

POLICY BRIEF:

PROMOTING THE HUMAN AND LABOUR RIGHTS OF MIGRANT WORKERS IN EUROPE

INTRODUCTION

This policy brief provides recommendations to States and the private sector on how to protect and respect the human and labour rights of migrant workers in Europe. This includes both intra-regional migrant workers and third country migrant workers that are living and working within the region and are employed by business enterprises of all sizes and across all economic sectors.

It has been developed by the International Organization for Migration's (IOM) Regional Office for the European Economic Area (EEA), the European Union (EU) and NATO as part of the [Sustaining and Scaling Private Sector Engagement to Protect Migrant Workers in Europe](#) project. It is designed to complement and build on IOM's global and regional resources from Southeast Asia that promote the human and labour rights of migrant workers in supply chains.

This policy brief aligns with international human rights and labour standards and frameworks. It builds on the [UN Guiding Principles on Business and Human Rights](#), [the Organisation for Economic Co-operation and Development's \(OECD\) Guidelines for Multinational Enterprises](#), [OECD's Due Diligence Guidance for Responsible Business Conduct](#), [the International Labour Organization \(ILO\) Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy](#) and related standards and guidance on responsible business conduct. It is also consistent with the [UN Sustainable Development Goals](#) and the [Global Compact for Safe, Orderly and Regular Migration](#), both of which recognize the importance of engaging the private sector to bring about positive change.

While recognizing the need to protect and respect the human and labour rights of all migrant workers in Europe, this policy brief focuses primarily on low and medium skilled migrant workers as they remain disproportionately vulnerable to abuse and exploitation. As such, this policy brief begins by setting the scene and outlining the need to improve protections for migrant workers in Europe. It then goes on to provide recommendations to States and the private sector on how this can be achieved.

While this policy brief focuses primarily on the rights of migrant workers within Europe, many of the recommendations can also be applied to business enterprises that operate from Europe and have supply chains that extend beyond the region.

PART ONE: SETTING THE SCENE

A REGION SHAPED BY MIGRATION

There is a long-standing history of people moving into and within Europe for security, social and economic purposes. It is estimated that almost a third of the world's 281 million international migrants – or 87 million international migrants – lived in Europe in 2020.¹ More than half were born in Europe but were living elsewhere in the region, while about 40 million people were born outside of Europe.²

Europe attracts a high percentage of international migrant workers – that is people who move from their country of birth to another country for the purpose of employment. According to the ILO's latest estimates, almost a quarter of the world's 169 million international migrant workers are found in Northern, Southern and Western Europe.³ While international migrant workers account for about five per cent of world's global labour force, in Northern, Southern and Western Europe they represent about 18 per cent of the labour force.⁴ In other words, almost one in five of all workers in Northern, Southern and Western Europe are international migrant workers.⁵

The importance and contributions of migrant workers to the European labour market should not be underestimated – especially in the context of Europe's ageing and shrinking working population. The European Commission estimates that by 2070 the size of the working-age population will decline from about 65% in 2019 to about 55% of the total EU population.⁶ It is predicted that this will lead to significant skills and labour shortages across various sectors in Europe, including tourism, hospitality, IT, and healthcare.⁷

At the same time as Europe faces labour and skills shortages, there is likely to be increased competition for workers of all skill levels globally as countries (and regions) respond to their own changing demographics and labour needs. The ability of European business enterprises to attract migrant workers in the future will be dependent on the quality of legal frameworks and policies that govern labour migration, as well as the perceived attractiveness of Europe as a destination for migrant workers. In other words, migrant workers are likely to prioritize employment opportunities with business enterprises in countries where their human and labour rights are respected.

THE EXPERIENCES OF MIGRANT WORKERS IN EUROPE

The journey that migrant workers take from their communities in their home country to the workplace in the country of destination varies between, and even within, migration corridors and industries. In some cases, migrant workers will be recruited for a job abroad from their home country and then travel to the country of destination. In other cases, migrant workers will travel to the country of destination and then seek employment. Moreover, gender-based norms will shape the way men, women and persons of diverse sexual orientation, gender identity, gender expression and sex characteristics migrate, and the experiences they will face. While many migrant workers have positive migration and employment experiences, it is well documented that migrant workers are disproportionately vulnerable to abuse and exploitation – including in extreme

1 [IOM World Migration Report 2022; UN DESA, 2021a](#)

2 Ibid.,

3 [ILO Global Estimate on International Labour Migrants 2021](#)

4 [ILO Global Estimate on International Labour Migrants 2021](#)

5 It should be noted that the estimates above predate the COVID-19 pandemic and the recent conflict in Ukraine, both of which impacted migration flows into and within Europe.

6 [European Commission Attracting Skills and Talent to the EU Factsheet, April 2022](#)

7 Ibid.,

cases, human trafficking and forced labour.⁸ This applies not only to migrant workers with irregular migration status, but also to intra-EU migrant workers (especially migrant workers from Eastern Europe), non-EU migrant workers with legal residence status, refugees, asylum seekers and international students.⁹

IOM recently conducted a study of the risks facing migrant workers in the agriculture, food processing, manufacturing, and hospitality industries in Europe.¹⁰ It found that labour exploitation manifests in different ways depending on the specific industry and country, as well as the nationality and gender of the migrant workers involved. However, the study also highlighted that there are many similarities in the risks and challenges faced by migrant workers in Europe. It is worth noting that many of these risks and challenges, which are briefly summarized below, also apply to other European industries as well as supply chains that extend beyond Europe.

The exploitation of migrant workers often occurs in plain sight and is influenced by a range of interconnected factors. In many cases, migrant workers have limited knowledge and access to reliable, accurate and transparent information about how to find work abroad, how to migrate safely and regularly and what legal and social protections are available to them in the country of origin and destination. This lack of knowledge can make migrant workers more vulnerable to abuse and exploitation by unscrupulous labour recruiters,¹¹ employers and/or employment agencies.¹² For example, this can lead to migrant workers migrating through irregular channels and/or accepting work with poor terms and conditions – including in the informal economy. This is especially the case for low-skilled migrant workers from outside the EU who have limited options for regular migration to the region.

Migrant workers that engage the services of labour recruiters to find work abroad are often more vulnerable to exploitation. This can be linked to a lack of regulation and/or oversight of recruitment practices both within and outside Europe, which has contributed to the prevalence of poor business practices and the emergence of informal brokers and other intermediaries. Some of the common risks facing migrant workers during their recruitment include the charging of recruitment fees and costs leading to debt bondage,¹³ the withholding of passports and other identity documents, and deceptive recruitment practices. This includes false promises about the job on offer and living conditions, as well as the provision of employment contracts that are later replaced in the country of destination with less favourable terms and conditions of employment.

Similarly, the use of employment agencies can increase the risk of exploitation to migrant workers. Employment agencies typically perform the role of the employer (hiring workers, paying wages etc.) while

8 The latest [Global Estimates of Modern Slavery: Forced Labour and Forced Marriage](#) found the prevalence of forced labour exploitation was three times higher for migrant workers in comparison to other workers (ILO, Walkfree Foundation and IOM, 2022).

9 [FRA Severe labour exploitation – Workers moving within or into the European Union. States’ obligations and victims’ rights, 2015](#), and Palumbo, L & Sciarba, A, [The vulnerability to exploitation of women migrant workers in agriculture in the EU](#), Study for European Parliament, 2018

10 Upcoming: Mapping risks to migrant workers in supply-chains in Europe: Case Studies and best practices from the agriculture, food-processing, manufacturing and hospitality sectors (IOM and HEUNI 2022)

11 Refers to any natural or legal person who performs a licensed recruitment function, including recruitment agents and employment agents ([IRIS Standard](#)).

12 Refers to any natural or legal person who provides services consisting of hiring or engaging migrant workers to make them available to a third party that assigns tasks and supervises the execution of these tasks ([IRIS Standard](#)). Also referred to as labour providers, gangmasters and temporary agencies.

13 In some cases, migrant workers have no option but to take out loans – often with high interest rates – to cover the cost of their recruitment and migration. In practice, this can lead to migrant workers not receiving a wage, or full wage, for many months or even years as their debt is garnished from their wages. Migrant workers routinely pay more than the true cost of recruitment as they lack the bargaining power and often find themselves at the mercy of unscrupulous labour recruiters and intermediaries.

outsourcing their ‘employees’ to other business enterprises. While some employment agencies recruit migrant workers across borders (such as intra-EU migrants and non-EU migrants), other employment agencies recruit workers that are already residing within the country – typically vulnerable populations such as irregular migrants, refugees, and asylum seekers. It is important to note that there are many employment agencies (and labour recruiters) that operate legally and responsibly within Europe. However, there are also others that operate in the informal economy and/or engage in exploitative recruitment and employment practices.

Migrant workers can experience a range of human and labour rights violations within Europe. One of the common challenges facing migrant workers relates to their pay and conditions. For example, the term ‘wage theft’ is increasingly used to capture a range of exploitative practices that deprive migrant workers of their rightful income. This includes the withholding of wages or end of service benefits, paying wages that are below the legal limit, paying migrant workers less than other workers who perform the same role, failing to pay overtime, false accounting, and unwarranted deductions from migrant workers’ wages. Wage theft has also been exacerbated by the COVID-19 pandemic with many migrant workers having their employment terminated, or having to repatriate, without receiving severance pay or their outstanding wages.¹⁴

Migrant workers can also be exposed to poor working conditions, including long working hours with no or limited rest periods. Migrant workers that work in industries that are seasonal in nature and/or have fluctuating labour demands must also contend with insecure work – that is, periods when no or little work is available and then long working days in peak periods. This lack of consistency places financial pressure on migrant workers – especially if they carry a debt from their recruitment – and can push some migrant workers to seek additional or alternative employment, including in the informal economy.

It is important to note that migrant workers are often over-represented in 3D jobs – that is jobs that are characterized as dirty, difficult, and dangerous. As such, they tend to be more vulnerable to occupational health and safety issues in comparison to local workers.¹⁵ For example, migrant workers in Europe are often exposed to extreme weather conditions, dust, noise, chemicals, and pesticides. They can also be vulnerable to harm when operating heavy and dangerous machinery and vehicles and when working in pits, silos or at heights.¹⁶ These occupational health and safety risks are often exacerbated by a lack of personal safety equipment and/or training for migrant workers.

The health and safety of migrant workers can also be impacted by poor living conditions. In many instances, migrant workers have no option but to live in employer provided accommodation – often in remote locations that isolates migrant workers from the local community. Within this context, migrant workers can be exposed to crowded, unhygienic and unsafe living conditions. Employers will often deduct a fee for this accommodation – as well as for transport to and from the workplace – from the migrant workers’ wages – often at exorbitant rates.

Finally, migrant workers can be vulnerable to discrimination, harassment, and violence. This includes in the recruitment stage when migrant workers can be excluded from potential job opportunities due to their gender, age, religion, sexual orientation etc., as well as during the employment stage when migrant workers may receive less favourable employment terms and conditions compared to local workers and can be excluded from social protections. Women migrant workers can be particularly vulnerable to sexual

¹⁴ IHRB, [Top Ten Business and Human Rights Issues in 2021](#) (2020)

¹⁵ [IOM Occupational Fatalities among International Migrant Workers: A Global Review of Data Sources, 2021](#)

¹⁶ Upcoming: Mapping risks to migrant workers in supply-chains in Europe: Case Studies and best practices from the agriculture, food-processing, manufacturing and hospitality sectors (IOM and HEUNI 2022)

harassment and gender-based violence as they often work in more hidden settings – such as in the domestic work and/or care industry – and must navigate uneven power dynamics and cultural differences.

Despite the risks and challenges listed above, it is often difficult for migrant workers to access appropriate remediation. This can be attributed to a range of factors, including a lack of accessible and effective grievance mechanisms, language barriers and difficulties in lodging and following up on grievances after returning to the country of origin. Even when grievance mechanisms and remediation pathways exist, migrant workers are often reluctant to make complaints out of fear of retaliation, including dismissal, deportation, and detention.

THE RESPONSIBILITY OF BUSINESS ENTERPRISES TO RESPECT THE RIGHTS OF MIGRANT WORKERS

The [UN Guiding Principles on Business and Human Rights \(UNGPR\)](#) is the most authoritative and globally recognized framework on responsible business conduct.¹⁷ Released in 2011, the UNGP established the Protect, Respect and Remedy framework, which sets out how:

- States must protect against human rights abuses within their territory and/or jurisdiction by third parties, including business enterprises.
- Business enterprises should respect human rights by avoiding infringing on the human rights of others and addressing adverse human rights impacts in which they are involved. This includes seeking to prevent and mitigate adverse human rights impacts that are directly linked to their operations by their business relationships.

Victims should have greater access to effective remedy, both judicial and non-judicial. Within this context, business enterprises should have processes in place that enable the remediation of any adverse human rights impacts they cause, or to which they contribute.

The UNGP make it clear that all business enterprises have a responsibility to respect human rights, regardless of their size, sector, operational context, ownership, and structure. However, the scale and manner in which business enterprises meet their responsibility may vary according to these factors and the severity of the enterprise's adverse human rights impacts.¹⁸

It is important to note that the UNGP extend to the rights of migrant workers – irrespective of their migration status. While many business enterprises have taken steps to integrate a commitment to human rights in their business operations and supply chains – especially since the release of the UNGP – these approaches often fail to adequately consider the specific human and labour rights risks to migrant workers. This includes the risks migrant workers face during their recruitment and migration, as well as the challenges and barriers migrant workers often experience in accessing decent work in countries of destination in comparison to local workers.

¹⁷ The UNGP are complemented by a range of international guidance, standards and frameworks, including the [OECD Guidelines for Multinational Enterprises](#), [OECD's Due Diligence Guidance for Responsible Business Conduct](#), [the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy](#) and related standards and guidance on responsible business conduct.

¹⁸ [UN Guiding Principles on Business and Human Rights \(2011\)](#)

This is particularly evident in current approaches to human rights due diligence¹⁹ with business enterprises often only focusing on certain supply chain tiers and/or economic sectors – despite the exploitation of migrant workers being linked to almost every economic sector and region. The effectiveness of current due diligence measures is also challenged by the complex nature of supply chains in which there are both vertical and horizontal business relationships. For example, many due diligence measures fail to consider how migrant workers are recruited within their business partners’ operations. This includes identifying the various business enterprises (intermediaries) and steps that are involved in this process. Similarly, the business practices of employment agencies are often not adequately scrutinized as they often fall outside the scope of due diligence processes.

While building the knowledge and capacity of business enterprises to identify, mitigate, and address the human and labour rights risks migrant workers in business operations and supply chains is essential, it is also important to examine the environment in which business enterprises operate. Most business enterprises have to compete with other business enterprises that operate in their country, region or even globally. This competition – combined with the complex nature of supply chains – can create an uneven playing field where business enterprises that operate in environments with strong labour laws and protections and high operating costs compete against business enterprises with weaker labour laws and protections and lower operating costs. The playing field becomes even more uneven when some business enterprises participate in unlawful and/or unethical practices – such as exploiting migrant workers and other vulnerable groups – in an attempt to further push production costs down. It is therefore critical that States work together – including through the EU – to harmonize protection measures for migrant workers and prevent business enterprises from distorting markets.

Finally, it is important to highlight that it can be difficult for business enterprises to find low-skilled workers to meet their labour needs in some industries and countries. This is especially the case for business enterprises that work in industries where labour demands are seasonal and/or fluctuate. While business enterprises can try to hire workers directly or through public employment channels, including through labour mobility schemes (bilateral labour agreements), in many cases these efforts are not sufficient to meet their labour needs. As a result, some business enterprises will employ irregular migrant workers and/or engage the services of labour recruiters and employment agencies, including those that operate in the informal economy, to fulfil their labour needs. This situation is unlikely to change without first addressing the gaps in the labour market, including the need for more safe and regular migration pathways for migrant workers.

CURRENT EU LEGAL AND POLICY FRAMEWORKS GOVERNING MIGRATION AND RESPONSIBLE BUSINESS CONDUCT

While EU citizens can move freely within the region for the purposes of employment, third country nationals must meet Member States entry and residence requirements. Over the last twenty years, the EU has developed a series of directives that aim to harmonize Member States' conditions of entry and residence for third-country nationals.²⁰ These include:

19 Refers to an ongoing risk management process that a reasonable and prudent business enterprise needs to follow in order to identify, prevent, mitigate, and account for how it addresses its adverse human rights impacts. Due diligence includes four key steps: assessing actual and potential human rights impacts; integrating and acting on the findings; tracking responses; and communicating about how impacts are addressed. (UN Guiding Principles on Business and Human Rights 2011).

20 European Commission, [Legal migration and integration](#) and COMM 657 of 27 April 2022: [Communication on Attracting Skills and Talent to the EU](#).

- [The EU Blue Card Directive](#) that sets out the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment.
- [The Intra-Corporate Transferees Directive](#) that sets out the conditions of entry and residence of third country nationals in the framework of an intra-corporate transfers.
- [The Seasonal Workers Directive](#) that sets out the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers (circular migration).
- [The Students and Researchers Directive](#) that sets out the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing.
- [The Single Permit Directive](#) that establishes a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and a common set of rights for third-country workers legally residing in a Member State.
- [The Long-Term Residents Directive](#) that sets out the conditions under which third-country nationals can obtain the status of long-term residents, which grant them a set of uniform rights, similar to those enjoyed by EU citizens.²¹

The EU has also established directives that seek to prevent the exploitation of migrant workers. This includes the [Employers Sanctions Directive](#) that establishes the need for sanctions against employers that employ and exploit irregular migrant workers. There is also the [EU Anti-Trafficking Directive](#), which includes common provisions to strengthen victim's protection, assistance and support, and the [Victims' Rights Directive](#), which establishes minimum standards on the rights, support and protection of victims of crime. Furthermore, the EU has established the [Posted Workers Directive](#), which seeks to prevent the exploitation of intra-EU migrant workers who are sent by their employer to work temporarily in another EU country.²²

In 2019, the European Commission conducted a review – or fitness check – of its legal migration framework to determine if it provided for the effective management of migration to the EU and the fair treatment of migrants.²³ While it found the legal migration framework still aligned with the needs of the region, it also highlighted how it could be strengthened to better reflect new and evolving policy objectives, including the need to attract skills and talent to the region. Within this context, it noted the need to focus more on low and medium skilled workers – rather than just highly skilled workers. It concluded by noting that while gaps in EU policies are mostly covered under national rules, this had led to fragmentation and issues concerning the enforcement and implementation of EU directives.²⁴

21 Some third-country nationals are excluded from the Directive such as seasonal workers and posted workers

22 Posted workers differ from EU mobile workers, since they work temporarily in the host country and remain as employees in the sending country. Due to this they do not receive the same protection as the host state nationals (Mapping risks to migrant workers in supply-chains in Europe: Case Studies and best practices from the agriculture, food-processing, manufacturing and hospitality sectors; IOM and HEUNI 2022).

23 European Commission, [Legal Migration Fitness Check](#)

24 Ibid.,

Following the review, the European Commission released the [New Pact on Migration and Asylum](#) in 2020, which sets out the EU's priorities for attracting new talent and skills to the region. This includes reforming the EU Blue Card (completed in 2021), Long-term Residence and Single Permit Directives, as well as establishing an EU Talent Pool and Talent Partnerships. The former being for skilled third country migrant workers seeking to work in the EU while the latter targets third country migrant workers of all skill levels with the aim of better matching labour market needs and skills between EU and partner countries.²⁵ Importantly, the New Pact on Migration and Asylum also led to the development of the [Action Plan on Integration and Inclusion 2021-2027](#), which prioritizes labour market access and skills recognition for migrant workers.

The European Commission also adopted in 2021 the [EU Strategy on Combatting Trafficking in Human Beings 2021-2025](#), which outlines the EU's priorities for prevention, awareness raising, prosecution of criminals and the protection of victims. This includes referencing the important role the private sector can play in preventing human trafficking in the region. In particular, the strategy encourages business enterprises to help reduce the demand for human trafficking by ensuring that anti-trafficking objectives are incorporated into business policies and that supply chains are managed responsibly, including through human rights due diligence measures. This approach is consistent with the EU's broader objective to move to a just and sustainable economy and subsequent proposals that focus on responsible business conduct.

In February 2022, the European Commission adopted a proposal for a [Directive on Corporate Sustainability Due Diligence](#). Under this proposal, business enterprises will be required to identify, prevent, mitigate, and account for negative human rights and environmental impacts in their business operations, subsidiaries, and value chains. This includes integrating due diligence into business policies and management systems. The proposal applies to both European and non-European business enterprises that meet certain requirements in relation to total employees and annual turnover²⁶ and/or operate in identified high-impact sectors.²⁷ This proposal is complemented by the European Commission's proposal for a [Corporate Sustainability Reporting Directive](#), which would amend the existing reporting requirements of the [Non-Financial Reporting Directive](#). As part of this proposal, the European Commission envisages the establishment of sustainability reporting standards, which includes an obligation for business enterprises to disclose how they respect fundamental ILO conventions.²⁸

These proposals are significant and will play a role in harmonizing human rights due diligence and reporting requirements throughout the EU – noting that several Member States (plus the United Kingdom) already have legislation in place that requires business enterprises to carry out due diligence and/or report publicly on efforts to address forced labour in business operations and supply chains. While not to diminish the significance of these proposals, it is worth noting their current limitations in respect to migrant workers. The proposal for a Directive on Corporate Sustainability Due Diligence – which covers both human rights and environmental impacts – should be commended for promoting a holistic approach to responsible business conduct. While the proposal is intended to protect the rights of all workers, there is a risk that business enterprises will adopt a one-size fits all approach to human rights and fail to consider the specific vulnerabilities of migrant workers. j. It is worth noting that the proposal itself does not reference the specific

25 [COMM 609 of 23 September 2020: Communication on a New Pact on Migration and Asylum](#) and [COMM 657 of 27 April 2022: Communication on Attracting Skills and Talent to the EU](#)

26 Refer to Paragraph 21 of the proposal for a [Corporate Sustainability Due Diligence](#).

27 Refer to Paragraph 22 of the proposal for a [Corporate Sustainability Due Diligence](#).

28 [EU Guidance on Due Diligence for EU Businesses to Address the Risk of Forced Labour in Their Operations and Supply Chains](#)

risks to migrant workers – despite it being well documented that migrant workers are disproportionately vulnerable to abuse and exploitation. Moving forward, it will be critical for the EU and States to require business enterprises to consider the rights of migrant workers within the context of human rights due diligence. In turn, business enterprises will need to be supported with guidance, training, and tools to strengthen their due diligence processes in respect to migrant workers. Similarly, the EU and States will need to take action to level the playing field for responsible business enterprises and address current labour market shortages.

PART TWO: IOM RECOMMENDATIONS FOR IMPROVING PROTECTIONS FOR MIGRANT WORKERS IN EUROPE

IOM is part of the UN system and works with governments, civil society, the labour movement, and the private sector to promote safe, regular, and orderly migration for the benefit of all. With a global network of more than 400 offices – including a strong presence across Europe – IOM is well placed to support States and business enterprises fulfil their responsibilities under the UNGP and the EU proposal for a Corporate Sustainability Due Diligence Directive in respect to migrant workers.

IOM works through a variety of partnership models and projects to promote the human and labour rights of migrant workers across economic sectors and supply chains. This includes through IOM's [IRIS: Ethical Recruitment and Corporate Responsibility in Eliminating Slavery and Trafficking \(CREST\)](#) initiatives, both of which have been recognized for providing practical and targeted support to States and business enterprises. For example, IRIS is referenced under Objective 6 of the [Global Compact for Safe, Orderly and Regular Migration](#).

IOM works with key stakeholders in both countries of origin and destination to promote the rights of migrant workers during all stages of labour migration process. Importantly, IOM adopts a 'whole of government' approach and works across relevant ministries and departments and at national, sub-national and local levels. This includes providing technical assistance and capacity building to support government partners:

- Strengthen labour migration policies, policy coherence and bilateral cooperation to promote regular migration and improve protections for migrant workers.
- Design and implement national frameworks to improve migration management and promote ethical recruitment.
- Strengthen recruitment regulation, including through licensing and registration schemes, labour inspection services,²⁹ law enforcement and the role of labour attaches and consular officials.

Similarly, IOM partners with a cross-section of private sector stakeholders, including buyers, employers, labour recruiters, employment agencies, industry associations and employers' organisations at national and international levels. This includes providing targeted guidance, training, tools, and support to business enterprises to:

²⁹ IOM's partnership with the Italian National Labour Inspectorate under the A.L.T Caporalato! and Su.pr.eme projects in Italy serve as a good practice example.

- Identify the risks facing migrant workers during their recruitment, migration and employment in their business operations and supply chains.
- Strengthen their policies and management systems, including establishing human rights due diligence measures that capture the risks to migrant workers as well as migrant sensitive grievance mechanisms and remediation pathways.
- Sensitively engage and support migrant workers in business operations and supply chains.
- Build stronger and more collaborative relationships with governments, civil society, the labour movement, and business counterparts, including through participating in multistakeholder initiatives.

IOM also works with civil society organizations and the labour movement to enhance migrant worker voice and empowerment. This includes supporting grassroots solutions, such as Migrant Resource Centres, the roll out of Comprehensive Information Orientation Programmes in countries of origin and destination and promoting the use of new technologies and social media to enhance migrant voice.

IOM recognizes the challenges and complexity for States and business enterprises in protecting and respecting the human and labour rights of migrant workers in Europe. While there is no simple or quick solution, IOM has identified three priority areas for action – based on IOM’s experience and expertise. Each priority area includes recommendations to support States and business enterprises improve protections for migrant workers in Europe. This includes promoting and enhancing collaboration with civil society organizations and the labour movement.

1. STRENGTHEN POLICY AND LEGAL FRAMEWORKS THAT GOVERN MIGRATION, RECRUITMENT, AND EMPLOYMENT

IOM recognizes that States have a sovereign right to determine the conditions of entry and stay of non-citizens within their jurisdiction. While IOM supports the New Pact on Migration and Asylum – including efforts to establish new labour mobility schemes and an EU Talent Pool and Talent Partnerships – IOM believes that further action is necessary to improve protections for migrant workers.

As a starting point, IOM recommends the EU and States provide more legal pathways for migration for low and medium skilled migrant workers from third countries to the EU. While low and medium skilled workers are increasingly needed to fill critical labour shortages across the region, this cohort face the greatest barriers in accessing safe and regular migration pathways. Within this context, IOM encourages the EU and States to apply the following principles when designing – or reviewing – labour migration policies and legal frameworks:

- **Labour-market responsive:** Labour migration policies and frameworks should be evidence-based and informed by reliable labour market data from both countries of origin and destination. This reduces the risk of adverse impacts (such as brain drain) in countries of origin, while ensuring labour shortages are effectively filled in countries of destination. Importantly, the private sector, should be consulted throughout the process – from inception to implementation – to ensure that employers’ needs are being met.

- **Tailored and targeted:** Labour migration policies and frameworks should incorporate temporary, long-term, and circular pathways for low, medium, and high-skilled workers. The rules and procedures that govern labour migration should be clear, efficient and time bound, reflecting the needs of both migrant workers and employers. As there is no “one size fits all” solution, States should consider a variety of labour mobility programmes to meet their labour market needs. IOM recommends that States focus on addressing the root causes of persistent labour market shortages rather than developing a series of temporary solutions.
- **Mutually beneficial:** IOM strongly believes that well managed migration should benefit both countries of origin and destination. Countries of origin and destination should work together to develop mutually beneficial schemes. This includes through skills development and partnership initiatives.
- **Rights-based:** The human and labour rights of migrant workers must be protected at all stages of the labour migration process. This includes ensuring access to ethical recruitment and decent work, as well as grievance mechanisms and remediation pathways. Migrant workers should enjoy equal protections under national labour laws (such as minimum wage, maximum working hours, mandatory rest days etc.,) and benefit from social protection measures, including in times crisis and emergency such as the COVID-19 pandemic.³⁰

Building on this last point, IOM encourages the EU and States to take a leadership role in promoting ethical recruitment and decent work for migrant workers in global supply chains. This includes establishing rules and regulations for recruitment that align with international standards and good practices – including the [Montreal Recommendations on Recruitment and IRIS Standard](#) – as well as implementing (or in some cases strengthening) registration and licensing schemes for labour recruiters and employment agencies.³¹ Importantly, it also involves strengthening the role of labour inspectorates, law enforcement, labour attaches and consular officials to support monitoring and enforcement efforts. The labour movement and civil society organizations should also be included in monitoring efforts as well as remediation measures in support of migrant workers. IOM encourages the EU, States, and civil society partners to utilise the [IOM Handbook on Migrant Worker Protection and Assistance for Migrants Vulnerable to Violence, Exploitation and Abuse](#).

Finally, IOM encourages the EU to capitalize on its partnerships with third countries to foster ethical recruitment practices from countries of origin. This not only improves protections for migrant workers that will live and work in Europe, but it also helps to level the playing field by promoting responsible business conduct more broadly. Within this context, IOM encourages the EU to allocate funding to support the independent oversight and monitoring of labour recruitment practices, the capacity building of labour recruiters in partner countries and the roll-out of certification programmes, such as IOM’s IRIS Ethical Recruitment programme. As such, IOM invites EU institutions and States to join its IRIS Global Policy Network – a global forum for identifying, sharing, and supporting good practices in the field of ethical recruitment.

2. STRENGTHEN BUSINESS POLICIES AND MANAGEMENT SYSTEMS IN RESPECT TO MIGRANT WORKERS

IOM welcomes the European Commission’s proposals for a Corporate Due Diligence Directive and Corporate Sustainability Reporting Directive. Similarly, IOM acknowledges the steps that many business enterprises

³⁰ This should apply to all migrant workers irrespective of their migration status.

³¹ The United Kingdom’s Gangmasters and Labour Abuse Authority (GLAA) serves as a good practice example, noting that its scope could be expanded to cover further industries.

have already taken to integrate a commitment to human rights into their business operations and supply chains. While IOM recognizes that real and sustainable change takes time, IOM believes that business enterprise can do more to identify, mitigate and address the human and labour rights risks to migrant workers in their operations and supply chains. Within this context, IOM has identified five key actions for business enterprises to improve their business practices in respect to migrant workers. These actions align with IOM's [Migrant Worker Guidelines for Employers](#) and the [IRIS Standard](#) and are summarized below:

- **Develop policy commitments:** Business enterprises across all economic sectors are encouraged to establish clear and written policies that respect the human and labour rights of migrant workers at all stages of the labour migration process, regardless of their migration status. Policies should address the specific risks to migrant workers in their business operations and supply chains, including the risks associated with unethical recruitment, the withholding and/or underpayment of wages, excessive working hours, occupational health and safety issues, poor living conditions, discrimination, (sexual) harassment and (gender-based) violence, and a lack of access to remedy. At a minimum, policies should:
 - » Align with applicable laws and regulations in countries of origin, transit, and destination relating to recruitment, employment, and migration as well as international human rights and labour standards³²
 - » Promote equal treatment of migrant workers and national workers
 - » Prohibit the charging of recruitment fees and related costs to migrant workers
 - » Promote freedom of movement, including prohibiting the withholding of identify documents and enabling migrant workers to end their employment early
 - » Promote transparency in employment terms and conditions, including prohibiting contract substitution
 - » Provide for access to remedy and the protection for whistle-blowers
 - » Safeguard the rights of migrant workers in times of crisis and emergency

Policies should apply to business enterprises own operations and business relationships, including labour recruiters, employment agencies, suppliers, and service providers.³³ Policies should be communicated to internal and external stakeholders and embedded into operational procedures and processes, as well as integrated into existing and new business contracts.

IOM encourages business enterprises to consult with other business enterprises and/or associations that have already taken steps to integrate a focus on migrant worker rights into their business policies and management systems. This includes but is not limited to members of the [Leadership Group for Responsible Recruitment](#) and the [Responsible Business Alliance](#). In doing so, business enterprises can benefit from their experience and expertise, including current good practices and lessons learned.

³² This includes prohibiting forced labour and child labour, respecting the right of freedom of association and collective bargaining, and equality of treatment and non-discrimination.

³³ This includes but is not limited to transport, logistics, warehousing, cleaning, and security service providers.

- **Carry out human rights due diligence:** Business enterprises are encouraged to establish and/or strengthen their due diligence measures to (1) align with the UNGP approach³⁴ and (2) proactively manage the human and labour rights risks to migrant workers in their business operations and supply chains. This requires business enterprises to move beyond traditional approaches to due diligence that focus only on certain supply chain tiers and/or economic sectors and instead consider the full breadth of their business relationships – including both vertical and horizontal business relationships. It also requires business enterprises to integrate certain steps or activities into their due diligence processes that are aimed specifically at identifying, mitigating, and addressing the risks to migrant workers. Within this context, IOM encourages business enterprises to:
 - » Conduct their own research and understand the journey that migrant workers take from their communities in the country of origin to the workplace in the country of destination. This includes identifying the different stakeholders and steps involved in the recruitment, migration, and employment process and identifying when and how migrant workers can be exposed to risk.
 - » Examine how their own business practices and those of their business partners may increase the risk of exploitation to migrant workers.
 - » Develop and implement action plans that include clear targets, timeframes, resource allocation and responsibilities for preventing and mitigating identified risks to migrant workers in business operations and relationships.
 - » Use their leverage to influence the behaviour of business partners. This may require business enterprises to provide support, such as guidance, tools, and training on how to respect the human and labour rights of migrant workers.
 - » Put a mechanism in place to check that business policies, risk mitigation measures and action plans are being followed internally and by business partners.
 - » Collaborate with trusted partners, such as civil society organizations and the labour movement, to identify, mitigate and address risks to migrant workers.
 - » Be transparent and share information with internal and external stakeholders about policies, identified risks, how the business enterprise addresses and mitigates risks relating to migrant workers and the related outcomes.
 - » Seek input from migrant workers and their representatives, business partners and experts to develop strategies to address persistent risks to migrant workers.³⁵
- **Provide and/or participate in remediation:** Business enterprises are encouraged to establish operational-level grievance mechanisms that align with the UNGP effectiveness criteria.³⁶ In practical

34 The UNGP approach consists of four steps: assessing actual and potential human rights impacts; integrating and acting on the findings; tracking responses; and communicating about how impacts are addressed ([UN Guiding Principles on Business and Human Rights 2011](#)).

35 Refer to [IOM's feedback to the European Commission on the proposal for a Corporate Due Diligence Directive](#) for more information on how due diligence measures can better identify, mitigate, and address the risks to migrant workers.

36 Effective grievance mechanisms are legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning and based on engagement and dialogue.

terms, this means that migrant workers can access business grievance mechanisms through multiple channels, in a language they understand, and throughout the labour migration process. Importantly, migrant workers must be able to trust that their grievances will be treated fairly and confidentially, and that they will not be subjected to any form of retaliation. As a matter of good practice, IOM recommends that business enterprises partner with trusted civil society organizations to design and implement grievance mechanisms for migrant workers. This will help ensure the mechanism is fit for purpose and sensitive to the needs of migrant workers. When harm has occurred, migrant workers must receive fair and effective remedy. Such remediation should be appropriate and proportional to the severity of the violation and adapted to the circumstances of each case. In some cases, business enterprises will be able to provide effective remediation to migrant workers.³⁷ However, in other cases, especially when human rights violations have occurred, business enterprises will need to refer migrant workers to external support services and grievance mechanisms, such as civil society organizations and state-led mechanisms.

- **Engage with migrant workers:** Business enterprises are encouraged to regularly engage migrant workers about their recruitment, migration, and employment experiences. This can be done through multiple mechanisms – both formally and informally – such as individual or group interviews, regular (migrant) worker performance reviews, the use of feedback/suggestion boxes, online surveys, and the participation of migrant workers in worker representation models. In doing so, business enterprises can identify and address issues early, as well as gain new insights into their business practices. Where possible, business enterprises are encouraged to consult and partner with civil society organizations to promote greater engagement with migrant workers. Finally, as a matter of good practice, business enterprises are encouraged to consult migrant workers and their representatives during the design, implementation and continuous improvement of its policies and management systems, due diligence processes and grievance mechanisms that impact migrant workers.
- **Support multi-stakeholder solutions:** Business enterprise are encouraged to support and participate in multi-stakeholder initiatives that bring together different stakeholders – such as civil society organizations, the labour movement, the private sector, academia, and the media – to share good practices, examine common challenges and develop collaborative solutions to the human and labour rights risks facing migrant workers. In addition, IOM encourages business enterprises to participate in sectoral and industry-level associations that promote collective action to improve protections for migrant workers in business operations and supply chains as well as level the playing field for responsible business enterprises.

3. ENHANCE MIGRANT WORKER VOICE AND EMPOWERMENT

IOM recognizes the need for migrant workers to be empowered about their human and labour rights during all stages of the labour migration process. Similarly, IOM recognizes the need for migrant workers' voices and experiences to be included in discussions, initiatives and potential reforms that directly impact them. As such, IOM encourages States and business enterprises to develop, participate and support initiatives and approaches that enhance migrant worker voice and empowerment. In addition to the measures already referenced above, IOM recommends that States and business enterprises:

- **Support Comprehensive Information and Orientation Programmes (CIOP) for migrant workers:** States and business enterprises are encouraged to provide and/or participate in CIOP for migrant

³⁷ It is important to note that this does not prevent migrant workers from also seeking remediation through other mechanisms.

workers in both countries of origin and destination – in collaboration with civil society partners. As a matter of good practice, CIOP should be tailored to the specific migration corridor and industry involved and cover all stages of the labour migration process from preemployment and pre-departure, to post-arrival and employment, and finally pre-return. When designed and implemented well, CIOP can empower migrant workers about their rights and responsibilities and prepare them for the realities of living and working abroad.

- Proactively support and engage civil society organizations:** States and business enterprises are encouraged to proactively support and engage civil society organizations to strengthen protections for migrant workers. This includes providing financial support to civil society organizations – especially at the grassroots level – to provide essential support and services to migrant workers, especially in the event of harm. This includes but is not limited to supporting the establishment of Migrant Resource Centres in both countries of origin and destination to provide a ‘one stop shop’ for migrant workers. In addition, States and business enterprises are encouraged to proactively engage and seek input from civil society organizations about the risks facing migrant workers and possible solutions. Civil society organizations often have the ear of migrant workers, as well as vast networks within and outside their country, which allows them to better understand the realities facing migrant workers on the ground in both countries of origin and destination.
- Engage with diaspora organizations:** States and business enterprises are encouraged to connect and engage with diaspora organizations to promote greater cross-cultural sensitivity and social inclusion. For States, this could involve engaging diaspora organizations to work with and support labour inspectorates in monitoring working conditions for migrant workers. Similarly for business enterprises, this could involve engaging diaspora organizations in the development of new policies and management systems, as well as ongoing monitoring efforts. As there is no one model for engagement, IOM encourages States and business enterprises to examine a range of different engagement models based on their needs and identified gaps.
- Promote the use of new technologies and social media:** States and business enterprises are encouraged to provide funding and/or partner with technology companies to develop new and innovative approaches to strengthen migrant voice and empowerment. This could include supporting online platforms for migrant workers to provide feedback in their own language and in real time about their recruitment, migration, and employment experiences. Similarly, it could involve supporting online platforms that provide accurate and reliable information about living and working abroad and connect migrant workers to relevant support services, including civil society and diaspora organizations.
- Promote the participation of migrant workers and their representatives:** States and business enterprises are encouraged to support the participation of migrant workers and their representatives in local, national, regional, and global forums, events and platforms that focus on the protection of migrant workers. In doing so, States and business enterprises should ensure that the rights and wellbeing of migrant workers are prioritized at all times. For example, survivors of forced labour should not be required to repeatedly tell their stories for the benefit of educating others. Rather, migrant workers should be supported to participate and contribute to discussions – based on their own terms and conditions.