

SWEDEN

1. INTRODUCTION

Swedish industrial relations are characterised by a lack of a legislated minimum wage, implying that in the absence of a collective agreement in a specific workplace there is no threshold for how low wages can be. It is essentially left to trade unions to safeguard wage levels in Sweden.

The Swedish agri-food sector is divided into many branches and is regulated by several collective agreements negotiated by different social partners. Therefore, the agriculture sector (including forestry, gardening and animal care) and the food industry (including food manufacturing) in Sweden are subject to different dynamics. Against a national average of 89%,¹⁷⁹ only 54% of agricultural production is bound by collective agreement.¹⁸⁰ This makes the sector exposed to practices of undeclared, exploitative and sub-standard working conditions.

Sweden imports many agricultural products, in particular vegetables and fruit, which makes the agri-food sector comparatively smaller than in Southern European countries, which instead export these products.¹⁸¹ The climate in the Northern part of Sweden (Norrbotten) makes a berry-picking industry possible, which has received attention in the

media and research due to the seasonal temporary labour migration involved in it. A continental type of agriculture takes place in the South, with extended fields of different crops (wheat, rape, sugar beet), dairy cows and a meat industry. While less in the spotlight, the agriculture industry in Southern Sweden is also affected by exploitative practices with sub-standard working conditions and the employment of labour migrants.

2. FACTORS DRIVING SUB-STANDARD AND EXPLOITATIVE PRACTICES IN THE AGRI-FOOD SYSTEM

2.1 Trends and patterns in agri-food migrant labour

A change in the labour migration regime introduced in Sweden in 2008 entailed a shift towards an entirely employer demand-driven system in which labour migrants apply for a job posted by a company in Sweden before requesting a work permit.¹⁸² This system has been defined by the OECD as “the most open labour migration regime” among the OECD countries.¹⁸³

The liberalisation of the labour migration regime modified the composition of the labour migrant workforce and affected the dynamics of the agriculture sector, which is characterised by low union density.¹⁸⁴ Before 2008 it was common for berry-picking to be done by migrants on tourist visas, who then remained in Sweden and worked for three months as undeclared workers. The right to public access, or the ‘right to roam’ (*Allemansrätt*), which includes free picking of natural products such as berries and mushrooms, favoured this.¹⁸⁵ Nowadays this possibility remains for EU citizens, who can enter the country for a period of up to three months, make use of *Allemansrätt*, work as ‘free pickers’ and sell the harvest to berry companies without being employed by them.¹⁸⁶

Since 2010, labour migrants in the agriculture, gardening and forestry sectors have been the largest group of migrants applying for work permits.¹⁸⁷ In 2016 and 2017, a quarter of third country national labour migrants admitted to the Swedish labour market were seasonal workers in the berry-picking industry.¹⁸⁸ About 80% of the workforce employed in the agricultural sector is composed of migrant workers. In 2019, the number of labour migrants who received a work permit for berry-picking and agriculture was 6162 (the largest group) – 5935 from Thailand and 221 from Ukraine (Table 4).¹⁸⁹ Labour migrants from Thailand and Ukraine have progressively replaced those from Vietnam, China and other South Asian countries.¹⁹⁰ Ethnographic studies have shown a gender-mixed composition of the workforce among both non-EU migrant workers¹⁹¹ and EU migrant workers, who often move and work in family-based groups.¹⁹²

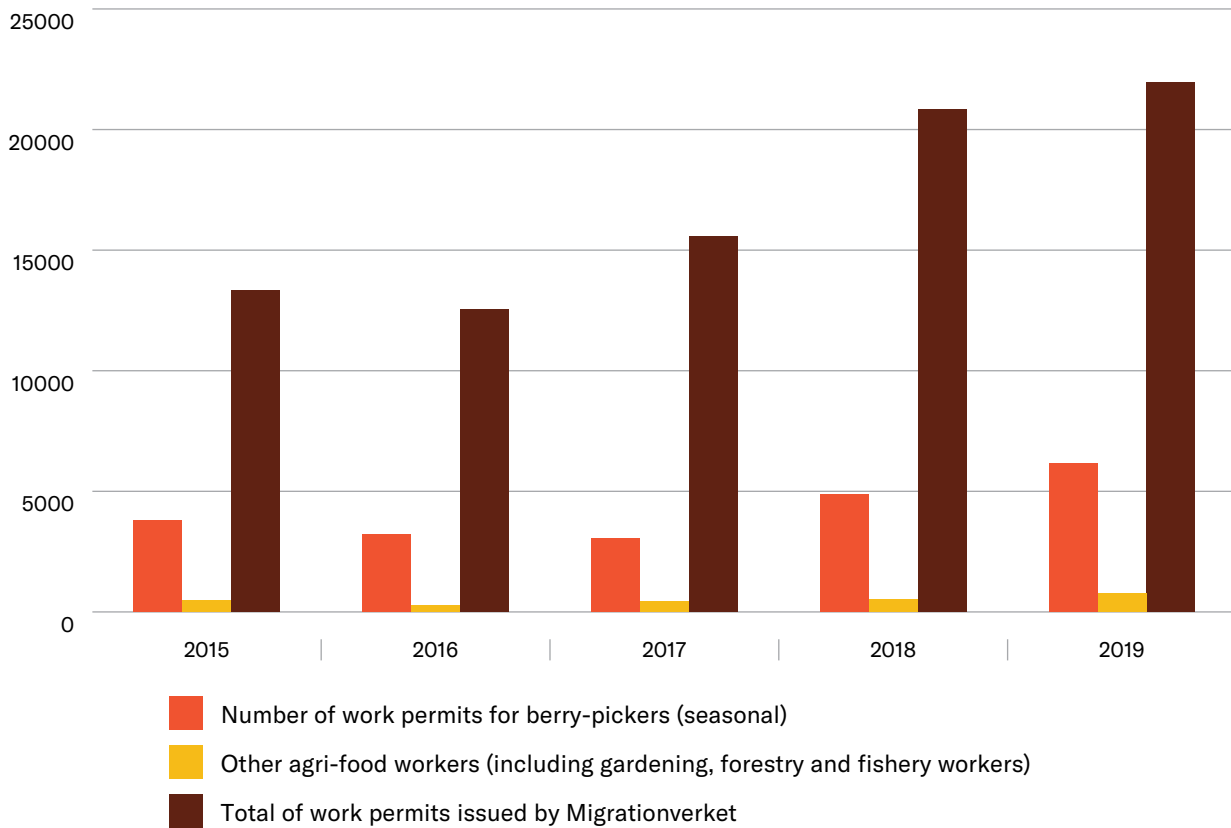
TABLE 4

Work permits for third-country nationals by year and occupation in the last five years

| YEAR | NUMBER OF WORK PERMITS FOR BERRY-PICKERS (seasonal) | OTHER AGRI-FOOD WORKERS (including gardening, forestry and fishery workers) | TOTAL WORK PERMITS ISSUED BY THE MIGRATION AGENCY (Migrationverket) |
|------|---|---|---|
| 2015 | 3,784 | 466 | 13,313 |
| 2016 | 3,199 | 268 | 12,526 |
| 2017 | 3,043 | 434 | 15,552 |
| 2018 | 4,882 | 528 | 20,841 |
| 2019 | 6,162 | 787 | 21,950 |

Source: Migrationverket.

FIGURE 4
Work permits for migrant workers 2015-2019



Due to conflicts in Northern Africa and the Middle East, many asylum seekers have arrived in Sweden in recent years, especially in 2015 (around 160,000 in 2015 and 22,000 in 2019). A rejection rate of about 40% of asylum applications may produce a significant undocumented population in Sweden if rejected applicants stay and work irregularly. Asylum policy is therefore linked to labour market composition, including in agri-food production. The threat of deportation that these workers experience makes them exposed to exploitation.

No data are available regarding EU citizens, because the three-month period in which an EU citizen can freely reside in Sweden makes registration superfluous. In addition, EU citizens' work in the Northern berry fields tends to be informal. The EU citizens that pick berries are mostly Roma from Bulgaria, whose presence in Sweden has been driven

by the worsening of economic conditions in Bulgaria due to the 2008-09 economic crisis.

In the agricultural sector in Southern Sweden, there is a presence of mostly EU citizens coming from Poland, Hungary and Romania, in some cases after having worked in Southern European countries like Spain.¹⁹³ However, there has been a recent trend of non-EU Eastern Europeans such as Ukrainian workers arriving. Workers are employed in a situation of 'regulated precariousness' with zero-hour contracts (*behovsanställning*), according to which hours are determined on a yearly basis but distributed unevenly over the months depending on the season, leaving workers without a secure and stable salary. Due to recruitment practices and subcontracting, the workforce is fragmented and wages are often set differently on the basis of nationality. Recourse to employment agencies, as in

the case of the Netherlands, makes the determination of the applicable collective agreement difficult and affects union monitoring of its implementation.¹⁹⁴

While it is common practice for the employer to bear workers' housing and transport costs, it has been reported that signing a collective agreement leads to the employer, who is also often the owner of the housing facilities, demanding rent from workers and a fee for the use of transport services, making working conditions worse.¹⁹⁵

Overall, there is a perception that a factor driving the demand for sub-standard work in agriculture is an unholy alliance between employers, who want to lower costs, and migrant workers, who lack knowledge about their rights, find employment in Sweden remunerative at almost any cost and accept intensified workloads in prolonged shifts, especially in the berry-picking industry, where more hours of harvesting correspond to better pay.¹⁹⁶

2.2 Value chain dynamics

Berries grow wild in the North of Sweden and are sold for high prices both to the domestic food processing sector and as raw material for the cosmetics industry in Asia.¹⁹⁷ The high market value of berries and the low costs of production (mainly labour) make them profitable. At the global level, large retailers put pressure on prices, which also has an impact on berry companies as pressure on production prices translates into low wages and often exploitative working conditions.¹⁹⁸ Prices oscillate depending on seasonal weather conditions, which exposes workers to the risk of not being able to harvest enough berries to receive decent pay and puts them in harsh competition with each other.¹⁹⁹

The practice of distributors buying berries from 'free pickers' produces informality in work by circumventing labour law.²⁰⁰ Big retailers have a key role in setting the prices of berries and other agricultural products.²⁰¹ Oxfam highlights the responsibility of big retailers' low pricing policies, which create the preconditions for higher demand for cheap labour and the ensuing recourse to exploitative employment practices.²⁰² However, retailers claim they have scarce access

to information about the actual working and employment conditions in the sector.²⁰³

2.3 Recruitment practices

There are no evident cases in the literature on organised crime and corruption in Sweden concerning the recruitment of migrant labour in agri-food production. Instead, exploitative practices such as long hours, low pay and poor accommodation in the agriculture and berry-picking industry are often lawful, despite being ethically questionable.²⁰⁴ However, it has often been reported that migrant workers are recruited with false promises and deceit²⁰⁵ by recruitment agencies in their countries of origin as regards pay, working conditions and accommodation/transportation costs.²⁰⁶

In the agricultural sector in Sweden, posting from third countries occurs, especially from Thailand.²⁰⁷ The shift from a system based on free pickers to a regime grounded on work permits has formalised recruitment practices through employment agencies established in Thailand.²⁰⁸ These employment agencies act as the employer and are party to a contract for the provision of manpower with Sweden-based berry companies.²⁰⁹ The number of berry-pickers to be employed each season is set by the Swedish berry-picking companies and communicated to the employment agencies located in Thailand, which handle the paperwork for work permits, accommodation and transport.²¹⁰

Reportedly, so-called madams (Thai women married to Swedish men) have acted as pioneers in recruiting Thai workers for the berry-picking industry using informal contacts. They handle translation, accommodation and food for the workers. Their role has been progressively taken over by men as the industry has increased in relevance and supply chain dynamics have become formalised.²¹¹

Informal and personal networks are still the norm among other national groups working as berry-pickers, as in the case of Bulgarian Roma. Minders or patrons in the form of informal labour recruiters are present in the fields where Bulgarian Roma pick berries and are tasked with arranging trips from

Bulgaria and supervising the harvesting and selling of berries. Others contract debt to be able to afford to travel to Sweden to work in the fields and arrange the trip through informal agencies in Bulgaria, and in many cases arrive with their families as free pickers, all of whom are then informally employed (i.e. working without a contract). Some of them have already worked in agriculture in other EU countries, e.g. Italy, Spain and Germany, before reaching Sweden.²¹²

In the Southern Swedish agricultural industry, it is a common practice to recruit using official job advertisements as well as through informal channels based on a network of intermediaries, often from the same national group.²¹³ It is also common for migrant workers to be recruited through staffing companies or employment agencies. A recently established practice in the agricultural industry in the Southern area – like in Germany – consists in international rural work exchange programmes, through which young workers, mainly from Ukraine, are recruited as interns for apprenticeships in agriculture firms.²¹⁴ These programmes allow companies to lawfully recruit interns to pick fruit and vegetables in sub-standard conditions with a fixed compensation for the internship at around 40 SEK an hour (about 4 euros).²¹⁵

3. DEMAND MEETS SUPPLY: MATCHING IRREGULAR EMPLOYMENT NEEDS AND MIGRANT LABOUR

3.1 The impact of migration and asylum policies

With the 2008 reform of the labour migration regime, a job offer with the terms and conditions applicable in the sector implies a right to enter and stay in Sweden, enabling an employer to invite third country nationals into the country to work. The Migration Agency (*Migrationsverket*) monitors the compliance of job offers with the collective agreement on a case-by-case basis during the application phase for

the permit. Violations are remedied *a posteriori*.²¹⁶ Cases have been reported in which workers claim to not have been paid the salary stipulated in the job offer.²¹⁷ Practical obstacles, i.e. not knowing the legal venues and procedures or not speaking Swedish, make it harder for third-country nationals to claim their rights in court. In sum, the labour migration scheme can be construed as a factor driving (or at least enabling) demand for work with sub-standard working conditions in agriculture.

Moreover, the 2008 reform risks bonding the migrant worker to the employer. Work permits are temporary. They cannot be longer than 2 years and can be extended up to 4 years in total, but each extension needs to correspond to a new job offer from the employer. In the case of termination, there is a need to find a job within 3 months in order to not lose the permit. A permanent residence permit can be awarded if the migrant has been working for a total of 4 years in a 7-year period. This favours exploitative practices due to the vulnerable position of the migrant worker and the corresponding power of the employer.

Working conditions for migrant workers need to comply with the provisions of the relevant collective agreement in the sector. Since December 2017, a legislative change has meant that if these conditions are not met, migrants whose permits have expired will not be immediately deported. Instead, the employer can remedy the situation and provide the worker with the applicable conditions, for instance via compensation.²¹⁸

The aim of the 2008 reform of the labour migration regime to introduce a single system for all labour migrants has been challenged by the implementation of the EU Seasonal Workers Directive.²¹⁹ This re-introduced a legal entry route for agricultural and forestry work in Sweden and fostered fragmentation of the labour market, including via the application of different collective agreements depending on the employer of the temporary migrant worker (a Swedish-based company, a foreign temporary work agency or a Swedish-based temporary work agency).²²⁰ The seasonal nature of berry-picking

makes the process of applying for and receiving visas and work permits smoother and easier than in other sectors of the economy.²²¹ At the same time, however, it makes it almost impossible for migrant berry-pickers to seek permanent residence in Sweden.²²²

3.2 Policies against labour exploitation

In the agricultural sector, particularly the berry-picking industry, the increased presence of free pickers entering Sweden on tourist visas has led to increasing checks on work permits.²²³ To remedy sham employment and abusive working conditions, the Migration Agency has implemented new policies. In 2011, after media inquiries into abusive working conditions, the Migration Agency introduced specific requirements for companies employing berry-pickers: a bank guarantee demonstrating in advance the ability to pay wages; proof that the company has paid the due wages and taxes; evidence that berry-pickers have been informed about the type of job they will perform and the working conditions; and an obligation for foreign temporary work agencies to have a representative and a registered office in Sweden. Furthermore, additional requirements were introduced in 2013 such as demonstrating an ability to organise transportation, accommodation, food and other practical matters.²²⁴ This has led to a slight decrease in the number of work permits issued and to some rejections.²²⁵

Trade unions need to have at least one member among the employees so as to have access to workplace premises and to check the company's books.²²⁶ Compliance with health and safety regulations and the application of working time provisions (when not regulated by a collective agreement) are tasks which fall on the Work Environment Authority (*Arbetsmiljöverket*). However, 60% of companies have not received a health and safety inspection in the last three years.

In their risk assessment following the EU Employer Sanctions Directive, the Swedish police do not mention agriculture as a sector in which “illegally staying third-country nationals” are present in high numbers, focusing instead predominantly

on the service sector.²²⁷ However, around 60% of employers in the green sector assume that there is a high to medium risk of being caught should they pay sub-standard wages off the books or hire undocumented migrants.²²⁸

Since 2018, it has been a crime to take advantage of a person's subordinate position and use him or her for work under obviously unreasonable terms and conditions (Criminal Code Chapter 4, Section 1b).²²⁹ Thus, exploitation in the labour market has become a matter for the police, prosecutors and criminal courts.

Nevertheless, the structural characteristics of the agri-food sector combined with key features of the Swedish model of labour market regulation make the monitoring and enforcement of labour rights difficult.²³⁰ Due to the absence of a statutory minimum wage, the lack of a collective agreement enables wide discretion in setting salaries, and if sub-standard wages are systematically applied to the workforce, there are no grounds for describing the practices as discriminatory.²³¹

3.3 The EU CAP and national agricultural and rural policies

Sweden has developed a strategy that seeks competitiveness in the agricultural and forestry sectors, improvement in the environmental quality of rural areas, a commitment to economic diversification in the countryside and stronger local governance involving civil society.²³² Competition over land use has also emerged, particularly associated with Sweden's forests.²³³

In 2017, the Swedish government adopted a national food strategy which aims to make the Swedish food supply chain resilient, competitive and attractive while achieving relevant national environmental objectives, increasing employment and contributing to sustainable development throughout the country.²³⁴ Concerning environmental issues, Sweden established 16 environmental quality objectives to be reached by 2020. Changes in the CAP, including new attention to agri-forestry, were mentioned in the strategy.

As rural areas in Sweden suffer negative demographic trends, foreign immigration contributes to maintaining the demographic balance and supporting revitalisation, diversification and rural development.²³⁵ Reception programmes for refugees and asylum seekers in rural areas have been promoted. As in Germany, Sweden has adopted employment policies to favour social inclusion and the employment of migrants and refugees in the green industries. Despite good intentions, there are problems of over-qualification that contribute to the phenomenon referred to as brain-waste²³⁶ or skill destruction.²³⁷ On the other hand, the level of technological development, automatisisation and specific skill needs in agriculture and forestry in Sweden might make a more permanent and better integration of migrants in rural areas difficult.²³⁸

4. GOOD PRACTICES

One good practice concerns the involvement of trade unions when the Migration Agency assesses applications for work permits.²³⁹ Trade unions should verify whether the wages and working conditions in the job offer comply with the standards set in the collective agreement. However, trade union involvement is not compulsory and neither is the Migration Agency obliged to follow the advice of unions.

Trade union visits to workplaces to scrutinise salaries and working conditions represent a good practice, but this only applies to companies where at least one worker is unionised or where a collective agreement allows for it. This exposes the limits of the Swedish model of industrial relations in ensuring universal worker protection.²⁴⁰

In 2009, the Swedish Trade Union Confederation mandated the Swedish Municipal Workers' Union (*Svenska Kommunalarbetsförbundet*, or Kommunal) trade union to organise the berry-picking sector. Kommunal now negotiates collective agreements

with the Federation of Swedish Forest and Agriculture Employers. An agreement signed in 2014 set down rules about monitoring worksites. For the employers bound by this collective agreement, inspections of working time and occupational health and safety occur regardless of whether there are union members at the workplace. The agreement also stipulates minimum wages and that costs for work equipment must not be deducted from wages.²⁴¹

Since 2016 Kommunal has applied a policy of lowering membership fees for temporary labour migrants to encourage membership.

The comparatively smaller trade union Central Organisation the Workers of Sweden SAC reports that the practice of threatening to inform the media, consumers and retailers about food companies that are responsible for wrongdoing and mistreatment of labour migrants is an effective way of stopping further violations because it addresses the commercial and economic interests of companies.²⁴² However, the practice often exposes labour migrants to retaliation by the employers.

As for monitoring activities, the inspections carried out by the Swedish Work Environment Authority in the agri-food sector represent another good practice, particularly as regards materials and approaches designed for migrant workers.²⁴³ However, the scope of these inspections is limited to the work environment (i.e. not accommodation). Actions by the Tax Agency (*Skatteverket*), which has to receive information about the employment situation of migrant workers in order to issue social security numbers and other documents, are also potentially helpful in monitoring working and employment conditions.²⁴⁴

Certain municipalities in the North of Sweden have also implemented stricter monitoring of accommodation (under fire and safety standards) for labour migrants.²⁴⁵

In 2011, the NGO Swedwatch reported that almost all the big Swedish berry wholesalers had adopted codes of conduct to monitor the compliance of picking companies with labour standards. However, when they are not supported by full disclosure of information on companies adopting bad practices²⁴⁶ and by a third-party audit system, the effectiveness of these initiatives raises scepticism.²⁴⁷

Oxfam Sweden reports that Swedish supermarkets and retailers (such as Coop, Axfood and Systembolaget) have joined initiatives monitoring labour rights in supply chains for agri-food products imported from Italy (tomatoes and wine) and Morocco (citruses). The initiatives are based on human rights assessments of suppliers carried out by the big retailers. When violations of labour and human rights are found, supermarkets are supposed to require suppliers to remedy so as to foster good practices along the supply chain. These practices and new codes of conduct could be broadened to include agri-food products made in Sweden, by leveraging Swedish consumers' awareness about ethical consumption.²⁴⁸

As for social inclusion in rural areas, a LEADER²⁴⁹ transnational cooperation project entitled "Immigrant Integration in Rural Areas: Identification and Exchange of Good Practices" (IIRA) has been promoted by the national rural networks of Sweden, Finland, Austria and Germany involving 16 rural areas to stimulate the exchange of good practices related to migrant integration in rural areas.²⁵⁰ In addition, a variety of projects for integration and labour inclusion have been supported by the European Agricultural Fund for Rural Development (EAFRD).²⁵¹

5. CONCLUSIONS AND RECOMMENDATIONS

The extent to which exploitative labour conditions prevail in the agri-food sector in Sweden is not entirely clear. The lack of a legislated minimum wage and the limited number of collective agreements increase the exposure of labour migrants employed in this sector to sub-standard and exploitative working conditions. Along with wages, sub-standard working conditions primarily pertain to working hours (length of the working day), scheduling (time of day) and health and safety issues (fatigue, lack of protective gear, etc).

In general, it can be argued that the procedures for the regulation and monitoring of the labour market expose marginal sectors like agri-food to sub-standard and exploitative working conditions.²⁵² Seemingly, the programmatic passivity of the state in regulating the labour market translates into the risk of exploitation for vulnerable subjects, like labour migrants and seasonal workers, with the effect of creating secondary labour markets fragmented along national or ethnic lines with sub-standard working conditions.²⁵³

While policies addressing working conditions in the agri-food sector must take into consideration the role of trade unions, shortcomings derive from the difficulties Swedish trade unions face in reaching labour migrants – a task that can be improved by facilitating access to information in foreign languages. More resources for the Work Environment Authority to conduct controls in workplaces would contribute to filling monitoring gaps.

Finally, stricter regulation of the use of temporary work agencies and of recourse to labour intermediaries and employment agencies, especially when they are located abroad, would tackle one of the most common channels for abuses and violations of labour rights.