



# **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



## Common Template of EMN Study 2020

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

### National Contribution from *Poland*<sup>1</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:*

### 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

*Covid-19 affected the policy of admitting seasonal workers to some extent, primarily its practical aspects (health safety measures, need to ensure supply of seasonal workers).*

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

*The validity of seasonal work permits as well as other authorizations to work and as well as authorizations to stay in Poland were automatically extended for a period of epidemic state + 30 days from the date of withdrawal of the epidemic status. Moreover foreigners admitted for other reasons than seasonal work with valid work permit or declaration on entrusting an employment to a foreigner can perform seasonal work without seasonal work permit in a period of epidemic state +30 days from the date of withdrawal of the epidemic status (it is important for foreigners already residing in Poland who for example lost their previous job). Also, current regulations allow the entry of foreigners working in Poland, both in relation to EU citizens and third countries nationals, including seasonal workers. As a rule, persons entering the territory of Poland are subject to quarantine. However, the quarantine obligation does not apply when crossing the border of the*

---

<sup>1</sup> Replace highlighted text with your **(Member State)** name here.

*Republic of Poland in order to work on a farm, which is located on both sides of the border of the Republic of Poland.*

## Section 1: Profile of seasonal workers

**Research Question 1:** What is the profile of third-country national seasonal workers in the EU?<sup>2</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

*Seasonal work permit is a new instrument introduced in Poland on 1 January 2018. This work permit is issued for employers who want to employ a foreigner who is:*

- **outside of Poland.** *An employer applies to local labour office and receives (or not) certificate of submission of application, then a foreigner have to obtain a special visa (type 05-b) or enter Poland within visa free-regime. Consequently, an employer notifies to local labour office this fact and only then local labour office issues seasonal work permit. We will call this category of seasonal work permit as **directive's seasonal work permit**.*
- **already residing in Poland.** *An employer applies to local labour office (for a foreigner who holds valid visa/stay permit or who has entered Poland within visa-free regime) and then receives (or not) seasonal work permit. We will call this category of seasonal work permit as **national seasonal work permit**.*

*In the following part of this survey, we will provide statistics for all seasonal work permits (directive's plus national). The category of directive's seasonal work permits is the one, which we sent to Eurostat. Please note that there (in this survey) might be a small difference comparing to data sent in 2019 (for 2018) due two reasons: 1) methodology required by Eurostat (exclusion of seasonal work permit issued for the same foreigner in the same period; normally we publish all issued permit) and 2) the fact that some local labour office registered work permits in database after we sent data to Eurostat. For example, the number of directive's seasonal work permit issued in 2018 amounts to 45 664 in migr\_ressw1, compared to 46 417 that is in our database (while the number of all seasonal work permits was 134 601 in 2018).*

*In this survey we will provide data for 2018 and 2019, but please note that data for 2019 should be taken as provisional and it will be different than the data we will finally send to Eurostat (due to two reasons we have already mentioned above).*

2. What are the sectors covered by the Seasonal Workers Directive in your Member State?<sup>3</sup>

*In Poland, sectors of employment which include activities that are dependent on the passing of the seasons were identified within two sections of the Polish Classification of Activities, based on NACE Rev.2: section A (Agriculture, Forestry and Fishing) and section I (Accommodation and Food*

<sup>2</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.

<sup>3</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>3</sup> To be cross-checked with Eurostat data

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

*Services Activities). Specifically they include 21 subsections of agriculture, horticulture, and animal husbandry and 3 subsections of accommodation and food services.*

- a. In which sector(s) were seasonal workers mostly employed in 2018?<sup>4</sup>

**Total seasonal work permits:**

**2018:**

A - 98% (131 843)

I - 2% (2 758)

**2019:**

A - 97% (126 898)

I - 3% (4 548)

**Directive's seasonal work permits:**

**2018:**

A - 98% (45 283)

I - 2% (1134)

**2019:**

A- 95% (45 784)

I - 5% (2183)

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

Yes

No

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

**Total seasonal work permits:**

**2018:**

1. Ukraine (133 029)

2. Belarus (649)

<sup>4</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>5</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.

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

3. *Moldova (382)*

4. *Georgia (203)*

5. *Nepal (179)*

**2019:**

1. *Ukraine (129 683)*

2. *Belarus (659)*

3. *Moldova (380)*

4. *Georgia (302)*

5. *Russia (79)*

**Directive's seasonal work permits:**

**2018:**

1. *Ukraine (45 764)*

2. *Belarus (424)*

3. *Moldova (110)*

4. *Georgia (46)*

5. *Nepal (28)*

**2019:**

1. *Ukraine (47 235)*

2. *Belarus (431)*

3. *Moldova (110)*

4. *Georgia (70)*

5. *Russia (38)*

*Ukrainians stand clearly as a majority group of seasonal workers in Poland since this work permit had been introduced (almost 99%), regardless of whether this concerns the directive's seasonal work permit or total seasonal work permits.*

4. What was the main age group of seasonal workers who received an authorisation in 2018 in your Member State?<sup>6</sup>

**Total seasonal work permits:**

**2018:**

---

<sup>6</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

*35-44 years old (27%)*

**2019:**

*35-44 y.o (28%)*

**Directive's seasonal work permits:**

**2018:**

*35-44 y.o (29%)*

**2019:**

*35-44 y.o (30%)*

*The age distribution is relatively balanced, for example for directive's seasonal work permit in 2018 persons in age 35-44 accounted for 29%, 25-34 - 28% and 45-54 - 20%.*

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

**Total seasonal work permits:**

**2018:**

*F - 82 711 (60%)*

*M - 51 890 (40%)*

**2019:**

*F - 83 495 (64%)*

*M - 47 951 (36%)*

*Directive's seasonal work permits:*

**2018:**

*F - 29 196 (63%)*

*M - 17 221 (37%)*

**2019:**

*F - 30 176 (63%)*

*M - 17 791 (37%)*

*Seasonal work permits are granted more often for women than for men, regardless of whether this concerns the directive's seasonal work permit or total seasonal work permits. The share of women increases with age, for example for directive's seasonal work permit in 2018 woman in age 18-24 accounted for 51%, 25-34 - 55%, 45-54 - 68% and 55-59 - 70%.*

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

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

Yes No 

*App. 570 EUR gross in 2019, however it is not applied to every type of contract.*

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

*There is no centralized data on average wage for seasonal workers in particular, however in 2018 the minimum hourly rate was 13,70 PLN gross (app. 3 EUR) and in 2019 - 14,70 PLN. According to unofficial sources, an average wage in seasonal work in 2018 amounted to 15 gross PLN per hour (app. 3,30 EUR).*

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?

*Work period indicated in the seasonal work permit:*

**Total seasonal work permits:**

**2018:**

*1. From 31 to 90 days (52%)*

*2. From 91 to 180 days (19%)*

*3. Up to 30 days (18%)*

*4. Over 180 days (11%)*

**2019:**

*1. From 31 to 90 days (51%)*

*2. From 91 to 180 days (17%)*

*3. Up to 30 days (16%)*

*4. Over 180 days (15%)*

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

Yes No 

*The seasonal work in particular is performed mostly in the spring, summer and early autumn.*

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 

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?

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

Yes No 

*As we have pointed out in point 1, in Poland seasonal work permits are issued both for foreigners residing outside Poland (directive's seasonal work permit) and already residing in Poland (national seasonal work permit). The conditions for obtaining both types of seasonal work permits are, in general, the same.*

*Seasonal work permits have largely replaced declarations of entrusting work to a foreigner in agriculture and tourism (in the most part of sector A and small part of sector I of the Polish Classification of Activities). These declarations still apply (although their issuing rules have been tightened from January 1, 2018) in subclasses of the Classification other than those classified as seasonal. They allow foreigners to work for up to six months within consecutive 12 months. This work on the base of declaration is therefore of short-term and circular nature, but it is not particularly depending on the season of the year.*

*During consultation of changes in legal framework introducing seasonal work permit in January 2018 (implementing seasonal directive) and in the following months there was a wide debate about scope of "seasonal work". Some work initially classified as seasonal turned out to be year-round and at the end of 2018 there were some exemptions introduced (for example greenhouses, mushrooms). The possibility of further exemptions (esp. in livestock farming), is currently being considered.*

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)?

*According to the data indicated in points 2-7, the general profile of employees with seasonal work permits is very similar regardless of whether it is a national or directive's seasonal work permit. This justifies including them in one type of seasonal work permit.*

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

Yes No 

*The planning of control on the legality of employment and performance of work by foreigners includes primarily entities in which the largest scale and risk of irregularities in the area of legality of employment of foreigners is expected, therefore the results of such audit cannot be generalized in relation to the entire Polish labour market nor can be seasonal work sector separated from the results.*

*The leading institution in the field of legality of employment is the National Labour Inspectorate. Also, see answer to the question no. 36.*

## 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>7</sup>

<sup>7</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.



**Sub-questions:**

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

Yes

No

*To date, work of migrants in Poland mainly supplements shortages in low skill occupations, including in agriculture. Such model of demand for migrant workers has mainly resulted from unfavourable demographic trends, with simultaneous economic growth and low unemployment. Migration policy in this respect is generally limited to creating a legal framework and information materials. The most popular short-term migration scheme in Poland was introduced in 2006 at the initiative of farmers. Also the introduction of seasonal work permits in 2018, which replaced declaration scheme in agriculture, according to Seasonal Workers Directive, was widely consulted with farmers organizations.*

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

Yes

No

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

Yes

No

*In recent years agriculture in Poland (but also some other sectors) is highly dependent on the supply of foreign workers. It is worth noticing that Poland cannot rely on EU seasonal workers (about 98-99% seasonal workers are from Ukraine).*

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

*Taking into account very high seasonality of employment and concentration of seasonal work in very similar regions and farms, and at the same time the possibility of seasonal workers' movement, including from regions and farms cultivating e.g. strawberries and raspberries to regions and farms where apple production dominates, it can be estimated that the actual needs of employment of seasonal workers in horticultural production (on farms) is able to satisfy approx. 250-260 thousand. persons employed for approx. 70 days. Farms specializing in fruit growing report the highest demand for seasonal workers. These farms employ 80% of seasonal workers. The most popular subclasses of NACE Rev.2 classification regarding seasonal work permits (2018-2019) include: 01.25; 01.24; 01.13; 01.29; 01.50; 01.61 and 55.20 in tourism.*

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

*Migrants usually worked in sectors and occupations that are least attractive for Polish citizens. The needs focused mainly on work that does not require higher qualifications, primarily auxiliary employees in agriculture, or unskilled workers in the hotel and catering industry, as well as in occupations related to qualified manual work, e.g. chefs. Some services, fruit collection, and*

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

*temporary employment agencies largely depended on the continuing supply of foreign workers, including seasonal workers.*

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

Yes

No

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

*There are currently no quotas in Poland, but it is worth noting that from January 1, 2018 the possibility of issuing an ordinance of the minister competent for labour was introduced, allowing the establishment of quotas for seasonal work permits, as well as for non-seasonal work permits and declaration on entrusting an employment to foreigners. The reason for using the quotas may be, for example, the situation on the labor market.*

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?

*The average time of processing the seasonal work permit application is about 5 days. We do not collect data on cost of processing of single application (these cost probably varies in 340 local labour offices).*

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

*As was explained above there are:*

*- a short term circular scheme based on employers declarations, but outside seasonal sectors in agriculture and tourism;*

*- seasonal work permits for foreigners already residing in Poland (national seasonal work permit).*

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?

*Poland has strictly implemented the Seasonal Workers Directive. Employers cannot choose a declaration or national work permit scheme for a foreigner who stays abroad.*

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

Yes

No

*In Poland, the labour market test consists of submitting a job offer to the poviast labour office, on the basis of which the labour office verifies the possibility of meeting the employer's staffing needs.*

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

*Consequently, obtaining an official information about the inability of meeting the employer's staffing needs is a condition for granting a work permit. Generally, it is an important mechanism to protect the Polish labour market, implementing the principle of complementarity of employment of foreigners with respect to the resources of native employees.*

*However, due to the fact that citizens of Ukraine and 5 other eastern countries are exempt from the labor market test, approximately 99% of seasonal permits are issued without a labour market test.*

21. Does your Member State facilitate the re-entry of seasonal workers?<sup>8</sup>

Yes

No

*For the nationals of Armenia, Belarus, Georgia, Moldova, Russia and the Ukraine the employer can submit the so-called multi-seasonal application for work permit, provided the said employer entrusted work to a foreigner based on a seasonal work permit at least once during 5 years preceding the application submission day. In such a case the application and a certificate of submission of application may refer to 2 or 3 consecutive calendar years. The "multi-seasonal certificate" is to be presented by the foreigner when applying for a visa in these years.*

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

Yes

No

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

*Farmers individually organize the arrival of seasonal workers. In practice, they often use the placement services of non-formal intermediaries, despite it is prohibited. Approximately 1,6% (about 2,1 thousand) seasonal work permit were issued in 2019 for temporary employment agencies.*

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

*The Ministry of Labour's websites, its Information for the Citizen contact point and The Employment Services Centre for Information and Consultation "Zielona Linia" ('Green Line') are the main channels for employers to obtain the information about the procedures and legal frameworks. Also, the Ministry organizes workshops and seminars about the employment of foreigners for labour offices on the regular basis (min. once a year). Also, the distribution of governmental brochures containing the basic information in this matter among labour and provincial offices, non-governmental and employers/es organizations is held regularly. Some information can be provided by local labour offices, voivodship's' offices or NGO's.*

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

---

<sup>8</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.

*A foreigner admitted as seasonal worker may take up a “regular” (not seasonal) job if a different type of work permit or employer’s declaration was granted. However, he/she cannot be granted a single residence and work permit.*

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

*The Ministry of Family, Labour and Social Policy conducted an internal evaluation - so-called Ex-post Impact Assessment, for the expert and working levels use. This working paper was created also on the base of the opinions of different stakeholders, e.g. National Labour Inspectorate, The Border Guard Service, Employers’ organizations (including the Polish Fruit Growers Association, Polish Horticultural Association, Polish Federation of Cattle Breeders and Milk Producers), agricultural producers, Ministry of Agriculture and Rural Development. Although general assessment was positive, employers often reported opinions about the burdens related to the seasonal work permit procedure and as we have mentioned above about scope of seasonal work.*

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?

Yes

No

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

Yes

No

*In order to streamline the procedure some local labour offices have introduced exclusively electronic procedure to submit the application. It provides a wide support for all employers to facilitate this process.*

### 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>9</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:

---

<sup>9</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

a. Family benefits;<sup>10</sup>Yes No 

*Seasonal workers (admitted according to SWD) are excluded from the family benefits and state aid for raising children. It is due to the fact that they are in Poland for a very short time.*

## b. Unemployment benefits;

Yes No 

*Seasonal workers (admitted according to SWD) cannot register as unemployed. They can register as a jobseeker without the right to unemployment benefits. It is due to the fact that they are in Poland for a very short time and with connection with specific job offer. If they want to stay in Poland for a longer time, they should obtain the appropriate residence title, allowing them to register as unemployed person (see in English at Granting the status of an unemployed - Wortal Publicznych Służb Zatrudnienia)*

c. Educational and vocational training not linked to the specific employment activity;<sup>11</sup>Yes No 

*Seasonal workers (admitted according to SWD) cannot have a right to vocational training and education concerning seasonal work, excluding financial support. It is due to the fact that they are in Poland for a very short time and with connection with a specific job offer. If they want to stay in Poland for a longer time, they should obtain the appropriate residence title, allowing them to register as unemployed person (see in English at Granting the status of an unemployed - Wortal Publicznych Służb Zatrudnienia)*

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>12</sup>Yes No 

*Seasonal workers are subject to general rules regarding tax matters*

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

<sup>10</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 (EU) No 1231/2010.

<sup>11</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>12</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

Yes No 

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.).*

*Within public authorities the National Labour Inspectorate is of great importance in this matter (they control legality of employment and work condition) and Border Guard Service (they control legality of entry, stay and employment). Among other institutions, specialized NGOs play the most important role. The role of trade unions, in agriculture in particular, is limited in Poland due to low level of unionization.*

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

Yes No 

*The ability to transfer social insurance contribution for TCN seasonal workers depends on existence of bilateral agreement on coordination of social insurance systems. There is such an agreement with Ukraine (since 2012).<sup>13</sup>*

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 

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>14</sup>

*Polish regulations do not specify standards for accommodation, except for collective housing such as hotels and similar accommodations and social accommodations. There are general provisions on sanitary and fire protection conditions, which are checked by the relevant services after the possible risks are reported. According to the provision of the Seasonal Workers Directive, that the accommodation conditions are to be in accordance with national rules, the check of the accommodation conditions are carried out on a general basis.*

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

Yes No 

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?

<sup>13</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>14</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.

Yes No 

*However this question is similar to question no. 24, it is worthy to add here that the governmental leaflets and brochures distributed by the Ministry of Labour are also sent out regularly to the embassies and consulates in order to inform the prospect employees and those who already reside and work in Poland about the rights and obligations.*

*The obligations of employers are also communicated by the local labour offices on a daily basis (which are informed due to the regular ministry's seminars mentioned in answer no. 24). Those institutions are on the front line for the employers intending to entrust work to a foreigner. Their main contact point is The Employment Services Centre for Information and Consultation "Zielona Linia" ("Green Line"), which develops a variety of communication channels, such as website's chat, call-centre, social media communicators or e-mails.*

35. Does your Member State have any specific procedures/mechanisms in place to monitor, assess and carry out inspections on whether:<sup>15</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 

*Free from charges advice and information on labour law and employment legality is provided by the National Labor Inspectorate (also in Ukrainian). It also examines employee complaints about non-compliance by employers with labour law, occupational health and safety and illegal employment. Addresses and phone numbers of local labour inspectorates (in each voivodeship city) and field branches (in other larger cities) can be found at [www.pjp.gov.pl](http://www.pjp.gov.pl)*

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

Yes No 

*Illegal work in Poland or illegal stay may result in serious consequences, such as a fine or obligation to return from Poland. The decision imposing the obligation to return involves an entry in the list of undesirable foreigners in Poland and the Schengen Information System for the purposes of refusing entry and the inability to re-enter the Schengen area. The institution involved in this respect is The Border Guard Service and Office for Foreigners.*

- 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 

*The leading state institution involved in this respect is The National Labour Inspectorate. It publishes the report every year which involves the outcomes of the controls undertaken, as well as describes the methodology and the premises for the audit in the particular year (i.e. why a given sector is under wider control while other not etc.). The newest report is*

<sup>15</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).

published in the NLI website: [Sprawozdanie Głównego Inspektora Pracy z działalności Państwowej Inspekcji Pracy – 2018](#)

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

Yes

No

*Regarding the leading state institution responsible for gathering the data on illegal employment in Poland see the answer 35 c).*

*Also, the Ministry of Labour summarizes the control institutions' reports (National Labour Inspectorate and Border Guard Service) into the 'Assessment of the risk of entrusting work to a foreigner without a valid residence permit', which we sent to these and other institutions involved.*

*However, none of the available state reports focuses on the seasonal work sector solely. It is rather a big picture of the situation in Poland, basing on the sectors where the control has been undergone.*

*Statistics summary:*

*NLI's latest published Report shows that in 2018 labour inspectors carried out 7,817 controls on the legality of employment and work performance by foreigners (by 9% more than in 2017 and by 84% more than in 2016). The legality of entrusting the work was carried out among 40.4 thous. foreigners.*

*In 2018, entrusting an illegal work to a foreigner was found during 1,438 inspections, i.e. during 18.4% of inspections carried out in this respect (in 2017 – during 14.8% of inspections, in 2016 – 16,1%). Illegal work was entrusted to 4,562 foreigners from 39 countries, including 4,560 foreigners who are citizens of 37 third countries, which represents 11.5% of foreigners controlled from these countries (in 2017 it was 5,385 foreigners – 11.9%, in 2016 – 5,186, 17.9%).*

*Also, according to the Ministry of Labour's "Assessment of the risk of entrusting work to a foreigner without a valid residence permit" (carried out in connection with the implementation of the so-called Sanctions Directive – Directive 2009/52) although the scale remains small in Poland, the percentage of controls that indicates the irregularities increased in 2015–2018 from 1.9% to 3.5%. In sector A of of NACE Rev.2 classification the percentage of controls in the last years was: 2016 – 3%; 2017 – 4%; 2018 – 2,3%.*

*For more data one shall contact NLI and BGS.*

37. How can seasonal workers lodge complaints against their employers?<sup>16</sup> Did your Member State set up some specific procedures to protect seasonal workers who lodge complaints?

Yes

No

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

<sup>16</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.



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

Yes No 

*Apart from criminal liability for violation of workers' rights, there is a provision concerning the case where the employer arranges accommodation for the seasonal worker and fails to comply with the obligation to provide the worker with a contract stating conditions of renting or lending the accommodation.*

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

Yes No 

*'Monitoring of Work and Stay of economic migrants on the territory of the Republic of Poland' (MPPC) is a long-term EU-funded project led by Ministry of Labour (MRPiPS) and project partners: Chief of Board Guard Service, National Labour Inspectorate, Office for Foreigners and Social Insurance Institution.*

*The 'MPPC' project aims to digitize, thereby optimizing and simplifying the process of taking up work by foreigners, as well as exchanging information about foreigners taking up work in Poland and about entrepreneurs acquiring foreigners as employees. Digitalization of the employment service process will support legal regulations introduced from January 1, 2018, aimed at sealing procedures and processes in the field of employment of foreigners in Poland.*

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

Yes No 

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 

### 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.*

**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).