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ABSTRACT

**Assessing the impact of ad-hoc migratory
and asylum regulations on the
vulnerability to human trafficking and
forced labour in Spain, Germany, and
Italy: identifying good practices during
the COVID-19 pandemic**

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The COVID-19 pandemic and the subsequent measures adopted by States have abruptly changed the regulatory landscape at various levels. The migration and asylum normative frameworks have been particularly affected by these changes and trade-offs, often as a result of improvised State policies in a context of radical uncertainty (OECD, 2020; World Bank, 2020). States have had to deal with the need to both 'flatten the curve' through travel restrictions or outright bans, and attract workers in key sectors heavily dependent on migrant labour (IOM, 2020). Measures have also been taken regarding migrant detention centres (World Health Organisation, 2020), mass regularisation of migrants, asylum policy (Vohnen, 2020; Ahmad, 2020), protection of particularly affected sectors where migrants proliferate –such as domestic work– and on the control of employment in irregular conditions. All these measures have an impact on existing conditions of vulnerability among migrants and asylum seekers, which may lead to an increase in human trafficking or forced labour (UNODC, 2020).

The aim of this article is to assess the extent to which COVID-19-related measures have impacted migrants and asylum seekers' vulnerability to human trafficking and forced labour, with a focus on identifying "good practices" to

mitigate negative effects.¹ To achieve this end, the policy responses of three European countries that have been severely hit by the pandemic but remained important migrant destination countries will be analysed (Spain, Germany and Italy²) under three headings: (i) measures to prevent abuse of migrants' rights, for example through regularisation of migrants working in certain sectors such as agriculture and domestic work and/or authorisations for asylum seekers to work in the countryside (Italy and Germany, respectively); (ii) measures to control and monitor migrant workers' conditions, for instance, through the design of specific campaigns in the Labour Inspectorate to combat forced labour in the agriculture sector (Spain); (iii) specific protection and safeguarding measures, such as the automatic validity extension of stay visas and residence cards (Spain and Italy). These measures will be assessed in terms of their impact on the vulnerability of migrants to violence, exploitation and abuse before, during and after migration. Those practices which reduce the vulnerability of migrants will be classified as "good practices" that could serve as a model for other States to follow. Against this backdrop, particular attention shall be paid to the IOM's Determinants of Vulnerability model, which considers the vulnerability or resilience of migrants to exploitation as the net impact of the interaction of various factors at different levels: individual, structural, community, household and family (IOM, 2019).

While recognizing that these are extraordinary measures adopted in a context of extreme uncertainty, and with other interests at stake –predominantly public health– this analysis will provide a better view of the extent to which migration policy options might create/remove/shape various aspects of vulnerability, thus affecting migrants and asylum seekers' risk of being subjected to human trafficking or forced labour. Furthermore, it will allow us to critically assess the proportionality of measures adopted through migration lenses, considering whether the same outcomes could be achieved through other, less harmful, measures. In short, it will help us to identify problematic (disproportionate) and good practices that will serve to build knowledge for recommendations for the ongoing or future crises.

¹ For the scope of this article, the criteria used to qualify a measure as a "good practice" are i. promoting human rights and ii. aiming at restorative outcomes.

² In terms of non-EU citizens living in the country, Germany is the main destination country, Italy scores the second and Spain is the fourth.

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