

**JOINT COMMUNICATION OF SPECIAL PROCEDURES
OF THE UNITED NATIONS HUMAN RIGHTS COUNCIL**

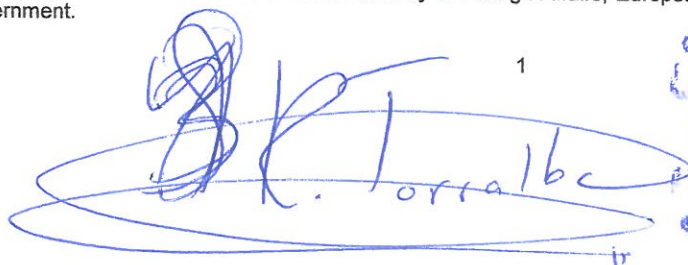
To: Beatriz Balbín
Head of Special Procedures Subdirectorato
OHCHR
Reference: AL OTH 49/2020
From: Agrícola El Bosque, S.L.
Spain
Written Pleadings¹
Pages: 31 (plus annexes)

Huelva, 6th August 2020

Dear Ms. Balbín,

AGRÍCOLA EL BOSQUE, S.L. has become aware of the Joint Communication of Special Procedures of the United Nations Organisation sent by you, in your capacity as Head of Special Procedures of the Office of the High Commissioner for Human Rights (OHCHR), to Mr. Lucky Porter, CEO of Angus Fruit Ltda., with reference AL OTH 49/2020, with regard to the following Rapporteurships: Special Rapporteur on Extreme Poverty and Human Rights; Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises; Special Rapporteur on the Right to Food; Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health; Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living and to the Right to Non-Discrimination in this Context; Special Rapporteur on the Human Rights of Migrants; Special Rapporteur on Contemporary Forms of Slavery, including its causes and consequences; Special Rapporteur on Violence Against Women, its causes and consequences; and Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation, in accordance with the Human Rights Council Resolutions 35/19, 35/7, 32/8, 42/16, 34/9, 34/21, 42/10, 41/17 and 42/5. Following is the REPORT.

¹ Document made with the expert technical assistance of Jesús de la Corte and Julieta Montañó Salvatierra, Doctors in Law, Experts in Gender, Multiculturalism and Human Rights, usual drafters of Communications, Technical Reports and Pleadings before the United Nations System. Document provided to the Human Rights Office of the United Nations and Human Rights General Directorate of the Ministry of Foreign Affairs, European Union and Co-operation of the Spanish Government.


1

Ruth Torralba Piqueras

Traductora - Intérprete
Jurada de INGLÉS

Nº 4555

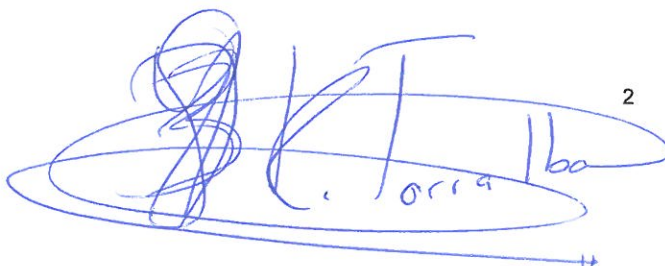
TAKING INTO ACCOUNT that Angus Soft Fruit Ltda., client of Agrícola El Bosque S.L., directly mentioned in the first part of the REPORT, has requested clarifications on this part about alleged violations of Human Rights suffered by temporary migrant workers, and particularly, temporary migrant women workers from Morocco.

TAKING INTO CONSIDERATION that the note mentions that it is sent *“under procedure for communication of the Special Procedures of the United Nations Human Rights Council to seek clarification about the information we have received.”*

BEING AWARE that *“Mechanisms of Special Procedures can directly take part with governments and other interested parties (including companies) on claims about human right abuses within their mandates by means of (...) and other communications.”*

TAKING INTO ACCOUNT that the Human Rights Council urges all companies to comply with their duty to respect human rights in accordance with the Guiding Principles, contained in the Resolution creating the Working Group on Transnational Corporations and Other Business Enterprises dated 6th July 2011, and repeated in successive mandate renewals.

BEING CONSISTENT with the duty that this party has, as a company, to comply with the obligations contained in the Guiding Principles, especially Principle 11, which indicates that *“Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.”*

 2



ACKNOWLEDGING that the REPORT was elaborated in compliance with the mandate contained in number 6 inc. b) of document 17/4 on the creation of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, approved in the 17th period of sessions of the Human Rights Council, which establishes the Working Group tasks as: *"b) To identify, exchange and promote good practices and lessons learned on the implementation of the Guiding Principles and to assess and make recommendations thereon and, in that context, to seek and receive information from all relevant sources, including Governments, transnational corporations and other business enterprises, national human rights institutions, civil society and rights-holders."*

ACKNOWLEDGING the important role of Special Rapporteurs and the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, and the need for a surveillance action of all Human Right bodies, to avoid violations of human rights of workers in general, and in particular of women, migrants and people in a vulnerability situation.

CONCERNED about the REPORT containing an express reference to Agrícola El Bosque S.L. as an alleged violator of human rights of Moroccan women, and about the fact that all content does not reflect the reality of the company, such as its organisation, the relationship with workers, labour conditions, housing conditions, attention to health, actions to prevent male violence and measures taken to prevent impact of the COVID 19 pandemic on its workers, and the rest of important aspects contained in documentation that can be accessed by all Rapporteurs subscribing the document or any person that has requested access on their behalf.

CONSIDERING STRANGE that throughout the REPORT there is no reference to official documents, worker trade union documents, academic research or documents of NGOs defending human rights, which mention Agrícola El Bosque S.L. as an accused, investigated or prosecuted, whether in administrative, court, labour or criminal proceedings, with regard to problems with male or female workers, and that no written information has been requested, or no interview has been made to the company's staff.



CONSIDERING STRANGE that the provisions of article 41 of the Manual of Operations of the Human Rights Council dated August 2008 have not been fulfilled, the article stating "...It is up to mandate-holders to seek additional information from the original source or from other appropriate sources in order to clarify the issues or verify the credibility of the information", as in fact there was no actual visit or interview of the Rapporteurs or envoys of the same to the company's management, to workers legal representatives or to any worker, and there was also no documented information request at any time.

In view of the above provisions, and in due time and form, together with the attached documentary evidence², in this document we clarify each of the concerns expressed by the acting Rapporteurs in REPORT OTH 49/2020, exclusively with regard to what actually belongs to AGRÍCOLA EL BOSQUE S.L., in the order in which it was drafted:

1- Context

2- Vulnerability situation of seasonal migrant female workers:

- a. Discrimination
- b. Deceit at the source
- c. Abusive and exploitive working conditions, and lack of safety measures at work

3- Living conditions

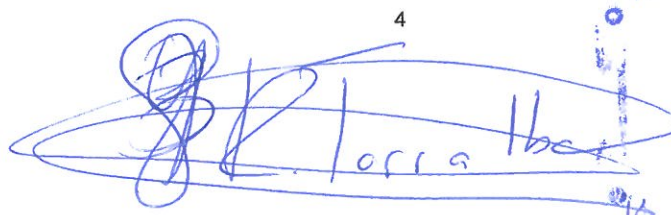
4- Access to health care

5- Labour and sexual harassment

6- Impact of the COVID-19 pandemic on migrant workers.

Before this list, and answering, in order of appearance, to the referred REPORT, which in page 2 literally establishes: "...we have received information about alleged violations of human rights suffered by temporary migrant women workers from Morocco employed for assistance during the harvest season in strawberry farms in the province of Huelva, south of Spain", and which also establishes that: "The company employing

² Apart from the documents expressly mentioned in footers, because they are audits and result reports, and from those expressly provided in the section Annexes of this document, the rest of documents herein mentioned are available for verification requested by the Special Procedures Subdirectorates of the Office of the United Nations High Commissioner for Human Rights (OHCHR), or by any other body with a legitimate interest for the purposes of clarification and contradiction to what is stated in the referenced document. They are not provided pursuant to the principle of procedural economy.

4


Ruth Torralba Piqueras
Traductora - Intérprete
Jurada de INGLES
Nº 4555

women who took part in previous campaigns is Agrícola El Bosque S.L. This company belongs to the company group Plus Berries ...”, we wish to express we consider the generic expression “strawberry farms in the province of Huelva” strange, because AGRÍCOLA EL BOSQUE S.L. does not produce strawberries, it exclusively produces berries and it belongs to the company group Plus Berries, together with another six companies, among which only one produces strawberries.

Apart from that inaccuracy, which would be irrelevant if it were the only one, the text mentions AGRÍCOLA EL BOSQUE, S.L. as the only company employing temporary women workers. Sector statistic data decisively confirm the contrary³.

CAMPAIGNS	TOTAL CONTINGENT BERRIES SECTOR (N° of people)*	PEOPLE (from the contingent) addressed to EL BOSQUE, S.L.	Participation %, EL BOSQUE, S.L.	DATE OF FIRST ARRIVALS	DATE OF LAST RETURNS
2017/18	4,518	150	3.32%	March 18	July 18
2018/19	16,140	100	0.62%	February 19	July 19
2019/20	14,583	60	0.41%	December 19	July 20

* All people employed in contingents are women coming from Morocco.

According to official data from the last campaign 2019-20, AGRÍCOLA EL BOSQUE, S.L. represents 0.41% of the source employment carried out by the entire berries sector in Morocco. However, the REPORT only expressly mentions this company, and this party understands this can infringe the right to entrepreneurial freedom and right of free competition, stating this as a strict position defence.

This fact becomes even more serious because, having used party information without this information having been minimally verified or compared, the REPORT has been revealed to the client network of the company, risking the commercial interests of the same, and in our opinion, respecting very little the presumption of innocence, or at least in an unwise way.

³ Sector data provided by the Unit of the Labour and Immigration Area of the Ministry of Labour, Migration and Social Security of the Spanish Government, and by AGRÍCOLA EL BOSQUE, S.L. through its statistical system.

Ruth Torralba Piqueras
Traductora - Intérprete
Jurada de INGLÉS
Nº 4555

In general, and with the maximum respect, we must say that the REPORT is very generic and imprecise in all its representations, especially when delimiting possible liabilities. Probably, the clearest case are the constant references to the Spanish Government, disregarding the existence of at least 3 competency levels potentially involved in the described facts, such as the national, autonomous and local levels. However, the generic description becomes concrete and specific in case of the alleged responsible company, identifying it in a special way, and generating a sort of negative aureole provoking an unconscious association of ideas between the alleged non compliances and the referred company, in this case, AGRÍCOLA EL BOSQUE, S.L.

This means that the REPORT does not delimit the different competence scopes determining the possible liabilities of each of the parties; the described facts, if they are true, would at least imply the Moroccan Government, the Spanish Central Administration, the Autonomous Andalusia Administration and the local administration of the different municipalities, business associations and the companies that are involved.

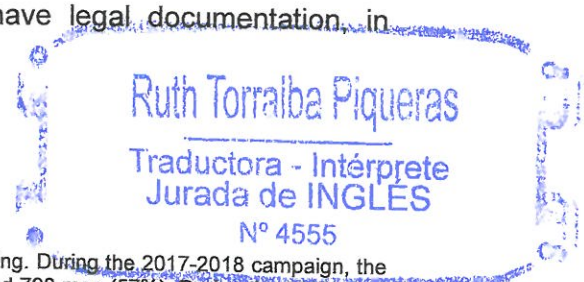
This is important, as AGRÍCOLA EL BOSQUE, S.L., as has been previously mentioned, questions and/or denies the statements of the REPORT, exclusively with regard to its reality, and to its scope of liability, and it is not of its competence to determine in any sense other possible liable subjects according to each scope of competence.

1) Context

AGRÍCOLA EL BOSQUE, S.L. is a company exclusively devoted to the production of berries in seven farms of the province of Huelva. Its staff is made up of 61 permanent workers and 1,437 temporary workers⁴ (of a different duration) who rotate by seasons, in accordance with the company's needs, of whom 59.22% are male and 40.79% are female. All contracted people are of legal age and have legal documentation, in accordance with the requirements of the Spanish State⁵.

⁴ Data from the last campaign 2019

⁵ Statistical data of the 2 seasons prior to the referred one are the ones following. During the 2017-2018 campaign, the total 1,403 people making up the staff were distributed in 605 women (43%) and 798 men (57%). During the 2018-2019 campaign, the total 1,712 people were distributed in 789 women (46%) and 912 men (54%).



A handwritten signature in blue ink, appearing to read "Ruth Torralba Piqueras". The signature is stylized and includes a large circular flourish on the left side.

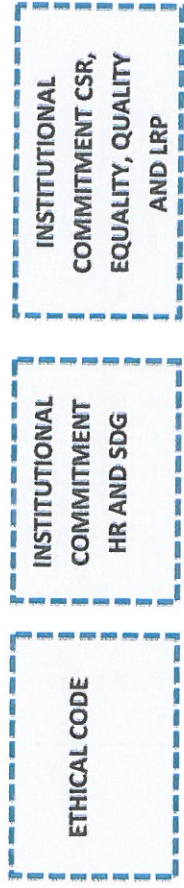
Since its foundation 25 years ago, and within the policies that throughout its existence have been adopted by the company, priority has been given to the systematic improvement of working conditions for staff rendering services, both administrative and field services, human relationships between workers and the company, respect to laws in force in the country, and respect to international commitments to which the Spanish State is bound, with regard to Human Rights, Transparency, Environmental Care and fight against corruption, in particular, to UN Guiding Principles about Companies and Human Rights.

In fact, **the company has a whole architecture of internal mechanisms guaranteeing the rights of people** working at the company, or who are permanently or temporarily related to it. Due to the importance of the same, it is reproduced in a graph as follows:

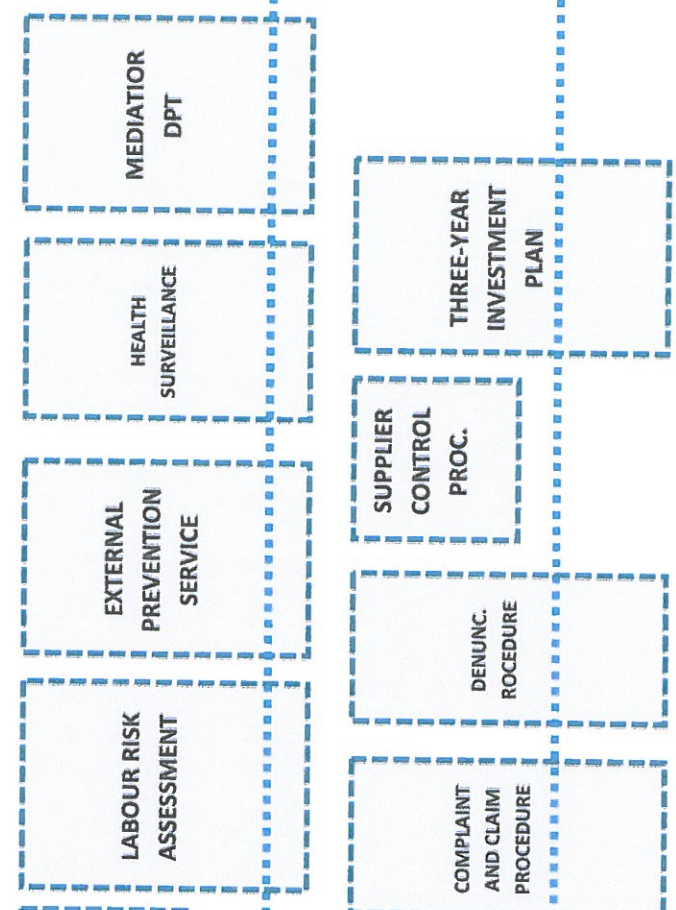


A handwritten signature in blue ink, appearing to read 'Ruth Torralba Piqueras', with a small number '7' written to the right of the signature.

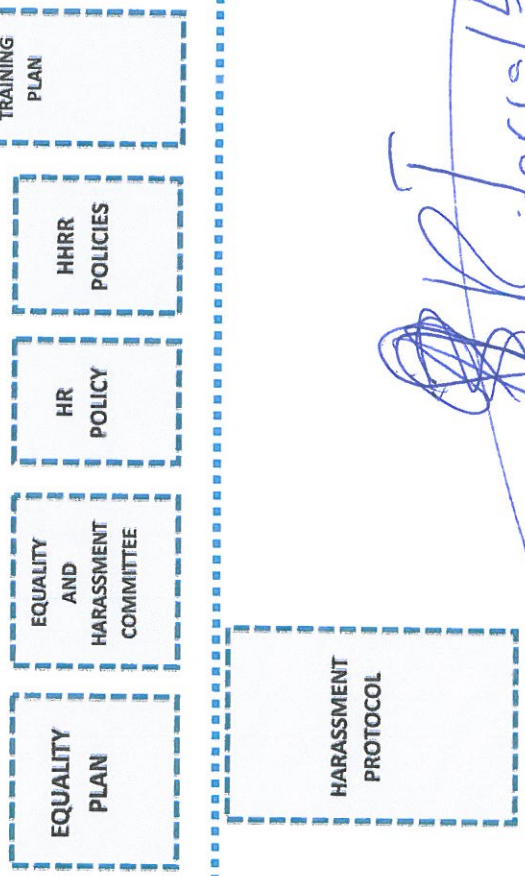




INSTITUCIONAL



DIAGNOSIS



**PREDICTIVE
PREVENTIVE**

Ruth Torralba

CORRECTIVE



It can be observed that all themes which are too generally referred in the section "Context" of the REPORT, that is, circular migration and slavery, forced labour, condition of housing and informal settlements, sexual harassment, access to health, salary, working hours and rest, were previously considered by the company in its predictive/preventive action, taking the necessary measures to avoid any case.

Fully knowing the Foundational and Operational Principles contained in the document "Guiding Principles about Companies and Human Rights" (in what specifically refers to companies), throughout its existence, AGRÍCOLA EL BOSQUE, S.L. has shown the most absolute respect to human rights of all people rendering services, regardless of their nationality, language, sex, gender, political ideas or religious beliefs, and this has been positively valued both by State agents who periodically inspect the company, and in audits and assessments to which it is subject.

As explained in the body of this document, AGRÍCOLA EL BOSQUE, S.L. has treatment protocols for all groups, with special attention, by a vulnerability analysis, to migrant workers. These people, from the moment they appear at the company, receive a detailed explanation about the contract terms, with the immediate resolution of any remark, doubt or contradiction with regard to the original indications and to what is referred by the company, having for that purpose the figure of an Intercultural Mediator – Consultant, who apart from mastering the Arabic language, thus making communication easier, knows the cultural aspects of Maghreb male/female migrant workers because he/she shares nationality. This position is part of the organisational structure of the company, precisely taking into account the differences in language, culture, and the difficulties arising from them; given the asymmetric conditions of power, they can give rise to human rights of people working in it being affected.

AGRÍCOLA EL BOSQUE S.L., apart from having all this policies and procedural architecture, focused to respect for human rights of workers, belongs to SEDEX platform, an organisation devoted to promoting improvements in company practices with regard to Ethics. In this context, AGRÍCOLA EL BOSQUE, S.L. has been satisfactorily audited, following the SMETA procedure (Sedex Members Ethical Trade Audits), a social auditing procedure which uses different techniques and methods for ethical evaluation⁶.

⁶ Available document



AGRÍCOLA EL BOSQUE, S.L. has the certificate GLOBAL G.A.P. Risk Assessment on Social Practice (GRASP). Module which is designed to assess social practices at the company, treating specific subjects with regard to health, safety and welfare of workers, within the International Global GAP Certificate⁷.

Finally, the company, apart from its Social Responsibility Policy⁸ adopted on the 5th November 2018, from October 2019 has a Human Rights Policy⁹ which reflects the sincere commitment with human rights and its view on universality, comprehensiveness and interdependence of Human Rights.

However, knowing those aspects that must be reinforced, especially those referring to gender perspective, intersectionality and interculturality, while updating the documents which require that update due to date, we are already working for their incorporation to our policies and programmes.

Ultimately, the concern of AGRÍCOLA EL BOSQUE, S.L. is not only limited to the quality of the product it offers to the market, it also includes the welfare of those rendering services at the company, regardless of their permanent or temporary condition, of their being nationals or foreigners; it is thus shown in certificates, assessments¹⁰ and audits¹¹ to which it is periodically subject.

As a result of this sensitivity and of constant work, the interest of migrant workers to be contracted once again has increased, and this is shown in the percentage of the so-called "older" workers, that is, people who request repeating their experience with the company season after season, who are statistically near to half the staff (43.66%). This shows the degree of satisfaction of temporary migrant workers working at the company. It also confirms that the *dependent circular migration, involving deprivation of freedom* to which the REPORT refers does not take place at AGRÍCOLA EL BOSQUE, S.L.; it is each person and the company that freely decide if they want to repeat the labour experience, or if, on the contrary, the person decides to try at another company of those who take part in the contingent of staff employed in Morocco.

⁷ Available document
⁸ Available document
⁹ Available document
¹⁰ Available document
¹¹ Available document



Ruth Torralba Piqueras
Traductora - Intérprete
Jurada de INGLES
N° 4555

With regard to this section, we wish to expressly deny that there is any type of subcontracting of staff at AGRÍCOLA EL BOSQUE, S.L. 100% of people are directly contracted and at a labour relationship normalised with the company, under a strict principle of equal treatment.


2) Vulnerability situation of seasonal migrant female workers

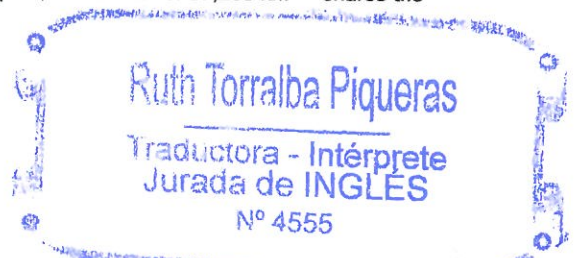
With regard to statements in this section, we must insist once again in the excessively light and general treatment of this matter in the REPORT, which in our opinion does not contribute to the required "precision analysis".

It does not specify which of the alleged abuses mentioned are specifically attributable to AGRÍCOLA EL BOSQUE, S.L. In fact, it indicates the existence of companies which are involved with the State in an alleged situation of taking advantage of the vulnerability of migrants, but it does not indicate to which companies from so many companies in the south of Spain it refers, or if they are representative business associations, and this can generate the doubt that our company, in particular, is the possible involved party.

Moreover, we understand that laxity is disproportionate and harmful on our part, because of statements such as "*the working conditions and housing of all migrants involved in this industry increases their vulnerability situation*", giving a "single size" treatment to a numerous and diverse migrant population, which is surely not under the same circumstances¹². All these generalities, with the deepest respect, do not correspond to the reality existing in the farms of AGRÍCOLA EL BOSQUE, S.L., as we will prove throughout this document, together with its annexes and the documentation that will be placed at your disposal whenever you request it.

¹² It would be like saying that the migrant population existing in the Netherlands, Belgium and almost all Switzerland – which represent the equivalence of the surface occupied by the south of Spain, with a total of 87,268 km² – shares the same reality.

 11

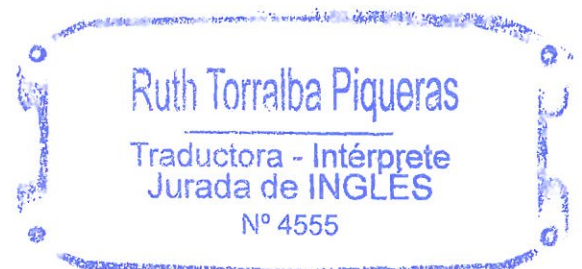


2.a) Discrimination

This section of the REPORT questions the model of recruitment in origin that the Morocco Government, the Spanish Government, representative Business Associations and the most representative Trade Unions defined in due course. It also reflects an alleged situation of physical and intellectual isolation, and of legal uncertainty in migrants' labour relationships, arising from lack of information.

Against all this, we must state that AGRÍCOLA EL BOSQUE, S.L.:

- Has no competence or capacity to interfere in the recruitment in origin mechanism, with the possibility of subscribing or not subscribing to the request of Moroccan staff in the terms already established. However, it provides business associations transferred to Morocco with precise information about the characteristics of the labour relationship with the company for due communication.
- Mitigates the possible risks of physical and intellectual isolation of the migrant staff recruited by the company, with different actions that have been developed over the years:
 - o Participation in introductory courses on the Spanish language, organised by the International Red Cross.
 - o Organisation of basic Spanish language courses.
 - o Provision of an Intercultural Mediator, who is a bilingual Moroccan national.
 - o Periodical weekly transfers in company vehicles to population centres for shopping, leisure or any other type of need, the accompaniment of the Mediator being optional.
- Mitigates the possible risk of legal uncertainty in the labour relationships of migrants recruited by the company arising from a lack of information in a two-fold direction:
 - o With regard to labour conditions of each person recruited:
 - With the existence of an objective and transparent recruitment procedure, validated by the Legal Representative of Workers, who can be present if the female worker requests so, and she is informed of this right.
 - With the assistance of the Intercultural Mediator when recruitment takes place and at all times during the labour relationship.



- With the delivery of the labour documentation (official and company documentation) in Spanish and in Arabic.
- With a special attention to cases of intellectual and functional illiteracy, through the imminent use of supporting symbols.
- With the periodical weekly presence of staff from the Human Resources Department at the farms to offer guidance and resolution to queries.
- With regard to the job performance expected from each recruited person:
 - Carrying out training activities before beginning activity, explaining the working system and the production to be reached.
 - Using computerised systems for controlling time and production.
 - Applying a colour alarm system easily understandable by all people.
 - Making available for all people the figure of a “trainer” who, during the first week of work, accompanies workers in small groups to develop “on the job” training.

2.b) Deceit at the source

With regard to this section, we must only state that the percentage rate of temporary migrant people who work at the company by rehiring, that is, returning season after season, has been previously provided in this document. All of them do so after their own request to be rehired by AGRÍCOLA EL BOSQUE, S.L., or accepting a personal request of re-entry into employment made by the company with regard to each of those people. This datum is in contrast with the statement included in the REPORT about the alleged dissociation between the promise of recruitment in origin and the final reality at the company.

As an example to this regard, during the 2019 campaign, this company hired a total of 60 people in the contingent, 100% of which were repeating after previous campaigns. This differs from the image of dependency and lack of freedom shown in the REPORT.



The image shows a handwritten signature in blue ink, which appears to be 'Ruth Torralba Piqueras', written over a large, irregular blue oval. To the right of the signature is an official blue ink stamp. The stamp is rectangular with a decorative border and contains the following text: 'Ruth Torralba Piqueras', 'Traductora - Intérprete', 'Jurada de INGLES', and 'Nº 4555'.

2.c) Abusive and exploitive working conditions, and lack of safety measures at work

With regard to statements made in this section, apart from denying their existence in the reality of AGRÍCOLA EL BOSQUE, S.L., we must make the following considerations.

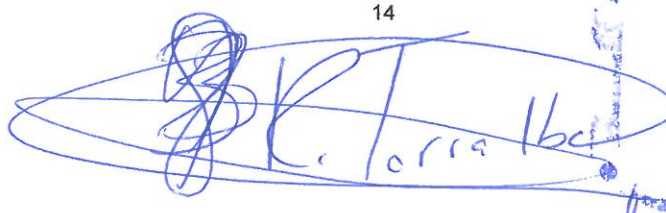
In general, the Labour and Social Security Inspection, inspection body of the Ministry of Labour, Migrations and Social Security has the legal power in Spain to carry out inspections when it deems fit, without a prior warning, and with full capacity to gain access to all facilities of the company. It carries out periodical actions, both documentary and on site. In the last ones, it visits farms together with agents of the State Security Forces (EDATI Unit: Immigrant Attention Teams), and verifies all points denounced in this section of the REPORT.

During the last 15 months, AGRÍCOLA EL BOSQUE, S.L. has received 8 labour inspections¹³, all of them being satisfactory and with no opening of infringement proceedings.

100% of the staff working at the company, whether they are nationals, migrants, temporary or permanent, has a standardised employment contract, with the social coverage acknowledged by the Spanish legal system. In the case of migrant population, they are direct contracts with AGRÍCOLA EL BOSQUE, S.L., which formalise the “recruitment commitments” signed in origin, that is, in Morocco, with the business associations – that is, they are not employment contracts, as they are only signed and formalised with the company.

When signing, before beginning work, workers sign them supported by one of the figures of the company to guarantee legal safety of the person: the assistance of the available mediator/translator; or the presence of legal representatives of workers, whose role is to ensure rights of workers.

¹³ It is at the disposal of that Special Procedures Subdirectorate or of any other body with a legitimate interest with regard to Inspection Certificates and/or documents of each of them for due verification.

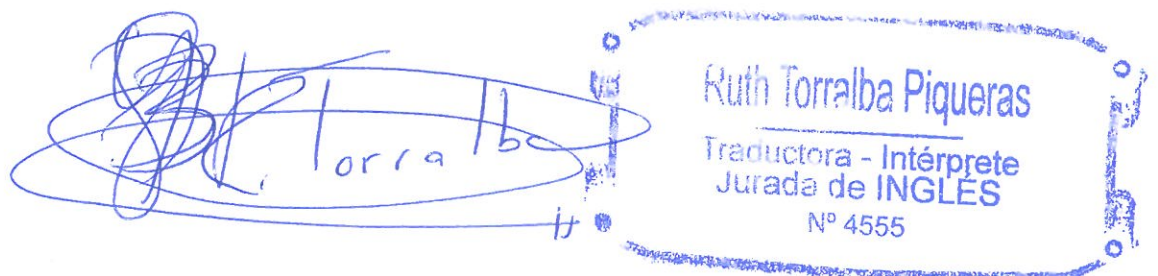


As a predictive measure, AGRÍCOLA EL BOSQUE, S.L. is advancing in incorporating representative symbols to its employment contracts, having detected that the risk does not consist of the language barrier (saved in all cases), rather of illiteracy, whether intellectual or functional, which are not always shown by people. To that regard, we are studying any non-invasive system for detecting cases of functional illiteracy, which allows adopting the possible preventive measures.

Apart from these considerations, answering to the statements introduced in this section, specifically with regard to the reality of AGRÍCOLA EL BOSQUE, S.L., we must make the following representations.

As for the statement about the existence of abusive employment practices made by the REPORT:

- About the uncertain date of the beginning/end of the labour relationship: we express our surprise on the fact that the Rapporteur takes as a source a private and minority communication means for a matter as important as this one, and we state that AGRÍCOLA EL BOSQUE, S.L. formalises all of its contracts in models standardised by the Ministry of Labour, Migrations and Social Security, under modality 401 "work or service contracts", because they are subject to a reality of the same nature, that is, the existence or not of fruit on branches to collect and their ripening time.
- With regard to the alleged impossibility to unionise for migrant workers: we once again express our surprise, in this case with regard to the mistake of the Rapporteur between what it calls "affiliation to a trade union" and the "participation as a candidate of any worker to the elections of workers representatives"; with regard to the reality of AGRÍCOLA EL BOSQUE, S.L. we state it is absolutely scrupulous with the trade union rights of all workers. The company has a Workers Committee consisting of 9 members and the trade union sections of Comisiones Obreras (CCOO) as the most representative trade union at the national level. In these cases, workers, whether nationals or migrants, temporary or permanent, are entitled to participate with the same guarantees.

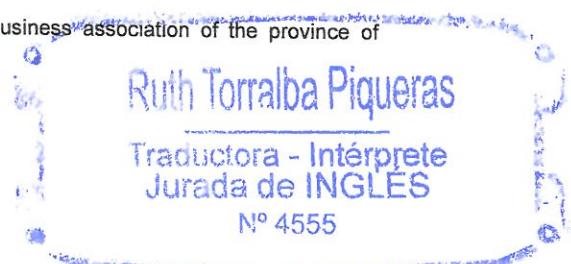


Ruth Torralba Piqueras
Traductora - Intérprete
Jurada de INGLÉS
Nº 4555

- With regard to the alleged randomness of the probation period: AGRÍCOLA EL BOSQUE, S.L. applies the Spanish labour legislation in force, and it does it with respect and guarantees for workers. In the case of the probation period, it is not applied to staff repeating at the company, as it is the same company which personally requests the repetition of people with the express wish to reincorporate them.
- With regard to the alleged absence of a copy of the employment contract: we once more highlight the compliance with the legislation in force by the company, the Human Resources Department of AGRÍCOLA EL BOSQUE, S.L., pursuant to the Human Resources – Employment Policy, delivers all labour documentation to each legitimate holder.
- With regard to the alleged impossibility to change jobs, alleged powerlessness before dismissals or contract termination cases related to the effectiveness of their visa: we once again show our surprise because the Rapporteur considers as a source a report which is 9 years old, and relates to a region which is 500 km from Huelva – the same distance between Geneva and Paris -; we state that none of these situations take place at AGRÍCOLA EL BOSQUE, S.L. With regard to the changing of jobs, the same person holding the position of Intercultural Mediator previously held the position of picker and underwent promotion and changed job; we are talking about a standardised application right. With regard to the cases of alleged powerlessness before dismissal situations, the standardised contract of each person allows this person to judicially and extrajudicially claim in the same conditions as any national. With regard to contract terminations and temporary nature of visas, we understand that this statement of the Rapporteur must be mistaken, as people recruited in origin in Morocco are always assisted by representative business associations, which, on termination of the labour relationship are also in charge of the co-ordination of the process to return to their country, thus complying with the return commitment, signed by each person in Morocco before travelling to Spain. Therefore, any lack of protection that can take place would be the result of a status of migratory irregularity provoked by a unilateral decision of the person to remain in Spain. To this regard, in co-operation with PRELSI¹⁴, AGRÍCOLA EL BOSQUE, S.L. has organised an information and awareness campaign about the return to Morocco, to avoid the mentioned irregularity situations.

¹⁴ Ethical, Labour and Social Responsibility Plan of INTERFRESA, sector business association of the province of Huelva.

16



Ruth Torralba Piqueras
Traductora - Intérprete
Jurada de INGLÉS
Nº 4555

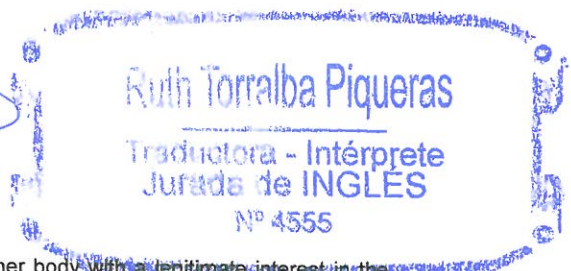

As for the statement about the existence of violations of the rights of the seasonal migrants, especially women:

- With regard to the alleged salary compensation under the legal limit: AGRÍCOLA EL BOSQUE, S.L. complies with the legal text of the applicable Collective Bargaining Agreement for the agricultural activity of the province of Huelva, for all its staff, both permanent and temporary, with no difference, and following the equity and transparency principles. In the same way, it complies with the payment of contributions to the General Treasury of Social Security, tax system which allows keeping the welfare state in the country. The contributions established by law, which are regularly fulfilled by AGRÍCOLA EL BOSQUE, S.L. are for the coverage of unemployment, retirement and protection before temporary disabilities arising from the loss of health (public health care system). Currently, the company is waiting for the resolution of the dispute existing between the agricultural sector and the government with regard to the application of the Minimum Interprofessional Salary, to proceed as applicable. In any case, AGRÍCOLA EL BOSQUE, S.L. is paying the amounts that the Rapporteur refers to as legal in its Rapporteurship¹⁵.

- With regard to the alleged overtime, above the allowed legal limit: we once again repeat that we scrupulously comply with the legislation in force; AGRÍCOLA EL BOSQUE, S.L. controls the maximum allowed working hours and the distribution of the working hours as per the Collective Bargaining Agreement using a PDA computerised system where they are duly reflected.

- With regard to the alleged lack of payment of salaries: at AGRÍCOLA EL BOSQUE, S.L. there has never been any situation as the one described. The internal Human Resources Policy of the company guarantees effective collection.

- With regard to the alleged non compliance in Labour Risk Prevention, mainly with regard to the delivery of work equipment and personal protective equipment: the company has an external Health Surveillance Service, an external Labour Risk Prevention Service, a Health and Safety Plan for each farm, and in all these plans, coverage refers to any person carrying out its activity within the facilities of the



¹⁵ It is at the disposal of the Special Procedures Subdirectorate or of any other body with a legitimate interest in the matter, apart from the Inspection Certificates and/or documents of past labour inspections, and payrolls of all staff, for their due verification.

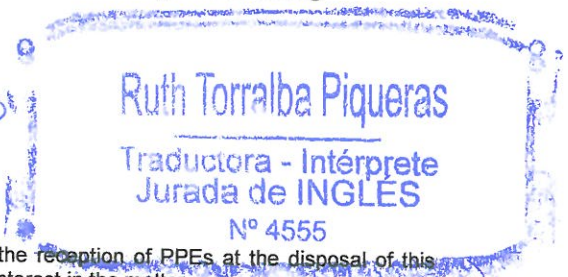
company, regardless of the type of contract or duration of the same. All of the above subject to an external independent audit. With regard to the delivery of Personal Protective Equipment (PPEs), AGRÍCOLA EL BOSQUE, S.L. delivers the same or places them at the disposal of all people requiring them because of their functions¹⁶, and watches over their use.

- With regard to the alleged abuse in performance and its consequences: performance controls carried out by AGRÍCOLA EL BOSQUE, S.L. are proportional and adjusted both to legislation in force and to international criteria of the International Labour Organisation. In this specific case of harvest, the number of kilograms required by the Internal Human Resources Policy of the Company¹⁷ is the weekly average of the work team to which each worker belongs, collected in a standardised working day (6.5 hours), with a 10% tolerance margin.

We can only finish this section absolutely denying the last of the statements made in the REPORT, that is, with regard to the consideration of *“forced labour”* according to the *“reported labour conditions... in accordance with the forced labour indicator established by the International Labour Organisation”*. To this regard, and following the same postulates of the International Labour Organisation, we speak about forced labour when it *“generates impairment to human dignity, which specifically violates the freedom to work”*¹⁸; to this regard, it is stated that *“the consent will be critical for the legal performance of any activity or to continue carrying out”*¹⁹. As it has been proved up until now in this document, and in the rest of its content and its support documents, it is confirmed that the reality of AGRÍCOLA EL BOSQUE, S.L. is respectful with regard to those postulates.

3) Living conditions

With regard to what is stated in this section of the REPORT, AGRÍCOLA EL BOSQUE, S.L. complies with all transparency standards required to it with regard to living



¹⁶ Documentation with regard to Labour Risk Prevention, together with the reception of PPEs at the disposal of this Special Procedures Subdirectorate or of any other body with a legitimate interest in the matter.

¹⁷ Document that is also available.

¹⁸ In Guide for Identification of Forced Labour – addressed to workers organisations. Publishing Service of the International Labour Organisation. Geneva 2015. Page 23.

¹⁹ Opus cit. Page 24.

conditions: housing, sanitation and pipes, access to drinking water, access to the supply of food,... All its clients have at their disposal the possibility to carry out on site verifications required to that regard; most of them have been already carried out. The last received and passed client audits have been that of Angus Soft Fruits LTD, on 05/11/2019, issuing a conformity report on that same day. Satisfactory result²⁰. And those of the company DPS Ltd., visits that were carried out in February and May 2019 to verify housing, sanitation and water; there was no non-conformity.

Apart from this external control, AGRÍCOLA EL BOSQUE, S.L. carries out a control of those items (mainly habitability) with regard to health and safety, performed by the External Prevention Service, *Sociedad de Prevención Autorizada*, entity with ministry authorisation, accreditation number CM107/14. The last report was made in January 2020. Satisfactory result. Number of corrective measures: 1 (in process of correction)²¹.

Complementing this measure, the Trade Union Confederation of Comisiones Obreras (member of the European Trade Union Confederation) carries out random controls on labour welfare (housing, water, sanitation, appliances, ...), and to date it has not appreciated corrective measures that need to be taken.

All improvement opportunities detected by the company are incorporated to the Three-Year Investment Plan, in which economic amounts are planned and committed, and they will be used both for productive investment and for social investment in the next three years. The above under a monitoring and assessment model which allows foreseeing and then measuring the impact of the addressed resources²². Specifically, the budget effectively invested in the last investment plan mentioned in the footer has been one million, one hundred and five thousand Euros on its productive aspect, and ninety eight thousand Euros on its social aspect.



²⁰ Available document.

²¹ Available document.

²² When this document is drafted, assessment of Plan 2018-2020 has ended, to proceed, based on obtained results, to the drafting of the next Plan 2021-2023. That Plan and its assessment are attached in the documents annexed to this document. The new Three-Year Investment Plan 2021-2023 is at the disposal of this Special Procedures Subdirectorate or of any other body with a legitimate interest in the matter, once it is finally drafted (estimated date 30/09/2020).

Apart from all this, and with regard to the rest of considerations highlighted by the Rapporteur in the REPORT, we must establish the following:

- Some of the criteria for investment, organisation and distribution of housing that the company applies through the Human Resources Department of AGRÍCOLA EL BOSQUE, S.L., responsible for those, are the following:

- The housing occupation criterion is not reaching the maximum occupation capacity, except in a few cases and temporarily. The intention is to improve the comfort of the migrants living there.
- Towards the end of the campaign, and when the reduction of the work load allows it, individual rooms are assigned to those who remain working at the farms.
- If there are couples among workers, and they make it known to the company, rooms are exclusively assigned to each couple, showing sensitivity to affective-emotional privacy.
- Migrant workers who are staying longer at the company (due to contract duration) or who are going to return, if they wish so, have the express authorisation of the company to carry out the adaptations they consider to housings, even being able to leave part of their appliances at the housing from one season to another.
- Housings are completely private areas for migrant workers, and the company must request an express authorisation to gain access to them, and this must always be in the presence of one of the people living at the housing, even in cases of due maintenance or repair.
- Some of the housings already have heating/air conditioning equipment to guarantee comfort of the same.
 - When drafting the three-year investment plan 2021-2023, we are studying the possibility of extending this initiative to the farms of the company where it has not been implemented, planning the investment required to that regard.
- The investment carried out by the company has not only consisted of personal spaces, such as bedrooms or bathrooms; there has also been an investment in common areas, making the following possible:
 - Having internal rooms to rest and receive visits.
 - Making suitable shaded open air areas to rest, socialise and interact during available time.



- Preparing dining rooms and multiple use areas.
 - Preparing areas to hang clean clothing.
 - Safe accesses to housing areas, isolated from dirt or mud when it rains.
- One of the main functions of the Intercultural Mediator of the company is to accompany migrant female workers to population nuclei to help them when buying food (to find the best food with regard to their cultural habits, and in the price-quality relationship).
- Currently, the company is implementing the figure of the Intercultural Mediator for sub-Saharan population.
- The Ethical Conduct Code²³ of AGRÍCOLA EL BOSQUE, S.L. requires hygiene and personal care to all people of the company, and people are reminded in the training actions carried out.
- In fact, the Three-year Investment Plan 2018-2020 gave priority to investment in boilers and water heating systems, and the safety systems required for a comfortable, private and discreet use of bathrooms (always differentiated by sex).
- In farms whose infrastructure has made it possible, the private group use of kitchens has been allowed (access with a key for each worker) to enable eating according to personal preferences, cultural habits and religious beliefs.
- In the drafting of the Three-year Investment Plan 2021-2023, we are studying the possibility of extending this initiative to the few company farms in which it has not been completely implemented, planning the investment required to that regard.

4) Access to health care

Apart from what has been indicated up until now with regard to the statements made by the REPORT in this section, we must focus in the power scope, as most of the Rapporteur's claims are related to the public health policy of the Autonomous Community and/or the country (medical care, difficult access, processing problems of their health cards, language barriers at health centres, ...).

²³ Available document



Ruth Torralba Piqueras
Traductora - Intérprete
Jurada de INGLÉS
Nº 4555

As we are talking about the power scope of the company, and considering the reality of AGRÍCOLA EL BOSQUE, S.L., we must deny those statements, understanding that:

- Access to the health care system of people employed with a standardised contract is automatic, thanks to the rights acknowledged by the Public Health Care System through the General Treasury of Social Security and the National Social Security Institute. Coverage is the same that the one for national staff (except in cases of unemployment).

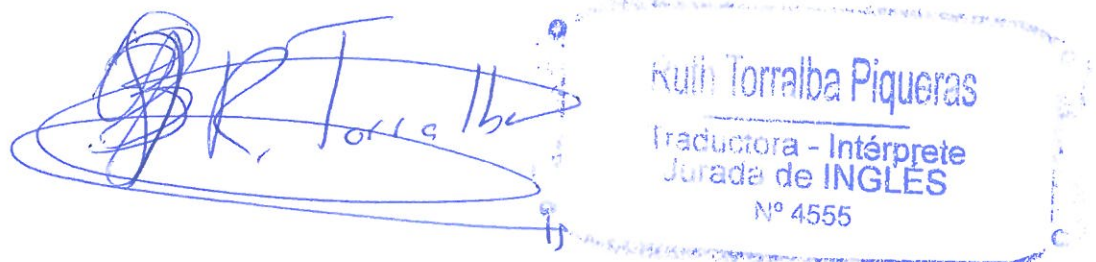
- Apart from this, the company has the following medical care mechanisms:

- o A nationwide Common Contingencies, Work Accidents and Occupational Illnesses Mutual Insurance Company, called Ibermutuamur, Social Security Co-operator number 274.
- o An external Prevention Service contracted with *Sociedad de Prevención Autorizada*, entity with ministry authorisation, accreditation number CM107/14.
- o An external Health Surveillance Service contracted with Preving Group.

- As we have mentioned, the company has an Intercultural Mediator, and another responsibility of the same is to accompany and assist any employed migrant worker in any medical appointment (primary health care, regular appointment, emergency appointment, ...).

5) Labour and sexual harassment

First of all, we must state, as we have already stated, our surprise before the quote indicated by the Rapporteur of the REPORT of the bibliographical source in which it bases its statements made, a report produced seven years ago, which does not mention any company, except for AGRÍCOLA EL BOSQUE, S.L. And, in view of the time elapsed since the date of the report, it would be expected for it to proceed to an assessment of compliance with remarks and recommendations, which would have changed the situation, because the contrary would imply admitting the work and remarks of Rapporteurs are a failure, situation which, at least in our company's opinion, is not admissible, because of our respect to supranational bodies and mechanisms created for the protection of Human Rights and to claim possible violations.



Ruth Torralba Piqueras
Traductora - Intérprete
Jurada de INGLÉS
Nº 4555

With regard to our reality, for AGRÍCOLA EL BOSQUE, S.L., prevention, attention and penalties for all types of male violence, whether they are offences or misdemeanours, as they affect women, are a maximum priority, as we are aware of the situation of vulnerability in which women workers are due to their gender, because they are out of their country, far away from their families and with a language barrier. Before acts which are criminal offences, and always with the due protection of the victim's and alleged offender's rights, they are communicated to State authorities, so that they act in accordance with the provisions of Spanish laws. Misdemeanours are processed in accordance with the internal rules of the company, always taking into account the principle of a due process, right to the defence of the parties and proportionality of the penalty.

For the above, AGRÍCOLA EL BOSQUE, S.L. has articulated all mechanisms recommended by the Spanish Institute for Women's Affairs of the Spanish Government and the Andalusia Government:

- An Equality Plan for the promotion and defence of effective equality of men and women, from the last term of 2015. It is currently being updated, because the first effectiveness period of the same has ended.
- A Harassment Protocol for predicting and preventing cases of labour and sexual harassment in the company, from 2011. It is currently being updated.
- A Harassment Committee, made up of workers' and company's representatives which, with all procedural guarantees, applies the Harassment Protocol when it is necessary, and which looks after the inexistence of cases.
- An Intercultural Mediator which allows channelling and psychosocial support of people affected by potential cases, with all guarantees of anonymity.

The only file that the company has had to open for Harassment Protocol, this case being one of sexual harassment, came to an end with the disciplinary measure of dismissal of the involved person.

As a consequence of this report, and as a predictive improvement measure, AGRÍCOLA EL BOSQUE, S.L. is going to carry out the following actions:



- The creation of a figure, the Equality Agent, who co-operates in the prediction and prevention of potential risks on the matter.
- The drafting by the Workers Committee of a Training Programme on equality, against violence and against (sexual and labour) harassment improving the monitoring and surveillance capacities of the workers' representatives (9 members) on the matter.
- The drafting of a Training Programme on the structure of the company's management, on equality, against violence and against (sexual and labour) harassment improving the monitoring and surveillance capacities on the matter of people with hierarchy (complementing the training initiatives already carried out in the framework of PRELSI).

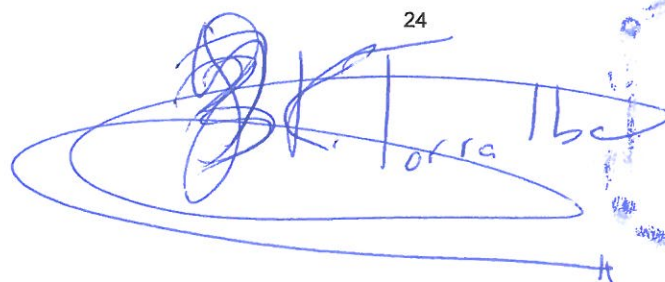
6) Impact of the COVID-19 pandemic on migrant workers

Apart from what has been indicated up until now with regard to the statements made by the REPORT in this section, first of all we must focus in the power scope, as some of the Rapporteur's claims are competence of the public authorities, as it is acknowledged in the text of the Rapporteur. As we are talking about the competence scope of the company, and considering the reality of AGRÍCOLA EL BOSQUE, S.L., we must deny those statements.

We must first of all consider that the agricultural-productive activity was considered a primary need by Royal Decree 463/2020, 14th March, declaring the state of alarm for the management of the health crisis situation caused by COVID-19, so the company should remain in complete operation. This ruled out any option to confine staff or paralyse activities.

Because it was a new illness, the Health Ministry of the Spanish Government (as the one of many other countries) has developed some hygiene-health recommendations and criteria that must be fulfilled by companies. These indications have been spread and implemented by the different institutions depending on that Ministry, specifically, AGRÍCOLA EL BOSQUE, S.L., with the support of the Health Surveillance Service of Preving Group, external to the company, implemented in the beginning of March the procedure defining the preventive measures to be followed in the development of the labour activity in the different Work Centres to prevent the incidence of the COVID-19 virus.

24

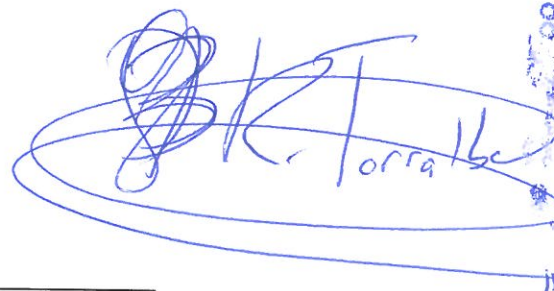


All recommendations developed have been transversally integrated in the rest of policies and procedures about housing, working day, salary, access to health and safety, non discrimination and prevention of harassment/abuse cases which have been explained throughout this document.

In compliance with the public guidelines, AGRÍCOLA EL BOSQUE, S.L. developed a Preventive Acting Procedure in the framework of the health alert COVID-19²⁴, which integrated not only recommendations of authorities, it went further, with decisions such as:

- The installation, at the entry or exit of work centres, of specific areas of cleaning and disinfection for internal and external staff, with specific products.
- The communication of health recommendations by notice boards in dining rooms, housings and the rest of common areas.
- The adaptation of work teams and timetables to avoid the concentration of a great number of workers.
- The provisional closure of common areas of the housings.
- The distribution of masks and cleansing hand gel, the use of which is mandatory.

The result of all this is that during the entire campaign, there has not been any case of COVID-19 infection among people forming the staff of AGRÍCOLA EL BOSQUE, S.L.



²⁴ Available document. On 24/07/2020, the Public Health and Pharmaceutical Organisation General Directorate of the Health and Family Autonomous Ministry of the Andalusia Regional Government (Regional Government of the south of Spain) has just published a specific Guide for the prevention and control of COVID-19 in agricultural exploitations with temporary workers, which AGRÍCOLA EL BOSQUE, S.L. is already proceeding to analyse in order to improve our action protocol, in line with that document, keeping the consistency and unity of the answers.

FINAL CONCLUSIONS:

In conclusion, as it has been proved throughout this document, AGRÍCOLA EL BOSQUE, S.L. is careful when complying with any and all obligations arising from Human Rights Treaties and Spanish legislation. Proof of this is its participation for years in ETHICAL TRADE FORUMS, business meetings where all producers and packers of the agro-alimentary sector share experiences and discuss the challenges related to working conditions, in order to jointly seek new ideas and exchange good practices among participating companies themselves.

Also, AGRÍCOLA EL BOSQUE, S.L. is a foundational member in 2018 of PRELSI (Ethical, Labour and Social Responsibility Plan of INTERFRESA), sector plan pioneer in Spain whose purpose is to have a self-improvement tool to achieve the greatest degree of information, co-ordination and satisfaction of all implied agents (farmers, companies, associations, migrant workers and state organisations of Spain and Morocco), and to contribute to a co-operation scenario with the highest levels of respect, labour ethics, social commitment and integration of the groups recruited in origin in all stages of the process.

PRELSI has a team of 15 integration consultants who render assistance, support and monitoring to women recruited in origin and articulate the mechanisms that are necessary for the suitable integration and defence of rights.

In the framework of PRELSI, vocational training programmes are established, addressed to intermediate positions to prevent all actions susceptible of violating the basic rights of workers. That is why it has been considered necessary to establish framework training for preventing all abusive or illegal conducts, such as any form of male violence, the discrimination arising from gender or sexual orientation, sexual harassment and other offences against sexual indemnity and integrity in the labour environment.

The commitment of AGRÍCOLA EL BOSQUE, S.L. to human rights is making the company study the way to offer sector business associations of the province its co-operation to transfer specific good practices that the company is applying on the matter to the rest of the sector, trying to generate a positive referential effect for other farms.



In the same way, and in a predictive way, AGRÍCOLA EL BOSQUE, S.L. is going to optimise its system of complaint and claim management (already existing), establishing a specific procedure, which merges this matter with early detection criteria for possible irregularities or non compliances that will take place, always under all guarantees nationally and internationally required.

And as it has happened up until now, the International Red Cross is going to support AGRÍCOLA EL BOSQUE, S.L. in the development of those initiatives, and in labour welfare programmes and in the training of the temporary staff.

For all the above, AGRÍCOLA EL BOSQUE, S.L. has articulated a structure of mechanisms serving that purpose, which guarantees an integral answer, and the implementation of a predictive culture of respect and protection of Human Rights. As we have already mentioned, it is the following:

- An organic-functional structure with the capacity to manage the entire system:
 - o A Human Resources Department with a specific area of Labour Welfare.
 - o A Workers Committee of 9 people as the legal representation of workers, democratically chosen by the votes of all people in the company (also considering the campaign staff).
 - o An Intercultural Mediator/Consultant.
 - o A parity Equality and Harassment Committee (collegiate body) made up of employers and workers trade union.
 - o An Ethics Committee.
 - o Two independent entities auditing and supporting the labour risk prevention activity.
- A structure of Corporate Principles binding the highest shareholding (partners) and hierarchical (sole administrator and General Manager) sector:
 - o Three Institutional Commitments:
 - Human Rights and Sustainable Development Goals
 - Corporate Social Responsibility (CSR) and Equality
 - Quality and Labour Risk Prevention
 - o An Ethical Code.

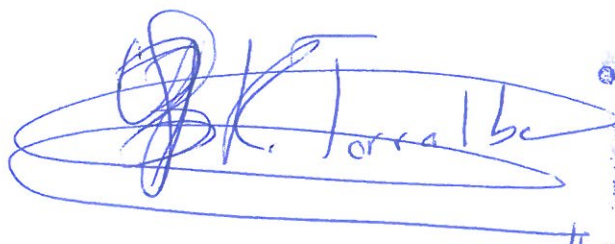


Ruth Torralba Piqueras

Traductora - Intérprete
Jurada de INGLÉS

Nº 4555

- An organic and guarantee-based procedural system:
 - o A specific procedure of anonymous claim in all farms.
 - o A 24-hour direct communication and attention channel for workers.
 - o Eight specific policies and protocols:
 - Equality Plan
 - Harassment Protocol
 - Human Rights Policy
 - Human Resources Policy
 - Complaints and Claims
 - Training Policy
 - Supplier Control Policy (supply chain)
 - Three-year Investment Plan
 - o A survey on work atmosphere (continuous improvement of labour relationships).
 - o A statistical architecture and a quantitative data indicator map.

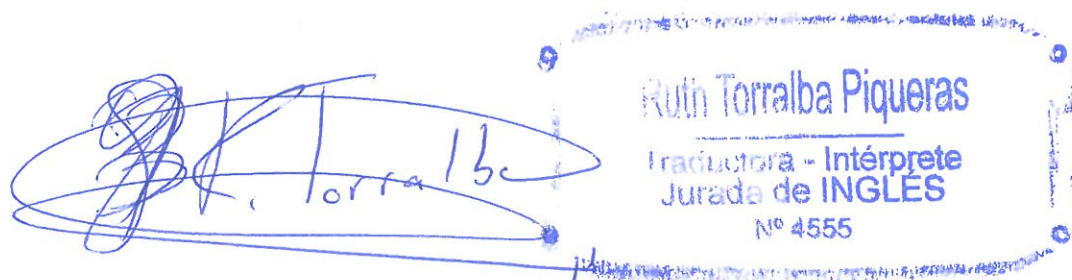


Ruth Torralba Piqueras
Traductora - Intérprete
Jurada de INGLES
Nº 4555

Because of all the above, in due time and form, we formalise the following **PETITION** before the Special Procedures Subdirectorate:

In accordance with what is described throughout this document and the document supporting any and all defence arguments, AGRÍCOLA EL BOSQUE, S.L. strictly and comprehensively complies foundational and operational principles numbers 11 to 21, and 22²⁵ (if any action of the company provokes damages to human rights of its workers) contained in the Guiding Principles about Companies and Human Rights. And due to the certainty about the absence of actions or omissions whose result is an impact on human rights of workers of AGRÍCOLA EL BOSQUE, S.L., in contrast with the content of the REPORT AL OTH 49/2020, we request that the subscribing Rapporteurships **should unbind AGRÍCOLA EL BOSQUE, S.L. from that REPORT because it does not correspond to reality, removing any reference to our company.**

The request for compliance with the Methods of Work foreseen in the Procedure Manual of the Human Rights Committee, approved in August 2008 is imperative for our company. It clearly states the principles and ways to collect information and to analyse it, when saying: *"24. Because of the sensitivity of many of the issues that arise mandate-holders should be guided in their information-gathering activities by the principles of discretion, transparency, impartiality, and even-handedness. They should rely on objective and dependable facts based on evidentiary standards that are appropriate to the non-judicial character of the reports and conclusions they are called upon to draw up. Appropriate opportunities should be provided for Government representatives to comment on allegations made against them and for those alleging violations to comment on Governmental responses thereto"*.



Ruth Torralba Piqueras
Traductora - Intérprete
Jurada de INGLÉS
Nº 4555

²⁵ If the companies determine that they have provoked or contribute to provoke negative consequences, they must repair them or contribute to their repair them by legitimate means.

Due to its invaluable contribution to the human rights cause, the prevention of discrimination against women, racism and other human rights mechanisms of international systems, whether regional or universal, a mistake must not stain or cause any damage to the well deserved prestige of a company like AGRÍCOLA EL BOSQUE, S.L., which at all times incorporates good practices, to in turn be a benchmark to that regard in the field of companies and Human Rights.

Once the reference to AGRÍCOLA EL BOSQUE, S.L. is removed, we consider important to suggest that the document is completed with precise remarks and recommendations, assessable over time.

Written Pleadings submitted on the sixth August two thousand and twenty, at Huelva (Andalusia – Spain).

By: [Illegible signature]

Javier Velo

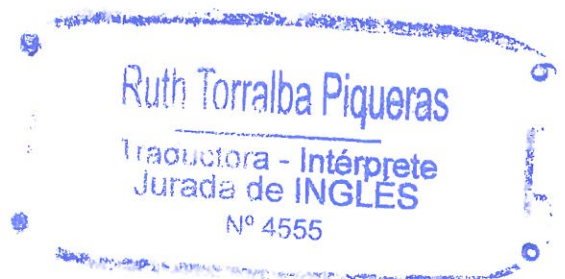
Partner – General Manager

[Illegible signature]

Daniel Velo

Partner – Administration Manager

AGRÍCOLA EL BOSQUE, S.L.



**JOINT COMMUNICATION OF SPECIAL PROCEDURES
OF THE UNITED NATIONS HUMAN RIGHTS COUNCIL**

ANNEXES²⁶

- 1) Institutional Statement on Respect to Human Rights**
- 2) Equality Plan**
- 3) Labour and Sexual Harassment Protocol**
- 4) Denunciation, Complaint and Claim Protocol**
- 5) Assessed Three-year Investment Plan 2018-2020**
- 6) Bodies:**
 - a. Workers Committee – Legal Representation of Workers (its own)**
 - b. Equality and Harassment Committee (its own)**
 - c. Labour Risk Prevention Service (external)**
 - d. Health Surveillance Service (external)**

31

Doña Ruth Torralba Piqueras, Traductora-Intérprete Jurada de Inglés nombrada por el Ministerio de Asuntos Exteriores, Unión Europea y Cooperación, certifica que la que antecede es traducción fiel y completa al inglés de un documento redactado en español.

En Madrid, a 11 de agosto de 2020

I, Ruth Torralba Piqueras, Sworn Translator-Interpreter for the English language appointed by the Ministry of Foreign Affairs, European Union and Co-operation, do hereby certify that the foregoing is a true and complete translation into English from a document drawn up in Spanish.

Madrid, 11th August 2020

Ruth Torralba Piqueras
Traductora - Intérprete
Jurada de INGLÉS
Nº 4555

²⁶ After the express suggestion of the Human Rights Office of the Ministry of Foreign Affairs, to which this copy is addressed, no annex is attached. However, we have kept this information so that it can be used as a reference.