

Attracting and Protecting Seasonal Workers from third countries Cyprus

EMN Cyprus 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 Cyprus 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.

As far as policies and legislation regarding seasonal workers is concerned, this study shall reflect the most recent situation and developments in Cyprus, therefore focusing on 2019, whilst also covering, if relevant, policy and legal developments over the past five years.

As regards to the 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,¹ 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,² 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 DEFINITIONS

According to the EMN Glossary,³ 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".

¹ https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/work_en

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

³ 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

Attracting and Protecting Seasonal Workers from third countries in Cyprus

National Contribution from Cyprus

Disclaimer: The following information has been provided primarily for the purpose of contributing to a synthesis report for this EMN study. EMN Cyprus 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 Cyprus. All information provided to this study has been collected from officers working in the respective ministries, departments and third parties working with the target group under study.

Top-line factsheet [max. 1 page]

This is a brief presentation of the information extracted regarding third country nationals who are carrying out seasonal work in Cyprus. The provision of information, has been collected from the national contribution of representatives of ministries, departments and other third groups working with this specific target group.

Cyprus is among the EU Member States that admitted third-country national seasonal workers under the Seasonal Workers Directive (2014/36/EU).

The first three countries of origin of seasonal workers are Egypt, Moldova and Ukraine although no records on the age group they belong to is available. However, according to the data collected, the majority of them are men having been employed in the agricultural sector, with special reference in 2018 as the year reported for the purposes of this study and the national contribution in general.

In Cyprus, the minimum salary as set by law is €455,00 (gross), however the employer has the obligation to provide accommodation and meals to the employee and is obliged to ensure the adequacy of those. Moreover, the average duration of stay of third-country nationals having been granted authorisation for seasonal work in Cyprus in 2018, was set to 4 months with the possibility to renew their residency for additional 4 months. The need for seasonal workers arises mostly within the period by the end of spring to the end of summer.

Employers do have access to all relevant information for hiring seasonal workers through the official governmental websites namely of the Civil Registry and Migration Department of the Ministry of Interior. Yet via the official website and the recruitment agencies, employers as well as seasonal workers, can get information on their rights and duties.

As already mentioned, there is no available statistic chart regarding the reporting period of this study in Cyprus, however, the information provided within this paper shall give to the interested parties and readers a general overview of the policies and legislations adopted yet the procedures to be followed.

Section 1: Profile of seasonal workers

Research Question 1: What is the profile of third-country national seasonal workers in the EU?⁴

Please note that all questions in this section refer to seasonal workers covered by the Directive, except for questions 2b, 12, 13 and 14.

Sub-questions:

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

Yes

- a. In which sector(s) were seasonal workers mostly employed in 2018?⁵

In 2018, the majority of seasonal workers were employed in the agriculture sector.

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

No

2. What were the top-5 countries of origin of seasonal workers in your Member State in 2018?⁶

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 records provided are only for the first 3 countries, which are: Egypt, Moldova and Ukraine.

3. What was the main age group of seasonal workers who received an authorisation in 2018 in your Member State?⁷

So far, there are no records for the age group of seasonal workers.

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

⁴ This question does not have to be answered by EMN NCPs. This question will guide the narrative for the section in the synthesis report.

⁵ 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.

⁶ 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.

⁷ Please refer to the following age groups in your answer: 15-19; 20-24; 25-29; 30-34; 35-39; 40-44 etc.

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?)

The majority of applicants receiving an authorisation to work in Cyprus during the year 2018 are men.

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

Yes

The minimum salary set by law is €455,00 (gross), however the employer has the obligation to provide accommodation and meals to the employee.

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

The minimum salary for seasonal workers in 2018 was set to €455,00 (gross), however the employer has the obligation to provide the accommodation and meals to the employee.

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

The average duration of stay of third-country nationals having been granted authorisation for seasonal work in Cyprus in 2018, was set to 4 months with the possibility to renew their residency for additional 4 months.

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

Yes

From the end of spring – end of the summer, are the seasons that seasonal workers are mostly needed in Cyprus.

9. 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)?

No

10. 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.)?*

No

11. *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)?*

Not applicable.

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

No

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?⁸

Please note that all questions in this section refer to seasonal workers covered by the Directive, except for question 20.

Sub-questions:

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

Yes

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

No

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

No

- a. 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?

No

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

No

17. 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?

⁸ This question does not have to be answered by EMN NCPs. This question will guide the narrative for the section in the synthesis report.

The average cost is about €60,00 including the working hours covered by the Department of Labour and the working hours needed by the Department of Migration to examine the application and proceed with the issuing of the work permit.

18. 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 12):

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

No

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

No

20. Does your Member State facilitate the re-entry of seasonal workers?⁹

No

In Cyprus, for their re-entry they have to follow the procedure from the beginning.

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

No

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

Private labour offices / recruitment agencies are considered as the relevant actors in attracting seasonal workers in Cyprus.

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

All relevant information can be found in the website of the Civil Registry and Migration Department of the Ministry of Interior Cyprus.

⁹ 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.

24. 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)?

No

25. 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 conclusions are available on the sufficiency of the introduced measures in attracting seasonal workers.

26. 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?

No

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

No

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?¹⁰

Please note that all questions in this section refer to seasonal workers covered by the Directive, except question 40 and 41.

Sub-questions:

28. 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;¹¹

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

¹¹ 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 (EC) No 1231/2010.

No

- b. Unemployment benefits;

No

- c. Educational and vocational training not linked to the specific employment activity;¹²

No

- 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.¹³

No

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

No

29. 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.).*

The Department of Labour and the Department of the Labour Relations.

30. Is there a framework in place enabling the transfer of pension contributions to origin countries? ¹⁴

Yes

¹² 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.

¹³ 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.

¹⁴ 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

The procedure is followed by the Social Insurance Services of the Ministry of Labour, Welfare and Social Insurance.

31. 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?

No

32. 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?¹⁵ Please briefly explain.

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

Yes

The employer is obliged to ensure adequate accommodation to workers.

33. 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

Through the websites of the relevant Departments and the recruitment agencies.

34. Does your Member State have any specific procedures/mechanisms in place to monitor, assess and carry out inspections on whether:¹⁶

- 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?

No

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

¹⁵ 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.

¹⁶ 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).

Yes

After their entry permit is expired, they have to leave the Republic. Otherwise, the employer usually informs the Migration Department and the data of the worker will be introduced on the stop-list and in case that he/she is arrested, the procedure of return will be immediately implemented.

- 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

35. Does your Member State collect statistics on the procedures/mechanisms described in question 34?

No

36. How can seasonal workers lodge complaints against their employers?¹⁷ Did your Member State set up some specific procedures to protect seasonal workers who lodge complaints?

Yes

The workers can lodge their complaints against their employers through the Immigration Department and the Department of Labour Relations.

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

Yes

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

No

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

¹⁷ 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.

Yes

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

No

Section 4: Conclusions and lessons learned

Cyprus is among the EU Member States that admitted third-country national seasonal workers under the Seasonal Workers Directive (2014/36/EU). According to the information collected, Egypt, Moldova and Ukraine are the first three countries of origin of seasonal workers carrying out seasonal work in Cyprus. The majority of them are men however there are no available records on the age group they belong to.

As provided by the law, the average duration of stay of third-country nationals having been granted authorisation for seasonal work in Cyprus in 2018, was set to 4 months with the possibility to renew their residency for additional 4 months. For re-entry purposes of seasonal workers, the procedure must be repeated as per the first time of entry withing the country.

The relevant actors in Cyprus on attracting foreign seasonal workers are the recruitment agencies also known as private labour offices. Employers wishing to recruit seasonal workers for covering the needs of their business, can find the relevant information online via the official website of the Civil Registry and Migration Department of the Ministry of Interior. In addition, information for employers and seasonal workers regarding their rights and duties can also be found via the abovementioned method yet from recruitment agencies.

The need for seasonal workers is increasing during the period of the end of spring by the end of summer. In 2018 it has been reported that third- country nationals who had been employed to carry-out seasonal work, were working mainly in the agricultural sector.

The duration of the entry and stay of seasonal workers from third countries is part of the overall Cyprus' migration policy although this group is not foreseen to rely on in order to fill the labour market needs of the country yet, it is not considered a medium of addressing those needs within the reporting period.

The collection of information consisted primarily of desk research (use of data already available or published, including national statistics, legal texts, reports etc.), complemented, when necessary, by interviews conducted with different stakeholders in the field of migration, asylum and integration, depending on the topical issues aroused of the respective publications.

Public servants from the Ministry of Interior, as well as the other Ministries, contributed as experts in their field, to all of the CY EMN NCP outcomes, tasks and developments' provision of information, when needed.