

**Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment (COM(2010) 379 final).**

**FINAL DOCUMENT**

The Committee for Constitutional Affairs, the Presidency of the Council of Ministers and Interior Affairs of Italy's Chamber of Deputies

having reviewed the proposal for a Directive of the European Parliament and of the Council on conditions of entry and residence of third-country nationals for the purposes of seasonal employment (COM(2010) 379 final) under Rule 127 of the Rules of Procedure;

taking due account of the opinion expressed by the Committee for European Union Policies;

whereas:

seasonal work is a significant phenomenon in terms of its scale and growing importance in the economies of the EU Member States, representing a response to real demand that is primarily met by third-country nationals;

the need for EU legislation in this area has recently been confirmed in the Stockholm Programme (2010-2014) for the Area of Freedom, Security and Justice, adopted by the European Council on 10-11 December 2009 and is justified by the fact that the matters addressed by the proposal raise clear transnational issues, since the measures taken by each Member State in this field can also have major repercussions on other countries;

the proposal is intended to define a common legal framework that meets two main requirements:

- a) first, by establishing minimum general rules governing salaries, working conditions and union rights, ensure uniform standards for the protection of seasonal workers who are third-country nationals, safeguarding their personal dignity, in accordance with the fundamental principles of the EU's legal order, partly with a view to countering the exploitation and use of undeclared labour by some employers, often with the complicity of criminal organisations involved in illegal immigration;
- b) secondly, it avoids the risk that the persistence of substantial differences between the laws of the Member States can facilitate opportunistic behaviour by directing the flow of immigrants to countries which offer more favourable systems or impose less stringent border controls, so as to undermine the security of the Schengen area;

at the same time, the proposal deserves praise because it respects the competence of the Member States in determining the number of immigrants to be admitted to their territories, in accordance with the needs of their economies, without prejudice to the right to refuse admittance to persons who may pose a threat to public order, security or public health;

noting that:

the maximum duration of six months for the permit under the proposed Directive may not address the specific needs of the Italian economic system, especially with regard to the requirements of the agricultural industry. In this regard, we also note that, in order to take account of the special needs of this sector, existing national legislation provides for a total duration of residence permits for seasonal employment of not more than 9 months;

as regards guarantees in respect of social security benefits to be granted to workers, due consideration must be given to the fact that under applicable national legislation in Italy, third-country nationals may access the social security system on an equal footing with Italian citizens if they have a residence permit with a duration of at least one year;

with regard to penalties for employers who do not fulfil their obligations, the text of the proposal (Article 12, paragraph 2) merely establishes that such sanctions must be "effective, proportionate and dissuasive", without further detail and in particular without making explicit reference European regulations already in force, with particular regard to Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally-staying third-country nationals;

finally, it is necessary for this final document, along with the text of the opinion expressed by the Committee for European Union Policies, to be transmitted to the European Commission within the scope of the informal political dialogue and to the European Parliament;

*expresses its approval of the proposed directive with the following remarks:*

- 1) the Government shall take steps to ensure that the final draft of the text grants the Member States adequate discretion in the implementation of the rules so as to provide the flexibility necessary to address the special characteristics and requirements of each economic system. In particular, this regards the minimum duration and the extension of the maximum duration of seasonal work permits in relation to the specific features of certain sectors, especially agriculture, and their importance to the national economy;
- 2) again with reference to the duration of the permit, the provisions adopted shall ensure that employment relationships that span two calendar years are not penalised;
- 3) an assessment should be made of the advisability of introducing more detailed provisions governing penalties for employers who do not fulfil their obligations (currently contained in paragraph 2 of Article 12 on facilitation of re-entry), also through explicit reference to Directive 2009/52/EC;
- 4) an assessment should be made, partly with a view to the impact on the public finances, of the possible consequences of granting more extensive social security rights to seasonal workers compared with those provided for under current national legislation, which restricts such rights to those holding a residence permit with a duration of at least one year;
- 5) an assessment should be made of the advisability of including threats to national security among the grounds for refusing or revoking work permits in order to prevent the entry of potentially dangerous individuals;
- 6) the effectiveness of the provisions of paragraph 2 of Article 6 of the proposal should be enhanced, possibly by making mandatory the option open to Member States to verify whether vacancies could not be filled by national or EU citizens or by third-country nationals already lawfully residing in the country concerned.