



*The reverse site of migrant workers in Agriculture*

**„Living conditions at work for crop harvesters and migrant workers, the impact of undeclared work“**

**National report**

**Written by Federation of Independent Trade unions in Agriculture**

**Migration phenomena in Bulgaria – focus on working and employees in Agriculture**

***1. Description of the background***

Bulgaria is relatively new member state in the global migration process. Meanwhile there are a lot of constrains in the variety of the information sources related to the migration flows from and to the country. Bulgaria is the only EU member state where there is no uniform annual comparable statistic related to the migration flows. Moreover, the data about the number of the citizens who are an object of the processes both free movement of people and third countries citizens migration, are under the competence of the Ministry of internal affairs, Ministry of the employment and social policies, Financial ministry, Ministry of justice, State agency for refuges with the Council of Ministers, National agency for the Bulgarians leaving abroad, the National Statistical Institute, the Vice-President of Republic of Bulgaria, Bulgarian National Bank, variety of nongovernmental organizations, etc.

The Federation of independent trade unions in Agriculture in Bulgaria, FITUA, has been monitoring the phenomena since ages, trying to canalize and study the situation of the working employed in the sector of agriculture – seasonal workers, who do work in the agriculture in other EU member states, as well seeking to gather information on working in the Bulgarian agriculture third countries nationality citizens. With the support of the partner organizations – members in EFFAT the first steps have been done in this direction.

In the frame of different thematic projects run by EFFAT, the Federation FNSZ/FITUA has organized series of working meetings at national level, where the large number of the interested key partners were involved – Ministry of the employment and social policy, the National agency of employment, the National agency “Labour inspectorate”, employers’ organizations, trade unions’ organizations in the sector, nongovernmental organizations – with the only goal to focus the public attention on the importance of the phenomena migration in the sector of Agriculture and on the problems faced by the working and employees in it in order to establish a coherent and effective network dealing, discussing and searching for solutions of the questions and problems set.

The series of studies, reports, presentations on the subject of migrant workers, seasonal workers, and posted workers have given some more light on the situation in Bulgaria. FNSZ/FITUA considers that the involvement of the Bulgarian trade unions in Agriculture in the above mentioned mutual research and information exchange process is opening space for assessing the “typical” and “specific” in the Bulgarian case, more over to influence and give an impact on the working-out of the basic deficits in the Bulgarian migration policy – lack of reliable, public accessible and comprehensive information on the migrant flows, especially in the field of Agriculture and respecting the human and working rights of employees.

## ***2. Bulgarian agricultural workers prefer to migrate mainly to 6 member countries of the EU***

Despite the lack of comparable annual statistics on migration in Bulgaria, according to the last census in 2011 in recent years the emigration has decreased. Bulgaria is still predominantly emigrant than immigrant country - the number of emigrants leaving the country exceeds significantly the number of the immigrants who choose Bulgaria as a destination.

The Bulgarians traditionally choose to work in the following European countries: Spain, Germany, Italy, Greece, Great Britain and Ireland.

Data on the Bulgarian work force movement are submitted by the Network of services on labor and social affairs in the six countries:

- In Spain - 147,890 Bulgarian workers employed mainly in agriculture, hotels and tourism;
- In Greece - due to the seasonality of the migration the figures vary widely from 50,000 to 70,000 seasonal workers in agriculture. With the Bulgarian residents living in Greece they are around 120,000 people. The data are difficult traceable at the time.
- In Germany work about 65,000 Bulgarians, who seems to be a well-structured work force. They are employed under 4 existing bilateral agreements. Only a few of them are employed in agriculture under the agreement since 2008.

At the time the free movement of Bulgarians in the EU still has restrictions on access to the labour market in 10 member states to protect local labour markets from an influx of migrants from Bulgaria. These fears proved to be myth and wasn't confirmed in the years - from 2007 to nowadays. However these restrictions contribute to the increase of illegal employment, informal economy and social dumping in the host countries – phenomena - the unions are fighting strongly against.

*How do Bulgarians find jobs abroad?* A lot of surveys and discussions with representatives of the target group show that when it comes to working abroad Bulgarians are informed by their friends and relatives - other Bulgarians who already have experience working abroad (32.5%). Another significant part from them indicates that job seekers find jobs through the Internet and ads in newspapers, where abundant job offers abroad (13.5%). The smallest proportion of jobseekers finds work abroad through intermediary agencies/Temporary work Agencies in Bulgaria (8.8%).

On the other site the Employment Agency in Bulgaria mediates the Bulgarian citizens to find jobs abroad according to:

- The international treaties, conventions and agreements on employment;
- The network for information and mediation "[European employment services - EURES](#)";
- The agreements concluded with foreign employers for recruitment of Bulgarian citizen.

[Terms and conditions for applying for work abroad](#) are determined by the Minister of Labour and Social Policy according to agreements. The recruiting of candidates for work abroad is carried out on [concrete offers](#) given by foreign employers via

[Network “ European employment services - EURES”](#)

**Intermediary activity on employing workers can be done by individuals and / or legal entities only upon a certificate issued by the Minister of Labour and Social Policy or**

**authorized by him officer.** The list of intermediaries with a valid certificate is available on the Internet site of the National Employment Agency: [www.az.government.bg](http://www.az.government.bg) under "Agencies for temporary work".

Intermediary activity on employing workers may register entities who are entitled to perform intermediary services on employment according to Bulgarian law, the law of the EU host member - state or another country - party of a frame agreement for European Economic Area, in whose business activity, association contract or statute is provided the performing of intermediary activity on employing job-seekers in Bulgaria and / or abroad.

The intermediary activity of employing workers is free - no collection of taxes directly or indirectly, all or part of fees or other payments by the job seeker. **The Intermediaries /Agencies for temporary work/ can guide and assist the job seekers to work in a specific country only after registration of the contract with a foreign employer in the Employment Agency.** Registered intermediary contracts are entered in an annex to a certificate and are published on the Internet - site of the National Employment Agency: [www.az.government.bg](http://www.az.government.bg) under „Agencies for temporary work”. **In advertising and / or publishing ads for job the mediator announces the number under which it is registered for performing of intermediary activity/ a certificate/, duration of the registration and the number of the registered temporary contract.**

The mediator advertises and / or publishes ads for jobs only at the request of the employer. Each agency for temporary work develops and presents the candidates for the job a set of documents:

- Temporary contract with detailed rights and obligations of the parties;
- Written information about the foreign employer;
- Written information about the nature of work, wages, social security contributions, taxes, leaves, working hours and provision of accommodation; the necessary language skills of the language of the host country;
- Written information about the state of the employer - culture, lifestyle, customs, religion;
- Extract from the legislation of the foreign country regulating the employing of foreign nationals translated into Bulgarian.

The Ministry of Labour and Social Policy of Bulgaria organizes regular Job information fairs in Spain, Germany, Greece, Crete, in order to promote the informed choice of citizens, their access to rights and services. The data analysis shows that Bulgarians do not have job corresponding their qualification, but they work low-qualified jobs, there is a lack of awareness, limited access to social and labour rights.

Other channels of information are the services of social and labour issues, the so-called labor attachés in the member states where there is a large Bulgarian diaspora - in Spain, Britain, Greece, Cyprus, Italy, and Germany. Today we are looking for opportunities to expand this network. These services play an important role in the co-operation between institutions. The working abroad Bulgarians can ask them for advice, consultation or give a signal of violations.

Since 2002 the Executive Agency "General Labor Inspectorate" has carried out a special supervision of the observance of the Law on Employment Promotion, in particular the procedures for conducting mediation in employing workers by private and legal entities.

The checks are carried out after signals and requests initiated by citizens or by the inspectors. Drastic cases of violation of rights and frauds are given to prosecution. The most common violations are: hidden forms of payment for intermediary service that is prohibited by the law, no contract between the company and the job seeker, contract of employment is not translated into Bulgarian and contract conditions of employing company - a place of work, working

hours, wages are unclear about rent for the worker. In the contract should be mentioned and the transport costs who pays for them - the worker or the employer and to be indicated who pays the travel insurance on the departure abroad, often the terms of the contract are not the real in the country of operation. All this is likely to have a risk of working in conditions of "modern slavery".

Regarding the working and living conditions of the Bulgarian workers abroad can be concluded that most of them, especially in times of crisis, work low-paid jobs, of wages, work two or more jobs, and overwork – 9 hours per day and 45 hours per week, often do not receive social benefits / bonuses not be paid for holidays, and their social and pension rights are severely violated. The supplementary serious consequences are:

- the feminization of migration - in the recent years, the share of women in these processes has been increased;
- the separation of families, that leads to significant severe socio-psychological consequences for individuals and for society as a whole.

The research on emigrant communities, working outside Bulgaria indicates that they are not interested in trade unions membership because of fear, distrust in the abilities for organizing. This is an alarming signal for the Bulgarian trade unions, despite the hard work and cooperation between the headquarters of the Bulgarian trade unions and those of the major receiving countries.

Over the past two years the Confederation of independent trade unions in Bulgaria has concluded two agreements with the representative trade union confederations in Greece and Britain. These agreements are aimed more to provide union protection of migrant workers in the countries signed the agreement.

The agreements affect partially the posted workers. However, they are a step forward in the trade union cooperation and can be further developed by including special provisions regarding the establishment of minimum working conditions for posted workers in the host country.

In the first framework agreement the both Confederation of Independent Trade Unions in Bulgaria / CITUB / and the Confederation of Workers in Greece / KTRG/ have agreed mutual security trade union protection, which is a cross-border recognition of the trade union membership and thereby contribute to the proclaimed by the ETUC in 1999 "European system of industrial relations", which must include experience of the bilateral and multilateral agreements on trade union and legal assistance.

The second agreement for cooperation has been concluded between the Confederation Podkrepa, CITUB and **Trade Union Congress /TUC/- GB**. In the cooperation protocol the Bulgarian and British trade unions declared their willingness to cooperate in the following areas:

- support of Bulgarian workers in the UK
- Support of British workers in Bulgaria.

The Authority, which supervises the implementing of labour contracts abroad Bulgaria signed with the agencies for temporary work is the executive Agency General Labour Inspectorate, which operates under the Ministry of Labour and Social Policy. There is a call center for the Bulgarian citizens abroad and they can signal the irregularities relating to the compliance of labor laws and can lodge their complaints regarding violations of labor rights as European citizens in another country – EU member state.

The Labour Inspectorate operates in a network called "liaison offices" with the other inspections in other member states. They carry out jointly the investigation of specific cases of violations, including the matter before the prosecution.

Interesting is the case of workers returning to Bulgaria. Since they carry low-qualified and low paid work outside the territory of Bulgaria, then returning to Bulgaria, they contribute to the

inflow of fresh money - on average per year in Bulgaria - more than 400 million leva/BGN/. That is commensurate with EU funding received by Bulgaria. A part of the national strategy of Bulgaria 2008-2013 is to promote the return of Bulgarian emigrants and workers and their inclusion in the labor market, which however is possible in a stable economic and social growth and employment at home.

The current situation is very unclear. A great potential but can be used in anticipation of measures promoting entrepreneurship and employment in the National Program for rural development, which should be oriented to the Bulgarians returning from abroad.

### **Some conclusions on the topic**

- The Trade unions have always insisted on a clearer focus on the social protection of migrant and seasonal workers, that binds the efforts of the employers and the government. Including the agricultural workers in the general social security system and developing social security schemes for the risk "unemployment" for seasonal and migrant workers. In-depth study and analysis of the problem with the transfer of social security rights to the national security systems in the country of origin – these systems endure serious losses.
- It is obviously that access to rights and violation of rights is directly related to the insufficient awareness, access to information and raising the awareness of the workers, which directly depends on the level of trade union organizing in the country of origin and host country.
- We must use the accumulated critical mass of experience and information among the trade unions and to develop and deepen the bilateral relations between the sectoral trade unions in agriculture.
- The FNSZ experience in the cooperation with the colleagues from UGT-Agroalimentaria, Spain indicated that they have full information on seasonal workers in agriculture across the country - a list, work places, wages, deductions for social security system, working and life conditions etc. This information in Bulgaria is missing and it is impossible to get it.  
Enhancing the cooperation between unions in the sector could lead to the development of a unified database of these seasonal workers or migrants.  
This database can be used later unless by the unions, as well as by the national security systems in countries of origin. It can be extended to Romanian and Polen workers too.
- The development of collective bargaining and the inclusion of workers to it from other EU member countries is an important point for organizing workers. Controlling the access to information by workers and its provision by the employer in a language understood by workers, negotiating the equalization of pay for equal work between foreign and local workers - will lead to decreasing the social dumping.
- The willingness to setup a “labour agency police” with the participation of representatives of workers and the labor inspection - would have better control over employers with a dubious reputation (temporary employment agencies) and again prevention of abuses of the labor of these workers.

### ***3. The migrant workers from third countries on the Bulgarian labour market, particularly in agriculture***

It should be noted that Bulgaria is still predominantly emigrant than immigrant country. There is no long tradition of estimates of the labor market in relation to the opportunities provided by immigration. There is not rich experience in the development of specific policies, nor in

the analysis of specific forms of labour migration as temporary and circular migration. However, these processes are regulated by the National Strategy on Migration 2008-2013, which has two main objectives:

1. Return of the Bulgarians working abroad and their inclusion in the labour market. This aspect is already discussed above in this material, but will emphasize again that in a situation of crisis can not evaluate the effect of strategy measures realized (eg - annual information campaigns among the Bulgarians abroad, especially Bulgarian students, approximately 20,000 students).
2. Balanced access to the Bulgarian labour market of the nationals of third countries. To ensure this balanced access to the Minister of Labour and Social Policy Affairs works an Advisory Council on Labour Migration, formed on by employers and trade unions representatives. On its meetings are discussed and accepted brunch quotas for work permits for third countries nationals.

Foreigners may carry out work only after obtaining a work permit from the Employment Agency. A permission is given for work that requires specialized knowledge and skills, and if the labour market does not offer a local qualified worker. It is issued after the request of the employer - private or legal entity, registered under Bulgarian law or request of a legal entity registered under Bulgarian law, which is a party of a contract with a foreign company employing workers.

The legislator has left the initiative of employing foreign workers in the hands of employers, but the formal requirements and administrative burdens are still regarded as heavy by the employers. Some data point that work permits in 2008 were received by 1900 people and in 2009 they are 1000, which can be explained by the economic crisis.

These work permits are given mainly to Turkish citizens (employed mainly in construction sector), to the citizens of Macedonia, Russia, India (mainly engaged in the implementation of investment projects, some undertakings, etc.). According the implementation of the National Strategy on Migration have been signed bilateral agreements on regulated labour migration between Bulgaria and Moldova, Macedonia, Ukraine and Armenia and a mobility partnership acts between Bulgaria and Moldova and Georgia.

Bulgaria is yet to assess the effects of labour migration and to make a public debate on more in-depth "open" or "close" the labour market, which has serious difficulties today. We should choose to build a multicultural and tolerant society or to condemn to encapsulate in the own national identity and to develop xenophobia. In any case, this debate can not go without the participation of the trade unions because it concerns a civil and socially responsible position. However, we may outline some trends and perspectives in this field. Bulgaria is attractive to citizens of neighbor countries because of its EU membership and because of its beautiful scenery and cheap cost of living.

The Bulgarian society is traditionally multicultural and tolerant, even inquisitive to others, who are different. All this is a sign that our society sees positive the immigration, as a resource for the national economy, intercultural and linguistic diversity. Based on private research among immigrants with long-term status and residency it can be seen, however, that their employment is higher than the average employment for the country. However, there is a tendency to carry out undeclared work, which is lower than their level of qualification. Many of these workers have no social security and their accommodation remains a challenge. The language barrier is a problem for their integration and success in the labor market. There are violations of labor law too – Cases of hiring workers without work permits by the Employment Agency are registered.

### SOURCES OF INFORMATION

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