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Peer review method: Double-Blind

Date of acceptance: April 10, 2020

Date of publication: May 04, 2020

Original scientific article

UDC 327(470+571:479.22)

Scan the QR code:



SEASONAL WORKERS BEFORE THE COVID-19 ERA: ANALYSIS OF THE LEGISLATION WITHIN THE CONTEXT OF EASTERN EUROPE

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Abstract: *This paper analyzes the phenomenon of the seasonal workers in Europe before the Covid-19 pandemic and discusses the legislation for intermediation job intermediation agencies in several East European countries such as Bulgaria, Romania and Poland. Additionally we discuss the typical patterns for seasonal migration in European context. We also analyze the situation of seasonal workers in Scandinavia (the berry picking activity in Sweden), in Spain (the orange picking in the Mediterranean regions) as well as the Ukrainian seasonal workers in some of the Visegrad-4 countries (Poland, Czech Republic and Slovakia). Finally, we briefly discuss some novel approaches which might be used as regulation mechanisms.*

Keywords: *Seasonal Workers; Intermediation Job Agencies; Eastern Europe; V4 Countries; Visa Formalities*



INTRODUCTION

There are several economic sectors which employ seasonal work force, due to the natural fact of the changing year seasons. Agriculture is the main one. Each year a mass two-way migration occurs in many European countries, where seasonal workers go from their place of living to the place of work. This migration could also be called cyclic migration as those people return home after the work has been finished.

Usually, the wholesale prices of the products that are produced by employing seasonal workers are as a big percentage of the production costs go for wages (Agri 2019). Governments have implemented regulatory terms that pretend to make the working and salary conditions of the workers better. However, due to relaxed control, different legislation in countries of the same economic area and liberal tariffs in international trade, these policies have backfired most of the times, creating sometimes cases which can be legally classified as labour trafficking or forced labour.

Numerous publications have discussed the seasonal work phenomena along the European history (Bade 2008) and have analysed these phenomena in the context of Western Europe and the United States (Power 2014), the East West migration patterns in an enlarging Europe (Dietz 2002), as well as within different contexts such as the role of the Eastern European migrant farm workers in Norwegian (Rye, 2010), the UK's (Dawney 2008) and Mediterranean's agricultures (Gertel 2014), the irregular employment of immigrants in the European Union (Aparicio 2008, Arango 2009, Maroukis 2011) or the adaptation of Ukrainian labour migrants to the Polish work market (Bieniecki 2009).

Based on the previous analysis, in this paper we compare different factors in the migration of season workers in Europe. We explain several cases of season workers flows; we analyze how the local legislations influence the choice of destination countries. In order to achieve this, we analyze the laws which regulate the intermediation job agencies in Bulgaria, Romania and Poland. We also analyze the laws regulating the berry picking industry in Northern Sweden and discuss seasonal work patterns in Spain as well as the Ukrainian seasonal workers in the V4 countries.

The paper is organized as follows: in Section 2 we make a comparison between different European countries in terms of the legislation for intermediation job agencies. Section 3 is devoted to the analysis of the usual destinations for migration, while Section 4 discusses some special cases such as the berry picking migration in Scandinavia, the agricultural season workers in Spain and the seasonal Ukrainian workers in some countries of V4. In Section 5 we discuss the abuse of power in the case of season workers and possible measures to control it. Finally in Section 6 we present our conclusions.

COMPARISON OF THE LEGISLATION IN COUNTRIES IN SOME EASTERN EUROPEAN COUNTRIES.

No special authorizations are needed to perform services like an international job intermediation agency, located in a country of the EU or the EFTA under the Bolkestein directive (Directive on services in the internal market) (Bolkstein 1, Bolkstein 2). Especially, in Bulgaria, Romania and Poland, no bank guarantee is required for a job intermediation agency to be opened (BMLSP 2019; RNAL 2011; PLEP 2004). Job intermediation services between EU/EFTA countries and other countries are usually only done through state job agencies with a lengthy application procedures and predefined contingents. As some of the countries in Eastern Europe are not able or do not want to afford the financial support for these agencies, the funding of the job intermediation services has to be done through different channels.

Bulgaria

The law in Bulgaria doesn't allow a job intermediation agency to seek a financial reward directly or indirectly from a person applying for a job abroad. The agency needs to seek financial compensation from the employer according to the law (BMLSP 2019). This creates a situation, where operating a job intermediation agency is not a option because of the lack of any financial support from the state and from the person seeking a job. At the meantime, the competing job agencies from neighboring EU countries like Romania are able to offer to the employer employees for free. Another situation is created where those agencies demand illegal payments. In this case they risk being closed. One result of this policy is the creation of not-registered intermediation agencies or the appearance of people offering this kind of services.

Romania

The law in Romania allows a job intermediation agency to seek a financial payment for a person applying for a job abroad, with the exception of a very few cases (RNAL 2011). The payment should be made before the person goes abroad. It cannot be deducted from the first salary after he or she has started working. If the work for which the person applying has paid for is not available, a refund of the paid money is mandatory according to the law. This gives a big advantage to the intermediation agencies, as they can offer workers for free to the employers.

Poland

The law in Poland for a job intermediation agency is somewhere between the previous cases of Bulgaria and Romania. Although it is not allowed to seek a direct financial payment from a person applying for a job abroad, it is allowed to seek a payment for indirect services, like the translation of the CV, the arranging of transportation or medical checks (PLEP 2004). Usually Polish job intermediation agencies also demand payment from the employers. Because of the incentives to charge the people demanding a job, the Romanian and Polish job intermediation agencies seem to be an important element in the export of unemployment from the respective countries. This situation also contributes to the fact that the Polish and Romanian workers sent abroad have the qualifications demanded by the employers.

THE USUAL DESTINATIONS FOR MIGRATION

When it comes to a destination country of emigration, several factors influence the decision of the potential emigrant. The main factors are (ordered by importance):

1. How much money can be earned and saved when working there;
2. How safe/unsafe the target country is;
3. How easy is it to get a residence permit or a visa in the destination country - or if it is possible to get work illegally;
4. How close the culture of the destination country is to the one of the origin country; Religion plays a key role in this point;
5. If there are family members or friends already in the destination country;
6. How close geographically this country is;
7. The rumors about and image of the destination country;
8. How immigrants are treated in the immigration country.

Inside Europe, there are several different emigration patterns. For example, Lithuanians usually immigrate to northern countries, especially the UK, Ireland and Norway, as both countries have a similar north European culture (EMN 2019). Bulgarians usually immigrate (excluding ethnic migration to Turkey) to Greece, Spain and Italy (Bulgarians abroad 2011), while Romanians to Italy and Spain (National Italian Institute of Statistics, National Spanish Institute of Statistics). After 2014, Ukrainians have mainly immigrated to Poland, but recently the migration pattern has changed towards others Visegrad 4 countries, such as Czech Republic or Slovakia (Jaroszewicz 2018; Drbohlav 2016). The Nordic countries are also becoming a popular destination, usually for seasonal jobs. The factor of collective thinking is an important factor which leads to emigration to a certain country. It has different importance in different cultures as some cultures are more collectivist and some are more

individualist. Policies and education are also very influent factors in the degree of collective thinking. How tight the family relationships are is an additional important factor related to a significant extent to the collective thinking factor. All the factors stated before are self-fuelling ones, as they create more easy conditions for new immigrants. Thus a collective thinking can become an essential one at the beginning of a mass migration to a certain country. A small group becomes a 'leading' one and can trigger a mass migration quite easily within countries with a high degree of collectivist thinking.

CASE STUDIES: THE BERRY PICKING IN SCANDINAVIA, THE AGRICULTURAL WORKERS IN SPAIN AND THE UKRAINIAN WORKERS IN POLAND AND THE COUNTRIES OF V4

A Study of the Laws Regulating the Berry Picking Activity in Sweden

For the berry pickers the collective labor agreement between the Swedish Municipal Workers' Union with the Federation of Swedish Forest and Agricultural Employers applies (Swedish Regulation 2019). However, each summer during the last several years, there have been scandals with workers who have ended with debts in their home country (especially in the case of Thailand) in order to being able to work in Sweden picking berries (Thai berry 2012). Several measures have been taken in Sweden strengthening the procedure to hire people who are not citizens of the European Union, the European Free Economic Area and Switzerland. These measures apply for a work permit in order to hire somebody. The employer has to prove that his or her business has enough funds available and that the business is located in Sweden or another EU country. Unfortunately these measures have not stopped the problems (ILO 2012). When berry pickers arrive to Sweden, several situations can happen (from financially best to worse for the pickers):

1. They travel with a tourist visa, they pick many berries and are able to pay their debts back and save relatively lots of money. A good harvest year is needed. If no intermediation services were used in their country of origin, less debt they have.
2. They are employed with a legal contract and the berry picking business pays them what was agreed, regardless of how good or bad the harvest has been. They travel with a work visa. Most of the times they can pay back their debts and save some money.
3. They are employed with a legal contract, but the berry picking business does not pay them what was agreed or does not pay them at all. They travel with a work visa. Most of the times they need a help in order to return to their home countries and end with debts.
4. They travel with a tourist visa after having it arranged through intermediation services in their country of origin. If after arriving the harvest is bad, they need financial assistance to return to their home country and often loose part or all of their property.

To avoid similar problems, the latest requirements impose that the employer has advertised the position in Sweden and the EU for at least ten days (for new employment). He/she must offer as well a monthly pretax salary of at least SEK 13,000, offers working conditions that are on par with a Swedish Collective Labor agreement or what is normal in the profession or trade and he/she must offer the trade unions in question the opportunity to comment on the employment conditions in the job offer (Info berry pickers, Work permits berry pickers, Work permit regulation).

A new trend has recently started to appear, where people working in a border area between two Scandinavian countries cross the border to pick berries in another country, while they are employed in a country where the labor legislation is more lax and/or salary is lower. This is now the case at the border between Sweden and Finland (Berry pickers Finland, Thai visas).

A Study of the Laws and the Reality of the Season Workers in the Agriculture in the Mediterranean Regions of Spain

In Spain there are two main regions where agricultural season workers are routinely employed: the Levante (the region around Valencia), where they are employed mostly in the orange picking, and Andalucía, where they are mostly employed in the olive harvest or in the greenhouses. Spain is among the countries with a higher officially registered unemployment rate. Spanish unemployment was officially 26,1% in December 2013 and it has slowed down to 14.2% in September 2019, although still being very high, compared to the Europe's average rates. The unemployment rates among the young people are two times (cumulatively) higher than the average.

Officially unemployment rates for immigrants are higher (Eurostat unemployment 2019). Some of them have returned to their origin countries during the financial crisis, but some of them were not able to do it, because they have bought a property with a high mortgage during the period of overvaluation of the housing boom (2004-2007).

The business sector is taking advantage of the desperate situation of those people, imposing on them hard working conditions with very low payment and long working hours. There have been even cases where wages were the same as the Bulgarian minimal wage, while employing season workers directly from Bulgaria had salaries of 15 Euros for a 13 hours working day (El Mundo 2012).

Interviews performed and archived by the author in 2013 in Bulgaria with people willing to emigrate for a seasonal work revealed the following opinions:

M. 28 years old (Woman) I come from a small town, where there are no opportunities, no job. I cannot sustain my family and I have two small children. I wanted to go to Spain to work few months in the agriculture and thus to earn some money.

G. 45 years old (Man) I have heard that in Spain I could find some temporary job in the agriculture sector and even in the construction. In any case it would be better than to stay in my village, where there is nothing.

Nowadays, less Bulgarian workers are looking to work abroad as seasonal workers as the final income they receive is not very higher compared to the income they would obtain working during the summer in the tourist sector or in the construction sector of their own country. In order to understand this phenomenon and the changes during the last few years, we have performed similar to the above interviews also in 2019.

A. 37 years old (Woman) Ten years ago may be I would be interested to go abroad for a seasonal work, but now the situation in Bulgaria is better and I don't have this necessity.

P. (25 years old, male) I come from a small village, where there are no jobs. However, I would prefer to go to the capital instead to change countries, language or legislation.

The Seasonal Ukrainian Workers in Poland and Other V4 Countries

Since January 2018, seasonal work in Poland can be taken up by foreigners for a maximum of 9 months in a calendar year and performed in the following sectors: agriculture, horticulture and tourism. Seasonal work requires a special work permit (type "S" permit). The labor market test is not required if the foreigner is a citizen of Armenia, Belarus, Georgia, Moldova, Russia or Ukraine, or have stayed on the territory of Poland for the period of 3 years preceding the application (Seasonal work Poland 2019).

According to estimates by the Ministry of Social Policy of Ukraine, more than 3 million Ukrainians are permanently abroad, and between 7 and 9 million are seasonal workers, mainly working in the agriculture and construction sectors. Poland is the country receiving most of the Ukrainian labor migrants. There are about 2 million Ukrainians. In 2018, almost 329,000 foreigners obtained work permits in Poland, 70% of them were from Ukraine. Under a visa-free permit, Poland allowed Ukrainians to work for up to 6 months for a year. However, the Polish system favors seasonal migration of unqualified workers and discourages qualified migrants who aspire to live in Poland with their families.

Meantime, Slovakia, the Czech Republic and Germany offer similar visa conditions in order to attract the Ukrainians working in Poland. In the Czech Republic, salary is usually one third higher than in Poland, and in some sectors - even 50% higher. Additionally, Ukrainians are eligible for employment visas for a 90-day-period that can be extended to two years. Both Czech Republic and Slovakia have eased entry regulations for Ukrainians, which further contribute to increase labor migration to these countries (Hryhorenko 2019).

Several interviews, performed by the author in Ukraine in 2018 and 2019 reveal the following opinions:

M. 27 years old (Man): I cannot reach the end of the month with my current job. I want to immigrate to Germany. I have experience in the construction sector and I could work several months and then come back.

A. 35 years old (Woman): I am working in the service sector, but it is hard to maintain the family. I am planning to immigrate to Spain at least for several months as I have relatives working there and they can help me.

THE ABUSE OF POWER IN THE CASE OF SEASONAL WORKERS

Usually in a job market, the incoming immigrants will always be in a disadvantage if they do not speak the local language. Most of the times, depending on the destination country, foreign workers are not hired because they don't speak the language or because they don't speak it well enough (this usually means that they speak it, but with an accent, sometimes impossible to overcome). Quite often the local business owners/managers will pretend not to understand an international language (like English) or the language spoken by the foreign workers. Many times xenophobic politics are promoted by the same politicians who profit from hiring low paid immigrant labor in their businesses. Usually the local people in the destination country start also hating the foreign workers, as wages get usually lower. Little or no hate is directed towards the real promoters of the low paid labor immigration phenomena.

Another solution is to stop hiring foreign workers, which will lead to economic and social hardship in the future, as the economy will not be able to grow and it will collapse due to the lack of children (workers in the near future). This situation can lead to a catastrophic economic meltdown, if it is done suddenly.

A possible way to overcome the majority of these problems could be the application of innovative solutions, such as, for example, the blockchain technology, which has no central authority and hence, anything that is built on the blockchain is by its very nature transparent and everyone involved is accountable for their actions (Tapscott 2016). Its applications are also considered in the context of Passport, Visa and Immigration issues. A transparent procedure will contribute to a better regulation and a higher social acceptance of the seasonal workers phenomenon (Panchamia 2017) as bad practices could become of the knowledge of all the community and thus they will be avoided. Similar promising practices and ongoing challenges has been very recently discussed in (Hooper 2020) and appeared in parallel with the current manuscript.

CONCLUSION

In this paper we have compared several factors for the phenomenon of migration of season workers in Europe. By discussing the laws regulating the intermediation job agencies in Bulgaria, Romania and Poland, we have shown that the legislation about job intermediation agencies is an important contributing factor for the emigration from these countries. It regulates the choice of destination countries, the type of immigrants who are going to migrate and the treatment of the migrants during the stay in the destination country.

Typical examples of season works have been analyzed through the paper: the berry picking in Scandinavia, the agricultural work in the Mediterranean regions of Spain and the Ukrainian workers in Poland and the rest of the Visegrad 4 countries. It has been shown that it is a usual practice that the employer does not respect the general bargain agreement, which often leads to degrading working conditions and forced labor practices.

The analysis of the common characteristics of the job intermediation agencies showed that quite often job intermediation agencies make relatively big profits by charging people with additional expenses for intermediation services. It is not rare that some job intermediation agencies make false promises about the job conditions, but avoid prosecution due to the fact that the workers do not complain to the authorities.

Finally we discussed the usual abuse of the season workers due to the lack of knowledge from the part of the season workers of the laws protecting them. We also discussed the systematic lack of knowledge about the local language and customs of the country, the hostile attitude (in several cases) of the local population, and to some extent the politics that identify the reasons for the existing problem with 'the foreigners'. A novel approach is suggested for overcome the above mentioned problems based on blockchain technology as a reliable way to control the migration processes and their social acceptance.

The author is aware that the above picture might change drastically due to the COVID-19 pandemic and that the shortage of seasonal workers in a short and medium time scale, due to the social confinement, will be crucial for the World economy. 

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