



## Recommendation 1781 (2007)<sup>1</sup>

# Agriculture and illegal employment in Europe

Parliamentary Assembly

1. The Parliamentary Assembly is concerned over the many cases of non-compliance with the social legislation on employer-employee relations, particularly affecting foreign labour in the agricultural sector. It recalls a variety of work on the subject, notably its [Resolution 1509 \(2006\)](#) and [Recommendation 1755 \(2006\)](#) on human rights of irregular migrants, its [Recommendation 1767 \(2006\)](#) and [Resolution 1521 \(2006\)](#) on mass arrival of irregular migrants on Europe's southern shores, its [Resolution 1501 \(2006\)](#) and [Recommendation 1748 \(2006\)](#) on working migration from the countries of eastern and central Europe: present state and perspectives, and its [Recommendation 1618 \(2003\)](#) on migrants in irregular employment in the agricultural sector of southern European countries.

2. The Assembly recalls the European Convention on the Social Protection of Farmers (ETS No. 83) and especially Article 3 stipulating that, "Each Contracting Party shall ensure to farmers, the members of their families and, where appropriate, their paid employees, social protection comparable to that enjoyed by other groups of the population [...]". The Assembly draws attention to the principles set out in the revised European Social Charter (ETS No. 163), which provide that, "all workers have the right to just conditions of work" and "have the right to dignity at work" (Part I, Articles 2 and 26), and to the Convention on Action against Trafficking in Human Beings (CETS No. 197). It also recalls the International Labour Organization Convention 184 and [Recommendation 192](#) concerning safety and health in agriculture, adopted in June 2001, and the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families which came into force in March 2003, and regrets that only three member states of the Council of Europe (Azerbaijan, Bosnia and Herzegovina, and Turkey) have ratified this instrument.

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

4. Agriculture is not the only economic sector in Europe to be heavily dependent on the exploitation of undeclared labourers who are often foreign and clandestine, but fruit and vegetable production is the only intensive agricultural sector that, although mechanised, needs to use extensive manpower. The use of undeclared labour is now a characteristic of agriculture, most of all in seasonal activities. This situation creates economic advantages and distortion of competition benefiting the less law-abiding entrepreneurs and its concomitant is the abuse or the total denial of agricultural workers' social rights.

5. The Assembly is aware that the problem affects the entire continent and goes beyond the domestic powers of states. International networks for the trafficking of illegal manpower are being developed by taking advantage of the vulnerability of migrants seeking work, who are prepared to go to any length to improve living conditions for themselves and for their families in their countries of origin, and by playing on the differences in the respective national legislation and the absence of any European regulations on the matter.

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1. *Assembly debate* on 24 January 2007 (6th Sitting) (see [Doc. 11114](#), report of the Committee on the Environment, Agriculture and Local and Regional Affairs, rapporteur: Mr Dupraz). *Text adopted by the Assembly* on 24 January 2007 (6th Sitting).



6. The Assembly finds that illegal employment can unfortunately take exploitative forms which it condemns as being contrary to modern society, human rights and the values upheld by the Council of Europe.
7. The Assembly notes that those in illegal employment are often also in an irregular situation and that they are doubly exposed to exploitation as illegal workers and as irregular migrants.
8. The Assembly considers that all agricultural workers, whether permanent or seasonal, are men and women entitled to respect and human dignity. Consequently, the same rights as other workers should be granted to them through the application of national and international legislation in the area of labour law.
9. To end the disparity between regulations, conditions of employment in agriculture should be made subject to a binding legal framework suited to the different situations of workers, whether permanent or seasonal, foreigners or nationals. This would also make it possible to stimulate the often deficient national supply of manpower. This legal framework should be accompanied by sanctions applicable to offenders and by appropriate, effective means of supervision.
10. For this purpose, the Assembly recommends that the Committee of Ministers invite member states to:
  - 10.1. draw up and implement collective labour agreements for agriculture, governing seasonal work in particular and taking into account the specificity of the sector and the pace of work which it demands, defining the health-care provision, wages, working time, overtime and housing conditions, while ensuring that the systems for renewing contracts are supervised by an independent body in order to avoid putting any kind of pressure on employees;
  - 10.2. provide for the progressive acquisition of rights by the holders of renewed work permits, including the right to extended residence, family reunion and a pension on retirement;
  - 10.3. set up stringent, effective systems of supervision in respect of these rules, carrying prompt and dissuasive sanctions against breaches of labour law;
  - 10.4. establish better transfrontier co-operation to combat the manpower trafficking networks, particularly by developing the national contact centres for the improvement of information on migration, which might be extended to states not belonging to the European Union so as to co-ordinate the instruments to combat illegal manpower networks;
  - 10.5. ensure that irregular migrants, including those working in agriculture, enjoy at the very least the rights outlined in Assembly [Resolution 1509 \(2006\)](#) on human rights of irregular migrants;
  - 10.6. tackle the root causes of the use of irregular migrants in the agricultural sector, including economic factors, lack of supply of local labour, restrictions on recruiting people from abroad, complicated administrative procedures and unscrupulous employers;
  - 10.7. deal with the situation of irregular migrants, including in agriculture, in a fair and humane fashion, examining options for their regularisation or for their return to their countries of origin;
  - 10.8. conclude readmission agreements between host countries and countries of origin for irregular migrants, backed by specific education and training programmes and by economic co-operation and development schemes in the countries of origin;
  - 10.9. organise, in co-operation with the agricultural trade organisations and the labour unions, large-scale information campaigns on agricultural occupations and to promote training and recruitment of local manpower while establishing proper working conditions in a spirit of respect and recognition for the work performed;
  - 10.10. invite national and regional ombudspersons to examine the precarious situation of illegal workers employed in agriculture.
11. The Assembly also recommends that the Committee of Ministers instruct the European Committee for Social Cohesion (CDCS) to:
  - 11.1. consider drawing up an additional protocol to the European Convention on the Social Protection of Farmers, setting up a monitoring mechanism for this convention;
  - 11.2. draw up an additional protocol to the above-mentioned convention, dealing with the social protection of seasonal workers in the agricultural sector.
12. Furthermore, the Assembly invites member states not yet having done so to:
  - 12.1. sign and/or ratify the European Convention on the Social Protection of Farmers;

- 12.2. sign and/or ratify the International Labour Organization Convention 184 concerning safety and health in agriculture and implement the related [Recommendation 192](#);
  - 12.3. sign and/or ratify the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families;
  - 12.4. sign and/or ratify the revised European Social Charter;
  - 12.5. sign and/or ratify the Convention on Action against Trafficking in Human Beings.
13. The Assembly also invites the Council of Europe Commissioner for Human Rights to examine exploitation of workers in agriculture in the course of his work in individual countries.
14. Finally, the Assembly invites the national and European trade unions to further and uphold the rights of seasonal workers, particularly in the agricultural sector.