



Attracting and protecting the rights of seasonal workers in the EU and United Kingdom



Synthesis Report for the EMN Study

December 2020

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Explanatory note

This Synthesis Report was prepared on the basis of National Contributions from 26 EMN NCPs (AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and UK) according to a Common Template developed by the EMN and followed by EMN NCPs to ensure, to the extent possible, comparability.

National Contributions were largely based on desk analysis of existing legislation and policy documents, reports, academic literature, internet resources and reports and information from national authorities. Statistics were sourced from Eurostat, national authorities and other (national) databases. The listing of Member States in the Synthesis Report results from the availability of information provided by the EMN NCPs in the National Contributions.

It is important to note that the information contained in this Report refers to the situation in the above-mentioned (Member) States up to and including December 2019 and specifically the contributions from their EMN NCPs. Following the outbreak of COVID-19, this Study was adjusted to also report on the impact of this pandemic on the applicable regime for seasonal workers. With regard to these impacts, the period is extended to June 2020. More detailed information on the topics addressed here may be found in the available National Contributions and it is strongly recommended that these are consulted as well.

The United Kingdom left the European Union on 31 January 2020 but has continued to contribute to the EMN during the transition period. EMN NCPs from other Member States could not, for various reasons, participate on this occasion in this study, but have done so for other EMN activities and reports.

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EXECUTIVE SUMMARY



KEY POINTS TO NOTE

1. Most seasonal workers in Member States are from neighbouring regions and the majority have been admitted under the Seasonal Workers Directive. Ukraine is the most common country of origin. The most common sectors where seasonal workers are employed include agriculture, tourism and manufacturing.
2. In most Member States seasonal workers are important to fill shortages in certain sectors and several Member States have measures in place to attract seasonal workers. These include shorter and simplified procedures, shortening of processing times and cooperation with third countries.
3. Some Member States have made use of the option to limit the rights and protection of seasonal workers, in particular regarding access to unemployment benefits and family benefits.
4. Across the Member States, several agencies are responsible for monitoring of working conditions. Still, cases of abuse might go undetected, as seasonal workers are highly dependent on employers and often do not know their rights. Several Member States have run information campaigns to provide seasonal workers with information on their rights.
5. Several Member States have introduced measures to mitigate the effects of the COVID-19 pandemic. These include extension of authorisations for seasonal workers already in the Member States, lifting of travel restrictions for seasonal workers, but also a mobilisation of domestic labour to fill the gaps. In some Member States seasonal workers have gained more visibility and recognition from the public during the COVID-19 pandemic



SCOPE AND AIMS OF THE STUDY

The study primarily covers third-country nationals who enter and reside in an EU Member State for the purpose of seasonal work¹ within the framework of the Seasonal Workers Directive.² In a few instances, also those who may be considered seasonal workers but who are not covered by the Directive are considered. As the Directive is not applicable in Ireland and the United Kingdom,³ relevant national measures are reported in this study.

This study reflects the most recent situation and developments in terms of legislation and policy in Member States, largely focussing on 2019. Developments over the past five years are also considered if relevant. As regards statistics, the period 2016–2019 is covered. The impact of the COVID-19 pandemic on the seasonal workers sector at national level up to June 2020 is also briefly explored.

This study refers to ‘authorisations’ in line with the Seasonal Workers Directive, encompassing short-stay visas, work permits, long-stay visas and residence permits.



METHOD AND ANALYSIS

The information used in this Synthesis Report came primarily from secondary sources provided by 25 EU Member States and the United Kingdom.⁴ National

contributions were based on desk analysis of existing legislation and policy documents, reports, academic literature, internet resources, media reports and information

1 According to the EMN Glossary (Version 7.0), a seasonal worker is defined as “A third-country national who retains their principal place of residence in a third country and stays legally and temporarily in the territory of an EU Member State to carry out an activity dependent on the passing of the seasons, under one or more fixed-term work contracts concluded directly between that third-country national and the employer established in that EU Member State.” See: https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/seasonal-worker_en.

2 Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32014L0036>.

3 Following the United Kingdom’s departure from the European Union on 31 January 2020, the EMN NCP of the UK is participating in selected EMN outputs during the transition period.

4 AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and UK.

from national authorities. In some Member States, primary data collection through interviews with national

stakeholder was carried out. Statistics were sourced from Eurostat or provided by national authorities.



PROFILE OF SEASONAL WORKERS

The majority of Member States have admitted seasonal workers from third countries under the Directive. According to Eurostat data, the number of admitted workers differed widely across Member States, ranging from more than 46 000 in Poland to around 300 in Latvia in 2019. There was no clear pattern across the EU in terms of the validity of permits issued; while in some Member States, such as Bulgaria and the Slovak Republic, the vast majority of permits was issued for 1–90 days in 2019; others, such as Croatia and Portugal issued most permits for a validity of 7–9 months. Fourteen Member States and

the United Kingdom have a legally defined gross minimum salary for seasonal workers, which ranges from €312 to €2 142 per month.⁵ Most seasonal workers were found to originate from the neighbouring regions of the Member States receiving them, with Ukraine being the most frequent country of origin in 2018. Agriculture, tourism and manufacturing were the most common sectors in which seasonal workers were employed, between late spring to late summer in the majority of Member States and the United Kingdom.



ATTRACTING SEASONAL WORKERS TO ADDRESS LABOUR MARKET NEEDS

Seasonal workers are important to fill the needs of national labour markets. In many cases, a labour market test is applied to seasonal workers to determine whether the labour market situation justifies the employment of third-country nationals or whether job vacancies can be filled by domestic citizens, EU/EEA citizens or foreign citizens already available in the domestic labour market.

Several countries have measures and strategies in place to facilitate the temporary admission of workers to meet labour market demand. The main strategies in place to attract seasonal workers from third countries include shortening or simplifying the application procedure for seasonal workers, shortening the processing time of the applications, and developing placement and cooperation agreements with third countries. As foreseen by the Directive, most Member States have measures in place

to facilitate the re-entry of seasonal workers from third countries. These can include accelerated visa/permit application procedures, preferential treatment, and exemption from the requirements to submit certain documents.

The COVID-19 pandemic has affected the admission policy for seasonal workers in 15 Member States, particularly as a result of travel restrictions.⁶ Measures to mitigate the negative effects targeted both seasonal workers already residing in the Member States and those entering the territory during the pandemic. Authorisations of third-country nationals or time limits for short-term employment were extended, and the existing domestic and foreign labour force in Member States mobilised to address labour shortages. Ten Member States lifted travel restrictions for seasonal workers working in essential sectors such as agriculture.⁷



PROTECTION AND RIGHTS OF SEASONAL WORKERS AND PROCEDURAL SAFEGUARDS

The equal treatment of third-country seasonal workers appears to be most restricted in relation to access to unemployment benefits⁸ and family benefits.⁹ In practice, based on the information reported by EMN NCPs, the limited duration of stay acts as the greatest barrier to equal treatment for seasonal workers in these areas. Other key challenges highlighted in ensuring equal treatment of third-country national seasonal workers and preventing their exploitation, were: the existence of language barriers; the fact that once employment ended, workers often left the country and were therefore difficult to contact for any follow-up; and workers' vulnerability

caused by the fact that their authorisation to work and stay was dependent on their employment.

In general, monitoring via ad-hoc inspections or inspections based on reported violations of existing regulations appears to be the main means used by Member States to ensure compliance with legal provisions. In terms of seasonal work not covered by the Directive, five Member States and the United Kingdom highlighted the existence of alternative categories of temporary work of a cyclical nature not falling under the Directive.¹⁰ Six Member States also noted that seasonal work activities were known to be performed by irregular migrants in their country.¹¹

⁵ BG, CY, CZ, EL, ES, IE, HU, IT, LU, LT, LV, MT, PL, SI.

⁶ AT, BE, CY, CZ, DE, EE, ES, FI, FR, HU, IT, PL, SE, SI, SK.

⁷ AT, BE, CZ, DE, ES, FI, HU (only for neighbouring countries), PL, SE, SK (only for neighbouring countries).

⁸ In AT, BE, BG, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IT, LT, LU, LV, MT, PL, PT, SK, and UK unemployment benefits were reported to be restricted either according to national legislation or in practice.

⁹ AT, BE, BG, CZ, DE, EE, EL, FI, FR, HU, IT, LT, LU, LV, PL, SK, and UK.

¹⁰ CZ, EE, FI, PL, SE and UK.

¹¹ EL, ES, IT, PL, PT, SK.

1. INTRODUCTION



1.1. STUDY AIMS

The aim of this study is to provide an overview of national experiences in admitting seasonal workers from third countries, some six years after the adoption of the Seasonal Workers Directive (2014/36/EU)¹² and four years after its deadline for implementation by Member States. It does so by mapping the profile of seasonal workers and the sectors they work in, as well as analysing the extent to which measures are in place to attract seasonal workers and fulfil the labour market needs of Member States. Lastly, the study aims to analyse the application of the protective aspects of the Seasonal Workers Directive concerning the rights of seasonal workers. The latter aspect is particularly important, as the Directive leaves some room for interpretation regarding the rights and standards to be granted to seasonal workers, which could lead to diverging practices at national level.

The study thus focused on answering the following main questions:

- What is the profile of third-country national seasonal workers in the EU?
 - What is the age, country of origin, gender, skills level, etc. of seasonal workers?
 - In what sectors are they mostly employed?
- Do Member States place specific efforts on attracting seasonal workers, with a view to addressing labour market needs?
 - Do Member States rely on seasonal workers from third countries to fill labour market needs? If yes, in which sectors?
 - How do Members State facilitate the re-entry of seasonal workers?
- How does the Seasonal Workers Directive achieve its goal of protecting seasonal workers?
 - What rights do seasonal workers enjoy in the Member States?
 - What monitoring systems for seasonal workers and their employers are in place in the Member State?



1.2. SCOPE OF THE STUDY

The study primarily covers third-country nationals who enter and reside in an EU Member State for the purpose of seasonal work within the framework of the Seasonal Workers Directive.¹³ In a few instances, also those who may be considered seasonal workers but who are not covered by the Directive are considered. As the Directive is not applicable in Ireland and the United Kingdom,¹⁴ relevant national measures are reported in this study.

As far as policies and legislation regarding seasonal workers are concerned, this study reflects the most recent situation and developments in Member States, largely focussing on 2019. The impact of the COVID-19

pandemic on the seasonal workers sector at national level up to June 2020 is also briefly explored. Policy and legal developments over the past five years are also considered if relevant. As regards statistics, the period 2016-2019 is covered.

This study refers to ‘authorisations’ in line with the Seasonal Workers Directive, to cover all types of documents issued to seasonal workers under the Directive allowing third-country nationals to reside and work as seasonal workers. This encompasses short-stay visas, work permits, long-stay visas and residence permits.

¹² Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32014L0036>

¹³ According to the EMN Glossary (Version 7.0), a seasonal worker is defined as “A third-country national who retains their principal place of residence in a third country and stays legally and temporarily in the territory of an EU Member State to carry out an activity dependent on the passing of the seasons, under one or more fixed-term work contracts concluded directly between that third-country national and the employer established in that EU Member State.” See: https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/seasonal-worker_en

¹⁴ Following the United Kingdom’s departure from the European Union on 31 January 2020, the EMN NCP of the UK is participating in selected EMN outputs during the transition period.



1.3. RATIONALE AND EU POLICY CONTEXT

Seasonal work is a type of temporary employment linked to specific periods of the year and to specific economic sectors, such as agriculture and the tourism industry. In EU Member States, seasonal work is carried out both by EU citizens and third-country nationals. The European Commission estimates that over 100 000 non-EU seasonal workers come to the EU every year,¹⁵ and given that seasonal workers are becoming increasingly important in some Member States as a means to fill labour market needs, the protection of their rights has received increased attention from EU and national policy-makers in recent years. As noted by Eurofound,¹⁶ seasonal workers are often treated less favourably than permanent workers in terms of legal entitlements, benefits offered by employers and other employment conditions.

A key development in this area is the Seasonal Workers Directive (Directive 2014/36/EU), adopted in 2014 with a transposition deadline of 30 September 2016, which aims to support the effective management of migration flows for this specific category of temporary seasonal migration. Furthermore, it aims to ensure decent working and living conditions for seasonal workers, by setting out fair and transparent rules for admission and stay and by defining the rights of seasonal workers, while at the same time providing for incentives and safeguards to prevent overstaying or temporary stay from becoming permanent. This is to be achieved through clearer and more harmonised admission rules and working conditions set out in

the Directive, to help prevent exploitation and protect the health and safety of seasonal workers. The Directive also encourages the circular movement of seasonal workers between the EU and their countries of origin through the introduction of a facilitated re-entry procedure for subsequent seasons.

Since the adoption of the Directive, Member States are no longer permitted to implement parallel national schemes for the admission of seasonal workers covered by the Directive. Member States may regulate the volumes of admission for seasonal workers in line with Article 79(5) of the Treaty on the Functioning of the European Union. As the Directive gives Member States some flexibility to determine which sectors they consider "seasonal", it is possible that third-country nationals who are working in a sector considered as seasonal in one Member State would not be considered as seasonal workers in another Member State, and therefore would not be covered by the Directive. In such a case, those third-country nationals may instead be covered by national schemes.

The ongoing COVID-19 pandemic has also affected the area of seasonal work, particularly given the ongoing travel restrictions. While it is too early to predict any long-term impacts on national policies related to seasonal workers, the study briefly outlines the immediate consequences on the labour market and specific measures taken by Member States as a result of the pandemic.



1.4. STRUCTURE OF THE REPORT

Section 2 of this report provides an overview of the profile of seasonal workers, particularly the entry channels, main sectors, countries of origin, as well as age and gender of seasonal workers. **Section 3** then looks into the national strategies and policies in place for the attraction of seasonal workers, in light of labour market needs. This section also provides a brief overview of the impact of COVID-19 on the admission of seasonal workers. **Section 4** analyses the protection and rights of seasonal workers, taking the Seasonal Workers Directive as a baseline.

¹⁵ https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/work_en

¹⁶ <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/seasonal-work>

2. PROFILE OF SEASONAL WORKERS



2.1. ADMISSION, DURATION OF STAY AND SALARY OF SEASONAL WORKERS

The majority of Member States have admitted seasonal workers from third countries under the Directive.¹⁷ The exceptions are Malta, Luxembourg, Germany and the Netherlands, where the Directive has been transposed but no third-country seasonal workers have been admitted so far, as well as Ireland and the United Kingdom, where the Directive is not applicable. By 2019, all Member States bound by the Directive had transposed the Directive. In Belgium, since transposition on 1 September 2019, only the Flemish region has admitted seasonal workers under the Directive.

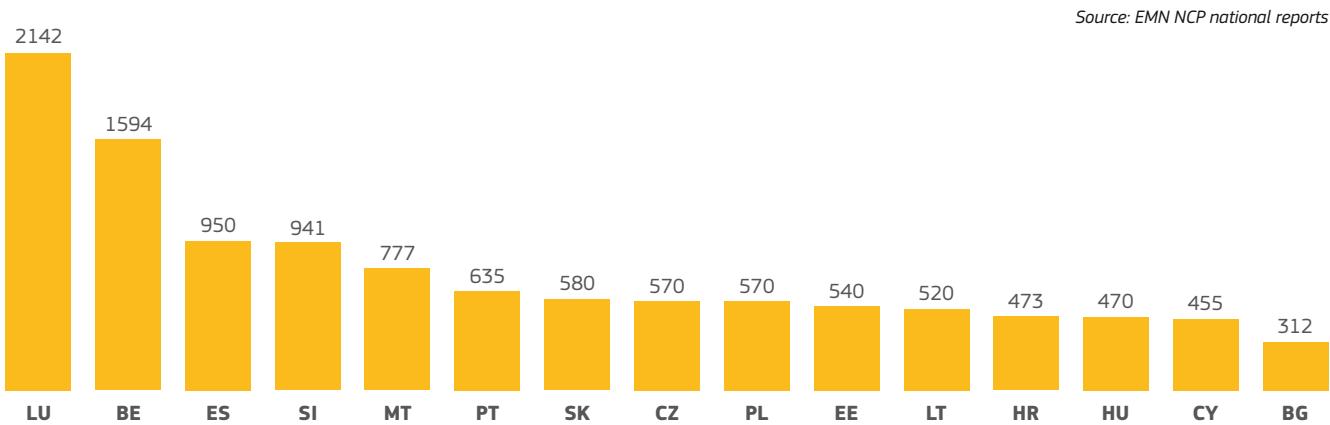
According to Eurostat data, the number of seasonal workers admitted from third countries differs widely across Member States, ranging from more than 46 000 in Poland to around 300 in Latvia in 2019. The length of validity of the permits issued also largely depends on the Member State; for example, while in Bulgaria, Poland,

Romania, the Slovak Republic and Slovenia, the majority of permits was issued for 1–90 days, Estonia, Italy and Portugal issued most permits for a validity of 7–9 months in 2019.¹⁸

Figure 2 below depicts the number of authorisations issued to seasonal workers per Member State between 2017 and 2019.

Eleven Member States¹⁹ and the United Kingdom have a legally defined gross minimum salary for seasonal workers. In other Member States, no minimum gross salary is defined for seasonal workers per se but is defined for all workers.²⁰ As depicted in Figure 1 below, the gross minimum salary for seasonal workers ranges from €312 per month in Bulgaria to €2 142 in Luxembourg. Looking at Eurostat data on national minimum wages of employees in general, these appear to largely correspond to the minimum wages of seasonal workers.²¹

Figure 1 – Minimum monthly salary of seasonal workers 2018–2020 in euro²²



Source: EMN NCP national reports

17 AT, BE, BG, CY, CZ, EE, EL, ES, FI, FR, HR, HU, IT, LT, LV, PL, PT, SE, SK.

18 Euostat (migr_ressw1_1).

19 BG, CY, CZ, EL, HU, IT, LU, LT, MT, PL, SI, UK.

20 BE, CZ, DE, EE, ES, IE, HR, LV, NL, PT, SK.

21 Eurostat, Monthly minimum wages - bi-annual data [earn_mw_cur], accessed 30 July 2020.

22 Data on average salary is based on information provided by EMN NCPs in the Member States. Information not available for AT, DE, DK, EL, ES, FI, FR, IE, NL, RO, SE. In Austria and Italy the minimum wages are stipulated by collective labour agreements. In Croatia and Portugal, no minimum gross salary is defined for seasonal workers per se, but a minimum gross salary is defined so as to apply to all workers. In the United Kingdom as of April 2020, the hourly rate is €9.81 (£8.72) for those aged 25 and over, €9.22 (£8.20) for 21 to 24-year-olds, and €7.26 (£6.45) for 18 to 20-year-olds.

Figure 2 – Authorisations for the purpose of seasonal work issued per Member States for seasonal workers between 2017 and 2019

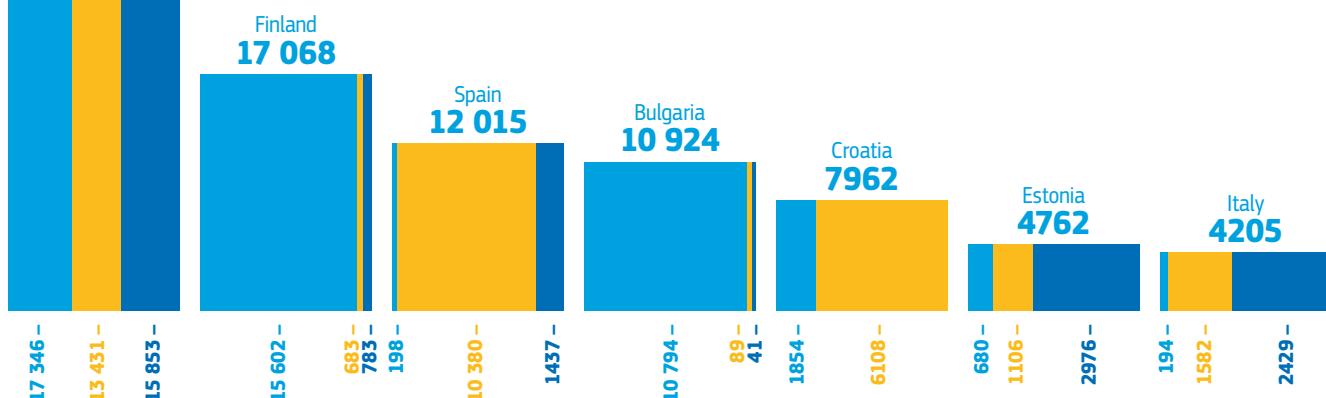
	2017	2018	2019		2017	2018	2019		2017	2018	2019
Belgium				Cyprus				Slovakia	949	2 348	1 978
Bulgaria		8 492	10 924	Latvia	123	176	334	Finland			17 068
Czechia				Lithuania	61	282	723	Sweden			
Denmark				Luxembourg		0		United Kingdom			
Germany		0		Hungary	34	36		Iceland			
Estonia	1 037	2 624	4 762	Malta	0	0	0	Liechtenstein			
Ireland				Netherlands	0	0	0	Norway			
Greece				Austria				Switzerland			
Spain	5 864	14 002	12 015	Poland		45 664	46 630				
France	0			Portugal	0	0	2 035				
Croatia	13	893	7 962	Romania		2	101				
Italy	3 603	5 641	4 205	Slovenia	107	792	1 054				

■ – no data

Poland
46 630

Total number and length of validity of permits for seasonal workers per Member State in 2019, top 7 countries.

- – From 1 to 90 days
- – From 91 days to 6 months
- – From 7 to 9 months



Source: Eurostat, Authorisations for the purpose of seasonal work by status, length of validity, economic sector and citizenship[migr_ressw1_1]

In Italy, in 2018, the average salary of non-EU seasonal workers was €8.40 per hour. In Spain, all workers (including seasonal workers) receive a gross minimum salary per month of €950.

In Germany, the minimum wage for all employees including seasonal workers is €9.35 gross per hour. It is, however, possible to include in-kind meals and accommodation as part of the minimum wage if they are provided by the employer, which may result in seasonal workers being paid less than the minimum wage.

In France, the current minimum salary (SMIC) in 2020 is €10.15 gross per hour (a net hourly amount of €8.03). This minimum salary applies to all employees and not only to seasonal workers. In the case of a collective agreement, a conventional minimum wage is generally provided for, in principle higher than the SMIC, and in some cases premiums may be added.



2.2. COUNTRIES OF ORIGIN,²³ AGE AND GENDER OF SEASONAL WORKERS

Seasonal workers mostly originate from the neighbouring regions of the Member States receiving them.²⁴ Ukraine was the most frequent country of origin across the Member States in 2018,²⁵ followed by:

- Bosnia and Herzegovina, Serbia, North Macedonia (AT, HR, SK, SI);
- Moldova (CY, EE, PL, UK, FI, SI);
- Belarus (EE, LT, LV, PL).

In some Member States, the countries of origin of seasonal workers are outside of the European continent. Since 2018 in the Flemish region of Belgium, for example, half of the authorisations were granted to Indian nationals while the remaining authorisations were split between at least nine different countries.²⁶ In 2018 in Finland and Sweden, the majority of seasonal workers were Thai nationals, who were employed as berry pickers. However, they are not covered by the Directive as they do not fulfil its conditions (see Section 4.1.2). In France, the top five countries of origin in 2018 were Morocco, Mali, Guinea, Tunisia and Ivory Coast.²⁷ In Spain,²⁸ the main country of origin in 2018 was Morocco with 12 754 seasonal permits issued.

There is limited data available on the age of seasonal workers in the Member States and the United Kingdom. Based on the information provided by EMN NCPs, in most Member States the majority of seasonal workers are young, being between the age of 18 and 29 and 30 to

39. Only a small percentage of seasonal workers are 50 years or older.

The majority of Member States²⁹ and the United Kingdom do not collect information on the skills levels of seasonal workers (for example, educational attainment, qualification level, language level or level of experience). Only Bulgaria, Croatia, Czech Republic and Lithuania stated that they collect information on skills levels. In Bulgaria, for example third-country nationals who wish to access the labour market for more than 90 days are required to have specialised knowledge, skills and professional experience necessary for the respective position, proven by documents legalised and translated into Bulgarian. In Lithuania, authorities collect partial information on the skill levels of seasonal workers. When filling in an application for the issue of a work permit to a seasonal worker, employers must indicate the foreigner's professional qualification if it is necessary to hold it. In general, seasonal workers in the country are low- or medium skilled. In the Czech Republic, seasonal workers in general tend to be low and medium skilled.

There is limited data available on the gender distribution of seasonal workers. More than half of the Member States were able to provide statistics broken down by gender.³⁰ Based on the information available, the share of male seasonal workers is slightly higher compared to female seasonal workers, except for Spain where the majority of seasonal workers are female (in 2019, 88% were females)



2.3. MAIN SECTORS COVERED

The main sectors where workers are admitted on the basis of the Seasonal Workers Directive in the different Member States are agriculture, forestry, and fishing, manufacturing, construction and hospitality services. The top three sectors where seasonal workers were employed in 2018 in the Member States and the United Kingdom are: agriculture (including forestry), tourism and manufacturing (see figure 3 below).

Given the seasonal nature of the work, the majority of countries highlighted that seasonal workers were needed during specific periods of the year.³¹ In most Member States and the United Kingdom, these were late spring to late summer.³² Only in some Member States were

seasonal workers needed in the winter season, for example for winter-sports focussed tourism.³³

Three Member States reported that certain seasonal activities³⁴ are not considered seasonal by their Member State and Belgium also noted regional differences in the sectors covered by the Directive. In Hungary, tourism is not considered as seasonal work, hence Hungarian law does not make the provisions of the Directive applicable to third-country nationals working in tourism.

²³ There is limited data available on the countries of origin of seasonal workers in the Member States and the United Kingdom which does not allow for a comparative analysis.

²⁴ EMN National reports.

²⁵ CY, CZ, EE, LT, LV, PL, UK, FI, SE.

²⁶ Bangladesh, Ghana, Kosovo, Mali, Morocco, Nepal, Nigeria, Pakistan and Sri Lanka.

²⁷ Morocco and Tunisia, with whom France has concluded bilateral agreements to attract seasonal workers, are among the top five countries of origin of seasonal workers in France.

²⁸ Spain has signed six bilateral agreements for the regulation and management of labour migration flows: with Colombia, Ecuador, Dominican Republic, Morocco, Mauritania and Ukraine

²⁹ BE, CY, EE, ES, FI, FR, HU, IE, IT, LU, LV, MT, NL, PL, PT, SE, SI, SK and UK.

³⁰ AT, BE, BG, CY, CZ, EE, ES, FI, HR, HU, IT, LT, LV, PL, SE, SI, SK.

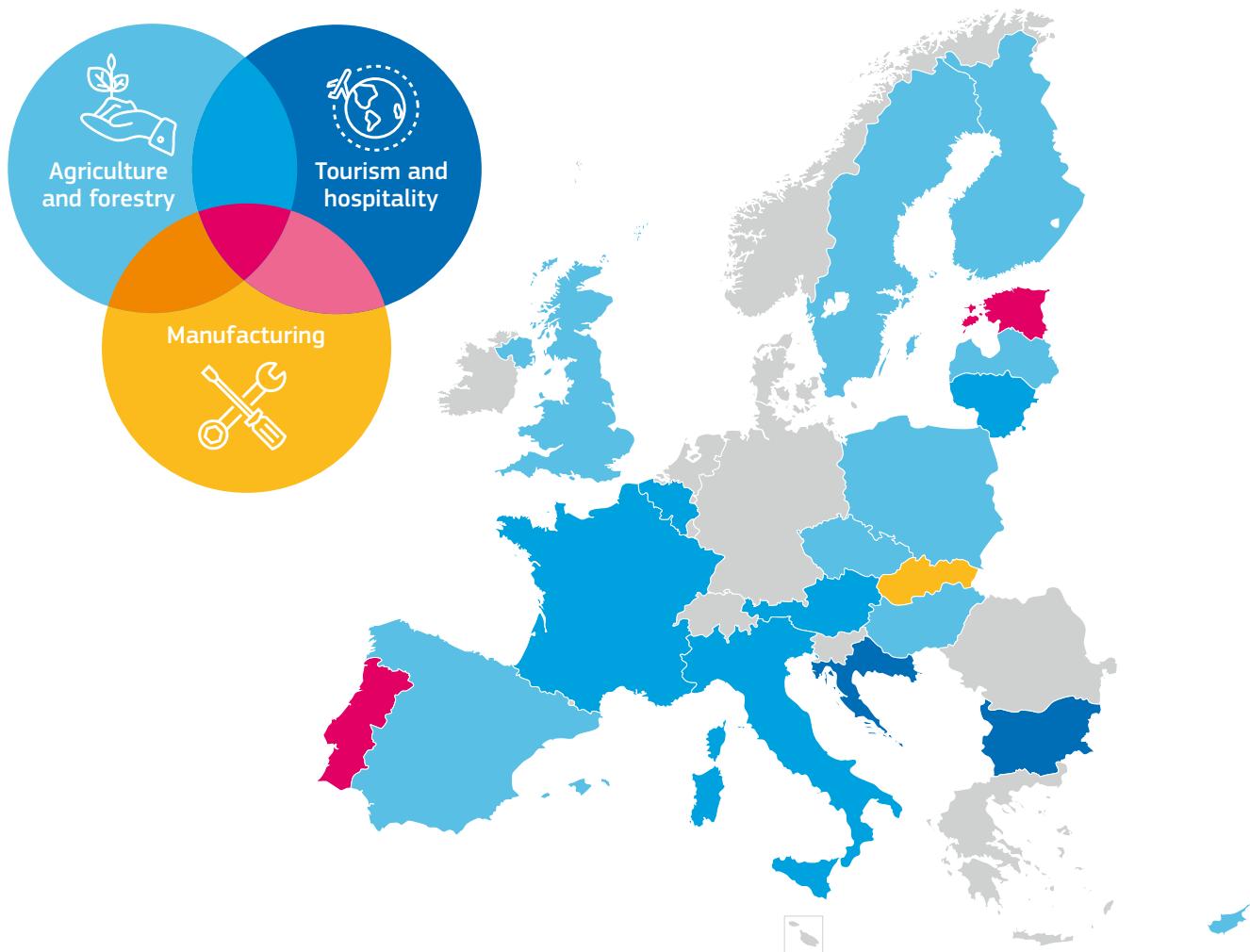
³¹ AT, BE, BG, CY, CZ, EE, ES, FI, FR, HR, HU, IT, LU, LT, LV, PL, PT, SE, SI, SK and UK.

³² AT, BE, BG, CY, CZ, EE, ES, FR, HR, HU, IT, LU, LT, LV, PL, PT, SI, SK and UK.

³³ AT, FI, FR, SE.

³⁴ FI, HU, SE.

Figure 3 – Main sectors of employment in Member States and the United Kingdom³⁵



Source: EMN NCP national reports

In Belgium, several regional differences exist. The Flemish and the Walloon regions consider agriculture and horticulture sectors as seasonal activities while the Brussels-Capital Region limits it to the agriculture sector. The rationale behind this stricter interpretation lies in Brussels' government policy to limit as much as possible the use of the Belgian seasonal work scheme, so as to prevent the use of the seasonal work scheme by employers to the detriment of other, less precarious work schemes where possible.

In Finland, the vast majority of wild berry pickers do not fulfil the necessary conditions to be covered by the

Directive and hence seasonal workers in this sector are covered by national legislation (see Section 4.1.2). The main reason for this is that wild berry pickers fall out of scope of the Directive, as they are not required to have an actual employment contract, which is defined as a prerequisite in the Directive. In Sweden, nearly all wild berry pickers fall outside the scope of the Directive since they are hired by staffing agencies based in third countries with branches in Sweden, and as such are not employed in Sweden. A small number of wild berry pickers are indeed hired by businesses based in Sweden and are issued permits falling under the Directive.

³⁵ Main sectors where TCNs are employed is based on qualitative information provided by national reports. For tourism sector the Brussels-Capital Region is not included.

3. ATTRACTING SEASONAL WORKERS TO ADDRESS LABOUR MARKET NEEDS



3.1. IMPORTANCE OF SEASONAL WORKERS FOR THE NATIONAL LABOUR MARKETS

In 19 Member States and the United Kingdom, the entry and stay of seasonal workers from third countries is considered to be part of the overall migration policy,³⁶ as a system to facilitate the temporary admission of workers to meet labour market demand. Ireland is currently developing a national seasonal employment permit.

Some countries, such as Germany³⁷ and France, have concluded bilateral agreements with third countries to attract seasonal workers. In some cases, such as in Spain, wider bilateral agreements with third countries covering different aspects of labour mobility are used to also attract seasonal workers.

Bilateral agreements with Morocco and Tunisia – France

France has concluded bilateral agreements with Morocco and Tunisia in order to attract seasonal workers. Those bilateral agreements facilitate the admission of seasonal workers from Morocco and Tunisia with a dedicated recruiting process, a quota for Tunisian seasonal workers, the fact that travel costs between the landing spot in France and the place of work are covered by the State for Tunisian and Moroccan seasonal workers, the checking of return to the home country by the local OFII agents, etc.

Source: EMN France

Seasonal workers from third countries are seen differently in the migration policy strategies of the EU countries. For instance in Germany seasonal workers are explicitly defined within the migration policy as ‘employees who are temporarily employed by an employer domiciled in Germany and carry out activities which, due to a recurring seasonal event or a recurring sequence of seasonal events, are tied to a particular season, with the demand for labour significantly exceeding the demand for the activities normally carried out’.³⁸

Collective Management of Hiring in Origin’ programme (GECCO) – Spain

Every year, Spain publishes the ‘Collective Management of Hiring in Origin’ programme (GECCO), regulating the conditions, requirements and characteristics of a temporary contracting regime applicable to third-country nationals. The main sector for which it is used is agriculture.

Most temporary workers are hired in spring and summer for red fruit collection campaigns, primarily from Morocco, and are women. These workers are critical to fill open positions, which are advertised at the national level and only when they cannot be filled in this way, are opened to third-country nationals.

Most of the seasonal workers have been employed repeatedly for several years, so the GECCO programme implemented in cooperation with Morocco is being regarded as a good practice of circular migration.

Source: EMN Spain

In the Slovak Republic the category of third-country national seasonal workers is incorporated in several strategic documents concerning (labour) migration. For instance “Migration Policy of the Slovak Republic: Perspective until 2020”³⁹ mentions seasonal employment as one of the possibilities for labour market development and points to the need to focus on updating the conditions of the legal framework relevant for allowing foreigners to access the labour market for seasonal work, temporary and circular migration, short-term employment etc.

Conversely, although the entry of seasonal workers from third countries is considered as part of Lithuania’s migration policy, this category of foreigners is not mentioned in strategic migration documents such as the Lithuanian Migration Policy Guidelines.

³⁶ AT (assessment of the Federal Ministry of Labour, Family and Youth), BG, CY, CZ, DE (only recently introduced), EE, EL, ES, FI, FR, HR, IT, LT, LV, PL, PT, SE, SI, SK and UK (with the Seasonal Worker Pilot).

³⁷ Germany has concluded its first bilateral agreement (with Georgia in 2020).

³⁸ Deutscher Bundestag 2015: 4, <http://dipbt.bundestag.de/doc/btd/18/038/1803824.pdf>.

³⁹ Adopted by the Resolution of the Slovak Government No. 574 of 31 August 2011.

In four Member States,⁴⁰ the entry and stay of seasonal workers is not part of the overall migration policy as the focus is on other categories of third-country national workers and on non-cyclical work. For instance, in Belgium the overall migration policy aims at attracting highly-skilled or medium-skilled workers, and in Luxembourg, at attracting a workforce for sectors that do not include cyclical activities (i.e. financial sector and tertiary sector). In Hungary, although there is a clear objective of further utilising the potential of the domestic labour force, it is recognised by the State that seasonal workers can to some extent satisfy the labour needs of the agricultural sector during specific periods of the year. In the Netherlands, the entry and stay of seasonal workers is not part of their overall migration policy, as seasonal labour market needs can always be satisfied by domestic citizens, EU/EEA citizens or third-country nationals who are legally residing in the Netherlands and free on the labour market. In Germany, despite the presence of a system to facilitate the admission of third-country seasonal workers, the focus of the overall migration policy lies on other categories of third-country nationals and on non-cyclical work. Like in Belgium, the aim is to attract workers with high or medium skills.

Sixteen Member States and the United Kingdom specifically rely on seasonal workers from third countries to meet different labour market needs,⁴¹ especially in labour-intensive sectors (e.g. tourism), in sectors that are characterised by high seasonal fluctuations (e.g. agriculture) or in sectors where the working conditions are not attractive enough for the domestic labour force (e.g. hospitality sector). In Italy, in 2018 and 2019, more than half of the total annual quotas were foreseen for seasonal work. In Austria, there are different positions on the need of seasonal workers from third countries: on the one hand, the Federal Ministry of Labour, Family and Youth and the Austrian Federal Economic Chamber claim that third-country nationals are needed to mitigate labour shortages in tourism and in agriculture and forestry, especially during seasonal peaks. On the other hand, Austrian trade unions argue that enough jobseekers would in principle be available in Austria and the EU, but that sufficient numbers cannot be found due to the working conditions in these sectors.

In total, seven Member States reported that they do not rely on seasonal workers from third countries⁴² to fill labour market needs. For instance, in Belgium, Ireland, Luxembourg and the Netherlands the majority of seasonal workers are national citizens or EU/EEA citizens, therefore they are not third-country nationals covered by the Directive. It is interesting to note that Cyprus and Latvia do not rely on seasonal workers from third countries, despite considering the entry and stay of seasonal workers from

third countries as part of the overall migration policy. In Latvia, it is possible to invite and employ seasonal workers but the low proportion of third-country nationals in the seasonal work area may indicate that the country is not dependent on them. However, some employers have pointed to the difficulty of finding labourers for seasonal work in agriculture. In Germany, the majority of seasonal workers were EU/EEA citizens, yet, in 2020, Germany has concluded bilateral agreements with Georgia to attract seasonal workers in the agricultural sector.

3.1.1. Labour market test and quotas

Sixteen Member States⁴³ apply a labour market test to seasonal workers to determine whether the labour market situation justifies the employment of third-country nationals. In Germany, a 'needs analysis' is carried out.

Labour market tests are usually undertaken to verify whether the job vacancy can be filled by a domestic citizen, an EU/EEA citizen, or a foreign citizen already available in the domestic labour market. In four Member States,⁴⁴ a vacancy needs to be open on a specific portal for job vacancies for a determined amount of time (between 10 and 30 days) before confirming an invitation to a seasonal worker from a third country.

Most countries do not have an annual quota system for seasonal workers in place.⁴⁵ The United Kingdom has a general quota for third-country national seasonal workers, and other Member States have quotas that apply to specific third countries of origin,⁴⁶ to specific sectors and/or job positions⁴⁷ or to specific regions.⁴⁸ For example in 2019 the Czech Republic had a Special Work Visa for Ukrainian citizens for companies focused on forestry industry, agriculture or food industry in need of seasonal workers, which allow a maximum annual quota of 1 500 persons.⁴⁹ In Italy, the 2019 Flows Decree established an entry quota for seasonal workers amounting to 18 000 individuals to be employed in the agriculture and hospitality/tourism sectors, coming from third countries with which an agreement is in place.⁵⁰ In France, an annual quota of 2 500 Tunisian seasonal workers from all sectors has been set as part of a bilateral agreement concluded with Tunisia in 2008. In Greece, the maximum number of residence permits for employment of third-country nationals per region or regional unit is determined by a Joint Decision of the Ministers of Interior, Development and Competitiveness, Health, Labour, Social Security and Welfare, Rural Development and Food.

In Greece, the quota was fulfilled between 2016 and 2019. In Croatia, the quota of 9 060 permits for seasonal employment established for 2019, included 7 500

⁴⁰ BE, LU, MT, NL.

⁴¹ AT, BG, CZ, EL, EE, ES, FI, FR, HR, IT, LT, PL, PT, SE, SI, SK, and UK.

⁴² BE, CY, IE, LU, LV, MT, NL.

⁴³ AT, BE (Brussels Capital-Region, Flanders Region and German-speaking Community), BG, CY, CZ, ES, FI, FR, HU, LT, LV, LU, MT, NL, PL, SK.

⁴⁴ ES, LU, LV, SK.

⁴⁵ BE, BG, CY, CZ, DE, EE, ES, FI, HU, LT, LV, LU, MT, NL, PL, PT, SI, SK, SE.

⁴⁶ FR (in the framework of bilateral agreements), EL, IT.

⁴⁷ AT, HR, IT.

⁴⁸ EL.

⁴⁹ Non-extendable national Special Work Visa was introduced in addition to already existing Short-term and Long-term Seasonal Work Visas. The Czech Republic introduced the Programme Special Work Visa for Ukrainian Citizens where is quota of 1 500 persons. The Special Work Visa does not fall under the Seasonal Directive but it is national long-term visa which can be used as an alternative to cover labour force shortages in fields where the work is mainly not only seasonal.

⁵⁰ Albania, Algeria, Bosnia-Herzegovina, Korea - Republic of Korea, Ivory Coast, Egypt, El Salvador, Ethiopia, Former Yugoslav Republic of Macedonia, Philippines, Gambia, Ghana, Japan, India, Kosovo, Mali, Morocco, Mauritius, Moldova, Montenegro, Niger, Nigeria, Senegal, Serbia, Sri Lanka, Sudan, Tunisia, Ukraine.

permits specifically for tourism and the hospitality sector, which were fulfilled. In the United Kingdom the quota was almost fulfilled. However, on average over the year, quotas are not exhausted in Austria (where however seasonal

employment quotas are utilised to the full or exceeded during seasonal peaks), in the Czech Republic and in Italy. In Spain, a maximum number of seasonal workers are defined every year for each sector and country of origin.



3.2. NATIONAL STRATEGIES AND POLICIES TO ATTRACT SEASONAL WORKERS

Some Member States⁵¹ have specific strategies and policies in place to attract them. Others,⁵² however have not implemented such strategies or policies.

Overall, there are three groups of countries:

- **Countries⁵³ that have strategies in place to attract seasonal workers from third countries:**

- Countries that have strategies to attract seasonal workers from third countries, such as Italy, Spain and Portugal. These strategies can include shortening or simplifying the application procedure for seasonal workers, cooperation agreement with third countries⁵⁴, and working towards the elimination of employment quotas for third-country nationals;⁵⁵
- Countries with some measures in place: Bulgaria (see Box below), Croatia, France, Germany, Greece and the Slovak Republic (see Box below). These measures include shortening the processing time of the applications,⁵⁶ placement agreements with third countries⁵⁷ and cooperation agreements to attract seasonal workers from third countries in future.⁵⁸

Faster processing of applications - Bulgaria

The approval process of visas for seasonal workers was shortened and now takes place in 15 calendar days, instead of 35, as before. The change helped seasonal workers to be admitted faster, to meet the needs of Bulgarian employers more effectively for labour of seasonal employment. Moreover, the term for registration of seasonal workers from third countries for work in Bulgaria up to 90 days, has been reduced from 15 to 10 days.

Source: EMN Bulgaria

The “Strategy of Foreigners’ Labour Mobility – Slovak Republic⁵⁹

In an effort to consider the need of employers pertaining to seasonal employment, the Strategy of Foreigners’ Labour Mobility includes a number of measures to shorten the time limit for the issuance of permits for the purpose of seasonal employment and facilitate the procedure of reviewing seasonal employment related permits.

Source: EMN Slovak Republic

- **Countries that rely on seasonal workers from third countries but do not have a specific strategy in place to attract them**, such as Austria, Czech Republic,⁶⁰ Estonia, Finland, Hungary, Lithuania, Poland,⁶¹ Slovenia, Sweden, and the United Kingdom. Reasons for this differ. In Austria, for example, the Chamber of Labour considers labour market already attractive and has no difficulty to recruit seasonal workers. Furthermore, many employers repeatedly hire the same seasonal workers on a regular basis.

- **Countries that do not rely on seasonal workers from third countries and thus do not have specific policies to attract them** such as Belgium, Cyprus, Ireland,⁶² Latvia,⁶³ Luxembourg, Malta, the Netherlands (see section 3.1).

Different types of actors, both public and private, have been identified as relevant in attracting seasonal workers from third countries across all Member States and the United Kingdom. These are:

- Private intermediary/recruitment agencies,⁶⁴ sometimes directly in the countries of origin;
- Employers/farmers,⁶⁵
- Representative organisations/ unions/ Chambers of Commerce;⁶⁶

51 BG, DE (only recently), ES, HR, HU, IT, PT, SK.

52 AT, CZ, EL, EE, FI, HU, LT, LU, LV, PL, SI, SE and UK.

53 BG, DE, ES, HR, HU, IT, PT, SK.

54 ES.

55 PT.

56 BG, HR, SK.

57 DE.

58 EL, FR (bilateral agreements with Morocco and Tunisia).

59 The “Strategy of Foreigners Labour Mobility in the Slovak Republic until 2020, with an Outlook Until 2030” is a specific strategic document which includes proposals of measures that have a direct or indirect impact, among other areas, also on seasonal employment.

60 The migration strategy of the Czech Republic targets Czech companies and not their potential employees from third countries.

61 In Poland, an evaluation on the implementation of the Directive revealed that employers complained about the burden related to the application procedure.

62 Ireland seeks to attract EEA seasonal workers for agriculture and hospitality.

63 Latvia’s migration policy does not include any specific measures related to seasonal employment for more extensive attraction of seasonal workers from third-countries other than the preparation of information material. However, in 2020 the Latvian Agricultural Organisation Cooperation Council circulated a report on the need to attract at least 1 000 migrant workers for seasonal work, but it is too early to draw conclusions on whether such a proposal will actually be implemented.

64 AT, CY, ES, FI, HR, LV, PL, PT, SK, and UK.

65 AT, CZ, DE, ES, FI, HR, HU, IT, LT LV, PL, SE, SI.

66 CZ, DE, EE, ES, FI, FR, IT, SE.

- Public employment services;⁶⁷
- Law firms.⁶⁸

In nine Member States⁶⁹ also personal recommendations from seasonal workers who had already worked in the country are considered an important channel for attracting new seasonal workers from third countries.

The most used channels for employers to obtain information on the procedures to hire seasonal workers are institutional and official websites.⁷⁰ In some Member States⁷¹ other channels are also used, such as regional economic chambers and local labour offices/offices of the Employment Service,⁷² consultation with the region,⁷³ websites and publications prepared by representative organisations,⁷⁴ seminars, information days and training sessions organised by the Police, Border Control Police, the Police and Border Guard Board or the relevant ministries⁷⁵ and NGOs.⁷⁶ In Spain, employers, trade unions and migration authorities unite in a specific committee to be informed about and prepare for the procedure for attracting seasonal workers, and all play a key role.

3.2.1. Facilitation of re-entry and change of status

The Directive establishes that Member States shall facilitate the re-entry of seasonal workers who were already admitted within the previous five years (see Article 16 in Box below).

Article 16, Seasonal Workers Directive:

1. Member States shall facilitate re-entry of third-country nationals who were admitted to that Member State as seasonal workers at least once within the previous five years, and who fully respected the conditions applicable to seasonal workers under this Directive during each of their stays.
2. The facilitation referred to in paragraph 1 may include one or more measures such as: (a) the grant of an exemption from the requirement to submit one or more of the documents referred to in Articles 5 or 6; (b) the issuing of several seasonal worker permits in a single administrative act; (c) an accelerated procedure leading to a decision on the application for a seasonal worker permit or a long stay visa; (d) priority in examining applications for admission as a seasonal worker, including taking into account previous admissions when deciding on applications with regard to the exhaustion of volumes of admission.

Across the EU, most Member States including those without specific strategies and policies in place to attract seasonal workers,⁷⁷ have measures in place to facilitate the re-entry of seasonal workers from third countries. An exception is represented by Cyprus, where such measures are not in place and where the entire procedure needs to be followed again without any facilitation.

The measures to facilitate the re-entry of seasonal workers from third countries can vary across the Member States. Nine Member States⁷⁸ have in place an accelerated visa / permit application procedure for seasonal work. In eight Member States⁷⁹ third-country nationals who have been admitted within the last five years are given priority as part of the application process, which includes giving preferential treatment to those with previous admissions when quotas risk being exhausted. In the case of Spain, those who have been admitted within the last two years are exempt from the labour market test.

In five Member States⁸⁰ such third-country nationals are exempted from the requirement to submit certain documents, including evidence of appropriate accommodation, health insurance, a professional equivalence and a return ticket. Three Member States⁸¹ provide the possibility to issue several seasonal permits in a single administrative act. In Austria individuals previously employed as seasonal workers more than once and having observed all regulations, are eligible to apply for a Schengen Visa C with an overall validity of five years maximum, that can cover several short seasonal stays. In France, the multi-annual residence permit dedicated to seasonal workers is valid for three years maximum and is renewable afterwards. Also in Italy a foreigner, who proves that they have come at least once in the previous five years to work as a seasonal worker, shall be issued, in the case of repetitive employment, with a multi-annual permit, for this purpose, for up to three years, indicating the period of validity for each year.

The Walloon Region in Belgium decided that the re-entry of a seasonal worker who has been employed anywhere in the European Economic Area (i.e. not in Belgium only) and has complied with the applicable regulations should be facilitated.

In 13 Member States,⁸² migrants can apply for a change of status while they are in the country for the purpose of seasonal work, subject to being legally present in the country at the time of the application (i.e. with a valid authorisation)⁸³ and needs to also meet the criteria of another residence status (i.e. student, worker etc.).⁸⁴ In

67 BE, DE, ES, IT, LT.

68 BG.

69 AT, BE, DE, ES, FI, FR, HR, LT, SE.

70 AT, BE, BG, CY, CZ, DE, EE, ES, FI, FR, HR, HU, IT, LT, LV, LU, NL, PL, PT, SK, SE and UK.

71 AT, BE, CZ, DE, EE, ES, FI, LT, PL, SI, SE.

72 AT, DE, ES, LT, PL.

73 EL.

74 BE, DE, FI, FR, SI, SE.

75 CZ, EE.

76 PL.

77 AT, BE, CZ, EE, EL, ES, FI, FR, HR, HU, LU, MT, NL, PL, SE, SI.

78 BE, BG, EE, ES, HU, LV, PT, SI, SK.

79 AT, BE, CZ, ES, IT, PT, SE, SI.

80 FI, HR, LU, NL, PT.

81 FR, IT, PL (this possibility is valid only for the nationals of Armenia, Belarus, Georgia, Moldova, Russia and the Ukraine).

82 BE, EE, HR, HU, IT, LT, LV, NL, PL, PT, SI, SK (only in cases of visa holders for a period of up to 90 days. In cases of residence permits holders for the purpose of seasonal employment for a period longer than 90 days the change of status while in the country is not possible), SE.

83 BE, EE, HR, IT, LT, LV.

84 BE, EE, HR, HU, LT, LV, NL, PL, PT, SI, SK, SE.

Italy, the change of status is possible within the available quotas for non-seasonal subordinate work,⁸⁵ and if the seasonal worker fulfils specific criteria in terms of the duration of the previous work relationship.⁸⁶

In eight Member States and the United Kingdom⁸⁷ there is no provision allowing seasonal workers already staying in the country to apply for a change of residence status.

3.2.2. Fees and duration of the procedures

According to the Directive, Member States can require seasonal workers to pay fees for handling the applications (see Article 19 in the Box).

Article 19 (1): Member States may require the payment of fees for the handling of applications in accordance with this Directive. The level of such fees shall not be disproportionate or excessive. Fees for short-stay visas are regulated in the relevant provisions of the Schengen acquis. Where those fees are paid by the third-country nationals, Member States may provide that they are entitled to be reimbursed by the employer in accordance with national law.

For short-term (Schengen) visa for the purpose of work, up to 90 days, the Czech Republic has reduced costs (compared to the cost for visas for longer stays), while Bulgaria does not apply any fee to register once arrived. For stays longer than 90 days, all Member States and the United Kingdom charge some kind of fee for third-country nationals who apply for an authorisation for the purpose of seasonal work. The cost and type of fee varies across

the countries and include different components. In 2018, the fee varied between €75 and €2 181 (See Table 1).

The types of fees differ between Member States, including:

- The visa fee;⁸⁸
- The fee charged for the residence/seasonal work authorisation.⁸⁹

As regards the processing time for the application, the Directive establishes that the decision should be notified to the applicant no later than 90 days from the day the application was submitted (see Article 18 paragraph 1 in Box below).

Article 18 (1): The competent authorities of the Member State shall adopt a decision on the application for authorisation for the purpose of seasonal work. The competent authorities shall notify the decision to the applicant in writing, in accordance with the notification procedures under national law, as soon as possible but not later than 90 days from the date on which the complete application was submitted.

At national level, Member States and the United Kingdom have put in place different legal limits for the duration of the process,⁹⁰ ranging from two weeks,⁹¹ 15 working days,⁹² to 90 days,⁹³ which is also the limit established by the Directive (see Table 1). In 2018 the average time for processing an application for seasonal work was reported to range from 5 to 10 days⁹⁴ (see Table 1).

Table 1: Processing times for applications in 2018

	Maximum processing time foreseen	Average processing time in practice
AT	6 weeks	10 days (excluding time for processing visa)
BE	90 days ⁹⁵	40.7 days (Flanders)
BG	15 days (visa approval) and 7 days for residence and work authorisation	6 days
HR	30 or 60 days	5 days
CY	90 days	90 days
CZ	15 days for short term visa ⁹⁶ 60 days for long-term visa	15 days for short-term (Schengen) 30 days for long-term visas
EE	15 working days	6 working days

⁸⁵ The quotas for conversion from seasonal work permit to subordinate work are determined by the annual 'Flows decrees' which establishes quotas for non-seasonal workers from third countries.

⁸⁶ IT: HORECA sector: 3 months; agricultural sector: 13 days per month during the three working months.

⁸⁷ AT, BG, CY, CZ, ES, FI, FR, LU and UK.

⁸⁸ €60 and 150 in AT, €35 – 80 in FI, €120 in LT, €70 in LV, €35-60 in SK, €274 (£244) in UK. This type of fee is also applied in ES for seasonal workers staying more than 6 months.

⁸⁹ €24,70 in AT, €51,26 in BG, €100 in CZ, €48-55 in EE (for short-term employment registration), €410 – 640 (for residence authorisation) and €60 -100 in FI (for the seasonal work permit), €75 in FR (residence permit valid for 3 years), €9 and 32 (for the issuance of a polycarbonate residence permit) and €73,48 (for seasonal work permit) in HR, €60 in HU, €70.46 in IT, in HR, €34 in LT, €74,5 in SI, €33 in SK (for residence authorisation). This type of fee is also applied in ES for seasonal workers staying more than 6 months and in LU.

⁹⁰ These data refer to 2018.

⁹¹ BG.

⁹² EE.

⁹³ BE, LU.

⁹⁴ AT, excluding the time for processing the visa, EE, HR, LT, PL.

⁹⁵ As in 2018 the Directive was not yet implemented in Belgium, this refers to the new scheme transposing the Directive and applicable since 1 September 2019.

⁹⁶ In specific individual cases can be prolonged to 45 days.

	Maximum processing time foreseen	Average processing time in practice
ES	90 days	45 to 60 days
FR	■	Less than 10 days (approval of the visa for seasonal workers), information not available for residence permit for seasonal workers.
HU	70 days	■
IT	20 days for the communication of the authorisation	■
LV	5 working days for the approval of the employer's invitation and 15 working days the visa application	■
LT	7 days for the work permit and 15 days for the visa application.	■
LU	90 days	■
PL	30 days	5 days
PT	30 days	■
SI	60 days	24 days
SE	90 days	■
UK	90 days	3 weeks

Source: EMN NCP national reports

■ – no data

! 3.3. IMPACT OF COVID-19 ON THE ADMISSION OF SEASONAL WORKERS⁹⁷

The COVID-19 pandemic has had a significant impact on seasonal workers from third countries.⁹⁸ Fifteen Member States reported effects on their admission policy for seasonal workers, particularly as a result of travel restrictions imposed at national, EU and global levels.⁹⁹ For example, Germany postponed the processing of applications by seasonal workers from Georgia and bilateral talks with other countries such as Bosnia-Herzegovina, Albania, Moldova and North Macedonia. In Spain, although more than 17 000 residence and work permits were granted to Moroccan workers, 10 631 of them were unable to travel to Spain during the berries harvesting season as planned.

Some national authorities have had to suspend part or all of their normal activities with respect to the processing of applications by seasonal workers, and various Member States also experienced labour shortages in sectors in which seasonal workers are typically active, such as agriculture,¹⁰⁰ horticulture,¹⁰¹ and forestry.¹⁰² Conversely, Austria for example, noted that the pandemic had the opposite effect in the tourism sector, where seasonal workers already present in the Member State abruptly lost their jobs. Furthermore, the quarantine period of 14 days imposed for all persons entering the territory led to challenges in several Member States.¹⁰³ Seasonal workers in the agricultural and forestry sector in Austria were exempted from the general entry ban, however, they were

required to immediately observe a self-imposed 14-day period of quarantine. Quarantine could be terminated earlier, though, if a molecular biological COVID-19 test proved negative.

Various measures were taken by Member States to mitigate the negative effects of the COVID-19 pandemic, targeted both at seasonal workers already residing in the Member States and those entering the territory during the pandemic. Regarding the former category, a measure commonly applied was the extension of the authorisations of third-country nationals or the extension of time limits for short-term employment laid down in national legislation.¹⁰⁴ In addition, some Member States sought to address labour shortages through mobilisation of the existing labour force, including both citizens and third-country nationals. For example, temporary measures were adopted to grant asylum seekers between 18-21 years of age,¹⁰⁵ persons whose removal has been suspended¹⁰⁶ or irregular migrants¹⁰⁷ the right to carry out seasonal work in the agricultural sector. Belgium and Finland also suspended the waiting period for asylum seekers to take up jobs in sectors identified as essential, including seasonal work. In Germany, a similar measure was taken with regard to persons with a 'tolerated stay' status. Spain, as part of a package of wider social and labour measures focussed on promoting temporary employment

⁹⁷ More information on the impact of COVID-19 in the migration area is available in a series of EMN OECD Informs, available here: https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/informs_en

⁹⁸ This section covers COVID-19 related developments until June 2020.

⁹⁹ AT, BE, CY, CZ, DE, EE, ES, FI, FR, HU, IT, PL, SE, SI, SK.

¹⁰⁰ AT, BE, CZ, DE, ES, FI, FR, HU, IT, SE.

¹⁰¹ BE, DE, ES, FI, SE.

¹⁰² FI, SE.

¹⁰³ AT, DE, FI, SK.

¹⁰⁴ AT, BE, CY, CZ, DE, EE, EL, ES, FI, FR, IT, PL, SI, SK.

¹⁰⁵ CY, DE, ES, FI.

¹⁰⁶ DE, IT.

¹⁰⁷ IT (specific conditions apply).

in agriculture, extended the work permits of all migrants whose authorisation expired between 15 March and 30 September 2020. This also applied to 7 050 Moroccan workers who were already in Spain working during the berries harvesting season as well as to those between 18 and 21 years of age with a specific permit (e.g. students and asylum seekers).

As regards seasonal workers planning to enter the territory during the pandemic, ten Member States lifted travel restrictions for seasonal workers working in essential sectors such as agriculture,¹⁰⁸ with Poland¹⁰⁹ also exempting seasonal workers from the mandatory quarantine period. Finland noted that although the quarantine period remained in effect, this was implemented in a way which allowed seasonal workers to begin their work safely immediately upon arrival, for example by avoiding contact

with other persons. Austria adopted special agreements with Ukraine and Italy with Morocco and India, to directly fly in agricultural workers from these countries, thereby alleviating labour shortages. Sweden aimed at mobilising the national labour force by implementing a programme to facilitate the matching of unemployed people to green industries with the help of a dedicated website.

In seven Member States, the COVID-19 pandemic sparked debate at political and social policy level about the importance of seasonal workers for the national labour market and their working conditions.¹¹⁰ In Austria, stakeholders noted a stronger appreciation of the labour contributed by seasonal workers, although it was uncertain whether this appreciation would last in the longer term and lead to policy changes.

¹⁰⁸ AT, BE, CZ, DE, ES, FI, HU (only for neighbouring countries), PL, SE, SK (only for neighbouring countries).

¹⁰⁹ Only for those seasonal workers working on a farm.

¹¹⁰ AT, CZ, ES, FR, FI, IT, SE.

4. PROTECTION AND RIGHTS OF SEASONAL WORKERS AND PROCEDURAL SAFEGUARDS

4.1. EQUAL TREATMENT AND RIGHTS OF SEASONAL WORKERS

4.1.1. Implementation of the rights of seasonal workers covered by the Directive

The Directive provides for equal treatment of third-country nationals and EU/EEA nationals in relation to nine categories of rights listed under Article 23(1) (see Box below).

Article 23(1): Seasonal workers shall be entitled to equal treatment with nationals of the host Member State at least with regard to:

- (a) terms of employment; (b) the right to strike and take industrial action;
- (c) back payments to be made by the employers, concerning any outstanding remuneration to the third-country national;
- (d) branches of social security, as defined in Article 3 of Regulation (EC) No 883/2004;
- (e) access to goods and services and the supply of goods and services made available to the public, except housing;
- (f) advice services on seasonal work afforded by employment offices;
- (g) education and vocational training;
- (h) recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures;
- (i) tax benefits, in so far as the seasonal worker is deemed to be resident for tax purposes in the Member State concerned.

However, Article 23(2) gives Member States power to restrict equal treatment of third-country nationals by limiting their access to certain of these rights (see Box below).

Article 23(2): Member States may restrict equal treatment:

- (i) under point (d) of the first subparagraph of paragraph 1 by excluding family benefits and unemployment benefits, without prejudice to Regulation (EU) No 1231/2010;
- (ii) under point (g) of the first subparagraph of paragraph 1 by limiting its application to education and vocational training which is directly linked to the specific employment activity and by excluding study and maintenance grants and loans or other grants and loans;
- (iii) under point (i) of the first subparagraph of paragraph 1 with respect to tax benefits by limiting its application to cases where the registered or usual place of residence of the family members of the seasonal worker for whom he/she claims benefits, lies in the territory of the Member State concerned.

Table 2 below provides an overview of the extent to which equal treatment with regard to the above-mentioned rights is ensured or restricted in each Member State; in addition, a more detailed table is provided in Annex 2. A colour code ranging from green (no restriction reported), orange (there is no restriction in national law but the restriction results in practice), to red (access to the right is restricted by national law) is used to show the different types of restrictions present.¹¹¹ Below, the varying access to these rights across Member States is discussed in more detail.

¹¹¹ For the purposes of the analysis made in this section, although the United Kingdom and Ireland do not apply the Directive, whenever possible, comparisons will be made with their own national provisions.

Table 2: Access to benefits and rights in practice

	Family benefits	Unemployment benefits	Educa-tional & vocational training ¹¹²	Tax benefits claimed for family members	Other practical difficulties to ensuring equal treatment
AT	exception may apply ¹¹³	■	■	■	Language barriers; difficult to contact once employment ends.
BE	■	■	■	■	Social security benefits
BG	■	■	■	■	None reported
CY	■	■	■	■	None reported
CZ	■	■	■	■	None reported
DE	■	■	■	■	No access to social insurance contributions if no agreements exist with country of origin.
EL	■	■	■	■	
EE	■	■	■	■	None reported
ES	■	■	■	■	None reported
FI	■	■	■	■	Social security rights are dependent on the length of stay.
FR	■	■	■	■	None reported
HR	■	■	■	■	Social security rights are dependent on length of stay.
HU	■	■	■	■	No significant practical difficulties arise.
IE					
IT	■	■	■	■	The foreign worker who fulfils the prerequisites to retire, can enjoy the social security and social security rights acquired only at the age of 65 years and have the right to transfer contributions to the institution or insurer of the State of origin.
LT	■	■	■	■	None reported
LU	Family benefits are mostly only paid for family members residing in the country/EU ¹¹⁴	■	■	■	None reported
LV	■	■	■	■	None reported
MT	■	■	■		No experience so far as no such permits granted
NL	■	■	■	■	None reported
PL	■	■	■	No restriction	None reported
PT	■	■	■	■	None reported
SE	■	■	■	■	None reported
SI	■	■	■	Limited	None reported
SK	■	■	■	■	Insufficient language skills might be an obstacle
UK	Family benefits are only paid for family members residing in the country	■	■	■	N/A since the UK does not apply the Directive

Source: EMN NCP national reports

■ No access ■ Limited ■ No restrictions ■ N/A

¹¹² In this table educational and vocational training refers to those which are not linked to the specific employment activity.

¹¹³ In Austria, an exception can be applied in the case of third-country national seasonal workers holding a residence permit for particularly exceptional reasons.

¹¹⁴ The exception to this is the bilateral agreement on social security issues with Cape Verde, which provides for the payment of family allowances for children living in Cape Verde, but with the application of a special amount indicated in the agreement and in relation to the age limit provided for family allowances according to Cape Verde legislation.

4.1.1.1. Access to unemployment and family benefits as well as pension contributions

Equal treatment appears to be most restricted in relation to seasonal worker access to unemployment benefits¹¹⁵ and family benefits.¹¹⁶ Family benefits are, by default, the area where seasonal workers face most restrictions, as the Directive does not contain any provisions allowing family reunification for seasonal workers, which means that in many Member States, seasonal workers are not legally allowed to bring family members based on the grounds of family ties alone. As in most Member States, family benefits can only be claimed for family members who are residing in the EU, this makes it virtually impossible for seasonal workers from third countries to claim family benefits. In addition, in three countries although family reunification is allowed, family members of seasonal workers are not entitled to such benefits.¹¹⁷

In practice, based on the information reported by EMN NCPs, besides the issues of residence for family members, the limited duration of stay acts as the greatest barrier to equal treatment for seasonal workers in relation to unemployment and family benefits. As highlighted by 21 Member States, while national law might provide the same conditions for EU/EEA national seasonal workers as for seasonal workers from third countries, the temporary nature of the stay of seasonal workers from third countries means that in some cases (see Annex 1) they are not able to meet the criteria and minimum contributory periods required to access these benefits.¹¹⁸ For example, in Bulgaria family allowances and unemployment benefits are only granted to persons who are employed in the country for more than nine months per year. In Malta, eligibility to unemployment benefits is conditional upon the prior affiliation in the Maltese scheme for at least one year;¹¹⁹ this condition is difficult to meet for seasonal workers given the temporary nature of their employment and therefore residence.

In two thirds of Member States and the United Kingdom, no legal or practical restrictions to equal treatment were reported in relation to education/vocational training¹²⁰ and/or tax benefits for family members.¹²¹ In ten Member States, restricted access to education/vocational training was due to the temporary nature of the worker's employment activity or stay in the country.¹²² For example, in Hungary seasonal workers are not entitled to participate in training linked to unemployment benefits due to the fact that they do not meet the requirement to be covered by national insurance for one year. Similarly, in five Member States and the United Kingdom, limited access to tax benefits was linked to the worker's residency status.¹²³ For example, in Estonia non-residents cannot submit

an income declaration and they therefore cannot claim family-related tax benefits.

Concerning the access of non-EEA seasonal workers to pension contributions, Article 23(1)(d) provides for equal treatment with nationals of the host Member State regarding branches of social security as defined in Article 3 of Regulation (EC) No. 883/2004. This Article also includes old-age benefits, survivors' benefits, and pre-retirement benefits. Since access to social security benefits is dependent on the length of stay in the country as well as sufficient contributory history, and therefore on the length of employment, 14 Member States reported that in practice it is often difficult if not impossible for workers to claim these rights due to their limited stay.¹²⁴ For example, in Germany seasonal workers are in general subject to compulsory social insurance, however there is a waiting period of five years for entitlement to an old-age pension. This excludes seasonal workers, since they are not permitted to work for more than six months each calendar year. On the other hand, in Portugal registration and contribution to the social security system is mandatory regardless of the length of employment, which entitles seasonal workers to the above-mentioned social security benefits, although not to unemployment benefits.

However, the last subparagraph of Article 23(1) provides that statutory pensions should be transferred to the third country where the seasonal worker lives under the same conditions and at the same rates as nationals moving to a third country. 12 Member States reported having a framework in place to enable the transfer of pension contributions to seasonal workers' countries of origin.¹²⁵ For example in Italy, seasonal workers and other employees may transfer contributions to an insurance institution or body in their country of origin, they may request the direct payment of the contributions when they retire at 65 years old, and they may also request the reconstruction of said contributions if they return to Italy at a later time. In the case of Belgium, seasonal workers from third countries with which Belgium has concluded social security agreements may apply through their local social security authority for the transfer of their pension rights. In case there is no such existing bilateral agreement, the person can submit an application via the Belgian Federal Pensions Service. In the remaining Member States, access to pension contributions was very limited, as it depended on the existence of agreements between the Member State and the country of origin of the seasonal worker.¹²⁶ In Spain, specific periods quoted by seasonal workers who come to work in Spain (and thus quote the Spanish social security system) will be taken into account for a pension in Spain, if the periods quoted are acquired in a country with a bilateral agreement with Spain.

¹¹⁵ In BE, BG, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IT, LT, LU, LV, MT, PL, PT, SK, and UK unemployment benefits were reported to be restricted either according to national legislation or in practice. In AT, seasonal and harvest workers are entitled in principle to unemployment insurance benefits. In practice however it is unlikely that they can claim these benefits, as they are not entitled to remain in AT once their employment has terminated.

¹¹⁶ AT, BE, BG, CZ, DE, EE, EL, FI, FR, HU, IT, LT, LU, LV, PL, SK, and UK.

¹¹⁷ BE, CZ, SK (in SK in the case of seasonal workers with long-term stay exceeding 90 days, family members can be entitled to such benefits).

¹¹⁸ AT, BE, BG, CZ, DE, EL, EE, ES (only for unemployment), FI, FR, HR, HU, IT, LT, LU, LV, PL, PT, SE, SI, SK.

¹¹⁹ 50 weeks of contribution payments to the scheme should be ensured, 20 weeks of which should be in the two years preceding the date of claim for benefits.

¹²⁰ AT, BE, BG, CY, CZ, DE, ES (only practical restrictions), HR, LV, NL, SE, SI, SK and UK.

¹²¹ BE, BG, CY, ES, FI, FR, HR, HU, IT, LU, MT, NL, PL, PT, SE, SI, SK.

¹²² AT, DE, EE, FI, HU, IT, LU, PL, PT, SE.

¹²³ CZ (referring to tax residency), EE, FR, LV, SI and UK.

¹²⁴ AT, BE, BG (depending on whether there is a bilateral agreement with a third country), CY, CZ, DE, EE, EL, IT, LV, MT, PL, SI, SK.

¹²⁵ BE, BG, CY, ES, FI, FR, HR, IT, LU, SE, SI and SK.

¹²⁶ AT, CZ, DE, EE, EL, HU, LV.

4.1.1.2. Access to suitable housing

Concerning the type of accommodation provided to seasonal workers, Article 20 (see Box below) includes provisions aiming to ensure that seasonal workers have access to adequate accommodation during their stay in the country. At national level, there is great variation in how Member States have further defined the concept of adequate living standards, including criteria which focus on living space, sanitation, safety, access to utilities, and the inclusion of basic facilities such as a cooker/hob(s) and a toilet. The most often used criteria are sanitation,¹²⁷ living space,¹²⁸ and safety,¹²⁹ whilst fewer Member States have requirements relating to basic facilities.¹³⁰ Nine Member States combine three or more criteria, including

additional standards, to determine whether the accommodation ensures an adequate standard of living.¹³¹ Table 3 below provides an overview of the type of criteria used by each Member State and the United Kingdom to define minimum standards.

Article 20(1): Member States shall require evidence that the seasonal worker will benefit from accommodation that ensures an adequate standard of living according to national law and/or practice, for the duration of his or her stay. The competent authority shall be informed of any change of accommodation of the seasonal worker.

Table 3: Criteria used by Member States to define minimum standards for the accommodation of seasonal workers

	Sani-tation stand-ards	Safety stand-ards	Basic facili-ties (e.g. de-vices for food preparation, sanitation, etc.)	Drinking water, electric-ity, and heating	Minimum hab-itatable size (m ² for 1 person is provided as an example when possible)	Other
AT	X	X	X	X		
BE ¹³²	X	X	X	X	X	
CY	X	X				The accommodation must meet the general safety and hygiene standards applicable in the Republic and generally ensure satisfactory living conditions.
CZ	X	X	X	X	X 8m ²	Accommodation cannot be obviously dis-proportionate to the quality of housing common in local towns/cities).
DE	X	X	X	X	X (8m ² if 6 occupants, 8.75 m ² more than 6)	e.g. heating facility, accessibility by public transport.
EE	X	X	X	X	X 8m ²	Accommodation should be accessible at all times.
EL	X	X				
ES	X	X	X	X	X 4 m ²	A 2019 ministerial order lays down the characteristics of suitable accommodation in the agricultural sector. A detailed description about accommodation, different areas and their conditions is available online. ¹³³ The property must comply with the conditions established by the legislation on accessibility and habitability. There are general conditions (e.g. light and public transport) and specific conditions related to facilities and services (e.g. drinking water and sanitation)
HR	X	X	X	X	X 14m ²	The rooms intended for sleeping of male/female persons must be physically separated, except in the case of family members

127 AT, BE, CZ, DE, EE, ES, FR, HR, LU, PL, SE, SK and UK.

128 BE, CZ, DE, ES, FR, HR, HU, IT, LT, LU, SK.

129 AT, BE, CZ, DE, EE, ES, FR, HR, LU, PL, SE, SK and UK.

130 AT, BE, DE, ES, HR, LU, SE.

131 AT, CZ, DE, EE, ES, HR, PL, SE, SK.

132 In Belgium, housing is a regional competence. Each region has a Housing Code laying down minimum standards related to sanitation, safety, and equipment.

133 Please see Annex IX : https://www.boe.es/diario_boe/txt.php?id=BOE-A-2019-18753

	Sani-tation stand-ards	Safety stand-ards	Basic facili-ties (e.g. de-vices for food preparation, sanitation, etc.)	Drinking water, electric-ity, and heating	Minimum hab-itable size (m² for 1 person is provided as an example when possible)	Other
HU					X 6m ²	
IE	NA	NA	NA	NA	NA	NA
FI	X	X	X	X	n/a	If the employer provides for accommoda-tion it has to comply with the general health and safety requirements.
FR	X	X	X	X	X 6m ² Exception Agricultural sector: 9m ² for first occupant; 7m ² for additional occupant (max 6 per room)	Rules apply to single and collective accommoda-tion. For collective accommoda-tion, rules are different for fixed or mobile residence. Rooms for men and women need to be separated.
IT	X	X	X	X	X 14m ²	Minimum height: 2.70 meters Ventilation: Living room and kitchen with opening window. Bathroom, when not equipped with a window, equipped with a mechanical suction system
LT					X 7m ²	Adequate accommodation with mini-mum 7m ² per worker
LU	X	X	X	X	X 9m ²	
LV	X	X		X		Housing must be protected against the cold, damp, heat, rain wind, other disease vectors
MT	X	X	X	X	X 6m ²	Maltese law does not differentiate between dwelling units for seasonal workers and other dwelling units and therefore universal standards would normally apply. The minimum gross floor areas of all new build housing units is 55 m ² for a one-bedroom housing unit, 90 m ² for a two-bedroom housing unit and 115 m ² for a three-bedroom housing unit.
NL¹³⁴	N/A	N/A	N/A	N/A	N/A	N/A
PL	X	X				Polish regulations do not specify standards for accommodation, except for collective housing such as hotels and social accommodations
PT	X	X	X	X	X 7.6 m ²	A 1965 regulation for accommoda-tion within construction sites is currently under revision to meet today's needs as well as to apply to all seasonal workers. There is also a temporary regulation for seasonal workers of the agriculture sector, in a very specific region in Portugal that determines the existence of air-conditioning. An internet connection is also to be foreseen, to enable communication between workers and their families in their home countries.

¹³⁴ As no third-country national seasonal worker has been admitted under the Directive to the Netherlands in the past years, in practice this question is not applicable to the Netherlands.

	Sani-tation stand-ards	Safety stand-ards	Basic facili-ties (e.g. de-vices for food preparation, sanitation, etc.)	Drinking water, electric-ity, and heating	Minimum hab-itable size (m ² for 1 person is provided as an example when possible)	Other
SE	X	X	X	X		Seasonal workers are not permitted to stay as lodgers in Sweden.
SI	X		X	X	X 8m ²	
SK	X	X		X	X 12m ²	Limit values have been set also for factors injurious to health inside buildings (e.g. pollution by mites or mould spores).
UK	X	X	X	X		The accommodation must be maintained in a good state of repair, must contain adequate kitchen, bathroom and toilet facilities for the number of occupants and must not be overcrowded.

Source: EMN NCP national reports

Member States transposing the Directive into national law were obliged to ensure that, in accordance with Article 20(1), evidence is requested from either the employer or the seasonal worker to prove that the accommodation is adequate and that any change in accommodation will be reported to the relevant authorities. In addition, Article 20(2) of the Directive requires that, when accommodation is arranged by or through the employer, the rent requested is not excessive compared to the worker's net remuneration; the rent is not automatically deducted from their salary; a rental contract or similar document is provided to the worker clearly stating the rental conditions; and that the employer must ensure that accommodation meets the health and safety standards of the Member State concerned.

Most Member States ensure that these conditions are met by requiring either the employer or the seasonal worker to provide written proof that they have or will have adequate accommodation during their stay in the country; this proof is requested as part of the application procedure when the employer or worker submits the request for an authorisation.¹³⁵ In Austria, for example, authorities may revoke permits granted if it becomes apparent that the accommodation provided by the employer does not meet local standards. The employer may remedy this, however if an employer repeatedly – meaning at least twice – provides a seasonal worker with accommodation not meeting local standards within one 12-month period, no work permit is issued. In Spain, employers' associations, trade unions and NGO's receive public funding to verify the quality of the accommodation.

In most cases, national public bodies responsible for ensuring labour standards, such as the labour inspectorate or department of labour, are in charge of inspecting the accommodation provided to check that it meets the minimum standards.¹³⁶ Other authorities, such as police or fire departments, border guards, immigration authorities, trade unions and tax authorities may also conduct inspections.¹³⁷ Regarding the requirement for accommodation rent to be proportionate to workers' wages, Italy,

Malta and Lithuania go beyond a general requirement for proportionate prices by requiring in their national legislation that monthly rent is not higher than about one third of the workers' monthly wages.

4.1.1.3. Practical challenges in ensuring equal treatment, vulnerability and risk of exploitation

Austria, Belgium, Croatia, and the Slovak Republic reported practical challenges to ensuring equal treatment to third-country nationals in the areas defined by the Directive. Austria and the Slovak Republic found that language barriers could prevent seasonal workers from enforcing their legal rights. An example provided by the Slovak Republic was that seasonal workers might fail to understand instructions or legal norms published on state authority websites. Austria also highlighted that individuals were also often difficult to contact since they had to leave the country once their employment ended.

Third-country nationals conducting seasonal work may be particularly vulnerable to exploitation. Eight Member States reported detecting cases where seasonal workers were victims of exploitation or human trafficking.¹³⁸ For example, in Poland the Border Guard identified 65 victims of human trafficking in 2018, among which 18 Ukrainian and 9 Belarusian citizens were seasonal workers. Portugal had a few cases in recent years where Nepalese agriculture seasonal workers were found to be victims of exploitation or trafficking. Since the situation in Nepal remains quite fragile and Nepalese workers may not understand well the Portuguese language, the chances of being exploited upon arrival have been reported as higher compared to other third-country nationals. Additionally, Greece reported cases of seasonal workers from Pakistan and Bangladesh working in the agricultural sector that have been victims of exploitation and human trafficking. Some of the cases have been subject to court decisions by the European Court of Human Rights, which has sentenced the country to financial compensation as

¹³⁵ AT, BE, BG, CY, CZ, DE, EE, ES, FR, HR, HU, IT, LT, LU, LV, MT, SE, SK.

¹³⁶ AT, BG, CY, DE, EE, FI, FR, HU, LT, LU, LV, MT, PL, PT, SI, SK and UK.

¹³⁷ AT, CZ, DE, EE, ES, FI, PT, SK (Foreign Police Departments) and UK.

¹³⁸ AT (detected by an NGO), CY, EL, FI, FR (cases of exploitation in particular in the agricultural sector), IT, PL, PT.

it determined that Greece did not fulfil its obligation for monitoring and protecting workers rights.¹³⁹

Estonia highlighted that there were cases where short-term employment was registered in Estonia as seasonal work to avoid having to pay third-country national workers the average salary which is not foreseen for seasonal work. In Bulgaria, third-country nationals were found to perform activities specific to a different position than the one indicated on the permit.

As a general problem, Austria highlighted that seasonal workers were in a relationship of dependence with their employers because their authorisation was tied to their employment. As a result, seasonal workers could be more reluctant to report infringements by employers. Estonia reported that a reason why seasonal workers were under-reporting infringements or exploitation from employers related to their temporary stay in the country.

In general, monitoring via ad hoc inspection or inspection based on reported violations of existing regulations appears to be the main means used by Member States to ensure compliance with legal provisions. In terms of good practices in this area, the Austrian trade union PRO-GE highlighted that, in recent years, targeted campaigns conducted by authorities as part of joint action against illegal accommodation contributed to improving accommodation standards. In Lithuania, some employers in the hospitality sector accommodate seasonal workers in their hotels, mostly in the Klaipėda County. In Italy, a three-year plan was presented in February 2020 to tackle the phenomenon of "Caporalato"¹⁴⁰ in relation to appropriate housing. The plan defines steps for the development of decent housing solutions based on models already tested at the local level, such as the use of assets confiscated from crime for the provision of shared housing for workers. Other areas of action proposed to tackle exploitation, which are not specifically aimed at third-country national seasonal workers but which may also include them, are the creation of an integrated housing reception system and the definition of territorial governance between national and local authorities and other competent organisations.

In Spain, the Ethical, Labour and Social Responsibility Plan (PRELSI) for the strawberry sector has established a voluntary protocol of equality and prevention of any case of harassment or undue treatment, training middle managers and creating the role of an "integration consultant" and developing various actions of guidance and advice to workers, improving labour relations and coexistence during their stay.¹⁴¹ Trade unions and NGOs are responsible for monitoring the process, starting with the selection of candidates, their arrival to Spain as well as their work performance.

4.1.2. Seasonal work not covered by the Directive

Five Member States and the United Kingdom reported having alternative categories of (temporary) work of a cyclical nature, not falling under the Directive.¹⁴²

As mentioned previously, Ireland and the United Kingdom do not apply the Directive. Ireland is a special case as it does not currently have a special permit for seasonal work. Legislation providing for a seasonal employment permit is in preparation following a review of the employment permit system in 2018. Up to 2018 occupations in some sectors typically characterised by seasonality, such as those in agriculture or tourism sectors, were not eligible for an employment permit. In 2018, a limited quota of employment permits was introduced in agriculture, as part of a Pilot Scheme. Irish citizens and EEA nationals continue to make up the largest share of seasonal workers in Ireland. The Irish labour inspectorate reported that non-EEA workers may be employed seasonally as farm workers, in the hospitality industry during the tourist season, and in shellfish collecting and processing. Irregular employment of non-EEA seasonal workers is not believed to be widespread, although a limited number of prosecutions have been made under the Employment Permits and Organisation of Working Time Acts in relation to shellfish collecting and processing conducted by non-EEA seasonal workers.¹⁴³

The United Kingdom launched a Seasonal Workers Pilot scheme in 2019 to allow farmers in the edible horticulture sector to employ up to 2 500 non-EEA seasonal workers for up to six months via a Tier 5 visa in 2019.¹⁴⁴ Workers under this scheme are not entitled to family reunification, family benefits, unemployment benefits, or tax benefits.

In the Czech Republic, the majority of seasonal workers are hired for periods not exceeding three months, mainly because migration procedures are simpler and quicker. However, some employers hire third-country nationals performing seasonal work via either long-term seasonal work visas or via the Single Permit. The Single Permit is extendable; therefore, it is preferred over the non-extendable long-term seasonal visa. In 2019, also a non-extendable Special Work Visa was introduced which serves for employment periods of longer than 3 months but not exceeding 12 months. In Poland, a national seasonal work permit is also available to third-country nationals who are already residing in Poland, and in Germany, holiday employment for foreign students is possible during their semester breaks in Germany.

In Finland and Sweden wild-berry pickers are included in an alternative category. In Finland, wild-berry picking is not included in the seasonal work as defined by the Directive as there is no national requirement for wild-berry pickers to have an official employment contract. Thus, they are not considered to be under an employment relationship. Anyone is entitled to pick berries and to sell these berries. A wild-berry picking visa is required in this case, with a maximum duration of 90 days, and to be eligible, the

¹³⁹ see the European Court of Human Rights case of Chowdury and Others v Greece (Application no. 21884/15, Date of ECtHR Decision 30/07/2017

¹⁴⁰ The phenomenon of 'Caporalato' is used to refer to a form of illegal intermediation and exploitation of migrant workers by gangmasters, which commonly takes place in the Italian agricultural sector. This system exploits migrant workers, violates minimum wage requirements and imposes inhumane working conditions.

¹⁴¹ <https://interfresa.com/prelsi/>

¹⁴² CZ, EE (short-term employment on general grounds), FI, PL, SE and UK.

¹⁴³ This information is based on inspections conducted by the Workplace Relations Commission (WRC) in Ireland.

¹⁴⁴ The quota has been extended to 10 000 non-EU seasonal workers to be employed in 2020.

worker needs a letter of intent, also referred to as an ‘invitation’ in the guidelines for berry picking; it should be signed by the employer or person/organisation purchasing the wild berries from them. In practice, the lack of an employment contract makes berry pickers more vulnerable to exploitation, as they do not have the same rights as persons holding an authorisation issued under the Directive.¹⁴⁵ Most berry pickers come from Thailand and there have been several documented cases of exploitation and human trafficking of Thai berry pickers in recent years.¹⁴⁶

In Sweden, wild-berry pickers are required to sign an employment contract and must request a work permit from the Migration Agency. Since the majority of wild berry pickers are hired by staffing agencies based in third countries, the provisions of the Posted Workers Directive and of the Seasonal Workers Directive do not apply. Berry pickers from Thailand are usually employed by Thai private employment agencies and posted in Sweden. The pickers sign their employment contract with the staffing agency; an offer of employment must be submitted as a supporting document in connection with the application for a work permit and the permit is limited to the employer in question and the occupation stated in the work permit application. . Throughout the duration of their contract, they

remain employed in the country where their employer, the staffing agency, is based, and are partly subject to the regulatory frameworks from their employer’s country. Sweden and Thailand’s regulatory frameworks seek to ensure that salaries are at least equivalent to the minimum defined for that sector and require that staffing agencies inform their workers about the costs of working in the wild berry industry. Research suggests that Thai wild berry pickers encounter difficulties when trying to express grievances, as they have to navigate two legal systems that deal with worker complaints in different ways. This may make it more difficult to protect the interests of these workers compared to other categories of workers.¹⁴⁷

Six Member States¹⁴⁸ noted that seasonal work activities are acknowledged to be performed by irregular migrants. It was highlighted that in Italy, for example, irregular migrants are often employed in the agricultural sector. Indeed, recent research highlights the agriculture sector as a sector of employment particularly at risk of labour exploitation and associated with precarious situations, atypical or informal forms of work organisation, uncertain periods of unemployment, undefined wages, and lack of social and economic protection.¹⁴⁹



4.2. KEY ACTORS AND MECHANISMS IN PLACE TO ENSURE THE PROTECTION OF SEASONAL WORKERS’ RIGHTS

4.2.1. Relevant actors for the protection of the rights of seasonal workers¹⁵⁰

The main actors involved in the protection of the rights of seasonal workers across the Member States include the Labour Inspectorate or State department/agency responsible regulating labour matters;¹⁵¹ regional authorities;¹⁵² the Customs or tax authorities;¹⁵³ the migration authorities;¹⁵⁴ the Labour Court or professional/labour Chambers;¹⁵⁵ and in some cases employment services,¹⁵⁶ pension institutions,¹⁵⁷ fire departments,¹⁵⁸ and the police and border guard services (when these are a separate entity from the migration authorities).¹⁵⁹ In addition, in Austria and Luxembourg organisations meeting a minimum number of employees can create employee

representation bodies ('Works Council' in Austria, 'Staff Delegation' in Luxembourg), which support employees in all work-related matters, by for example monitoring compliance with labour standards and agreements, occupational health and safety regulations, and providing information to workers on their rights and obligations.

Twelve Member States highlighted Trade Unions as important actors,¹⁶⁰ with many playing an active role in the monitoring of employment and working conditions for seasonal workers, in the dissemination of information on the rights of workers and complaint mechanisms available, as well as sometimes the provision of counselling services. In addition, non-governmental organisations were reported by ten Member States to play an important role in providing information to seasonal workers on existing regulations and how to claim their rights through

¹⁴⁵ See Utiset, 2013, Foreign Ministry: Berry pickers largely unprotected: https://yle.fi/uutiset/osasto/news/foreign_ministry_berry_pickers_largely_unprotected/6826764

¹⁴⁶ See for example: Utiset, 2018, Berry firm boss convicted of trafficking 26 Thais: https://yle.fi/uutiset/osasto/news/berry_firm_boss_convicted_of_trafficking_26_thais/10031739.

¹⁴⁷ Hedberg, C., Axelsson, L., Abella, M. (2019), Thai berry pickers in Sweden – A migration corridor to a low-wage sector. Delmi report 2019:3. Available online at: https://www.researchgate.net/publication/335219805_Thai_Berry_Pickers_in_Sweden_A_Migration_Corridor_to_Low_Wage_Sector

¹⁴⁸ EL, ES, IT, PL, PT, SK.

¹⁴⁹ European Union Agency for Fundamental Rights (2019) Protecting migrant workers from exploitation in the EU: worker’s perspectives. Available online at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-severe-labour-exploitation-workers-perspectives_en.pdf.

¹⁵⁰ Several Member States (e.g. NL) are not mentioned consistently in this sub-section, as these have not admitted any seasonal workers under the Directive and thus do not apply such measures in practice.

¹⁵¹ AT, BE, BG, CY, CZ, DE, EE, ES, FR, HR, HU, IT, LT, LU, LV, MT, PL, PT, SE, SI, SK and UK.

¹⁵² CZ, DE, ES, FI.

¹⁵³ AT, DE, SE.

¹⁵⁴ AT, DE, ES, FR, PT, SE and UK.

¹⁵⁵ AT, DE, ES, LU, SE.

¹⁵⁶ AT.

¹⁵⁷ DE.

¹⁵⁸ FI.

¹⁵⁹ DE, EE, ES, FI, FR, LV, PL, SE, SI.

¹⁶⁰ AT, BE, BG, CZ, DE, ES, FI, FR, IT, LU, MT, SE.

seminars, campaigns and field visits to workers, as well as how to issue complaints against employers in cases where their rights are negated.¹⁶¹ Annex 3 provides a more detailed overview of these key actors per country as well as their role.

Concerning cooperation between relevant authorities, 20 Member States reported that their labour and/or migration authorities cooperated with other national agencies and organisations to some extent for the monitoring of seasonal workers and employers.¹⁶² Cooperation included the following types of activities:

Joint inspections to ensure employer compliance with legal conditions of employment and to detect possible cases of labour exploitation or human trafficking;¹⁶³

- Joint inspections to ensure that seasonal workers comply with employment requirements and to detect any irregular stays;¹⁶⁴
- Information exchange to protect the rights of seasonal workers;¹⁶⁵
- Information exchange for the purposes of verifying that third-country nationals meet the requirements of their authorisation or are not overstaying beyond the duration of their employment contract.¹⁶⁶

4.2.2. Mechanisms in place to ensure and monitor the protection of the rights of seasonal workers¹⁶⁷

Article 11 of the Seasonal Workers Directive includes provisions on the type of information that Member States should provide to applicants for seasonal work (see Box below).

Article 11

1. Member States shall make easily accessible to applicants the information on all documentary evidence needed for an application and information on entry and stay, including the rights and obligations and the procedural safeguards of the seasonal worker.
2. When Member States issue third-country nationals with an authorisation for the purpose of seasonal work, they shall also provide them with information in writing about their rights and obligations under this Directive, including complaint procedures.

22 Member States and the United Kingdom reported having mechanisms in place to ensure that seasonal workers and employers were made aware of their rights and duties.¹⁶⁸ In five Member States information was provided only via the website of governmental institutions in their official language.¹⁶⁹ Fourteen Member States and the United Kingdom used additional channels to ensure that workers understood their rights and obligations by providing online, written or contractual information in several languages, providing advice and other means of support via a hotline, or referral to another organisation.¹⁷⁰

The following types of actions were taken by Member States to ensure that this type of information is available to prospective and current seasonal workers:

- Provision of advice to employers on compliance with legislative requirements and norms regarding the employment of third-country nationals;¹⁷¹
- Publication of requirements and conditions when applying for seasonal work, as well as the rights and obligations of seasonal workers published on the website of governmental institutions in the language of the Member State;¹⁷²
- Publication of requirements and conditions when applying for seasonal work, as well as the rights and obligations of seasonal workers published on the website of governmental institutions in English and other languages;¹⁷³
- Provision of information on the authorities third-country nationals can approach in case their employer fails to comply with contract or labour obligations;¹⁷⁴
- Provision of information on seasonal worker rights and duties provided along with their employment contract or authorisation;¹⁷⁵
- Provision of a copy of the employment contract in the seasonal worker's own language.¹⁷⁶
- Provision of a hotline or contact point for seasonal workers to enquire about their rights and duties or for counselling.¹⁷⁷

Concerning the mechanisms in place to monitor, assess and conduct inspections on whether seasonal workers can exercise their equal treatment rights and other rights granted in practice (in line with the provisions provided in Article 24 of the Directive), 18 Member States and the United Kingdom have specific procedures in this area.¹⁷⁸ These procedures allow State authorities such as labour inspectorates or labour departments, to conduct

¹⁶¹ AT, BE, BG, CZ, DE, ES, FI, HU, PL, PT.

¹⁶² AT, BE, BG, CZ, DE, EE, EL, ES, FI, HR, HU, IT, LT, LU, LV, PL, PT, SE, SI, SK.

¹⁶³ CZ, EE, ES, HR, IT, LT, LU, LV, PT, SE, SK.

¹⁶⁴ CZ, EE, ES, HR, IT, LT, LU, LV, SI, SK.

¹⁶⁵ BG, CZ, EE, ES, FI, IT, LT, LV, SE, SI.

¹⁶⁶ AT, BE, BG, CZ, EE, ES, HU, FI, IT, LT, LU, PL, SI, SK.

¹⁶⁷ Several Member States (e.g. NL) are not consistently mentioned in this sub-section, as these have not admitted any seasonal workers under the Directive and thus do not apply such measures in practice.

¹⁶⁸ BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and UK.

¹⁶⁹ AT, CY, CZ, HU, PT.

¹⁷⁰ BG, DE, DK, EE, ES, FR, HR, IT, LT, MT, PL, SE, SI, SK and UK.

¹⁷¹ CZ, EE, ES, HR, IT, LT, PL, LV, PT, SK, SI.

¹⁷² BG, CY, CZ, EE, ES, FR, HR, HU, IT, LT, LU, LV, NL, PL, PT, SE, SI, SK and UK.

¹⁷³ CY, CZ, EE, FR, HR, LT, LU, NL, SK.

¹⁷⁴ CZ, EE, ES, FR, SE, SK and UK.

¹⁷⁵ CZ, BG, ES, SE, SK and UK.

¹⁷⁶ DE and UK.

¹⁷⁷ AT, CZ, EE, ES, IT, MT, PL.

¹⁷⁸ AT, BG, CY, CZ, DE, EL, EE, ES, FR, HR, HU, IT, LT, MT, PL, PT, SI, SK and UK.

inspections, often unannounced, of work premises to ensure the protection of seasonal worker's rights and that employers are abiding with contractual requirements.

In addition, 20 Member States and the United Kingdom reported having specific mechanisms in place to ensure that seasonal workers abide by the rules, namely that they hold a valid authorisation, work for the employer reported in their application and employment contract, and that they do not overstay beyond the duration of their employment.¹⁷⁹ In addition, 18 Member States and the United Kingdom had specific mechanisms in place to ensure that employers abide by labour rules, such as declaring seasonal workers, applying for the correct type of authorisation, providing fair wages, working hours, working conditions and accommodation for seasonal workers.¹⁸⁰ However, only eight Member States reported collecting statistics on the above-mentioned mechanisms.¹⁸¹ For example, in Estonia, statistics on inspection visits are collected, which keep track of the number of inspections conducted by sector, officials participating, employers and employees checked, and misdemeanour proceedings launched. In Italy, the Labour Inspectorate collects statistics on the forms of abuse and exploitation of workers, the measures implemented to combat these, and the number of irregular workers identified during inspections.¹⁸² Similarly, in Poland, statistics are collected on the complaints filed by workers, advice provided to non-EU citizens, labour inspections conducted, inspections/controls conducted by Border Guards, and return decisions issued as a result of these.

In Latvia, Lithuania and the Slovak Republic, more general information on the activities of the Labour Inspectorate is collected in its annual reports, such as measures taken to reduce undeclared employment. In France, the Labour Inspectorate collects statistics on the number of infringements. The representative offices of the French Office for Immigration and Integration in Morocco and Tunisia is responsible for monitoring the returns of seasonal workers, as part of the bilateral agreements signed with Tunisia and Morocco. In the Spanish case, returns are also monitored, and attention is being paid also to collective returns in an effort to ensure these. Additionally, information campaigns for seasonal workers have been carried out. These include workshop for trainers on working conditions and targeted information via video programmes to inform seasonal workers about their rights and duties.

4.2.3. Complaint mechanisms, sanctions and good practices on ensuring rights of seasonal workers

Article 25 of the Directive contains provisions for Member States to facilitate the lodging of complaints by seasonal workers in case of exploitation or mistreatment.

Article 25

1. Member States shall ensure that there are effective mechanisms through which seasonal workers may lodge complaints against their employers directly or through third parties which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring compliance with this Directive, or through a competent authority of the Member State when provided for by national law.
2. Member States shall ensure that third parties which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring compliance with this Directive, may engage either on behalf of or in support of a seasonal worker, with his or her approval, in any administrative or civil proceedings, excluding the procedures and decisions concerning short-stay visas, provided for with the objective of implementing this Directive.
3. Member States shall ensure that seasonal workers have the same access as other workers in a similar position to measures protecting against dismissal or other adverse treatment by the employer as a reaction to a complaint within the undertaking or to any legal proceedings aimed at enforcing compliance with this Directive.

Eleven Member States reported having specific procedures to protect seasonal workers who lodge complaints (as per Article 25),¹⁸³ while the remaining Member States confirmed having in place general procedures which apply to both EU and non-EU workers and allow seasonal workers to make such complaints. Seasonal workers were provided with the following type of options to lodge complaints against employers:

- Filing a complaint with the Labour Inspectorate or relevant State institution regulating labour matters, who will then inform and assist the worker in lodging a complaint before a court if necessary or in finding another employer.¹⁸⁴
- Requesting the relevant institution to inspect the workplace or accommodation provided.¹⁸⁵
- Filing a legal complaint at the Labour Court or other relevant organisation. Seasonal workers may be represented by an NGO, Trade Union, or other legal representative for such procedures.¹⁸⁶

In 18 Member States and the United Kingdom, specific sanctions were introduced for employers failing to fulfil their obligations towards seasonal workers.¹⁸⁷ In France and Luxembourg only general sanctions apply in some cases (see footnotes below). These ranged, depending on the severity of the offence:

¹⁷⁹ AT, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IT, LV, LT, MT, PL, SE, SI, SK and UK.

¹⁸⁰ AT, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, IT, LT, LV, MT, PL, SE, SK and UK.

¹⁸¹ EE, EL, FR, IT, LV, LT, SK, PL.

¹⁸² In 2019 the number of irregular workers detected during inspections increased by 12%, with a greater concentration in the accommodation and catering as well as the agriculture sectors. 19,434 irregular workers (of which 123 non-EU workers) were identified in the accommodation and catering sector, while 5,340 irregular workers (of which 229 non-EU workers) were identified in the agriculture sector.

¹⁸³ BE, BG, CY, CZ, EL, FI, FR, HR, IT, PL, PT.

¹⁸⁴ AT, BG, CZ, EL, ES, FR, SI, SK.

¹⁸⁵ ES, FR, PT.

¹⁸⁶ AT, BE, CY, CZ, DE, EE, ES, FI, FR, HR, HU, IT, LT, LU, MT, PL.

¹⁸⁷ AT, BE (Walloon Region), BG, CY, CZ, DE, EE, EL, ES, FI, HR, IT, LT, MT, PL, SE, SI, SK and UK.

- Having to pay a fine (up to €200 000 in the Slovak Republic in case of illegal employment).¹⁸⁸
- The obligation to pay financial compensation to seasonal workers;¹⁸⁹
- Losing the right to employ seasonal workers indefinitely or for a specified period of time;¹⁹⁰
- Being sentenced to prison in cases of illegal employment¹⁹¹ or the deliberate withholding of information;¹⁹²
- In line with the Employers Sanction Directive,¹⁹³ an employer who has employed an irregularly-staying third-country national may be prohibited from performing the activity concerned, and/or may be subject to the permanent or temporary closure of the business used to commit the offence.¹⁹⁴

Austria, Greece, Poland, Spain and Sweden highlighted good practice examples on how the rights of seasonal workers were ensured in their country. In Austria, the PRO-GE Trade Union reported an effective and accessible means to share information with seasonal and harvest workers in agriculture and forestry, where activists approached workers directly at their places of work. Whilst conventional methods were found usually ineffective for reaching this particular target group, the involvement of activists with a migrant background and knowledge of the worker's first languages proved successful.

In Greece, the NGO Generation 2.0 for Rights, Equality and Diversity (G2RED) runs Manolada Watch, a project to monitor the working and living conditions of migrant agricultural workers at Manolada in Ilia, Greece. The project has collected data and other relevant information on the region and has shared this information with the public to raise awareness among the Greek public and public authorities on the situation of agricultural workers in Manolada, where living conditions remain difficult and dangerous for the health of the land workers.¹⁹⁵

In Poland, the National Labour Inspectorate launched in 2017 a three-year information campaign, "I work legally", which aimed to raise the level of awareness of employers and employees working or planning employment in the country. The campaign included the creation of a website containing free information in Polish, Ukrainian and English, videos, free trainings for employers and employees, as well as the production of radio emissions and short films in 2018. An evaluation conducted at the end of the campaign showed that the target groups were successfully reached and there was an increased interest in other information services from the Labour Inspectorate as well as free legal advice provided by the NLI Counselling Centre.

In Spain, there is a Code of Good Practices which will apply in seasonal agricultural campaigns. Special emphasis has been placed on the control of working conditions and on the monitoring and compliance with the regulations of

the social order and the adoption of a protocol of action aimed primarily at strengthening the control in those companies with workers hired in third countries. In addition, socio-labour mediators and the integration consultants play an important role, hired within the framework of the PRELSI (Plan of Ethical, Labour and Social Responsibility for the strawberry sector adopted by INTERFRESA).¹⁹⁶

In Sweden, voluntary social standards in the wild-berry picking sector were developed in recent years. The Swedish Food Retailers Federation and the Swedish Food Federation established standards for responsible berry purchases in 2015, to ensure greater legal certainty and improved conditions for wild-berry pickers who are not employed by a company in Sweden. Companies adhering to these standards are offered training and receive a certificate. The "Krav" ecolabel introduced the requirement for wild-berry pickers to be formally employed. In addition, at a more general level, the Federation of Swedish Farmers has developed guidelines for member enterprises hiring foreign labour. Farms are recommended to provide a welcome pack in the native language of the worker which includes information such as a map of the work place facilities, presentations and contact information of management and staff, any risks involved while carrying out the duties, public service information and good examples of work place instructions.

¹⁸⁸ BE (general fines apply), BG, CY, CZ (general fines apply), DE, EE, EL, ES, HR, FI, FR (general fines apply), IT, LT, LU, LV, PL, SE, SK.

¹⁸⁹ AT, BE (specific sanction in Walloon region), CY, EE, EL, ES, FR, LU (general compensation), IT, LV, PL, SK, SE.

¹⁹⁰ AT, CY, CZ, ES, FR, LT, SE, SK, SI and UK.

¹⁹¹ BE (general sanctions apply), CZ (possible but not used in practice), AT, DE, ES (for the worst cases), FR, IT, LU, LV, SE.

¹⁹² CZ (possible but not used in practice), ES (for the worst cases), FR, SE.

¹⁹³ Article 7(d) of the Employers Sanction Directive (2009/52/EC), <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0052&from=EN>

¹⁹⁴ BE, BG, FR, HR, LU, LV, SK (temporary ban of activities). In BG, the employer cannot be subject to the permanent or temporary closure of the business establishment used to commit the offense.

¹⁹⁵ <https://g2red.org/report-on-the-situation-at-manolada-july-2020/>

¹⁹⁶ <https://interfresa.com/prelsi/>

5. CONCLUSIONS AND LESSONS LEARNT

The present study provides an overview of experiences in 25 Member States and the United Kingdom regarding admitting seasonal workers from third countries during the period since the Seasonal Workers Directive (2014/36/EU) was implemented.

In sum, the implementation of the Directive has allowed for the legal framework concerning the rights and obligations of seasonal workers to be more clearly defined in national legislation, and also provides for better protection of their rights. Examples include access to adequate housing, or sanctions for employers failing to fulfil their obligations. However, practical barriers to equal protection were also highlighted, specifically the limited duration of stay, which pose an obstacle in building up sufficient qualifying rights, but also language barriers, and the dependence on employers.

Seasonal workers are mainly young and move to regions that are geographically close by, with some exceptions

The main country of origin of seasonal workers in EU Member States is Ukraine. Regarding other countries of origin, regionalism prevails, with countries of origin of most seasonal workers being in the neighbouring regions of the Member States that receive them (as shown in section 2.2). In some Member States, however, the main countries of origin are outside of the European continent, for example in Sweden and Finland, the main country of origin is Thailand, while in Spain, the main country is Morocco. The majority of seasonal workers are between the ages of 18 and 39, and the proportion of men is slightly higher than that of women. The majority of seasonal workers stay for around 90 days; around a third stay for up to six months; few stay for longer periods between six and nine months.

The main sectors of employment are agriculture and forestry, tourism and manufacturing

In the majority of the Member States, the main sectors of employment are agriculture and forestry, tourism (mainly in the summer season) and manufacturing. Most Member States have quotas for seasonal workers, however in the majority of Member States these were not

fulfilled in 2018. Nevertheless, the number of seasonal workers has been increasing since 2016.

Most Member States are admitting seasonal workers under the EU Directive, although its importance differs widely

The study shows that the majority of Member States have admitted seasonal workers under the Seasonal Workers Directive.¹⁹⁷ However, Germany, Luxembourg, Malta and the Netherlands have not admitted any seasonal workers under the Directive to date, as their demand is mostly met through nationals, EU / EEA citizens and third-country nationals already residing on their territory. For these countries, until now, the relevance of the Directive is limited.

Overall, the study shows that in most Member States seasonal workers from third countries are in demand, which implies that in general, the Directive corresponds to needs on the ground. However, the importance of the Directive varies across the Member States, as some almost exclusively use the Directive to admit third-country nationals, whilst others use national legislation instead. Ireland did not opt into the Directive and is currently preparing to introduce a national scheme. Some Member States have national schemes which apply to temporary work of a cyclical nature in sectors which they have not communicated as being covered by the Directive. For example, in the Czech Republic, some third-country nationals perform seasonal work also via long-term seasonal work visas, the Single Permit or the Special Visa, and in Poland, a national permit for seasonal work is available. Others have schemes in place, which are based on bilateral agreements or other EU legislation such as the Single Permit Directive. In some cases, seasonal workers are 'posted' from a third country by non-EU-based specialised agencies.

Member States differ with regard to national strategies and policies in place for the attraction of seasonal workers

In the majority of Member States and the United Kingdom, the entry and stay of seasonal workers is considered part of the overall migration policy, as a way

¹⁹⁷ The Directive is not applicable in Ireland and the United Kingdom.

to facilitate the temporary admission of workers to meet labour market demand. Several Member States have active strategies in place to attract seasonal workers from third countries, including shortening or simplifying the visa request procedure for seasonal workers or eliminating employment quota regimes for third-country national seasonal workers.

On the other hand, some Member States and the United Kingdom have no specific strategy to attract seasonal workers, although there is a need for workers across different sectors, especially in agriculture and tourism. This is for example due to the reliance of employers on regular personnel that they have employed for some time and repeatedly rehire, or because other workers than third-country nationals are conducting seasonal work. Overall, the most commonly used channels for employers to obtain information on the procedures to hire seasonal workers are institutional and official websites. While most Member States have in place measures to facilitate the re-entry of seasonal workers from third countries, some appear to have no such facilitation in place, contrary to the Directive's provisions.

COVID-19 has shed light on the conditions regarding seasonal work

The COVID-19 pandemic has made the substantial reliance of several Member States on seasonal workers highly apparent. Some Member States suspended part or all of their normal activities with respect to the processing of applications by seasonal workers. Additionally, some Member States experienced labour shortages in sectors in which seasonal workers are typically active (e.g. agriculture).

Some Member States have facilitated the entry and stay of seasonal workers during the pandemic, for example by extending the authorisations of seasonal workers from third countries or the legal time limits for short-term employment and by lifting travel restrictions for seasonal workers.

Finally, some Member States reported that seasonal workers have gained more visibility and recognition from the public during the COVID-19 pandemic.

The Directive contains provisions to strengthen the rights and protection of seasonal workers, but enforcement in practice is difficult

The study also looked at the protection and rights of seasonal workers, taking the Seasonal Workers Directive as a baseline. The analysis shows that in several Member States, in line with possibilities granted by the Directive, equal treatment for seasonal workers is restricted as their access to certain rights is limited, for example, access to unemployment benefits and family benefits. Various Member States limit the grounds on which seasonal workers can bring their family members

to their territory, and seasonal workers often cannot claim benefits for family members residing in a third country.

Seasonal workers contribute to taxes, to payments for unemployment benefits, pension contributions and other payments (either in full or partly), but while in some Member States it is possible to claim transfer of such benefits universally or via bilateral agreements, in several countries the workers either have no rights or no factual possibilities to claim the benefits. In practice, seasonal workers thus experience difficulties, mainly due to the short duration of their stay in the Member States. This means that even when the national law provides no restrictions, the temporary nature of their stay means they may not meet the necessary prerequisites to access benefits. For example, unemployment benefits may be limited to workers who have been employed for a longer period than most seasonal workers tend to, or are allowed to, stay on the territory.

An important issue highlighted by the study is the access to adequate housing for seasonal workers. The interpretation of adequate housing varies across the Member States and the United Kingdom, including sanitation and hygiene standards, safety standards, basic facilities, access to drinking water, electricity and heating, and minimum size of the living space in m² per inhabitant. Most Member States report that they ensure these minimum conditions, by requiring either the employer or the seasonal worker to provide written proof that they have or will have adequate accommodation during their stay in the country. This may in turn be checked by public bodies, such as labour inspectorates and several Member States have identified breaches by employers in the provision of housing. Potentially, the impact of measures against the spread of COVID-19 might impact housing conditions since strict hygiene rules need to be followed to contain the virus.¹⁹⁸

Finally, the Directive contains provisions for monitoring of working conditions. Several actors are responsible for monitoring (through e.g. ad hoc inspection) and for imposing sanctions for any violations. Still, there may be many cases of abuse (including issues of trafficking) not reported, mainly because seasonal workers are not aware of their rights, or they are reluctant to report infringements by employers due to their dependence on those employers. Information provision to seasonal workers remains difficult, although some best practices have been implemented (e.g. by directly approaching seasonal workers with information at their workplace).

¹⁹⁸ https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1342

ANNEXES

ANNEX 1A: EUROSTAT STATISTICS RELATED TO SEASONAL WORKERS

Please note: Only Member States for which parts or complete sets of Eurostat data are available are included in the below. Annex 1b provides national data submitted by EMN NCPs.

Table 1: Number of first-time authorisations granted to third-country nationals for the purpose of seasonal work by citizenship (2017–2019)

MS	2017		2018		2019	
	Top 5 countries of origin	Number of authorisations	Top 5 countries of origin	Number of authorisations	Top 5 countries of origin	Number of authorisations
BG	[REDACTED]	[REDACTED]	Ukraine	6 821	Ukraine	8 252
	[REDACTED]	[REDACTED]	Moldova	798	Moldova	937
	[REDACTED]	[REDACTED]	Kyrgyzstan	223	Kyrgyzstan	676
	[REDACTED]	[REDACTED]	Russia	171	North Macedonia	248
	[REDACTED]	[REDACTED]	North Macedonia	164	Russia	245
EE	Ukraine	924	Ukraine	2 468	Ukraine	4 366
	Moldova	69	Moldova	98	Moldova	182
	Russia	10	Russia	15	Russia	39
	India	10	India	11	Belarus	37
	Philippines	3	Philippines	0	Georgia	29
ES	Morocco	4 834	Morocco	12 754	Morocco	10 221
	Colombia	752	Colombia	960	Colombia	947
	Ecuador	63	Peru	86	Peru	605
	Peru	56	Argentina	59	Ecuador	53
	Ukraine	42	Ecuador	49	Senegal	48
HR	Bosnia and Herzegovina	11	Bosnia and Herzegovina	362	Serbia	2 825
	North Macedonia	2	Serbia	318	Bosnia and Herzegovina	2 783
	[REDACTED]	[REDACTED]	Ukraine	105	North Macedonia	1 526
	[REDACTED]	[REDACTED]	North Macedonia	88	Ukraine	292
	[REDACTED]	[REDACTED]	Kosovo (under United Nations Security Council Resolution 1244/99)	12	Kosovo (under United Nations Security Council Resolution 1244/99)	180
HU	Serbia	30	Ukraine	21	[REDACTED]	[REDACTED]
	Ukraine	4	Serbia	15	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED] – no data

MS	2017		2018		2019	
	Top 5 countries of origin	Number of authorisations	Top 5 countries of origin	Number of authorisations	Top 5 countries of origin	Number of authorisations
IT	India	1111	India	2133	India	1625
	Albania	972	Albania	1368	Albania	1114
	Morocco	485	Morocco	798	Morocco	515
	Ukraine	192	Serbia	205	North Macedonia	170
	Moldova	146	Moldova	199	Serbia	165
LT	Ukraine	57	Ukraine	225	Ukraine	542
	Belarus	4	Belarus	35	Belarus	81
			Moldova	15	Moldova	28
			Georgia	3	Georgia	22
			Bangladesh	1	Uzbekistan	22
LV	Ukraine	118	Ukraine	157	Ukraine	169
	Uzbekistan	4	Belarus	11	Uzbekistan	95
	Belarus	1	Uzbekistan	8	Kyrgyzstan	42
					Kazakhstan	13
					Belarus	10
PL			Ukraine	45 020	Ukraine	45 915
			Belarus	423	Belarus	421
			Moldova	108	Moldova	110
			Georgia	43	Georgia	66
			Nepal	28	Russia	35
PT					Nepal	839
					Thailand	342
					Bangladesh	207
					India	163
					Ukraine	135
RO			Moldova	2	Moldova	64
					Ukraine	22
					Uzbekistan	10
					Serbia	5
SK	Serbia	830	Serbia	1 098	Ukraine	1 619
	Ukraine	67	Ukraine	962	Serbia	234
	North Macedonia	29	Georgia	119	Georgia	43
	Bosnia and Herzegovina	15	North Macedonia	87	Bosnia and Herzegovina	35
	Moldova	6	Bosnia and Herzegovina	79	North Macedonia	23
SI	Bosnia and Herzegovina	75	Bosnia and Herzegovina	611	Bosnia and Herzegovina	641
	Ukraine	42	Serbia	153	Serbia	307
	Moldova	18	Ukraine	13	Ukraine	71
	Serbia	10	Moldova	13	North Macedonia	14
	North Macedonia	2	Ukraine	7	Moldova	13

Source: Eurostat (migr_ressw1_1), extracted 13 October 2020

■ – no data

Table 2: Number of first-time authorisations granted to third country nationals for the purpose of seasonal work by economic sectors and disaggregated by gender (2017-2019)

AC	Accommodation and food service activities	IC	Information and communication
HO	Activities of households as employers; undifferentiated goods- and services-producing activities of households for own use	MA	Manufacturing
AD	Administrative and support service activities	MI	Mining and quarrying
AG	Agriculture, forestry and fishing	PA	Public administration and defence; compulsory social security
AR	Arts, entertainment and recreation	SC	Professional, scientific and technical activities
CO	Construction	TS	Transportation and storage
EG	Electricity, gas, steam and air conditioning supply	WH	Wholesale and retail trade; repair of motor vehicles and motorcycles
HS	Human health and social work activities	OT	Other service activities
			no data

	2017				2018				2019									
	total		male		female		total		male		female		total		male		female	
	Top 5 sectors	Number of authorisations																
IT	AG	2 308	AG	2 044	AG	264	AG	3 578	AG	3 240	AG	338	AG	2 650	AG	2 403	AG	247
	OT	1 071	OT	787	OT	284	CO	1 936	CO	1 547	CO	389	CO	1 263	CO	980	CO	283
	AC	189	AC	92	AC	97	AC	298	AC	164	AC	134	AC	210	AC	110	AC	100
	SC	31	SC	28	SC	3	OT	63	OT	47	OT	16	OT	50	OT	37	OT	13
	WH	2	WH	1	WH	1	SC	18	SC	14	SC	4	SC	23	SC	22	SC	1
LT	AG	26	AG	17	AC	14	AC	85	AC	47	AC	39	MA	276	MA	125	MA	151
	AC	21	TS	12	AG	9	AG	59	AG	46	MA	17	AC	262	AC	115	AC	147
	TS	12	AC	7			MA	57	MA	40	AG	12	AG	148	AG	84	AG	64
	CO	2	CO	2			CO	34	CO	34	OT	10	CO	18	CO	18		
							OT	25	MI	22			MI	18	MI	18		
LV	AG	121	AG	47	AG	74	AG	147	AG	61	AG	86	AG	232	AG	135	AG	97
	CO	2	CO	2			MI	20	MI	20	AR	1	MI	78	MI	78	AR	2
							CO	7	CO	7			CO	21	CO	21		
							AR	2	AR	1			AR	2	AR	0		
													TS	1	TS	1		
PL													AG	44 470	AG	16 647	AG	2 7823
													AC	2 160	AC	654	AC	1 506
RO	AC	4	AC	3	AC	1	AC	2	AC	2			AC	86	AC	41	AC	45
													AG	15	AG	14	AG	1
SI	AG	107	AG	63	AG	44	AG	740	AG	487	AG	253	AG	969	AG	568	AG	401
							WH	28	WH	20	WH	8	WH	62	WH	44	WH	18
							AD	12	AD	10	AD	2	MA	15	MA	8	MA	7
							MA	5	MA	5			PA	3	PA	3		
													EG	1	EG	1		
SK							MA	1 822	MA	1 306	MA	516	MA	1 412	MA	802	MA	608
							CO	198	CO	192	WH	36	WH	137	CO	121	WH	77
							WH	145	WH	109	AC	24	AG	127	WH	60	AG	69
							AG	75	AG	55	AG	19	CO	125	AG	58	AC	51
							AC	53	AD	34	CO	6	AC	84	AC	33	AD	12

Source: Eurostat (migr_ressw2), extracted 15 October 2020

Table 3: Number of first-time authorisations granted to third country nationals for the purpose of seasonal work by length of validity (2017-2019)

	Validity	2017	2018	2019
BG	1-90 days	0	8 468	10 794
	91 days - 6 months	0	8	89
	7-9 months	0	16	41
EE	1-90 days	262	435	680
	91 days - 6 months	381	757	1 106
	7-9 months	394	1 432	2 976
ES	1-90 days	49	19	198
	93 days - 6 months	5 278	13 187	10 380
	7-9 months	537	796	1 437
HR	1-90 days	0	593	1 854
	91 days - 6 months	13	300	6 108
	7-9 months	n/a	n/a	n/a
HU	1-90 days	4	1	0
	91 days - 6 months	30	35	0
	7-9 months	0	0	0
IT	1-90 days	0	183	194
	91 days - 6 months	0	2 187	1 582
	7-9 months	0	3 271	2 429
LT	1-90 days	5	33	219
	91 days - 6 months	56	249	504
	7-9 months	0	0	0
LV	1-90 days	123	95	100
	91 days - 6 months	0	81	234
	7-9 months	0	0	0
PL	1-90 days	0	20 660	17 346
	91 days - 6 months	0	13 150	13 431
	7-9 months	0	11 854	15 853
PT	1-90 days	0	0	1
	91 days - 6 months	0	0	30
	7-9 months	0	0	2 004
RO	1-90 days	0	0	101
	91 days - 6 months	0	2	0
	7-9 months	0	0	0
SI	1-90 days	11	688	884
	92 days - 6 months	94	101	142
	7-9 months	2	3	28
SK	1-90 days	926	2 345	1 961
	91 days - 6 months	23	3	17
	7-9 months	0	0	0

Source: Eurostat (migr_ressw1_1), extracted 13 October 2020

Table 4: Number of third country nationals whose authorisation for seasonal work has been renewed and withdrawn (2017-2019)

	Validity	2017	2018	2019
BG	Granted	0	8 492	10 924
	Renewed	0	0	6
	Withdrawn	0	0	0
EE	Granted	1 037	2 624	4 762
	Renewed	114	158	998
	Withdrawn	0	0	0
ES	Granted	5 864	14 002	12 015
	Renewed	23	15	0
	Withdrawn	0	0	0
HR	Granted	13	893	7 962
	Renewed	0	0	1
	Withdrawn	0	178	1 160
HU	Granted	34	36	0
	Renewed	0	0	0
	Withdrawn	0	0	0
IT	Granted	3 603	5 641	4 205
	Renewed	0	286	614
	Withdrawn	0	0	0
LT	Granted	61	282	723
	Renewed	12	38	182
	Withdrawn	0	0	0
LV	Granted	123	176	334
	Renewed	0	75	134
	Withdrawn	0	0	0
PL	Granted	0	45 664	46 630
	Renewed	0	3 231	0
	Withdrawn	0	0	0
PT	Granted	0	0	2 035
	Renewed	0	0	0
	Withdrawn	0	0	0
RO	Granted	0	2	101
	Renewed	0	0	0
	Withdrawn	0	0	0
SI	Granted	107	792	1 054
	Renewed	0	0	6
	Withdrawn	0	0	0
SK	Granted	949	2 348	1 978
	Renewed	0	2	0
	Withdrawn	0	0	0

Source: Eurostat (migr_ressw1_1), extracted 13 October 2020

Table 5: Number of third country nationals whose authorization for seasonal work has been renewed by sectors (2017–2019)

	2017		2018		2019	
	Top 5 sectors	Number of authorisations	Top 5 sectors	Number of authorisations	Top 5 sectors	Number of authorisations
BG					Accommodation and food service activities	6
EE	Agriculture, forestry and fishing	92	Manufacturing	87	Agriculture, forestry and fishing	696
	Manufacturing	21	Agriculture, forestry and fishing	57	Manufacturing	182
	Accommodation and food service activities	1	Accommodation and food service activities	14	Accommodation and food service activities	120
ES	Agriculture, forestry and fishing	20	Manufacturing	6		
	Electricity, gas, steam and air conditioning supply	2	Agriculture, forestry and fishing	5		
	Accommodation and food service activities	1	Human health and social work activities	3		
			Electricity, gas, steam and air conditioning supply	1		
HR					Information and communication	1
IT			Agriculture, forestry and fishing	202	Agriculture, forestry and fishing	428
			Construction	51	Construction	125
			Accommodation and food service activities	22	Other service activities	20
			Other service activities	6	Accommodation and food service activities	32
			Activities of households as employers; undifferentiated goods- and services-producing activities of households for own use	2	Professional, scientific and technical activities	3
LT	Accommodation and food service activities	7	Manufacturing	13	Accommodation and food service activities	94
	Agriculture, forestry and fishing	5	Other service activities	10	Manufacturing	50
			Accommodation and food service activities	11	Agriculture, forestry and fishing	35
			Construction	3	Construction	2
			Agriculture, forestry and fishing	1	Mining and quarrying	1
LV			Agriculture, forestry and fishing	65	Agriculture, forestry and fishing	107
			Mining and quarrying	10	Mining and quarrying	16
					Construction	9
					Arts, entertainment and recreation	1
					Transportation and storage	1

	2017		2018		2019	
	Top 5 sectors	Number of authorisations	Top 5 sectors	Number of authorisations	Top 5 sectors	Number of authorisations
PL			Agriculture, forestry and fishing	3001		
			Accommodation and food service activities	230		
SK			Accommodation and food service activities	1		
			Construction	1		

Source: Eurostat (migr_ressw1_1), extracted 14 October 2020

■ – no data

ANNEX 1B: NATIONAL STATISTICS RELATED TO SEASONAL WORKERS

Please note: the below tables provide national statistics which are not available on Eurostat. Member States not reflected in the below tables either did not report any relevant national statistics or their data is available on Eurostat (see Annex 1a).

Table 1: Number of first-time authorisations granted to third-country nationals for the purpose of seasonal work by citizenship (2016-2019)

		2016		2017		2018		2019	
		Top 5 countries of origin	Number of authorisations	Top 5 countries of origin	Number of authorisations	Top 5 countries of origin	Number of authorisations	Top 5 countries of origin	Number of authorisations
AT	Bosnia and Herzegovina	204	Bosnia and Herzegovina	273	Bosnia and Herzegovina	382	Ukraine	737	
	Afghanistan	86	Afghanistan	201	Ukraine	355	Bosnia and Herzegovina	626	
	Ukraine	82	Ukraine	153	Afghanistan	132	Serbia	270	
	Serbia	51	Serbia	66	Kosovo	126	Kosovo	199	
CY	Syrian Arab Republic	47	Iraq	56	Serbia	114	Afghanistan	144	
	0	0	0	0	Egypt	55	Egypt	177	
	0	0	0	0	Moldova	33	Moldova	26	
	0	0	0	0	Ukraine	1	Ukraine	1	
	0	0	0	0	0	0	0	0	
EE	Ukraine	136					see Eurostat		
	Moldova	41							
	Turkmenistan	1							
	Belarusia	1							
	Russia	1							
FI	0	■	0	n/a	Ukraine*	11 421	Ukraine**	10 884	
	0	■	0	n/a	Thailand*	2 799	Thailand*	2 514	
	0	■	0	n/a	Russian Federation*	2 386	Moldova**	150	
	0	■	0	n/a	Belarus*	262	Russian Federation**	100	
	0	■	0	n/a	Moldova*	103	Vietnam**	86	
FR ***	Morocco	1 055	Morocco	1 209	Morocco	1 547	Morocco	2 611	
	Tunisia	212	Mali	261	Mali	329	Guinea	641	
	Mali	78	Tunisia	204	Guinea	313	Mali	510	
	Turkey	54	Guinea	123	Tunisia	252	Tunisia	455	
	Mauritius	31	Côte d'Ivoire	94	Côte d'Ivoire	218	Côte d'Ivoire	413	
NL	Total number	1 651	Total number	2 369	Total number	3 389	Total number	5 594	
	0	■	0	■	0	■	0	■	
	0	■	0	■	0	■	0	■	
	0	■	0	■	0	■	0	■	
	0	■	0	■	0	■	0	■	
UK	0	0	0	0	0	0	Ukraine	2 261	
	0	0	0	0	0	0	Moldova	180	
	0	0	0	0	0	0	Russia	47	
	0	0	0	0	0	0	Kazakhstan	4	
	0	0	0	0	0	0	Georgia	1	

Source: EMN National Contact Points

Data on AT: Data provided by Austrian Public Employment Service.

■ – no data

Data on FI: * Visas for seasonal work including berry pickers, certificates for seasonal work, residence permits for seasonal work, source Ministry for Foreign Affairs and Finnish Immigration Service. ** Certificates for seasonal work and residence permits for seasonal work, source Finnish Immigration Service.

Data on FR: Data provided by VSA/ DSEF - DGEF, ministry of the Interior. *** These data apply to residence permits issued to third country national seasonal workers for 3 years whereas a work permit needs to be issued separately, for the duration of the employment contract, limited to 6 months within a 12 month period.

Data on UK: Data provided by Home Office (<https://www.gov.uk/government/statistical-data-sets/managed-migration-datasets> (Entry clearance visa applications and outcomes). Data for 2019 refers to Seasonal Work pilot.

Table 2: Number of first-time authorisations granted to third country nationals for the purpose of seasonal work by economic sectors and disaggregated by gender (2016-2019)

	2016		2017		2018		2019		
	total	male	female	total	male	female	total	male	female
	Top 5 sectors	Authorisation	Top 5 sectors						
AT	Agriculture and Forestry	434	Agriculture and Forestry	69	Agriculture and Forestry	742	Agriculture and Forestry	628	Agriculture and Forestry
CY	Tourism	228	Tourism	50	Tourism	277	Tourism	191	Tourism
FI									
NL									
UK									

Source: EMN National Contact Points
Data on AT: Data provided by Austrian Public Employment Service.
Data on FI: Source Finnish Immigration Service.
Data on NL: Data provided by VSA/DSEB - DGEF, ministry of the interior. ** These data apply to residence permits issued to third country national seasonal workers for 3 years whereas a work permit needs to be issued separately, for the duration of the employment contract, limited to 6 months within a 12 month period.
Data on UK: Data provided by Home Office (<https://www.gov.uk/government/statistical-data-sets/managed-migration-datasets>). Data for 2019 refers to Seasonal Work pilot.

- no data

Table 3: Number of first-time authorisations granted to third country nationals for the purpose of seasonal work by length of validity (2016-2019)

	Validity	2016	2017	2018	2019
AT	1-90 days	305	480	561	984
	91 days - 6 months	426	539	790	1 339
	7-9 months	0	0	0	0
	1-90 days	0			
BG	91 days - 6 months	0		see Eurostat	
	7-9 months	0			
CY	1-90 days	■	■	3	1
	91 days - 6 months	■	■	84	143
	7-9 months	■	■	0	0
EE	1-90 days	41			
	91 days - 6 months	137		see Eurostat	
	7-9 months	2			
	1-90 days	14 024	13 020	16 576	17 995
FI	91 days - 6 months	■	■	592	486
	7-9 months	■	■	291	1 091
	1-90 days	0			
LV	91 days - 6 months	0		see Eurostat	
	7-9 months	0			
	1-90 days	0			
PL	91 days - 6 months	0		see Eurostat	
	7-9 months	0			
	1-90 days	■			
SK	91 days - 6 months	■		see Eurostat	
	7-9 months	■			
	1-90 days	0			
SI	91 days - 6 months	0		see Eurostat	
	7-9 months	0			
	1-90 days	0	0	0	0
UK	91 days - 6 months	0	0	0	2 493
	7-9 months	0	0	0	0

Source: EMN National Contact Points

■ – no data

Table 4: Number of third country nationals whose authorisation for seasonal work has been renewed and withdrawn (2016-2019)

	Validity	2016	2017	2018	2019
AT	Renewed	5 103	5 438	6 547	8 171
	Withdrawn	0	0	0	0
CY	Renewed	■	■	■	■
	Withdrawn	■	■	■	■
EE	Renewed	1		see Eurostat	
	Withdrawn	41			
FI	Renewed	■	■	11	33
	Withdrawn	■	■	■	■
FR	Renewed	1 099	2 712	2 837	3 041
	Withdrawn	■	■	■	■
LV	Renewed	0		see Eurostat	
	Withdrawn	0			
PL	Renewed	0		see Eurostat	
	Withdrawn	0			
SK	Renewed	■		see Eurostat	
	Withdrawn	■			
SI	Renewed	0		see Eurostat	
	Withdrawn	0			

Source: EMN National Contact Points

■ – no data

Note on AT: Figures are only available for the number of employment permits that have been renewed or withdrawn (= revoked) for seasonal workers (incl. harvester) who are third-country nationals, not the respective number of third-country nationals affected. This means that several employment permits may have been issued (consecutively) for one person.

Data on FI: Data is provided by Finnish Immigration Service

Data on FR: Data for withdrawal are not available. Residence permits are renewed for 3 years. VSA/ DSED - DGEF, ministry of the Interior

Note on PL: Seasonal work permit is a new instrument introduced in Poland on 1 January 2018. Number of third country nationals whose authorisation for seasonal work has been withdrawn can be only estimated. Estimate was sent only for 2019. Data for 2019 were already provided to Office for Foreigners (authority responsible for inserting data to EDAMIS)

Data on SK: In practice these cases are almost non-existent, as instead of extension of seasonal worker permit, foreigners choose another purpose of residence permit (especially employment). Eurostat data is complemented and validated by the Bureau of the Border and Foreign Police (a national contact point to Eurostat statistics on seasonal workers)

Data on SI: The reported zero values correspond to no cases recorded.

Table 5: Number of third country nationals whose authorization for seasonal work has been renewed by sectors (2016-2019)

	2016		2017		2018		2019	
	Top 5 sectors	Number of authorisations						
AT	Agriculture and Forestry	3 505	Agriculture and Forestry	3 841	Agriculture and Forestry	4 869	Agriculture and Forestry	5 935
	Tourism	1 598	Tourism	1 597	Tourism	1 678	Tourism	2 236
		0		0		0		0
		0		0		0		0
EE		0		0		0		0
		0		0		0		0
		0		0		0		0
		0		0		0		0
LV		0		0		0		0
		0		0		0		0
		0		0		0		0
		0		0		0		0
PL		0		0		0		0
		0		0		0		0
		0		0		0		0
		0		0		0		0
SI		0		0		0		0
		0		0		0		0
		0		0		0		0
		0		0		0		0

■ – no data

Data on AT: Figures are only available for the number of employment permit that have been renewed or withdrawn (= revoked) for seasonal workers (incl. harvester) who are third-country nationals, not the respective number of third-country nationals affected. This means that several employment permits may have been issued (consecutively) for one person.

Data on PL: Seasonal work permit is a new instrument introduced in Poland on 1 January 2018. Data for 2019 were already provided to Office for Foreigners (authority responsible for inserting data to EDAMIS).

Data on SK: Eurostat data is complemented and validated by the Bureau of the Border and Foreign Police (a national contact point to Eurostat statistics on seasonal workers).

Data on SI: The reported zero values correspond to no cases recorded.

ANNEX 2

Overview of restrictions applied by Member States and the United Kingdom in relation to equal treatment between third-Country Nationals (TCN) seasonal workers and EU nationals

Colour coding: red = restrictions present in national legislation/regime; orange = no restrictions in national legislation/regime but in practice equal treatment is restricted; blue = no restrictions in national legislation/regime and no practical restriction reported

Access to Family benefits ¹⁹⁹	Access to Unemployment benefits ²⁰⁰	Access to Educational and vocational training not linked to the specific employment activity ²⁰¹		Access to Tax benefits	Other practical difficulties to ensuring equal treatment
		Access to Educational and vocational training not linked to the specific employment activity ²⁰¹	Access to Tax benefits		
AT	Seasonal and harvest workers are entitled in principle to unemployment insurance benefits (Art. 1 para 1a of the Unemployment Insurance Act 1977), but the fact that they must leave the territory when their seasonal employment is over, prevents them from being able to claim such benefits in practice.	No legal restrictions in place, but in view of the provisions governing seasonal and harvest workers' stay and their working conditions, it is doubtful whether this group has access to education or training.	A benefit referred to as the Family Bonus Plus was introduced as of 1 January 2019 to replace the tax deductibility of childcare expenses and the tax allowance for children. The Family Bonus Plus reduces the annual tax burden on parents by as much as EUR 1,500 per child. Families with children in third countries are not eligible for the Family Bonus Plus. The same applies to other tax allowances, particularly the allowances for single earners and for individuals obliged to pay maintenance (Bundesministerium für Finanzen, 2020).	Individual cases of unequal treatment relate to working hours and fair wages. A general problem is that seasonal and harvest workers are in a dependency relationship with their employers in terms of employment and residence permits, which makes it likely that existing rights are not claimed or infringements are not reported. Trade unions highlight additional obstacles such as language barriers and the fact that individuals in this group are often difficult to contact since they are required to leave Austria on terminating employment. Many seasonal workers also lack a regulating social influence, including family obligations. These obligations limit working hours on a social level.	
BE	Holders of a single permit, including seasonal workers, are not entitled to family benefits if their single permit is issued for a maximum period of 6 months.	In order to claim Belgian unemployment benefits, one needs to be legally residing in the country. Since for third-country nationals temporarily in the country the right to reside ends simultaneously with the work right, they are not entitled to unemployment benefits. Single permit holders, whose work rights have been terminated prior to the expiry of the single permit, are nonetheless entitled to unemployment benefits for maximum 60 days after the termination of the employment agreement. However, a worker must have worked for a specific number of days over a defined period of time preceding unemployment in order to be eligible for unemployment benefits in Belgium. The number of days a third-country nationals (seasonal) worker has worked in their country of origin will in principle not be taken into account (exceptions apply to a very limited number of countries resulting from the application of bilateral agreements). As a result, most third-country national workers in Belgium do not benefit from the same rights as national workers when it comes to unemployment benefits.	No restrictions reported	The Belgian seasonal work scheme applies to both national and third-country seasonal workers. Employers who employ seasonal workers apply Belgian labour law, regardless of the country of origin or residence status of the employee. Belgium applies a restriction to the equal treatment between seasonal workers from third countries and nationals who carry out comparable employment activities only as regards to family benefits. In practice, however, the applicable regulations may lead to a difference in treatment between them in other areas such as social security benefits.	

¹⁹⁹ Art. 23(2)(i) of the Seasonal Workers Directive provides that Member States may restrict equal treatment under point (d) of the first subparagraph of paragraph 1 by excluding family benefits and unemployment benefits, without prejudice to Regulation EU No 1231/2010.

²⁰⁰ See Article 23(2)(i) of the Seasonal Workers Directive.

²⁰¹ Art. 23(2)(ii) of the Seasonal Workers Directive provides that Member States may restrict equal treatment under point (g) of the first subparagraph of paragraph 1 by limiting its application to education and vocational training which is directly linked to the specific employment activity and by excluding study and maintenance grants and loans or other grants and loans.

Access to Family benefits199	Access to Unemployment benefits200	Access to Educational and vocational training not linked to the specific employment activity201	Access to Tax benefits	Other practical difficulties to ensuring equal treatment
BG Third-country national seasonal workers are not entitled to family allowances when the authorisation is issued for employment for up to nine months.	Third-country national seasonal workers are not entitled to unemployment benefits allowances for up to nine months.	No restrictions reported	No restrictions reported	None reported
CY No restrictions reported	No restrictions reported	No restrictions reported	No restrictions reported	None reported
CZ Entitlement to benefits in the Czech Republic depends on the legal status of a person. Foreign nationals who are issued a long-term visa for the purpose of seasonal work are entitled to care allowance, but those staying for a shorter period are not.	One of the conditions for entitlement to unemployment benefits is to have a permanent residence permit in the Czech Republic. Since seasonal workers do not fulfil this condition, they do not have access to unemployment benefits.	No access	In case the person does not reside in the Czech Republic, tax benefits may be claimed only if the person has residency in another Member State of the EU or EEA and fulfil other conditions set by the Act No. 586/1992 Coll. on Income Tax. A third-country national who does not meet these conditions is therefore excluded.	None reported
DE Seasonal workers from third countries may not come with their family members to Germany. Since the ruling handed down by the European Court of Justice on 12 June 2012, seasonal workers from EU Member States are entitled to child benefit in Germany, even if their children continue to live in their country of origin. However, the situation is different for seasonal workers from third countries, they are not entitled to child benefit because their employment contract is limited in time and therefore their stay in Germany is temporary.	Entitlement to unemployment benefit also requires a certain minimum period of insurance in the unemployment insurance scheme. This qualifying period is 12 months within a framework period of 24 calendar months (Section 142 of the Social Code Book III).	No access	The wages of foreign seasonal workers paid for work performed in Germany are generally subject to taxation in Germany unless they are below the basic tax-free allowance of €9 408 per year (as of 2020). Seasonal workers in agriculture and forestry are eligible for a favourable flat-rate income tax of five percent (Section 40a subsection 3 of the Income Tax Act). However, the flat-rate tax is only permissible where, for example, the temporary worker is employed on an agricultural and forestry holding, is engaged exclusively in typical agricultural and forestry work, does not work more than 180 days per calendar year for the employer, and is paid an hourly rate that does not exceed €15. Under certain conditions, temporary and part-time employees outside of agriculture and forestry may be subject to flat-rate income tax. The flat-rate tax is regularly borne by the employer but can be passed on to the employees.	Challenges arise in connection with the transferability of social security contributions to the countries of origin of seasonal workers. Adherence to the minimum wage and, at the same time, potential deductions for accommodation provided also pose a challenge. In addition, the obligation to have social insurance, unless it involves short-term employment, poses a challenge, as there are usually no corresponding regulations or opportunities for seasonal workers to take the German contributions with them to the third countries. If no social security agreements have been concluded with the country of origin for instance, any contributions made to unemployment benefit are forfeited and the employee is unable to benefit from the insurance.

Access to Family benefits ¹⁹⁹	Access to Unemployment benefits ²⁰⁰	Other practical difficulties to ensuring equal treatment		
		Access to Educational and vocational training not linked to the specific employment activity ²⁰¹	Access to Tax benefits	Access to Tax benefits
EE	The stay of seasonal workers in Estonia is temporary and without a residence permit, therefore they are not covered during their temporary stay.	The right to unemployment benefits is foreseen for permanent residents of Estonia; third-country nationals residing in Estonia on the basis of temporary residence permits or temporary right of residence, EU/EEA citizens; persons enjoying international protection staying in Estonia or applicants for international protection in Estonia. A seasonal worker would not fall into these categories, but if they later stay in Estonia on the grounds listed above, the contributions made during seasonal work will be taken into count while assessing the right to receive unemployment benefits.	Seasonal workers from third countries are non-residents and therefore they are not able to submit resident declaration income and claim family related tax benefits.	None reported
ES	In general, for social security protection, the same rules as for Spanish workers apply. Equal treatments is a key principle of the legal migratory framework. However, this is in practice limited by the limited stay of seasonal workers, so only certain benefits apply.	Unemployment insurance contributions are not paid for seasonal workers.	No legal restrictions in place, but in view of the provisions governing seasonal and harvest workers' stay and their working conditions, it is doubtful whether this group has access to education or training. For this reason, the Spanish government and other authorities are working together to guarantee them access to specific kind of education.	No restrictions reported.
FI	As a rule, third-country nationals are required to hold a permit entitling them to stay in the country for at least one year to have the right to residence-based social security. Family members of seasonal workers are not issued with a residence permit on the basis of family ties, therefore they are excluded from receiving such benefits.	Starting from the beginning of 2018, unemployment insurance contributions are not paid for seasonal workers. Amendments to the Unemployment Allowances Act and the Act on Financing Unemployment Benefits exclude seasonal workers, as referred to in the Seasonal Workers Directive, from unemployment insurance.	Social security rights are dependent on the length of stay.	No restrictions reported.

Access to Family benefits¹⁹⁹	Access to Unemployment benefits²⁰⁰	Access to Educational and vocational training not linked to the specific employment activity²⁰¹	Access to Tax benefits	Other practical difficulties to ensuring equal treatment
FR	Third-country national seasonal workers undertake to maintain their habitual residence outside France. Hence, they cannot benefit from family reunification schemes and therefore from the related family benefits. In fact, access to social benefits is subject to regular stay on the French territory and to a minimum period of residence (at least 6 months of the calendar year). It does not include seasonal workers whose stay is for a maximum of 6 months.	No access to unemployment benefits because of the limited length of stay and the residence outside France.	No restrictions reported although due to the limited duration of stay in France and the fact that they do not establish their residence in France, they cannot benefit from such measures.	None reported
HR	No restrictions reported	To access unemployment benefits third-country national seasonal workers need to have at least 9 months of employment in the country in the last 24 months, the reason for employment termination cannot be the worker's will or fault and the worker needs to have a valid residence permit. Since work and residence are interdependent, in practice it is difficult for seasonal workers to access this benefit and it lasts only until the date of expiry of the authorisation.	No restriction reported	Social security rights are often related to residence permit which is dependent on the length of employment
HU	Only such third country nationals can receive family benefits, whose single permit is valid for at least 6 months. In Hungary, the maximum time period for seasonal work is 6 months; this therefore restricts their access to such benefits.	Seasonal workers from third countries are not entitled to the unemployment benefits due to a lack of the required insurance period (at least one year) which is necessary for job search allowances.	No restrictions reported.	Due to the small number of seasonal workers in Hungary, no significant practical difficulties arise.
IE				Not applicable since Ireland does not apply the Directive.

Access to Family benefits¹⁹⁹	Access to Unemployment benefits²⁰⁰	Access to Educational and vocational training not linked to the specific employment activity²⁰¹	Other practical difficulties to ensuring equal treatment
IT In general for social security protection, the same rules as for Italian workers apply, however this is in practice limited by the limited stay of seasonal workers, so only certain benefits apply. These forms of assistance and compulsory social security are the following: invalidity, old age and survivors' insurance; insurance against accidents at work and occupational diseases; health insurance; and maternity insurance.	The seasonal worker is not entitled to household allowance and involuntary unemployment benefit, and these contributions are not due from the employer. Instead, the employer is required to pay the Social Security Agency (i.e. I.N.P.S.) a contribution equal to the amount of the same, which will be used for social welfare measures in favour of workers.	No legal restriction to education/vocational training although there is "de facto" restricted access due to the temporary nature of the workers' employment activity.	The foreign worker who has matured the requisites, can enjoy the social security and social security rights acquired only at the age of 65 years, have the right to transfer contributions to the institution or insurer of the State of origin.
LT No access to family allowance granted	In principle not able to claim unemployment benefits due to short stay in the country.	N/A	On the basis of the present general regulations, the foreign worker who has matured the requisites provided for by the regulations in force, can enjoy the social security and social security rights acquired only at the age of 65 years, possibly also in derogation of the minimum contribution requirement. Seasonal workers, in particular, have the right to transfer contributions to the institution or insurer of the State of origin. This is without prejudice to the possibility of reconstructing one's own contribution position in case of a subsequent new entry into the Italian territory.

Access to Family benefits¹⁹⁹	Access to Unemployment benefits²⁰⁰	Access to Educational and vocational training not linked to the specific employment activity²⁰¹	Access to Tax benefits	Other practical difficulties to ensuring equal treatment
LV The social security system includes benefits (State family allowance) for which the requirements for residence must be met. Seasonal workers, unlike permanent residents, cannot comply with such requirements due to the temporary nature of their stay.	For the receipt of unemployment benefits, any person has to undergo a certain period of qualification (mandatory social insurance contributions for unemployment should be made not less than 12 months within the last 16 months). Seasonal workers from third countries cannot qualify for these criteria as they can only be employed for up to 6 months.	No restrictions reported	According to the Law on Personal Income Tax, non-residents are not subject to the non-taxable minimum, nor do they have the right to tax deductions established by the Law. An exception is a non-resident who is a resident of another Member State of the European Union or a country of the European Economic Area and has earned more than 75 percent of his or her total income in Latvia during the tax year.	None reported.
MT Malta does not apply a differential treatment based on nationality but based on the length of residence in Malta. Eligibility is effective after 3 months of residence. Alternatively, in the case of a person moving to Malta from a third country, even if this person holds a Maltese or EU nationality, the entitlement for benefits ensues only after a lapse of 3 months from the date of arrival in Malta.	Eligibility to unemployment benefits is conditional upon the prior affiliation in the Maltese scheme for at least 1 year (50 weeks of contribution payments in total, 20 weeks of which should be in the 2 years preceding the date of claim for benefits). Eligibility to benefits is conditional depending upon the registration with the Public Employment Services (PES), known as 'Jobsplus'. If either one of the conditions is not met, the benefits are not payable.	Education and vocational training are available to third-country national seasonal workers provided these are directly linked to the specific employment activity and excluding study and maintenance grants and loans or other grants and loans.	No restrictions reported	There has been no such experience in view of not having granted such seasonal work authorisation, but it is expected that there would be no such difficulties.
NL No restrictions reported	No restrictions reported	No restrictions reported	Seasonal workers are subject to general rules regarding tax matters.	None reported
PL Seasonal workers admitted in accordance with the Seasonal Workers Directive are excluded from the family benefits and state aid for raising children. It is due to the fact that they are in Poland for a very short time.	Seasonal workers admitted according to the Seasonal Workers Directive cannot register as unemployed. They can register as a jobseeker without the right to unemployment benefits. It is due to the fact that they are in Poland for a very short time and with connection with specific job offer.	Seasonal workers admitted according to the Seasonal Workers Directive do not have the right to vocational training and education concerning seasonal work. It is due to the fact that they are in Poland for a very short time and with connection with a specific job offer.	None reported	As a minimum standard, educational and vocational training is linked to the duration of the working relation with each employer, as seasonal workers from third countries remain in the country for a short time, they are likely not to have access to these.
PT No restrictions reported	To be entitled to unemployment benefit, s/he must have worked as an employee and discounted, in this capacity, for Social Security for at least 360 days in the 24 months immediately prior to the date s/he became unemployed.	No restrictions reported	None reported	None reported

	Access to Family benefits¹⁹⁹	Access to Unemployment benefits²⁰⁰	Access to Educational and vocational training not linked to the specific employment activity²⁰¹	Access to Tax benefits	Other practical difficulties to ensuring equal treatment
SE	No restrictions reported	No restrictions reported	No access to study grants or study loans.	No restrictions reported	None reported
SI	No restrictions reported	No restrictions reported	No restrictions reported	In case the usual place of residence of the seasonal workers' family members is outside of Slovenia, the worker would receive tax benefits only if an international agreement on avoidance of double taxation is in place with their country. For the seasonal worker to be considered a resident of the country for tax purposes, they must have a working contract of more than 183 days, this excludes seasonal workers with work below this limit.	Based on the studies analysing status of migrants in SK it can be assumed that, just as in other categories of migrants, in the case of seasonal workers issues such as insufficient language skills might play an important role in ensuring rights which require activity on the side of the workers (e.g. submitting an application). Similarly, e.g. failure to understand instructions published at the websites of Slovak state authorities or legal norms may put seasonal workers into a vulnerable position, which may influence their equal treatment.
SK	Legislation concerning various family benefits applies only to persons (foreigners or Slovak nationals) with at least temporary residence granted in the territory of the Slovak Republic; therefore, it generally applies that seasonal workers employed for a period of time not exceeding 90 days are not eligible to receive those.	Unemployment benefits can only be paid to a person if he/she is registered in the jobseekers database and provided he/she has been insured for at least 730 days in the course of the last four years preceding his/her registration in the jobseekers database. Third-country national seasonal workers cannot register in the job-seekers database as only persons with long-term residence are entitled to do so. Their access is therefore limited due to the temporary nature of their stay, even though they pay unemployment insurance contributions during their employment in Slovakia.	The rights established by the School Act are guaranteed equally to each applicant, child, pupil and student in compliance with the equal treatment in education principle which is established by a specific regulation.	The UK does not apply the Directive, however it was reported that those persons with a Seasonal Worker Visa (Tier 5) are not entitled to access public funds.	The UK does not apply the Directive, however no restrictions in equal treatment in this area were reported.
UK	The UK does not apply the Directive, however, Seasonal Worker Visa (Tier 5) holders are not allowed to bring family members with them to the UK, which limits their ability to claim family benefits.	The UK does not apply the Directive, however it was reported that those with a Seasonal Worker Visa (Tier 5) are not entitled to access public funds.	The UK does not apply the Directive.	Not applicable since the UK does not apply the Directive.	

ANNEX 3:

Overview of key actors involved in the protection of seasonal workers' rights and their role per Member State and UK

	Public Actors	Role	Private Actors	Role	Other Actors
AT	<ul style="list-style-type: none"> ■ The Financial Police ■ Labour Inspectorate ■ Chambers of Labour ■ Works Council 	<ul style="list-style-type: none"> ■ The financial police contributes to the safeguarding of seasonal and harvest worker rights in relation to combatting illegal employment. ■ The Labour Inspectorate: inspection of the places of employment and any external workplaces. Safeguarding of the legal protection of workers, also advising in the implementation of occupational health and safety measures. Monitoring compliance with legal provisions and rulings by authorities (e.g. working hours, rest time, records of leave). ■ Chambers of Labour, representing legally and promoting the economic, professional and cultural interests of employees. Membership is compulsory of all employees in Austria. ■ Works Council: With at least five employees (regardless of nationality), the staff can set up a works council. The works council may conduct monitoring and verifying compliance with the collective agreement, works agreements, and occupational health and safety regulations. It may also inquiry information relating to establishing and terminating employment relationships. 	<ul style="list-style-type: none"> ■ NGOs, Activists and private initiatives 	<ul style="list-style-type: none"> ■ Relevant actors have founded a common initiative, referred to as Sezonieri.²⁰² This education campaign has been advocating the rights of harvest workers in Austria since 2014. The campaign is aimed at educating harvest workers about their rights and at ensuring compliance with labour laws. 	<ul style="list-style-type: none"> ■ Austrian Trade Unions Federation: federations such as the Vida trade Union for transport services and the PRO-GE Union for production provide labour law counselling services and represent workers in court and before public authorities. UNDOK is a joint initiative between NGOs and trade unions providing a contact point for trade union support to undocumented workers.
BE	<ul style="list-style-type: none"> ■ Social Inspection Services 		<ul style="list-style-type: none"> ■ NGOS, e.g. Coordination et initiatives pour réfugiés et étrangers (CIRÉ) 	<ul style="list-style-type: none"> ■ Institutions or associations aiming to defend the interests of third-country nationals may represent seasonal workers before the Belgian Courts. 	<ul style="list-style-type: none"> ■ Trade Unions such as Horval, the main trade union representing workers from the agriculture, horticulture and hospitality sectors in Belgium. Trade unions may represent seasonal workers before the Belgian Courts.
BG	<ul style="list-style-type: none"> ■ The General Labour Inspectorate 	<ul style="list-style-type: none"> ■ The Executive Agency "General Labour Inspectorate" also protects and monitors the rights and treatment of seasonal workers. 			<ul style="list-style-type: none"> ■ Trade Unions: The National representative organisations of employees are the Confederation of Independent Trade Unions in Bulgaria (CITUB) and the Confederation of Labour "Podkrepa" protect the rights of seasonal workers in agriculture, for example.

²⁰² PRO-GE – die Produktionsgewerkschaft, Nyélényi – Forum für Ernährungssouveränität, UNDOK – Verband zur gewerkschaftlichen Unterstützung undokumentiert Arbeitender, MEN-VIA – Unterstützung für männliche Betroffene von Menschenhandel, LEFO – Beratung, Bildung und Begleitung für Migrantinnen, Südwind Oberösterreich, ÖGB-Kompetenzforum Migration, Migrare, "weltumspannend arbeiten", the development policy association in the ÖGB and independent activists.

	Public Actors	Role	Private Actors	Role	Other Actors
CY	<ul style="list-style-type: none"> ■ The Department of Labour ■ The Department of Labour Relations ■ Department of Labour Inspection ■ Social Insurance Services ■ Ministry of Energy, Commerce and Industry ■ Ministry of Education, Culture, Youth and Sports ■ Tax Department ■ Civil Registry and Migration Department 	<ul style="list-style-type: none"> ■ All actors monitor, evaluate and inspect the implementation of national law(s), in relation to accommodation and health and safety conditions in the workplace (Department of Labour Inspection), to terms of employment, work conditions, the right to participate in trade unions, on-time payment by the employers, counselling for seasonal employment, vocational training (Department of Labour), to social insurance (Social Insurance Services), to the access to goods and services and the provision of goods and services made available to the public (Ministry of Energy, Commerce and Industry), to education (Ministry of Education, Culture, Youth and Sports) to tax benefits (Tax Department) and to sanctions against employers (Civil Registry and Migration Department) 	■ NGOs	<ul style="list-style-type: none"> ■ Some NGOs advocate for the protection of the rights of TCNs in general. Some NGOs also may provide support to victims of trafficking and labour exploitation. 	<ul style="list-style-type: none"> ■ Trade unions: provide help and counselling to seasonal workers for all issues and have the right to file a complaint to the Court of Labour Disputes on behalf of the employee.
CZ	<ul style="list-style-type: none"> ■ Ministry of the Interior ■ The State Office of Labour Inspection and regional offices ■ Municipalities and local State actors 	<ul style="list-style-type: none"> ■ The State Office of Labour Inspection conducts controls and prevention activities. ■ Local State actors such as the Centres for Support of Integration of Foreign Nationals and municipalities provide information for employers and employees through seminars, legal and social counselling, etc. 	■ NGOs	<ul style="list-style-type: none"> ■ NGOs provide information materials and activities such as legal and social counselling. 	<ul style="list-style-type: none"> ■ Trade Unions provide information to employees.
DE	<ul style="list-style-type: none"> ■ Financial Investigation Office for Clandestine Employment ■ Pension insurance institutions ■ Labour Courts ■ Public OSH Authorities 	<ul style="list-style-type: none"> ■ Under Customs, the Financial Investigation Office for Clandestine Employment is responsible for combating illegal employment in Germany. It checks compliance with the minimum employment standards. To check the terms and conditions of employment and to detect potential violations by the employer or employee, it carries out random checks in enterprises and acts as a point of contact for affected parties. ■ Pension insurance institutions also check compliance with the minimum wage for seasonal workers as part of company audits. ■ Complaints made be taken to the Labour Court for wages not paid to employees. 	■ NGOs	<ul style="list-style-type: none"> ■ Civil society takes measures to protect seasonal workers' rights. One of these is the 'Initiative Faire Landarbeit', an association of trade unions and NGOs that deals with seasonal work in the agricultural sector. During field visits, the initiative informs and advises seasonal workers in the agricultural sector of their rights and provides support in the event of labour law difficulties. In annual reports, the initiative points out grievances and formulates recommendations for action. 	<ul style="list-style-type: none"> ■ Trade Unions: contact and advice centres in several cities in Germany offer representation of interests and legal advice.
EE	<ul style="list-style-type: none"> ■ The Labour Inspectorate ■ The Social Insurance Board ■ The Police and Border Guard Board 	<ul style="list-style-type: none"> ■ State supervision over compliance with legislative requirements for health and safety at work; provision of advice in those areas; resolution of labour disputes; advice on employment contracts, rest time, holidays, wages etc via a helpline. ■ The Social Insurance Board has a Human Trafficking Prevention and Victim Help hotline. Offering advice to foreign workers. ■ Migration counselling service to advise persons planning to settle in Estonia or already living in Estonia on citizenship matters. The Police and Border Guard Board holds employers liable if third-country nationals are caught living illegally in Estonia or are not registered for employment. 			
EL	<ul style="list-style-type: none"> ■ The Labour Inspectorate 		<ul style="list-style-type: none"> ■ NGOs: Labour Centers for the rights and the fight against illegal labour 		<ul style="list-style-type: none"> ■ Trade Unions: e.g. the General Confederation of Greek Workers (GSEE)

	Public Actors	Role	Private Actors	Role	Other Actors
ES	<ul style="list-style-type: none"> ■ Ministry of Inclusion, Social Security and Migration ■ Labour Inspectorate ■ Police ■ Regional government 	<ul style="list-style-type: none"> ■ The Labour Inspectorate: inspection of the places of employment and any external workplaces. Safeguarding of the legal protection of workers, also advising in the implementation of occupational health and safety measures. Monitoring compliance with legal provisions and rulings by authorities (e.g. working hours, rest time, records of leave). ■ Police works closely with labour inspectorate. ■ Regional governments implement interesting measures. For example, the socio-labour mediators of the Junta de Andalucía accompany and advise foreign workers displaced during the development of the entire agricultural campaign 	<ul style="list-style-type: none"> ■ NGO's 	<ul style="list-style-type: none"> ■ On an annual basis, NGO's receive public funding to carry out information and raising awareness seminars and workshops and monitor the process. 	<ul style="list-style-type: none"> ■ Trade unions and employers' associations are key actors. Also noteworthy the PRELSI, Plan of Ethical, Labor and Social Responsibility for the strawberry sector adopted by INTERFRESA, (https://interfresa.com/prelsi/), which establishes a voluntary protocol of equality and prevention of any case of harassment or undue treatment, reinforcing the formation of the middle managers and creating the figure of "integration consultant", which has developed various actions of accompaniment and advice to workers, improving labor relations and coexistence during their stay. Besides, there is a Code of Good Practices approved by the Interministerial Commission on Migratory Flows in which special emphasis has been placed on the control of working conditions, introducing a number of developments, namely the adoption of a protocol of action aimed primarily at strengthening the control functions in those companies with workers hired at origin.
FI	<ul style="list-style-type: none"> ■ Regional State Administrative Agencies ■ Finnish regional authorities ■ Police and Fire department 	<ul style="list-style-type: none"> ■ General monitoring of occupational safety and health at workplaces. Inspections are carried out randomly and in response to tip-offs. ■ The Finnish regions with the largest numbers of seasonal jobs are Southwest Finland, Ostrobothnia and Lapland. In Southwest Finland and Ostrobothnia, there are agricultural and horticultural enterprises as well as fur farms that use seasonal labour. In Lapland, the tourism and restaurant industry employs some seasonal workers each year. Inspection visits to farms are often conducted in response to inspection requests. ■ The Police and Fire department conduct inspection of buildings, ensuring health and safety requirements are met. 	<ul style="list-style-type: none"> ■ NGOs 	<ul style="list-style-type: none"> ■ Victim Support Finland contributed to providing support to victims of exploitation or human trafficking. 	<ul style="list-style-type: none"> ■ Trade Unions: Inspection requests can be submitted by trade unions, the acquaintances of employees, other entrepreneurs or the Finnish Immigration Service.
FR	<ul style="list-style-type: none"> ■ Labour Inspectorate ■ Agents from the Regional Directorate for Business, Competition, Consumer Affairs, Labour and Employment (Dirrecce) ■ OCLTI (Central Office to Counter Illegal Employment) ■ Agents from the Internal security (police, etc.) 	<ul style="list-style-type: none"> ■ Labour inspectorate agents (from the ministry of Labour) provide information and advice to employers and employees regarding statutory provisions and provisions under agreements. ■ Agents from the Regional Directorate for Business, Competition, Consumer Affairs, Labour and Employment process work permit authorizations and verify that employment and salary conditions are respected, that employees' rights are guaranteed and that employers respect the law. ■ Agents from the Central Office to Counter Illegal Employment (OCLTI) identify situations of labour exploitation (not only for seasonal workers) ■ Agents from the internal security can be informed of an employee's injurious situation. Police officers are competent to identify victims and thus protect workers' rights. 			<ul style="list-style-type: none"> ■ Trade unions: are competent to verify that the employees' rights are respected (employment and salary conditions, respect of hygiene and security rules, etc.).

	Public Actors	Role	Private Actors	Role	Other Actors
HR	<ul style="list-style-type: none"> ■ Labour Inspectorate ■ Immigration Authorities (Mol) ■ Ministry of Labour and Pension System ■ Police ■ Courts 	<ul style="list-style-type: none"> ■ The labour inspection controls the legality of the work of foreigners. ■ Immigration authorities: issue work and residence permits, monitor the compliance with admission requirements. ■ Ministry of labour and pension system: provides advices regarding employment and labour law ■ The police control the legality of the stay of foreigners, and the labour inspection controls the legality of the work of foreigners. Both services can carry out joint actions. ■ Seasonal workers who believe that some of their rights guaranteed by the Aliens Act have been infringed may, in order to protect and claim those rights, initiate relevant proceedings against the employer before the competent court, government authorities or legal entities with public authorities in the Republic of Croatia, in line with the legislation of the Republic of Croatia 			
HU	<ul style="list-style-type: none"> ■ The Labour Inspector's Authority 	<ul style="list-style-type: none"> ■ The examination of compliance with provisions of the Labour Code as well as the collective agreements (on wages, working hours, rest periods, overtime and paid leave etc.). Labour inspectors monitor compliance with occupational safety and health regulations as well. 	■ NGOs	<ul style="list-style-type: none"> ■ Due to the small number of seasonal workers, no specific private actors can be mentioned. However, several NGOs advocate for the protection of the rights of the workers in general. 	
IE	<ul style="list-style-type: none"> ■ The Workplace Relations Commission (WRC) ■ An Garda Síochána 	<ul style="list-style-type: none"> ■ WRC is responsible for ensuring compliance with employment law in Ireland and conducts workplace inspections, targeting each sector and industry of employment. ■ WRC Joint investigations with Revenue, Department of Employment Affairs and Social Protection and Gardaí are undertaken regularly. 	■ NGOs	<ul style="list-style-type: none"> ■ Due to low numbers of non-EEA seasonal workers, no specific private actors are mentioned. However, NGOs such as Migrant Rights Centre Ireland (MRCI) advocate for the protection of the rights of migrant workers in general 	
IT	<ul style="list-style-type: none"> ■ The Labour Inspectorate 	<ul style="list-style-type: none"> ■ The Inspectorate carries out the inspection activities. It is placed under the supervision of the Ministry of Labour and Social Policies, which is responsible for periodic monitoring of the objectives and proper management of financial resources, and under the control of the Court of Auditors. The Inspectorate exercises and coordinates the function of Supervision in the field of labour, contribution, compulsory insurance and social legislation, including the supervision of health and safety protection in the workplace on the national territory. In addition, the Inspectorate is responsible for the assessment of the recognition of the right to benefits for accidents at work and occupational diseases. 	■ NGOs		<ul style="list-style-type: none"> ■ Trade Unions: Their main function is to negotiate with employers' representatives on collective bargaining agreements on renewal and generally represent workers in the defence of their interests in the workplace.
LT	<ul style="list-style-type: none"> ■ The Employment Service and its Territorial Units ■ The State Labour Inspectorate 	<ul style="list-style-type: none"> ■ Responsible for the issuing of work permits. For this purpose, the Employment Service verifies whether the employer meets statutory requirements, whether a vacancy may be filled from within the domestic labour market, assesses whether a foreigner is employed in compliance with the set requirements and issues a seasonal worker permit. ■ This institution controls whether accommodation provided to a foreigner meets the set requirements. The State Labour Inspectorate verifies whether the employer complies with the requirements of the procedure for employing foreigners and whether the employer ensures for the foreigner the working conditions which meet statutory requirements. The Employment Service informs the State Labour Inspectorate of every seasonal worker permit issued. 			

	Public Actors	Role	Private Actors	Role	Other Actors
LU	<ul style="list-style-type: none"> ■ Inspectorate of Labour and Mines (Inspection du travail et des mines – ITM) ■ Professional Chambers ■ Staff Delegation 	<ul style="list-style-type: none"> ■ The Inspectorate is the main State institution responsible for ensuring the respect of labour law and the protection of employees. It monitors the application of legislation in relation to working conditions and employee protection, provides legal and technical information to employers and employees on implementation of legal provisions. It conducts inspections on work places. ■ All employees or pensioners must be members of a professional chamber, which represents their professional category, they issue opinions on legislative proposals. ■ Any employer in the private sector is required to appoint staff representatives in establishments regularly employing at least 15 employees bound by an employment contract, regardless of the nature of their activities, their legal form and sector of activity. ■ The staff delegation has several roles within the business. The overarching role of the staff delegation is to safeguard and defend employees' interests with regard to working conditions, job security and employment status. 			<ul style="list-style-type: none"> ■ Trade Unions: The two general unions concerning workers from the different economic sectors are the Independent Trade Union of Luxembourg (Onofhängege Gewerkschaftsbond Lëtzebuerg - OGBL) and the Christian Union of Luxembourg (Lëtzebuerger Chrëscht-leche Gewerkschaftsbond - LCGB). Both OGBL and LCGB provide information regarding workers' rights and obligations. The mission of unions is to defend the interests of employees vis-à-vis employers and politicians.
LV	<ul style="list-style-type: none"> ■ The State Labour Inspectorate ■ The State Border Guard 	<ul style="list-style-type: none"> ■ In the protection of the rights of seasonal workers, these two State institutions are the most important actors. 			
MT	<ul style="list-style-type: none"> ■ The Department of Industrial and Employment Relations 	<ul style="list-style-type: none"> ■ The Department of Industrial and Employment Relations monitors the of conditions of employment of all employees employed in Malta (including seasonal workers) and the enforcement of the Employment and Industrial Relations Act and the subsidiary legislation issued thereunder. 			<ul style="list-style-type: none"> ■ Registered trade unions and employers' associations.
NL	<ul style="list-style-type: none"> ■ N/A since labour market needs for seasonal work are being met by EU/EEA nationals 				
PL	<ul style="list-style-type: none"> ■ The National Labour Inspectorate ■ The Border Guard Service 	<ul style="list-style-type: none"> ■ Within public authorities the National Labour Inspectorate is of great importance in this matter as they control the legality of employment and work conditions and Border Guard Service as they control the legality of entry, stay and employment. 	<ul style="list-style-type: none"> ■ NGOs 	<ul style="list-style-type: none"> ■ Among other institutions, specialised NGOs play the most important role. 	<ul style="list-style-type: none"> ■ Trade Unions: The role of trade unions, in agriculture in particular, is limited in Poland due to low level of unionization.
PT	<ul style="list-style-type: none"> ■ The Portuguese Immigration and Borders Service (SEF) ■ The Authority for Working Conditions (ACT) 	<ul style="list-style-type: none"> ■ These are both public institutions, the first within the Ministry for Home Affairs and the latter within the Ministry for Labour, Solidarity and Social Security. These institutions are legally bound to collaboratively investigate and superintend the actual conditions given to seasonal workers and, if necessary, proceed to their further information and protection (in case work exploitation takes place). 	<ul style="list-style-type: none"> ■ NGOs 	<ul style="list-style-type: none"> ■ Private migrant associations clearly related to migrant protection and support can be part of the process, especially by providing dedicated support to needed migrants and seasonal workers. It is also important to note that these NGOs are, generally, EU co-funded through the Asylum, Migration and Integration Fund (AMIF). 	

	Public Actors	Role	Private Actors	Role	Other Actors
SE	<ul style="list-style-type: none"> ■ The Swedish Migration Agency ■ The Swedish Work Environment Authority ■ The Tax Agency ■ The Police Authority 	<ul style="list-style-type: none"> ■ The responsible government agency for issuing work permits for seasonal workers, it provides detailed information on its website aimed at both employees and employers. There are also FAQs (aimed at berry pickers and seasonal workers (the Directive). All information pertaining to berry pickers is available in English, Swedish and Thai. Information on seasonal work is available in English and Swedish. The Swedish Work Environment Authority is a government agency mandated to oversee that companies and organisations comply with laws on work environment and working hours. For example, the Work Environment Agency carries out inspections at workplaces and disseminates information on the Work Environment Act [Arbetsmiljölagen]. The Work Environment Authority has a range of information materials aimed specifically at employers in the “green sector” which arguably is the sector that employs the largest number of seasonal workers. ■ The Tax Agency collects taxes on business activities and the social fees that are charged on all remuneration for work. Since employers pay social fees on behalf of employees, the Tax Agency serves as a control mechanism for employers’ obligations in this context. ■ The Police Authority was conferred greater powers 1 July 2018 to perform workplace inspections in the form of random checks (spot checks). Such checks can be performed in sectors of activity where there is a perceived risk of illegally working/staying third-country nationals, which include sectors where seasonal workers potentially can be employed. 			<ul style="list-style-type: none"> ■ Trade Unions: Social partners, particularly some trade unions, follow closely employment and working conditions for seasonal workers, and in particular berry pickers. The Swedish Municipal Workers Union organises seasonal workers and works to protect their rights in relation to employers. This trade union also disseminates information aimed at berry pickers to raise awareness of their rights and terms of employment.²⁰³ Similarly, the Swedish union of forestry, wood and graphical workers follow closely the working and employment conditions of third-country nationals in the forestry sector.
SI	<ul style="list-style-type: none"> ■ The Economic and Social Council 	<ul style="list-style-type: none"> ■ All questions relating to worker’s rights are dealt within the Economic and Social Council of the Republic of Slovenia (ESC). The tripartite composition of the ESC entails representation of the three partners, namely representatives of employees, employers and the government. Each of the partners appoints representatives to the ESC. Each partner has a maximum of 8 members. Each member may have an alternate. Employee representatives are appointed by national federations and trade union confederations, each representative federation or confederation of at least one member, and employers ‘representatives by employers’ associations and chambers operating in the national territory. The composition of the representatives of each partner must ensure that the interests of each partner involved in the tripartite social collusion are represented. 			
SK	<ul style="list-style-type: none"> ■ The Labour Inspectorate 	<ul style="list-style-type: none"> ■ If a foreigner performing work in the territory of the Slovak Republic considers that his/her rights or legally protected interests were affected by non-compliance with employment conditions in the territory of the Slovak Republic, he/she can file a complaint either directly or through employee representatives with the competent labour inspectorate authority or take the matter to court and seek legal protection. Labour inspectorates within the scope of their control activities provide the controlled employees with information on the ways to seek protection of their rights. 			

²⁰³ The leaflet, entitled *Your rights as a berry picker in Sweden*, is available at the website of the Swedish Municipal Workers union, at: https://www.kommunal.se/sites/default/files/attachment/your_rights_as_a_berry_picker_in_sweden_eng.pdf, last accessed 12 May 2020.

	Public Actors	Role	Private Actors	Role	Other Actors
UK	<ul style="list-style-type: none"> ■ The Gangmasters and Labour Abuse Authority (GLAA) ■ The Home Office's Compliance Network 	<ul style="list-style-type: none"> ■ Gangmasters & Labour Abuse Authority (GLAA) is a Non-Departmental Public Body which works in partnership to protect vulnerable and exploited workers. Agriculture, Horticulture, Shellfish gathering, and any associated processing and packaging sectors require a GLAA licence. ■ Worker's rights are monitored by the Home Office's compliance network who visit sponsors to check that they are either complying with their duties or, in the case of applicants, are likely to be able to do so. 	<ul style="list-style-type: none"> ■ Employment Scheme Operators Concordia and Pro-Force 	<ul style="list-style-type: none"> ■ These are responsible for ensuring that for recipients of a Tier 5 Seasonal Worker visa the work environment is safe and complies with relevant health and safety requirements; that they receive fair treatment from the employer; and adequate accommodation; and that procedures are in place to enable migrants to report any concerns to the scheme operator, and to enable migrant workers to move to another employer where possible. 	



Keeping in touch with the EMN

EMN website www.ec.europa.eu/emn

EMN LinkedIn page <https://www.linkedin.com/company/european-migration-network/>

EMN Twitter [https://twitter.com/EMNMMigration](https://twitter.com/EMNMigration)

EMN National Contact Points

Austria www.emn.at

Belgium www.emnbelgium.be

Bulgaria www.emn-bg.com

Croatia <https://emn.gov.hr/>

Cyprus www.moi.gov.cy

Czech Republic www.emncz.eu

Denmark https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/authorities/denmark_en

Estonia www.emn.ee

Finland www.emn.fi

France <https://www.immigration.interieur.gouv.fr/Europe-et-International/Le-reseau-europeen-des-migrations-REM3/Le-reseau-europeen-des-migrations-REM>

Germany www.emn-germany.de

Greece <http://emn.immigration.gov.gr>

Hungary www.emnhungary.hu

Ireland www.emn.ie

Italy www.emnitalyncp.it

Latvia www.emn.lv

Lithuania www.emn.lt

Luxembourg [www.emnluxembourg.lu](http://emnluxembourg.lu)

Malta <https://homeaffairs.gov.mt/en/mhas-information/emn/pages/european-migration-network.aspx>

Netherlands www.emnnetherlands.nl

Poland www.emn.gov.pl

Portugal <http://rem.sef.pt>

Romania www.mai.gov.ro

Slovak Republic www.emn.sk

Slovenia www.emm.si

Spain <http://extranjeros.empleo.gob.es/en/redeuropeamigracion>

Sweden www.emnsweden.se

United Kingdom https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/authorities/united-kingdom_en

Norway www.emnnorway.no