on the website of Kommunal (retrieved from <http://www.kommunal.se/Kommunal/Globala-lankar/Languages/Working-in-Sweden/>).

<sup>96</sup> See EFFAT, "Legal Protection across Europe for Trade Union members in the hotel, restaurant and catering sector" (retrieved from <http://www.agri-migration.eu>).

<sup>97</sup> CODETRAS is an association set up in 2002 that brings together people from the following organisations: ASTI de Berre, Association de coopération Nafadji Pays d'Arles, Cimade, Comité local ATTAC-Pays d'Arles, Comité local ATTAC-Pays salonnais, Comité local ATTAC-Marseille, Confédération Paysanne, CREOPS, Droit Paysan 13, ESPACE-Accueil aux étrangers, Fédération du MRAP 13, FGA CFDT, Forum Civique Européen, FSU 13 and Ligue des Droits de l'Homme. Their objective is to raise public awareness of the difficult situation of migrant seasonal workers in agriculture through communication campaigns, litigation and advocacy. For more information, see the CODETRAS website (<http://www.codetras.org/sommaire.php>).

<sup>98</sup> See the CAMPO website (<http://www.campo.com.cv/index.php>).

Instrument.<sup>99</sup> CAMPO was set up with a view of promoting legal migration between Cape Verde and the EU in the framework of the **mobility partnership between the EU and Cape Verde**. It seeks to **promote the exchange of information for better matching the skills of migrant workers with those required by the job market in the countries of destination, and for facilitating the reintegration in the local job market of Cape Verdeans who return from the EU**. The project provides a set of preparatory actions, which include the adoption of an action plan explaining how Cape Verdean authorities intend to manage migration flows; the preparation and dissemination of both pre-departure and return information materials; the strengthening of the capabilities of the Institute for Employment and Professional Training of Cape Verde, the development of a database of the professional profiles of migrants and a study on the feasibility of the creation of a fund to support the start-up of economic activities by migrant businessmen who return to Cape Verde. In this context, a forum on ‘migrants’ entrepreneurship’ in Cape Verde and a forum on ‘Cape Verdean migrant women’ **in Spain** should be organised as well as short-term training workshops on business creation and management. It is interesting to note that the implementation of the monitoring process for the mobility partnership between the EU and Cape Verde, which provides the political framework for this initiative, was facilitated by the pre-existing local structures. The main monitoring body is the Groupe Local de Suivi, responsible for monitoring the implementation of the special partnership between the EU and Cape Verde. It is composed of the representatives of the Cape Verdean authorities as well as representatives of member-state diplomatic missions and the EU delegation.

In the framework of the **mobility partnership with Moldova, Greece** has also developed a pre-departure training scheme, which has been put in place by the IOM. The scheme has set up educational courses addressing several themes: Greek language skills, civic education with an emphasis on fundamental human rights, the Greek institutional system and Greece as a European country. The Integrated Management Programme for Seasonal Immigration between Morocco and the Province of Huelva in **Spain** has established a Spanish–Moroccan employment centre in Casablanca, with satellites in Kenitra and Nador. They are responsible for the provision of diverse services for the selected workers, which include information on the application procedure and employment-related issues, the electronic storage of applications, and introductory courses on language skills, living and working conditions in the host country. They also offer instruction on the purposes of the programme, mediation between

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<sup>99</sup> For further information on the thematic programme, see the European Commission’s website ([http://ec.europa.eu/europeaid/how/finance/dci/migration\\_en.htm](http://ec.europa.eu/europeaid/how/finance/dci/migration_en.htm)).

employers and workers for the resolution of potential conflicts, and logistical support (the organisation of transport and provision of accommodation).



## 5. Conclusions and policy recommendations

Labour immigration policies have been subject to progressive Europeanisation during recent years. Both the internal and external dimensions give rise to profound questions concerning the division of competences among the different levels of government in the Union when defining and implementing common rules and administrative procedures. While at the EU level member states have often shown resistance towards ‘more Europe’ in this policy domain, the Stockholm Programme and the Treaty of Lisbon have confirmed the EU's objective of developing a shared approach and legislative framework on the conditions for entry and residence of TCNs for employment-related purposes. This study has examined the impact of the building of an EU labour immigration policy on LRAs and the CoR with respect to the design and implementation of policies on the seasonal employment of TCNs. It has critically assessed the inherent shortcomings of such seasonal schemes as triggered by their temporary nature, which put the migrant worker in circumstances of special vulnerability and insecurity in relation to employers and the state. When looking at the arrangements in countries across the EU, **LRAs have been often engaged in the actual implementation of migration policies dealing with the seasonal employment of TCNs. This fundamental situation, however, has hardly been acknowledged at the EU level.** On these bases we put forward the following policy recommendations:

- **The ‘territorial’ dimension of EU immigration policy should be reinforced**, promoting cooperation and dialogue among regions within the EU as well as between those of migrants’ origin and destination. The CoR should further emphasise its involvement in this policy area and promote cooperation and dialogue with other EU institutions and agencies, in order to extend its participation in these and other related domains. **This could be accompanied by the establishment of a European platform for LRAs on migration, asylum and integration**, coordinated by the CIVEX Commission of the CoR and financially supported by the DG JLS of the European Commission. Such a platform, which should play a decisive role in the exchange of experiences and practices on the development and implementation of EU policies, should bring together not only relevant representatives of the CoR, but also networks of LRAs and cities as well as EU agencies like the European Union Agency for Fundamental Rights (FRA).
- The next phases of the establishment of an EU labour immigration policy, both the internal and external dimensions, will need to take into due consideration the **enhanced role of the CoR in consultation and in monitoring the application of the subsidiarity principle. Due**

**consideration is also needed of the practical and political relevance of the local and regional aspects in implementing EU labour immigration law by EU member states.** Monitoring the application of the subsidiarity principle should mainly focus on enhancing the role of LRAs to address the current deficits and dilemmas affecting the EU's immigration policy. This could be achieved through multilevel partnerships among LRAs, civil society, trade unions and other relevant stakeholders.

- **The CoR should promote an approach to the principle of subsidiarity in the EU's AFSJ in a way that does not prevent the further Europeanisation of labour immigration policy.** More specifically, EU legislation (and this principle) must not continue to be used as a mechanism to obstruct the adequate distribution of powers in the member states under EU law, but rather to empower the role of LRAs in those AFSJ-related policies with a prevailing local or regional dimension.
- **The role of the CoR and LRAs in evaluating (*ex post*) the efficiency and added value (from the perspective of subsidiarity) of present and future EU labour immigration policies also needs to be acknowledged.** They are indeed on the frontline of efforts to resolve issues pertaining to seasonal migration programmes in Europe and thus well placed to propose 'EU ways forward' for overcoming problems with common public policies in an enlarged EU.

As regards the role and competences of LRAs in managing labour migration, especially migration for the purpose of seasonal employment, several trends have been identified in this study. One of these is that at present, EU and national policy discourses continually refer to the necessity for the EU's labour mobility policy to be guided by a 'needs-based scenario' (matching demands and reception capacities in each member state). LRAs have often been recognised as playing a key part in assessing the local and regional elements of labour market mismatches. As has been argued in this report, temporary, seasonal or circular migration policies jeopardise the rights and protection of migrant workers. Seasonal TCN workers, as a category of employees, are highly vulnerable to exploitative and unfair standards of working, wages, health and living. Hence, **LRAs can also play a vital role in improving the protection of workers' rights in labour markets, including their working, health and living conditions.** The 'flexibility' (and informality) characterising seasonal employment may lead to an unacceptable lowering of labour conditions and fundamental socio-economic rights. In this context, the LRAs are among the central actors in ensuring that rights are respected and tackling exploitation at the workplace, particularly in relation to those workers who are known to be more vulnerable – such as seasonal migrant workers. **A 'rights-based**

**approach’ should therefore constitute one of the guiding principles for future action.** In light of the above, the following recommendations are highlighted:

- **The role of LRAs in overseeing migration for the purpose of seasonal employment needs to be acknowledged at the EU level** in relation to assessing labour market mismatches, monitoring conditions (working, health and living) and assisting the provision of information as well as counselling and pre-departure training. The role of LRAs in this respect should expressly be referred to in the forthcoming directive on the temporary admission of seasonal workers.
- For the purpose of facilitating these tasks, **partnerships with other actors** – such as trade unions, employers’ organisations and civil society – should be considered a necessity. These could also be fostered at the EU level through closer partnerships between the CoR and the EESC in these fields. Furthermore, in light of the Treaty of Lisbon, the CoR should develop a proactive policy strategy to develop its role in subsidiarity monitoring along with the European Parliament (LIBE committee), national and regional parliaments with legislative powers.
- Given the special vulnerability of seasonal workers, it is all the more important that the **CoR continue advocating the ratification by EU member states of the ICRMW**. Moreover, the promotion and proper enforcement of existing international and European fundamental human rights instruments, which now include the Charter of Fundamental Rights, should be central components for the next phase of the EU’s labour immigration policy. Encouragement by the CoR and LRAs in this context is key.



# List of Acronyms and Abbreviations

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AFSJ	Area of Freedom, Security and Justice
CAMPO	Centro de Apoio ao Migrante no País de Origem
CINFORMI	Centro informativo per l'immigrazione
CoR	Committee of the Regions
DDTEFP	Direction Départementale du Travail, de l'Emploi et de la Formation Professionnelle
DG JLS	Directorate-General for Justice, Freedom and Security
DPL	Direzioni Provinciali del Lavoro
EESC	European Economic and Social Committee
ETUC	European Trade Union Confederation
GATS	General Agreement on Trade in Services
ICRMW	International Convention on the Rights of Migrant Workers and their Families
ILO	International Labour Organization
IOM	International Organization for Migration
LRA's	Local and Regional Authorities
MIF	Migration Impacts Fund
MSF	Médecins sans frontières
NGO	Non-governmental organisation
OAED	Organisation for the Employment of the Labour Force
OECD	Organisation for Economic Cooperation and Development
OFII	Office français de l'immigration et de l'intégration
TCNs	Third-country nationals
TFEU	Treaty on the Functioning of the European Union
WTO	World Trade Organization



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# Appendix. Status of Ratification of the ICRMW

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## Ratifications

To date, the following 42 states have ratified the ICRMW.<sup>100</sup> They not only include states considered to be the ‘sources’ of human mobility, but also those that could fall within the category of transit and destination countries.

Albania, 05.06.07 – Europe  
Algeria, 21.04.05 – Africa  
Argentina, 23.02.07 – Latin America  
Azerbaijan, 11.01.99 – Asia  
Belize, 14.11.01 – Latin America  
Bolivia, 12.10.00 – Latin America  
Bosnia & Herzegovina, 13.12.96 – Europe  
Burkina Faso, 26.11.03 – Africa  
Cape Verde, 16.09.97 – Africa  
Chile, 21.03.05 – Latin America  
Colombia, 24.05.95 – Latin America  
Ecuador, 05.02.02 – Latin America  
Egypt, 19.02.93 – Africa  
El Salvador, 14.03.03 – Latin America  
Ghana, 08.09.00 – Africa  
Guatemala, 14.03.03 – Latin America  
Guinea, 08.09.00 – Africa  
Honduras, 11.08.05 – Latin America  
Jamaica, 25.09.08 – Latin America

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<sup>100</sup> Information retrieved from the website of December 18, which is a Brussels-based non-profit organisation working for the promotion and protection of the rights of migrants worldwide (<http://www.december18.net>).

Kyrgyzstan, 29.09.03 – Asia  
Lesotho, 16.09.05 – Africa  
Libyan Arab Jamahiriya, 18.06.04 – Africa  
Mali, 05.06.03 – Africa  
Mauritania, 22.01.2007 – Africa  
Mexico, 08.03.99 – Latin America  
Morocco, 21.06.93 – Africa  
Nicaragua, 26.10.05 – Latin America  
Niger, 18.03.09 – Africa  
Nigeria, 27.07.09 – Africa  
Paraguay, 23.09.08 – Latin America  
Peru, 14.09.05 – Latin America  
Philippines, 05.07.95 – Asia  
Rwanda, 15.12.08 – Africa  
Senegal, 09.06.99 – Africa  
Seychelles, 15.12.94 – Africa  
Sri Lanka, 16.03.96 – Asia  
Syrian Arab Republic, 02.06.05 – Asia  
Tajikistan, 08.01.02 – Asia  
Timor Leste, 30.01.04 – Asia  
Turkey, 27.09.04 – Europe  
Uganda, 14.11.95 – Africa  
Uruguay, 15.02.01 – Latin America

### **Signatures**

To date, the following 16 states have signed the ICRMW:

Bangladesh, 07.10.98 – Asia  
Benin, 15/09/05 – Africa  
Cambodia, 27.09.04 – Asia

Cameroon, 15.12.09 – Africa  
Comoros, 22.09.00 – Africa  
Congo, 29.09.08 – Africa  
Gabon, 15.12.04 – Africa  
Guinea-Bissau, 12.09.00 – Africa  
Guyana, 15.09.05, – Africa  
Indonesia, 22.09.04 – Asia  
Liberia, 22.09.04 – Africa  
Montenegro, 26.10.06 – Europe  
Sao Tome and Principe, 06.09.00 – Africa  
Serbia, 11.11.04 – Europe  
Sierra Leone, 15.09.00 – Africa  
Togo, 15.11.01 – Africa