

ATTRACTING AND PROTECTING THE RIGHTS OF SEASONAL WORKERS IN THE EU AND UNITED KINGDOM

EMN INFORM

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For many EU countries, seasonal workers from third countries are crucial to fill temporary, cyclical labour market needs. Since the adoption of the Seasonal Workers Directive in 2016, this specific category of workers can benefit from EU-harmonised admission policies and rights concerning their entry and stay. Against this background, this study provides a comparative overview of recent trends in seasonal

workers coming to the EU, and the national strategies and practices related to seasonal workers from third countries.

This inform summarises the results of the EMN study of the same title which provides a comparative overview of recent trends, national policies and practices in place related to seasonal workers from third countries.



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 faster 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 the 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 permit extensions for seasonal workers already present 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

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>.

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

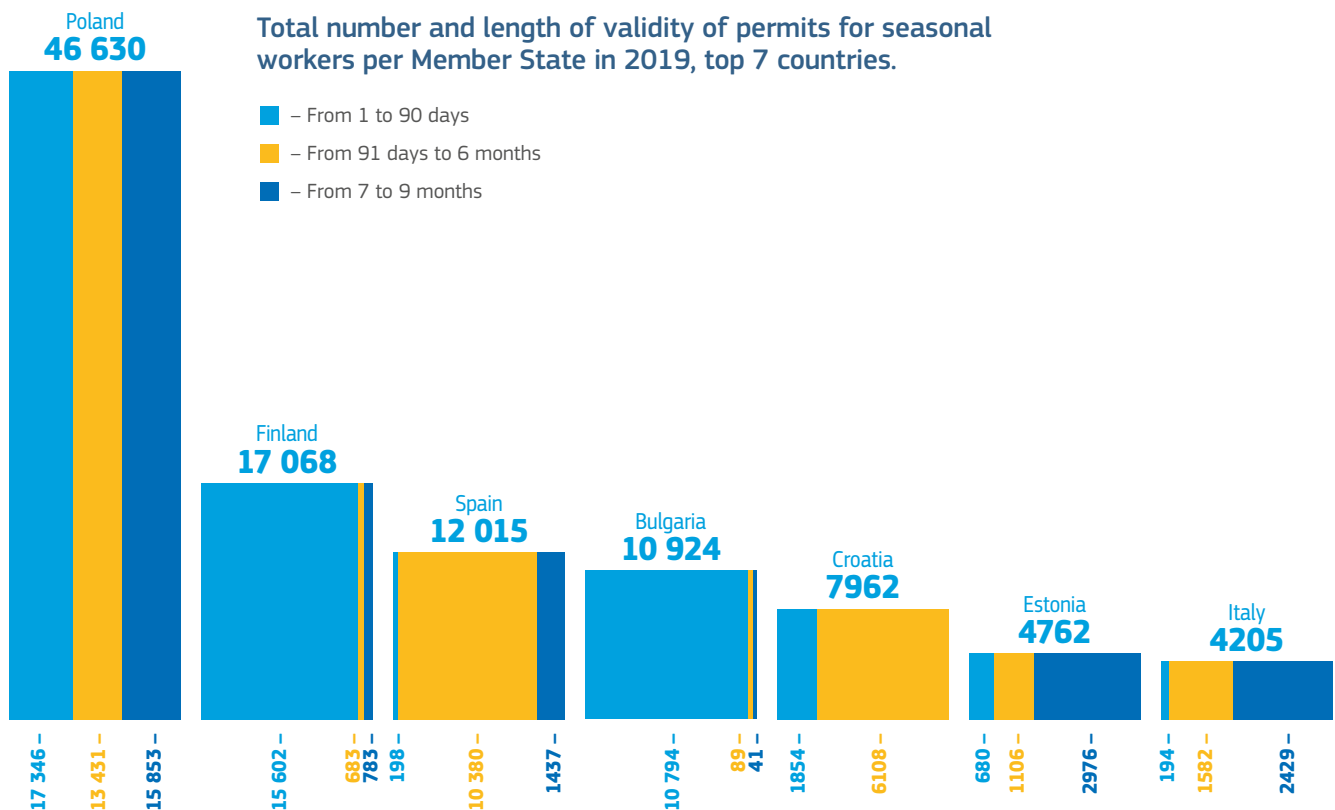
The information used in this Synthesis Report came primarily from secondary sources provided by 25 EU Member States and the United Kingdom.⁴ National contributions were based on desk analysis of existing legislation and policy documents, reports, academic literature, internet

resources, media reports and information 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.

Figure 1 – Authorisations for the purpose of seasonal work issued per Member State 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



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

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.

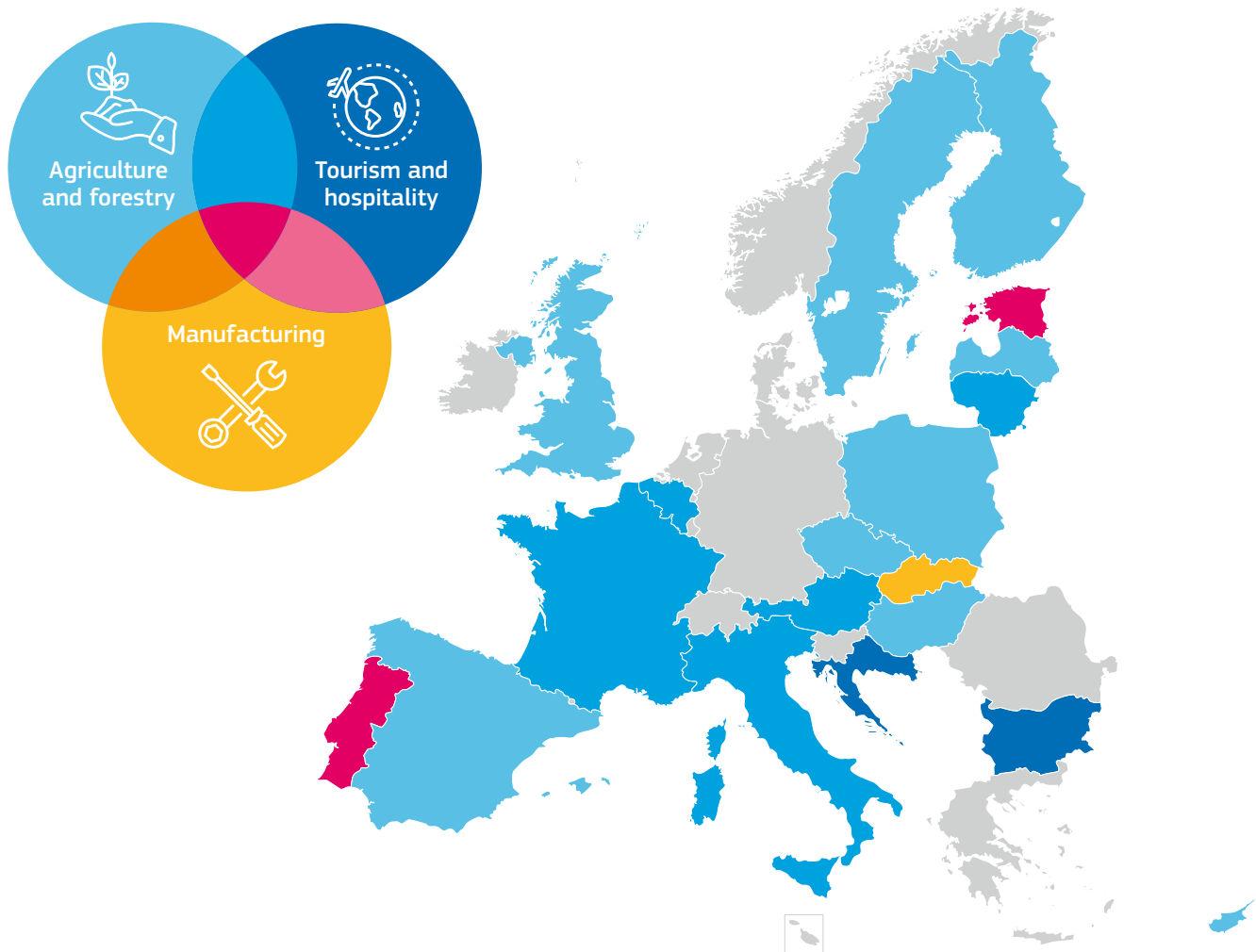


PROFILE OF SEASONAL WORKERS

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.

Figure 2 – Main sectors of employment in Member States and the United Kingdom⁶



Source: EMN NCP national reports



ATTRACTION OF 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

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

⁶ 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.

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.⁷ 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.⁸

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 ⁹	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 ¹⁰ 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
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



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 benefits¹¹ and family benefits.¹² 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

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

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

9 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.

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

11 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.

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

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.¹³ Six Member States also noted that seasonal work activities were known to be performed by irregular migrants in their country.¹⁴



FULL STUDY PUBLICATION

European Migration Network (2020). Attracting and protecting the rights of seasonal workers in the EU and United Kingdom. Brussels: European Migration Network

https://ec.europa.eu/home-affairs/content/attracting-and-protecting-rights-seasonal-workers-attracting-and-protecting-rights-seasonal_en

¹³ CZ, EE, FI, PL, SE and UK.

¹⁴ EL, ES, IT, PL, PT, SK.



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

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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

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