Essential, and yet on the Margins

Seasonal migrant workers in the Coalition Agreement of the new German government

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On 7 December 2021, the coalition parties (SPD, the Greens and FDP) of the recently inaugurated German government signed the Coalition Agreement (hereinafter the Agreement). It is a document elaborating on the goals that the government to-be has set for the upcoming four-year mandate. Most importantly, during the four following years it would be difficult to assert any political ambitions that have not made it into the Agreement.

While the Agreement's proposals regarding work and industrial relations have already been praised and criticised by unions and researchers, this post will address the Government's plans with respect to seasonal (migrant) workers in agriculture, a topic that experienced increased public exposure since the onset of the pandemic. I argue that if the new Government intends to take the '*essential worker*' label of seasonal migrant farmworkers seriously, it needs to go beyond the relatively modest ambitions expressed in the Agreement, which are the introduction of health insurance for seasonal workers from day one and the ratification of the ILO Convention 184 on Safety and Health in Agriculture (p. 71). In this respect, the Government should aim to make not only health insurance but full social security applicable to seasonal workers from day one and make a considerable effort in expeditiously strengthening control and enforcement capacities as a third pandemic harvest season approaches.

A clear need for political intervention

Aside from their direct exposure to infections with Covid-19, the pandemic exposed the modalities of systemic exploitation of seasonal migrant workers on German farms and fields. The political response under the leadership of the previous Ministry of food and agriculture was largely inadequate, resulting in buttressing existing structures of exploitation and further precarisation of seasonal farmworkers. Therefore, although the topic might not be as politically salient as the topics that attract most attention regarding the Agreement – such as climate change, the pandemic or foreign policy – the new Government (particularly SPD) was expected to take a stance on this issue.

The Agreement makes two promises directly connected to seasonal migrant farmworkers. First, it states that seasonal workers shall have health insurance from day one (p. 71). Second, it makes a commitment that Germany will ratify the ILO Convention 184 on Safety and Health in Agriculture, adopted by the ILO in 2001 (p. 71). Although both proposals go into the right direction, their shortcomings need to be addressed. However, in order to understand the shortcomings of the Agreement's intervention, it is important to first outline the problems that a serious political intervention would need to address.

The pandemic has quickly made clear the importance of seasonal migrant farmworkers for the functioning of German agriculture and overall food security, which has quickly earned them the *essential workers* 'status' (*systemrelevant*). At the same time, what has also been revealed publicly with some higher intensity than usual, were the exploitative working and degrading living conditions of these workers, the majority of which comes from the Eastern European Member States (Bulgaria, Romania and Poland) but also outside the EU (e.g. Georgia in 2021). Instead of a swift political intervention that would improve said conditions that in some cases directly led to mass infection outbreaks on farms, the main political response in the spring of 2020 was, under the pretext of preventing the spread of coronavirus, to extend the exclusion of

seasonal workers from mandatory social security requirements from 70 to 115 workdays, settling for 102 workdays during the second harvest season in 2021 (see the discussion here).

Aside from increased precarisation through exposure to the virus, increased dependence on employers due to mobility restrictions and isolation rules as well as generally increased workload through decreased number of workers on the fields due to the pandemic, the social security exclusion left workers without proper health insurance amidst a pandemic and pre-programmed short-term (upon return) and long-term or old-age poverty (pensions). While the Agreement's commitment to health insurance from day one is addressing a central part of the critique that the measures of the CDU led Ministry received over the past two years, it fails to address the social security problem in its full complexity.

Moreover, as being well documented in reports and studies prior to the pandemic, one of the greatest structural problems leading to most problems seasonal migrant workers in agriculture experience, such as outright wage fraud and theft, chronical overtime work without proper compensation, degrading housing conditions, unjust wage deductions etc., is the lack of systemic monitoring, control and enforcement. The limited access to farms during the pandemic has further exacerbated these structures that were well in place long before the pandemic. A serious political intervention would, therefore, need to also properly address the question of control and enforcement.

Potential and limitations of the new government's approach

While providing essential workers during an ongoing pandemic with a health insurance and a decent healthcare should be the bare minimum, the fact that it was explicitly put in the Agreement can be seen as a significant shift in the right direction. However, the Agreement does not mention overall social security, which would also include unemployment benefits and pensions. The previous rule, that systemically excluded seasonal workers from social security, rests on the false assumption that they are integrated in social security schemes in their home countries. Most of them are not. To most, the recurrent seasonal work on German farms is the most regular income they receive. Addressing only health insurance without general social security will later deprive seasonal workers from pensions and thus contribute to old age poverty in already impoverished regions of Europe. On the short run, the exclusion from (transferable) unemployment benefits after the job termination leads to financial insecurity upon return in the home countries.

The Agreement's second point that Germany will ratify the ILO Convention 184 on Safety and Health in Agriculture, adopted in 2001, is a promising initiative coming after twenty years of opposition in Germany. In addition to an integrative and comprehensive approach to regulating minimum protection standards for workers in the agricultural industry that ratifying the Convention might achieve, if taken seriously, it might contribute to tackling one of the most serious problems for the current precarious position and overall wellbeing of seasonal migrant workers on German fields and farms – namely, the problem of control and enforcement.

Ratifying and implementing the Convention might provide an additional avenue of tackling the problem of enforcement, as it implies the establishment or designation of a national 'competent authority' that would monitor, report and assist with enforcement of rights and protection standards regarding occupational safety and health in agriculture (Article 4, ILO Convention 184).

The persistent structural problems of systemically understaffed control and enforcement authorities have enabled the earlier mentioned practices of systemic exploitation of seasonal migrant workers to establish and spread on German farms and fields. If the establishment of such competent authority is taken seriously, in that it is endowed with sufficient financial means and is equipped with the necessary staff and expertise so that it can do proper monitoring and enforcement, the adoption of the Convention could make a real difference. Together with already existing control authorities and other involved actors at domestic and EU level (*Zoll*, *Finanzkontrolle*

Schwarzarbeit – FKS, local *Gesundheitsämter,* trade unions, counselling centres such as the Fair Mobility network or the recently established European Labour Authority), a national competent authority might significantly improve the working and living conditions of seasonal migrant workers in agriculture.

A short-term strategy is necessary

The third pandemic harvest season is already around the corner and in no more than a few months the first busses and planes will start bringing seasonal migrant farmworkers to German farms and fields. While the Agreement introduces much needed interventions, they clearly remain limited and implementation will take time. What can still be done before the start of the next harvest season, is to expand the current ambitions, so that the whole scope of social security applies to seasonal workers from day one. Ratifying and implementing a new international instrument such as the ILO Convention 184 may take years. Therefore, the new Government needs to react fast and develop a targeted short-term strategy for strengthening existing structures of monitoring and enforcement that can effectively protect the rights of seasonal migrant farmworkers already during the upcoming harvest season.

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