



# Attracting and Protecting Seasonal Workers from third countries in the EU

## Common Template for EMN Study 2020

Final version: 28 February 2020 (updated 14 April 2020)

Deadline for national contributions: 29 May 2020

### 1 STUDY AIMS

- 1) To better understand the profile of seasonal workers and the sectors they work in (country of origin, age, gender, skills level, sectors of employment, etc.);
- 2) To analyse if measures are in place to attract seasonal workers and the extent to which seasonal workers fill labour market needs of Member States;
- 3) To analyse the application of the protective aspects of the Seasonal Workers Directive (rights of seasonal workers).

The study will provide an overview of national experiences with admitting and employing seasonal workers from third countries more than three years after the Seasonal Workers Directive (2014/36/EU) started applying and will contribute to the Commission implementation report on the Directive planned for the year 2020.

#### 1.1 TARGET GROUPS / AUDIENCES

The target audience are national and EU officials/practitioners, decision makers concerned with the immigration of third-country seasonal workers, social partners (e.g. employers' organisations and trade unions) associations, social partners, and NGOs.

### 2 SCOPE OF THE STUDY

The study primarily covers the category of 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. In a few cases, questions also concern those who may be considered seasonal workers but are not covered by the Directive, as they have a different temporary work or residence status. The Directive is not applicable in Denmark, Ireland, Norway and the United Kingdom. Hence, as far as these (Member States) are participating in this EMN study, they are asked to report on equivalent national measures.

As far as policies and legislation regarding seasonal workers is concerned, this study shall reflect the most recent situation and developments in the Member States, therefore focusing on 2019, whilst also covering, if relevant, policy and legal developments over the past five years. If reasonable, contributing EMN NCPs may also include planned legal or policy developments that have not yet come into effect at the time of writing.

As regards statistics, the study shall cover the period 2016 to 2019.

### 3 EU LEGAL AND POLICY CONTEXT

Seasonal work is a type of temporary employment linked to specific periods of the years and to specific economic sectors, such as agriculture or the tourist 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,<sup>1</sup> 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,<sup>2</sup> 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, which aims to support the effective management of migration flows for this specific category of seasonal temporary migration and 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, and thereby also 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. However, Member States may regulate the volumes of admission for seasonal workers covered by the Directive as well as for those who are outside of the Directive’s scope. However, as the Directive gives Member States some flexibility to determine which sectors are seasonal, it is possible that in some Member States, not all third-country nationals who undertake a form of seasonal work, or work of a cyclical nature, are covered by the Directive, and that these are instead covered by national schemes.

### 4 PRIMARY QUESTIONS TO BE ADDRESSED BY THE STUDY

The study follows the hypothesis that although the Directive offers higher protection standards for seasonal workers, it may have not fully reached its objective. The Directive leaves room for interpretation as regards the rights and standards to be granted to seasonal workers, possibly leading to diverging practices at national level (e.g. how have Member States interpreted the “adequate standard of living” requirement with regard to accommodation in Article 20). Moreover, in some Member States, not all those third-country nationals who undertake some form of cyclical / seasonal work appear to fall under the Directive and they may therefore be subject to different rights. Secondly, the study is expected to reveal wide differences in the extent to which Member State actively seek to attract seasonal workers from third countries to fill labour market needs. Some Member States may address any labour market needs with EU citizens’ seasonal workers, or due the nature of their labour market may not require this type of workers. On the basis of these hypotheses, the study will focus on the following primary 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?

<sup>1</sup> [https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/work\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/work_en)

<sup>2</sup> <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/seasonal-work>

## Admission policies of seasonal workers from third countries in the EU and Norway

- 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?

### 5 RELEVANT SOURCES AND LITERATURE

- EMN 2011 study: Temporary and Circular Migration empirical evidence, current policy practice and future options,- [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/circular-migration/0a\\_emn\\_synthesis\\_report\\_temporary\\_circular\\_migration\\_publication\\_oct\\_2011\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/circular-migration/0a_emn_synthesis_report_temporary_circular_migration_publication_oct_2011_en.pdf)
- Temporary and circular migration: opportunities and challenges, [http://www.epc.eu/documents/uploads/pub\\_1237\\_temporary\\_and\\_circular\\_migration\\_wp35.pdf](http://www.epc.eu/documents/uploads/pub_1237_temporary_and_circular_migration_wp35.pdf)
- Commission Staff Working Document "Fitness Check on EU legislation on legal migration", SWD(2019)1055 and SWD(2019)1056, 29.03.2019, [https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/fitness-check\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/fitness-check_en)
- Fudge, J. & Herzfeld Olsson, P. (2014). The EU Seasonal Workers Directive: When Immigration Controls Meet Labour Rights. European Journal of Migration and Law 16 (2014), 439, 466. Available at: [http://www.labourlawresearch.net/sites/default/files/papers/Seasonal%20Workers%20Directive%20%20EMIL\\_01\\_6\\_04\\_439-466.pdf](http://www.labourlawresearch.net/sites/default/files/papers/Seasonal%20Workers%20Directive%20%20EMIL_01_6_04_439-466.pdf)
- Zoetewij-Turhan, M.H. (2017). The Seasonal Workers Directive: '...but some are more equal than others'. European Labour Law Journal 2017, Vol. 8(1) 28-44. Available at: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/legal-migration/201712\\_article\\_seasonal\\_worker\\_directive\\_legal\\_migration\\_consultation\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/legal-migration/201712_article_seasonal_worker_directive_legal_migration_consultation_en.pdf).

### 6 AVAILABLE STATISTICS

As far as comparable statistics are concerned, Eurostat provides the following datasets in relation to seasonal workers:

- Authorisations issued for the purpose of seasonal work by economic sector, sex and citizenship [migr\_ressw2]. **Note:** Eurostat data only covers the years 2017 and 2018; data is (currently) not available for both or one of the years for AT, BG, BE, CY, CZ, DE, EL, FI, FR, IE, LU, NL, NO, PL, PT, SE, SK.
- Authorisations for the purpose of seasonal work by status, length of validity, economic sector and citizenship [migr\_ressw1\_1]. Note: Eurostat data only covers the years 2017 and 2018; data is (currently) not available for both or one of the years for AT, BE, BG, CY, CZ, DE, IE, EL, FI, FR, LU, NL, PL, SE.
- First permits issued for remunerated activities by reason, length of validity and citizenship [migr\_resocc].

The relevant Eurostat data will be extracted from the above-mentioned datasets centrally by the EMN Service Provider (ICF) for the purpose of the synthesis report. Each EMN NCP will receive the datasets extracted from Eurostat for your Member State by 13 March 2020, with the request to complete these with any missing data. Kindly note that the data provided should be based on the Eurostat definitions of the respective datasets as much as possible. Any deviances from this should be noted in a comment, as well as reasons for unavailability (if applicable).

Kindly note the following: datasets migr\_ressw2 and migr\_ressw1\_1 count the number of permits/authorisations/notifications issued for the purpose of the directives allowing double counting of same persons during the year. Therefore, the unit of measure is the number of permits/authorisations/notifications for these data collections, instead of number of persons as it is in other statistics on residence permits. Please see the respective Eurostat metadata for further details:

[https://ec.europa.eu/eurostat/cache/metadata/en/migr\\_res\\_esms.htm#meta\\_update1575469383640](https://ec.europa.eu/eurostat/cache/metadata/en/migr_res_esms.htm#meta_update1575469383640)

## 7 DEFINITIONS

According to the EMN Glossary,<sup>3</sup> 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".

## 8 ADVISORY GROUP

Core AG members are in **bold**.

- **LV EMN NCP (Chair)**
- **COM (DG Home)**
- AT EMN NCP
- ES EMN NCP
- FR EMN NCP
- **HU EMN NCP**
- **LU EMN NCP**
- SI EMN NCP
- **Odysseus network expert**
- **ICF (EMN Service Provider)**

## 9 TIMETABLE

The following tentative timetable has been proposed for the Study going forward:

Date	Action
28 February 2020	Launch
29 May 2020	Submission of national reports by EMN NCPs
17 July 2020	First synthesis report to COM (1 week to provide comments)
24 July 2020	Deadline for comments (1 week to address comment and finalise)
31 July 2020	Circulation of the first SR to all NCPs (2 weeks to comment)
14 August 2020	Deadline for comments
28 August 2020	Circulation of the second draft to all NCPs (2 weeks to comment)
11 September 2020	Deadline for comments
18 September 2020	Circulation of the third draft to all NCPs (2 weeks to comment)
2 October 2020	Deadline for comments
End of October 2020	Publication

<sup>3</sup> EMN Glossary Version 6.0, available at [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/glossary\\_search/seasonal-worker\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/seasonal-worker_en)

## 10 Template for national contributions

The template provided below outlines the information that should be included in the national contributions of EMN NCPs to this Study. For national contributions, the total number of pages should not exceed **35-40 pages**, including questions and excluding the Statistical Annex. A limit of **25-30 pages** will also apply to the synthesis report, in order to ensure that it remains concise and accessible.



## Common Template of EMN Study 2020

# Attracting and Protecting Seasonal Workers from third countries in the EU

### **National Contribution from Member State<sup>\*4</sup>**

*Disclaimer: The following information has been provided primarily for the purpose of contributing to a synthesis report for this EMN study. The EMN NCP has provided information that is, to the best of its knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of the EMN NCPs' Member State.*

### Top-line factsheet [max. 1 page]

*The top-line factsheet will serve as an overview of the **national contribution** introducing the study and drawing out key facts and figures from across all sections, with a particular emphasis on elements that will be of relevance to (national) policy-makers. Please add any innovative or visual presentations that can carry through into the synthesis report as possible infographics and visual elements.*

*Please provide a concise summary of the main findings of Sections 0-3:*

*For seasonal work up to 90 days without interruption within the calendar year, registration is carried out in the Employment Agency / EA / on the basis of a declaration submitted by the employer and in compliance with the requirements of Art. 24k of the Law on Foreigners in the Republic of Bulgaria, the foreigner to have a valid visa for the purposes of seasonal work, when such is required.*

*Registration of employment in the EA is also carried out when the foreigner is exempted from the visa requirement in accordance with Annex II of Council Regulation / EC / N° 539/2001 determining the third countries whose nationals must hold a visa when crossing the external borders of the Member States as well as those whose nationals are exempt from this requirement.*

*The residence and work permit type "Seasonal Worker Permit" / PCP / is issued by the Ministry of Interior according to Art. 24k, para. 1 of the Law on Foreigners in the Republic of Bulgaria / LFRB /. It also contains the decision for access to the Bulgarian Labour market provided by the Executive Director of the Employment Agency. The permit is issued to third-country nationals who apply for a residence permit for the purpose of seasonal work from 90 days to 9 months within a calendar year. These are persons employed under a Labour law within the meaning of the Labour Code by a local employer who has submitted an application to the Employment Agency for this purpose.*

*"Seasonal worker" within the meaning of the Law on Labour Migration and Labour Mobility / LTMTM / is a third-country national who retains his main place of residence in a third country and resides legally and temporarily in the territory of the Republic of Bulgaria to perform seasonal work, on the basis of one or more fixed-term employment contracts concluded directly with an employer whose registered office is in the Republic of Bulgaria.*

*Seasonal work" in the sense of LTMTM is work that depends on the change of seasons and is associated with a particular time of year through a recurring event or series of events related to seasonal conditions, in which the need for Labour is significantly greater than in ordinary current operations.*

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<sup>4</sup> Replace highlighted text with your **(Member State)** name here.

## Admission policies of seasonal workers from third countries in the EU and Norway

*The import of workers from abroad in recent years in the Republic of Bulgaria has come after a series of amendments to the legislation, which have eased the cumbersome procedure before. For example, the period in which applicants will wait for an answer whether they will be issued a visa from 35 days to 15 days has been shortened. Previously, the requirement for tests of companies, which must prove whether there are really no Bulgarian workers for the required positions, has been dropped. It is also not required to prove the qualification of employees for seasonal work up to 90 days.*

### Section 0: Impact of COVID-19

- a. Has the COVID-19 situation affected the seasonal workers admission policy of your Member State with regard to third-country nationals?

Yes

No

*If yes, please explain how:*

At present, there is a sharp decline in demand for seasonal workers. This is dictated by the fact that tourism, where seasonal workers are most employed, is most affected.

- b. What measures regarding seasonal work have been taken or are planned as a result of the COVID-19 situation?

*Please explain:*

Relevant measures are currently being considered.

### Section 1: Profile of seasonal workers

**Research Question 1:** What is the profile of third-country national seasonal workers in the EU?<sup>5</sup>

*Please note that all questions in this section refer to seasonal workers covered by the Directive, except for questions 2b, 11, 12 and 13.*

#### Sub-questions:

1. Has your Member State admitted third-country seasonal workers under the Directive?

Yes

No

*If no, please explain why.*

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<sup>5</sup> This question does not have to be answered by EMN NCPs. This question will guide the narrative for the section in the synthesis report.

## Admission policies of seasonal workers from third countries in the EU and Norway

2. What are the sectors covered by the Seasonal Workers Directive in your Member State?<sup>6</sup> Please explain.

The sectors covered by the Directive are in the field of hotels and restaurants, agriculture, forestry and fishing.

- a. In which sector(s) were seasonal workers mostly employed in 2018?<sup>7</sup>

Please explain.

The sectors are hotels and restaurants.

- b. Are there sectors of seasonal work that are not covered by the Directive?

Yes

No

If yes, please explain.

3. What were the top-5 countries of origin of seasonal workers in your Member State in 2018?<sup>8</sup>

Please list the top-5 countries of origin in 2018 for the number of authorisations granted for seasonal workers in line with the Directive (this can include both visas and residence permits). If applicable, please comment on any specific observations or trends with regard to the country of origin (e.g. that seasonal workers from a specific third country are particularly prevalent in a certain sector).

The top-5 countries of origin in 2018 for the number of authorisations granted for seasonal workers in line with the Directive are Ukraine, Moldova, Kyrgyzstan, the Russian Federation and Northern Macedonia

4. What was the main age group of seasonal workers who received an authorisation in 2018 in your Member State?<sup>9</sup>

Please state the main age group. If applicable, please comment on any specific observations or trends with regard to the age group.

Foreigners from 18 to 29 years of age - 6219

Foreigners from 30 to 39 years of age - 1044

Foreigners from 40 to 49 years of age - 882

Foreigners over 50 years of age - 298

<sup>6</sup> Art.2(2) of the Seasonal Workers Directives requires Member States to list those sectors of employment which include activities that are dependent on the passing of the seasons requires<sup>6</sup> To be cross-checked with Eurostat data

<sup>7</sup> Please cross-check with Eurostat data. If data for your Member State is not available on Eurostat, please use the same categorisation of sectors provided in Eurostat to the extent possible.

<sup>8</sup> Please cross-check with Eurostat data. If data for your Member State is not available on Eurostat, please use the same categorisation of sectors provided in Eurostat to the extent possible.

<sup>9</sup> Please refer to the following age groups in your answer: 15-19; 20-24; 25-29; 30-34; 35-39; 40-44 etc.



## Admission policies of seasonal workers from third countries in the EU and Norway

5. What was the gender distribution of seasonal workers who received an authorisation in 2018 in your Member State?

*Please explain. If applicable, please comment on any specific observations or trends with regard to gender distribution (e.g. that mostly men are employed in the agricultural sector?)*

In 2018, seasonal workers with registered employment are distributed by gender as follows:

Women - 4734

Men - 3709

6. Does your Member State have a minimum salary set in law?

Yes

No

*If yes, please state the amount (in euros):* EUR 312

7. What was the average/minimum salary of seasonal workers in 2018?

*Please describe. If applicable, please comment on any specific observations or trends with regard to the average/minimum salary.*

According to the Law on Labour Migration and Labour Mobility, regarding foreigners employed for the purposes of seasonal employment, working conditions and pay must be provided, which are not less favourable than the conditions for Bulgarian citizens for the respective category of work. The receipt of remuneration is in accordance with the provisions for Bulgarian citizens employed in the respective sector, as the amount of the established remuneration of foreigners is not less than the amount of the minimum wage determined for the country.

8. What was the average duration of stay of third-country nationals who were granted authorisation for seasonal work in 2018 in your Member State?

*Please describe. If applicable, please comment on any specific observations or trends with regard to the duration of stay.*

The average duration of stay of third-country nationals who were granted authorisation for seasonal work was 9 months.

9. Is there a specific period of the year where there is more need for seasonal workers?

Yes

No

*If yes, which period is this (e.g. spring, summer, autumn, winter)?:*

The specific period of the year where there is more need for seasonal workers is the summer.

## Admission policies of seasonal workers from third countries in the EU and Norway

10. Does your Member State collect information about the skills level of seasonal workers (for example information on education or qualification level, language level or level of experience of the seasonal workers)?

Yes

No

*If yes, what was the average skills level in 2018 (e.g. low-, medium-, or highly-skilled)? If applicable, please comment on any specific observations or trends with regard to the skills level.*

In order to provide access to the labour market for more than 90 days, the foreigner is required to have specialized knowledge, skills and professional experience necessary for the respective position, proven by documents legalized and translated into Bulgarian.

11. Are there any alternative categories of migrant workers who perform temporary work of a cyclical nature who are not covered by the Seasonal Workers Directive? *Please only consider those categories of seasonal workers which show the same characteristics, or very similar ones, as those covered by the Directive (duration of stay in Member State, cyclical nature of their work, main residence outside the Member State, etc.)?*

Yes

No

*If yes, what percentage (roughly) of seasonal workers in your Member State are covered through these alternative categories?*

12. If applicable, what are the main differences between those migrant workers covered by the Seasonal Workers Directive and those not covered by the Directive in terms of their background information (age, gender, country of origin)?

Please explain: Not applicable

13. In your Member State, are seasonal work activities known to be performed by irregular migrants?

Yes

No

*If yes, is there data/information available on the magnitude and the characteristics of the seasonal work activities performed by irregular migrants? Please explain.*

## Section 2: Attraction of seasonal workers to address labour market needs

**Research Question 2:** To what extent do Member States place specific efforts on attracting seasonal workers to address labour market needs?<sup>10</sup>

*Please note that all questions in this section refer to seasonal workers covered by the Directive, except for question 19.*

### Sub-questions:

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<sup>10</sup> This question does not have to be answered by EMN NCPs. This question will guide the narrative for the section in the synthesis report.

## Admission policies of seasonal workers from third countries in the EU and Norway

14. Is the entry and stay of seasonal workers from third countries part of your overall migration policy?

Yes

No

*Please explain.*

At the national level, measures are constantly being developed to attract seasonal workers.

15. Did your Member State develop measures to attract seasonal workers?

Yes

No

*If yes, how is this done? Please briefly explain.*

The approval of visas for seasonal workers will now take place in 15 calendar days, instead of 35, as it was. The change creates conditions for faster processing of applications of persons wishing to work as seasonal workers in Bulgaria and helps to more effectively meet the needs of Bulgarian employers for labour of seasonal employment. 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.

16. Does your Member State rely on seasonal workers from third countries to fill labour market needs?

Yes

No

*Please explain.*

The main lack of workforce in hotels and restaurants is mostly in the services and support staff - porters, maids, waiters, receptionists, bartenders, cleaning staff and all others who directly care about the comfort of the tourists.

a. If yes, for which sectors and what are these labour market needs? *Please explain.*

As specified above, the needs are mainly in the restaurant sector and tourism, for services and support staff - porters, maids, waiters, receptionists, bartenders, cleaning staff and all others who directly care about the comfort of the tourists.

b. Did the migration of seasonal workers who came to your Member State between 2016-2019 help to address the labour market needs of your Member State?

Yes

No

To some extent

*Please explain.*

The lack of labour force in these areas is a fact that cannot be ignored. That is why seasonal workers partially contribute to the improvement of the situation and overcoming of this challenge.

17. Does your Member State implement an annual quota for seasonal workers?

## Admission policies of seasonal workers from third countries in the EU and Norway

Yes No 

- a. If yes, is this a general quota or is it applied to specific sectors or to certain third countries?

*Please explain.*

- b. If yes, was this quota fulfilled between 2016-2019?

Yes No 

18. What was the average processing time and costs (in euros) for applications from third-country nationals for the purpose of carrying out seasonal work in 2018?

There is no fee for registration of seasonal employment up to 90 days.

The following fees are collected for issuing a seasonal worker permit: The Employment Agency collects a fee of EUR 51.26 for providing access to the labour market; the Migration Directorate collects a fee of EUR 56.39 for issuing a residence and work permit for the purposes of seasonal employment.

The Employment Agency issues a decision for access to the Labour market within 10 days from the submission of the application. For each submitted application, the Employment Agency collects ex officio information on:

- the data for the employer, entered in the BULSTAT Register, or for the unified identification code (UIC) of the employer according to art. 23 of the Commercial Register Act and the register of non-profit legal entities;
- registration with the Bulgarian Chamber of Commerce and Industry, when available;
- the current status - in the case of companies without unified identification code (UIC).

In connection with the granting of a permit for access to the Labour market, the Employment Agency ex officio requests information from:

- The Ministry of Foreign Affairs for the existence of circumstances under Art. 5, para. 2 and Art. 8, para. 1, item 1 to 3 of the Labour Migration and Labour Mobility Act / LTMTM /;
- The Ministry of Interior for the existence of circumstances under Art. 8, para. 1, item 2 and para. 2 and Art. 11, para. 1, item 5 LTMTM;
- The National Revenue Agency for the existence of obligations of the employer according to Art. 87, para. 11 of the Tax-Insurance Procedure Code;
- Executive Agency "General Labour Inspectorate" for entered into force penal decrees for violations referred to in Art. 11 LTMTM;

The Migration Directorate issues a residence and work permit for the purposes of seasonal employment for 7 days. The Migration Directorate shall coordinate with the State Agency for National Security any application for a residence and work permit for the purposes of seasonal employment.

## Admission policies of seasonal workers from third countries in the EU and Norway

19. If your Member State has alternative categories of migrant workers who perform temporary work of a cyclical nature who are not covered by the Seasonal Workers Directive (see question 11):

- a. Does your Member State have one or more specific national schemes to cover these categories?

Yes

No

*Please briefly explain.*

- b. What is the reason for the existence of such specific national schemes? I.e. Why are employers more likely to use these national schemes instead of the one established in the Directive?

*Please briefly explain.*

20. Does your Member State apply a labour market test to seasonal workers?

Yes

No

*Please briefly explain.*

That is a possibility for the employers in the tourism sector to hire the seasonal workers they need in a timely manner, while maintaining the quality of services offered and the growth in the number of foreign tourists in Bulgaria.

21. Does your Member State facilitate the re-entry of seasonal workers?<sup>11</sup>

Yes

No

*If yes, how is this done? Please briefly explain.*

The procedure for issuing a residence and work permit has been shortened to 5 days, according article 50a, paragraph 5 of Rules on the Implementation of Foreigners in the Republic of Bulgaria Act.

22. Does your Member State cooperate with third countries to attract seasonal workers (e.g. bilateral or multilateral agreements)?

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<sup>11</sup> This question refers to measures included within Art. 16 of the Directive and any other measures. Art. 16 of the Seasonal Workers Directive provides that 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. The facilitate may include measures such as: the grant of an exemption from the requirement to submit one or more of the documents necessary for admission; the issuing of several seasonal worker permits in a single administrative act; an accelerated procedure leading to a decision on the application for a seasonal worker permit or a long stay visa; priority in examining applications for admission as a seasonal worker.

## Admission policies of seasonal workers from third countries in the EU and Norway

Yes No *Please briefly explain.*

The Republic of Bulgaria has concluded the Agreement on Labour Migration with Moldova, Georgia, Armenia.

The Agreement regulates the employment without a separate work permit of Moldovan, Georgian and Armenian workers in Bulgaria for a period of 1 year with the possibility of subsequent extension for a total of up to 3 years. The exchange of seasonal workers between the two countries for a period of up to 9 months a year is also regulated. Employees will have the same labour rights and obligations and workplace protection that apply to local workers.

23. Who are the relevant actors in attracting seasonal workers (e.g. recruitment agencies)?

*Please briefly explain.*

Relevant actors in attracting seasonal workers are mostly law firms.

24. How are employers informed about the procedure for hiring seasonal workers?

*Please briefly explain. If applicable, please also mention any support provided to employers to hire seasonal workers.*

The documents and procedures for granting access to the labour market are described in detail on the website of the Employment Agency.

On the website of the Migration Directorate there is information for the documents that the foreigner must submit for issuance of a residence and work permit for the purposes of seasonal employment.

25. Can seasonal workers apply for a change of status while they are in your Member State for the purpose of seasonal work (i.e. if they find another job, a permanent contract, etc)?

Yes No *If yes, please explain.*

26. Has your Member State carried out an evaluation of the implementation of the Seasonal Workers Directive at national level? If so, did it conclude anything as to whether the introduced measures were sufficient in attracting seasonal workers?

Yes No *Please explain.*

At present, there is no data about an analysis of the implementation of the Seasonal Workers Directive at national level. It is important to note that various incentives have been introduced for hiring seasonal workers.

27. Is your Member State aware of any misuse (e.g. employers hiring third-country seasonal workers for non-seasonal work) in the application of the Directive?

## Admission policies of seasonal workers from third countries in the EU and Norway

Yes

No

*Please briefly explain.*

According to Art. 7, para. 2 of the Law on Labour Migration and Labour Mobility (LTMTM), workers who are third country nationals having legal access to the labour market may be hired under an employment contract or work as seconded or posted within the framework of provision of services in the territory of the Republic of Bulgaria only for the concrete legal or natural person, and for the place of work, position and term of employment as stated in the permit granted by the competent authorities.

Upon reference in the information system of Executive Agency "General Labour Inspectorate", it was seen that for the period 2018-2019 there were 8 violations of Art. 7, para. 2 of LTMTM, as in none of the cases workers, third-country nationals having a permit/registration for seasonal employment were found to perform activities specific to a different position.

28. Are there any good practice examples in relation to the attraction of seasonal workers in your Member State?

Yes

No

*Please briefly explain.*

The approval of visas for seasonal workers will now take place in 15 calendar days, instead of 35, as it was. The change creates conditions for faster processing of applications of persons wishing to work as seasonal workers in Bulgaria and helps to more effectively meet the needs of Bulgarian employers for labour for seasonal employment. 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.

### Section 3: Protection and rights of seasonal workers

**Research Question 3:** How does the Seasonal Workers Directive achieve its goal of protecting seasonal workers and their rights?<sup>12</sup>

*Please note that all questions in this section refer to seasonal workers covered by the Directive, except question 39 and 40.*

#### Sub-questions:

29. Does your Member State apply restrictions to the equal treatment between seasonal workers from third countries and nationals of your Member State who carry out comparable employment activities, particularly with regard to:

a. Family benefits;<sup>13</sup>

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<sup>12</sup> This question does not have to be answered by EMN NCPs. This question will guide the narrative for the section in the synthesis report.

## Admission policies of seasonal workers from third countries in the EU and Norway

Yes No *If yes, please briefly explain.*

According art 49 para 4, LTMTM Within the scope of para. 2, item 5 shall not be included the family allowances and unemployment benefits, when the permit is issued for employment for up to nine months

b. Unemployment benefits;

Yes No *If yes, please briefly explain.*c. Educational and vocational training not linked to the specific employment activity;<sup>14</sup>Yes No *If yes, please briefly explain.*d. Tax benefits in cases where the registered or usual place of residence of the family members of the seasonal worker for whom he/she claims benefits, does not lie in the territory of the Member State concerned.<sup>15</sup>Yes No *If yes, please briefly explain.*

e. Are there any practical difficulties to ensuring equal treatment in the areas defined in the Directive?

Yes No *If yes, please briefly explain.*

30. Who are the most important actors in your Member State regarding the protection of seasonal workers' rights and what is their role? *Please explain. Please distinguish between public and private actors in your answer (e.g. Trade Unions, Chambers of Commerce, etc.).*

National representative organizations of employees are the Confederation of Independent Trade Unions in Bulgaria (CITUB) and the Confederation of Labour "Podkrepa". The trade union structures that protect

<sup>13</sup> 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 € No1231/2010.

<sup>14</sup> 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.

<sup>15</sup> Art. 23(2)(iii) of the Seasonal Workers Directive provides that Member States may restrict equal treatment 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.



### Admission policies of seasonal workers from third countries in the EU and Norway

the rights of seasonal workers in agriculture are the Federation of Independent Trade Unions of Agriculture at CITUB and the National Federation "Agriculture and Forestry" at „Podkrepa“. For the tourism sector, the structures are the Trade Union of Tourism in Bulgaria at CITUB and the Federation "Trade, Services, Control Bodies, Tourism" at „Podkrepa“ and the Executive Agency "General Labour Inspectorate".

31. Is there a framework in place enabling the transfer of pension contributions to origin countries?

Yes

No

if yes, please explain.<sup>16</sup>

According art 49 , para 2 item 10 LTMTM third-country nationals, holders of the single residence and work permit, EU Blue Card holders and seasonal worker permit holders shall be equal to Bulgarian nationals in respect of payments of statutory old-age, disability and survivors' pensions in connection with revenues from a preceding employment in an amount applicable under the law of the member state or the member states owing such payments upon relocation to a third country, without prejudice to the provisions of Regulation (EU) No. 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No. 883/2004 and Regulation (EC) No. 987/2009 to third-country nationals who are not already covered by these Regulations solely on the ground of their nationality (OJ, L 344/1 of 29 December 2010), as well as of existing bilateral agreements with third countries; the same shall apply with respect to payments due to their surviving spouses;

32. If your Member State has alternative categories of migrant workers performing temporary work not covered by the Directive, do these categories enjoy the same rights as those granted by the Directive?

Yes

No

Not applicable.

*If yes, please briefly explain.*

33. What does your Member State consider an "adequate standard of living" in relation to accommodation? How does your Member State ensure that seasonal workers benefit from an "accommodation that ensures an adequate standard of living" for the duration of his or her stay?<sup>17</sup>  
*Please briefly explain.*

The Law on Labour Migration and Labour Mobility contains the following requirement:

<sup>16</sup> Art.23(1) provides that seasonal workers moving to a third country, or the survivors of such seasonal workers residing in a third-country deriving rights from the seasonal worker, shall receive statutory pensions based on the seasonal worker's previous employment and acquired in accordance with the legislation set out in Article 3 of Regulation (EC) No 883/2004, under the same conditions and at the same rates as the nationals of the Member States concerned when they move to a third country

<sup>17</sup> Art. 20(1) provides that Member States shall require evidence that the seasonal workers 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.

### Admission policies of seasonal workers from third countries in the EU and Norway

The employer shall submit to the Employment Agency evidence that the seasonal worker will be provided with a suitable, meeting all safety and health requirements, housing until the expiration of the contract. The apartment is provided by the employer or is provided with his assistance. For the use of the apartment the seasonal worker concludes a rental contract. The rental price of the dwelling is in accordance with the remuneration received by the seasonal worker and with the quality of the dwelling and is not automatically deducted from the remuneration of the seasonal worker. The employer is obliged to notify the Employment Agency of any change in the specified circumstances.

It is also envisaged that during the inspection of the circumstances the Executive Agency "General Labour Inspectorate" will have the right to access the dwelling place of the seasonal worker with his consent.

- a. Are there any good practices in relation to ensuring adequate accommodation, considering the temporary nature of stay of seasonal workers?

Yes

No

*If yes, please briefly explain*

Same as the above.

34. Does your Member States have procedures/mechanisms in place to ensure that seasonal workers and their employers are informed of their rights and duties?

Yes

No

*If yes, please briefly explain*

Information materials are provided when submitting the applications for granting access to the labour market and issuing a residence and work permit.

35. Does your Member State have any specific procedures/mechanisms in place to monitor, assess and carry out inspections on whether:<sup>18</sup>

- a. Seasonal workers can exercise their equal treatment rights and other rights granted in practice? How does that work and who are the actors involved?

Yes

No

*If yes, please briefly explain*

The observance of the rights of the seasonal workers is carried out by the Executive Agency "General Labour Inspectorate".

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<sup>18</sup> Art. 24 provides that Member States shall measures to prevent possible abuses and to sanction infringements of this Directive. Measures shall include monitoring, assessment and, where appropriate, inspection in accordance with national law or administrative practice (Directive 2014/36/EU).

## Admission policies of seasonal workers from third countries in the EU and Norway

- b. Seasonal workers abide by the rules (e.g. no overstaying)? How does that work and who are the actors involved?

Yes

No

*If yes, please briefly explain*

In case of right of residence granted for the purposes of seasonal employment for a period of up to 9 months, the Migration Directorate makes monthly inquiries in the information systems of the Ministry of Interior about the expired residence permits and whether the respective persons have left the territory of Bulgaria. In case they have not left the country within the allowed term, the respective actions for imposing a coercive administrative measure shall be taken.

- c. Employers abide by the rules (e.g. no exploitation)? How does that work and who are the actors involved? Is there a focus on any specific economic sectors?

Yes

No

*If yes, please briefly explain*

According to Art. 71 of LTMTM, based upon a risk assessment the Executive Agency "General Labour Inspectorate" performs control over the employment of foreigners, including foreigners employed as seasonal workers. During the inspections carried out by the control bodies, violations of the requirements for obtaining the relevant type of work permit or registration/declaration of employment of third-country nationals, as well as other requirements for the employer provided for in the LTMTM are established.

With regard to seasonal employment, the violations that are established are in connection with the requirements regulated in Section IV of LTMTM for obtaining a permit for a seasonal worker, when the person will work for a Bulgarian employer for a period of 90 days to 9 months during the calendar year, or the registration of their employment at the Employment Agency, when the foreigner will work for up to 90 days without interruption within the calendar year. Also, for seasonal workers, the costs of transport from the place of origin to the place of work, as well as the compulsory health insurance and insurance of the worker, are to be borne by the employer without deduction from the worker's remuneration. The Labour Inspectorate shall also inspect, if necessary, the housing provided by the employer to the seasonal worker, in accordance with the requirements of Art. 28 of LTMTM, for which the power of the inspectors to be granted access to the dwelling with the consent of the foreigner is also provided.

36. Does your Member State collect statistics on the procedures/mechanisms described in question 35?

Yes

No

*If yes, please provide the statistical information for the year 2018.*

## Admission policies of seasonal workers from third countries in the EU and Norway

37. How can seasonal workers lodge complaints against their employers?<sup>19</sup> Did your Member State set up some specific procedures to protect seasonal workers who lodge complaints?

Yes   
 No

*If yes, please briefly explain*

Seasonal workers may personally or through authorized individual or legal persons report to the Executive Agency "General Labour Inspectorate".

38. Are there specific sanctions in place in your Member State against employers who have not fulfilled their duties under the Seasonal Workers Directive?

Yes   
 No

*If yes, please briefly explain*

The Law on Labour Migration and Labour Mobility provides for the imposition of a fine or a property sanction in the amount that depends on the committed violation. / Chapter Ten of the said law /

39. Do migration authorities and labour authorities cooperate in relation to the monitoring of seasonal workers and their employers?

Yes   
 No

*If yes, please briefly explain the nature of cooperation and the objective, i.e. the protection of seasonal workers, fulfilment of their rights, detection of irregularly-staying seasonal workers or overstayers, etc.*

Cooperation between the authorities (Ministry of Labour and Social Policy and Migration Directorate) takes place only at administrative level, but not at field level.

40. Has your Member State detected seasonal workers who are victims of exploitation or human trafficking?

Yes   
 No

*If yes, please briefly explain.*

41. Are there any good practice examples or research/evaluation findings of how the rights of seasonal workers have been ensured in your Member State?

Yes   
 No

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<sup>19</sup> Art.25 provides that 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.

*If yes, please briefly explain.*

### Section 3: Conclusions and lessons learned

*Please comment on the findings of your national report by drawing conclusions, and identifying any key challenges and lessons learned. Please make reference to the three research questions of the study in your reply.*

Imports of seasonal workers from abroad have risen sharply over the past two years after a series of legislative adjustments that eased the cumbersome procedure before. For example, the term in which the candidates will wait for an answer whether they will be issued a visa was shortened - this will happen in 15 days, not in 35. Earlier, the requirement for qualification of the hired employees was dropped.

All this shows that reasonable opportunities must be sought to alleviate the requirements for hiring seasonal workers.

**Admission policies of seasonal workers from third countries in the EU and Norway****Annex: national statistics related to seasonal workers**

42. Statistics related to seasonal workers are available within the general statistics for first permits for remunerated activities (migr\_resocc) and the specific datasets for authorisations for the purpose of seasonal work (migr\_ressw1\_1 and migr\_ressw2). In light of this, if your Member States reports statistics to Eurostat for dataset migr\_resocc but not for datasets migr\_ressw1\_1 and migr\_ressw2, do these general statistics indicate those covered by the Directive or not (or do they represent the alternative categories)? Can those be used in the absence of the specific statistics?

*Please explain.*

43. Please fill out/complete the statistical annex (shared with EMN NCPs on 13 March 2020).