



INFORMATION

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

-Croatian policies in connection to other Member States policies regarding attracting and protecting seasonal workers-

December 2020

European migration network produced Synthesis Report for the EMN Study on attracting and protecting seasonal workers, based on national contributions of EMN NCPs. The aim is to provide an overview of national experiences with admitting seasonal workers from third countries. Six years following the adoption of the Seasonal Workers Directive (2014/36/EU) and four years after its deadline for implementation by Member States. National contributions were largely based on desk analysis of existing legislation and policy documents, reports, academic literature, internet resources and reports and information from national authorities. Statistics were sourced from Eurostat, national authorities and other (national) databases.

DISCLAIMER

This Information is produced exclusively by EMN NCP Croatia in order to highlight main findings in the Study and to try and give comparative overview of Croatian policies in connection to other Member States policies regarding attracting and protection of seasonal workers.

EMN Synthesis Report and more information can be found [here](#).

CROATIAN POLICIES IN CONNECTION TO OTHER MEMBER STATES POLICIES REGARDING ATTRACTING AND PROTECTING SEASONAL WORKERS

The Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers is transposed into Croatian legislation by Aliens Act (Official Gazette, NO 130/11, 74/13, 69/2017, 46/18 and 50/20) and accompanying bylaws.

It should also be noted that Croatian Parliament passed new Aliens Act (Official Gazette, NO 133/20) that will be applicable as from 1 January 2021.

Eighteen Member States¹, including the Republic of Croatia, have admitted seasonal workers from third countries under the Seasonal Workers Directive. Only three Member States transposed the Directive, but no third-country seasonal workers have been

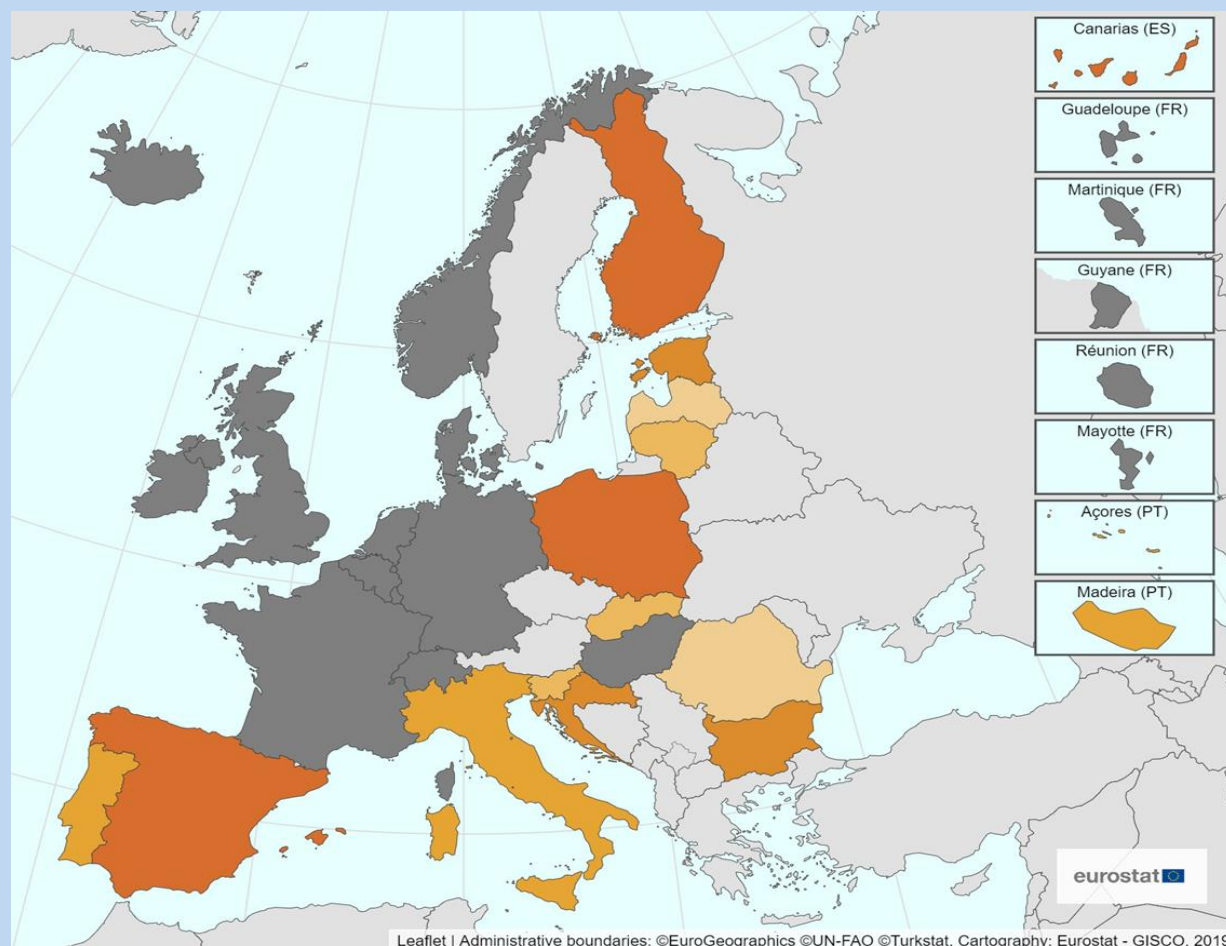
¹ AT, BE, BG, CY, CZ, EE, EL, FI, FR, HR, HU, IT, LT, LV, PL, PT, SE, SK

admitted so far². In regards to Ireland and the United Kingdom, the Directive is not applicable.

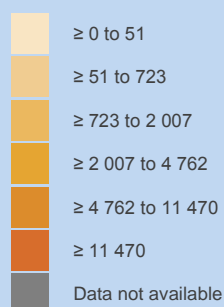
The data and comparative analysis refer to 2018 and 2019, where available, and do not include procedures prescribed under new Aliens Act.

ADMISSION, PROFILE OF SEASONAL WORKERS AND DURATION OF STAY

Figure 1. Number of authorisations issued to seasonal workers as per Member State for 2019



Legend



Source: EUROSTAT, https://ec.europa.eu/eurostat/databrowser/view/migr_ressw1_1/default/map?lang=en, data extracted on 8 December 2020.

² MT, DE, LU and NL

PROFILE OF SEASONAL WORKERS

For 2019, the number of seasonal workers differ across Member States, from more than 46 000 issued permits in Poland to 300 in Latvia. Seasonal workers across Member States originate mostly from neighbouring third countries. In 2018 most frequent countries of origin were Ukraine, Bosnia and Herzegovina, Serbia, North Macedonia, Moldova and Belarus.

Regarding the age of seasonal workers, only partial national data is available for Member States that shows that seasonal workers are young workers, between the age of 18 and 29 and 30 to 39. Regarding the skills level, most Member States do not collect data on skills level, and as regards gender distribution, limited data show that the share of male seasonal workers is slightly higher than female seasonal workers.

For the Republic of Croatia, figures show increase in issuing permits for seasonal workers when comparing the previous year. In 2019, 7962 seasonal permits were issued, compared to 2018, when 893 seasonal permits were issued. The fact that most seasonal workers are coming from neighbouring countries is also especially true for Croatia, with most seasonal work permits issued to nationals of neighboring countries, namely Bosnia and Herzegovina, Macedonia and Serbia, and predominately in tourism and hospitality sector.

As regards to gender distribution for 2018, it was almost equally distributed among male and female workers.

MAIN SECTORS

Across the Member States, the most significant sectors, where third countries were employed in 2018, were agriculture (including forestry), tourism and manufacturing. Majority of Member State indicated that seasonal workers were more in need during specific period of the year; namely late spring to summer. Some Member States³ pointed out that the need for seasonal workers occur in winter season, namely for winter-sports focused tourism.

In regard to the situation in the Republic of Croatia in 2018 and 2019, seasonal workers were mostly employed in accommodation and food services sector (namely tourism and the hospitality industry). Sector of agriculture, forestry and fishing sector (namely agriculture and forestry) were represented by less issued permits when compared to tourism and hospitality sector. As for the specific period of year, late spring and summer, early autumn are specific periods of the year where the need for seasonal workers is increased.

DURATION OF PERMIT

Overall, in Member States the length of residence permits varies, from 1 to 90 days (BG, PL, RO, SK, SI) to the fact that most permits for seasonal employment were issued for a validity of 7-9 months (ES, IT, PT).

while 6108 authorisations were issued with validity up to 6 months (between 91 days to 6 months).

For the Republic of Croatia, in 2018, 593 authorisations for seasonal work were issued with validity up to 90 days, while 298 authorisations were issued with validity up to 6 months (between 91 days to 6 months). For 2019, 1854 seasonal work permits were issued with validity up to 90 days,

³ AT, FI, FR, SE

ATTRACTION OF SEASONAL WORKERS TO ADDRESS LABOUR MARKET NEEDS

Most Member States are considering seasonal workers from third countries part of overall migration policy; and some Member States have in place bilateral agreements with third countries in order to attract seasonal workers⁴. In order to verify whether a job vacancy can be filled by a domestic citizen, EU/EEA national or third country national already forming part of national labour market, 16 Member States apply labour market test⁵. Some countries have annual quota systems in place, but they are rather aimed at specific third countries, specific jobs/sectors or specific regions.

Directive on Seasonal workers allow for facilitation of re-entry of seasonal workers who were already admitted within previous five years⁶ and most Member States included those measures. Measures vary across Member States from procedure acceleration⁷, exclusion from labour market test⁸ to exemption from submitting certain documents in application phase⁹. 13¹⁰ Member states allow for a change of status of seasonal worker, and in 8 Member States there is no provision allowing this change¹¹.

The Republic of Croatia admits third-country seasonal workers under Seasonal Workers Directives; and implemented quota system for seasonal work. The importance of foreign seasonal workers can be seen if comparing the numbers of annual quota for seasonal work for 2017 (13 quota

permits), 2018 (540 quota permits and was subsequently amended to include tourism sector and increased to 2040 in total) and 2019, with almost 9060 permits for seasonal employment (83% of quota was for tourism and hospitality sector). Third country nationals mainly provide workforce in tourism and hospitality sector, and majority of them come from third countries - Bosnia and Hercegovina, Serbia, Macedonia or Kosovo. Third country nationals from Ukraine also appeared as seasonal workers in 2018.

When comparing the sectors; the quota for seasonal employment in tourism and hospitality sector is usually very well fulfilled. In 2018 with almost 71%, and for 2019, almost 96% of permits in annual quota for seasonal employment were issued. For agriculture and forestry sector, it differs regarding the nature of vacant jobs.

The Republic of Croatia also facilitates the re-entry of a seasonal worker who was previously granted stay and work permit for seasonal work at least once in the previous five years. Provided that third country national did not act on the contrary to the provisions of Aliens Act relating to seasonal worker, no evidence regarding health insurance is needed. Also, in order to attract seasonal workers; some measures were put in place, namely on administrative level.

PROTECTION AND RIGHTS OF SEASONAL WORKERS AND PROCEDURAL SAFEGUARDS

As the Seasonal Workers Directive provides for equal treatments of seasonal workers and EU/EEA nationals in nine categories of rights listed under Article 23 (1) of the Directive. However, the temporary nature of stay of seasonal workers in

practice provides for obstacle, as they do not meet the minimum criteria and minimum contributory periods required to access some benefits. Regarding the access to suitable accommodation, Article 20 of the Directive includes provision aiming to ensure

⁴ DE, FR

⁵ AT, BE, BG, CY, CZ, ES, FI, FR, HU, LT, LV, LU, MT, NL, PL, SK

⁶ Article 16 Seasonal Workers Directive

⁷ BE, BG, EE, ES, HU, LV, PT, SI, SK

⁸ ES

⁹ FI, HR, LU, NL, PT

¹⁰ BE, EE, HR, HU, IT, LT, LV, NL, PL, PT, SI, SK, SE

¹¹ AT, BG, CY, CZ, ES, FI, FR, LU

the access to adequate accommodation for seasonal workers. Among Member States, there are great variations as to how this concept is defined and implemented; including criteria that focus on living space, sanitation, safety, access to utilities etc. Most Member States ensure that conditions are fulfilled by requiring proof either from employer or seasonal worker, usually in written form.

Some Member States reported practical challenges as regards risk of exploitation and equal treatment; noticing language barriers as an obstacle preventing seasonal workers from enforcing their rights. Some Member States detected cases of exploitation or human trafficking; as well as relation of dependence with employer resulting in reluctance to report infringements.

Among Member States, different actors are involved in the protection of the rights of seasonal workers. From Labour Inspectorate or State departments/agency responsible for regulating labour matters, Customs or tax authorities, the migration authorities, Labour Courts, Trade Unions, fire departments to police authorities.

In the Republic of Croatia in line with provisions of Aliens Act, a seasonal worker who holds that his or her right, guaranteed by this Act, is violated may institute an appropriate procedure against the employer before the competent court, state bodies or legal persons vested with public powers in the Republic of Croatia in order to ensure protection and realisation of such rights, in accordance with the legislation of the Republic of Croatia. A seasonal

worker may also institute the procedure referred to as above, after termination of employment with the employer, in accordance with the legislation of the Republic of Croatia.

A seasonal worker who has instituted the procedure of protection of rights may not be placed in a position that is less favourable than other workers employed with the employer and such circumstance shall not have detrimental effect on the realisation of his or her rights arising from the employment.

In the procedure of protection of rights, a seasonal worker may be represented, subject to his or her authorisation, by persons authorised to provide legal aid, that is, associations or other organisations authorised to do so, in accordance with special legislation.

Equal treatment as well as the transfer of statutory pension is ensured. As regards access to suitable accommodation, pursuant to the provisions of Aliens Act, an ensured adequate accommodation for the approval of a stay and work permit for seasonal work means accommodation providing the seasonal worker with an adequate living standard. The seasonal worker and the employer have to notify the police administration or police station of any change of accommodation within eight days of such change. Also, the competent body for issuing residence and work permits for seasonal workers (i.e. police administration/police station) shall issue to seasonal worker leaflet containing information on their rights and obligations during their stay and work in the Republic of Croatia.

MEASURES TAKEN IN RELATION TO COVID-19

Measures taken in relation to COVID-19 situation do not concern specifically seasonal workers, but rather all legal migration channels. All employers are urged to submit applications for residence and work permits (including applications for seasonal work) in line with relevant provisions of the Aliens Act, only by email. Residence and work permits are issued in form of a written decision and are delivered via e-mail or by postal service. Croatian Parliament passed on April 30 amendments to the Aliens in a bid to reduce the social contacts between administrative officers those subject to these rules,

at the police departments or stations during the COVID-19 epidemic. The amendments to the Aliens Act would permit third-country nationals to use the expired biometric residence permits they already received, during the epidemic and 30 days after the end of the epidemic. Third-country nationals still have the obligation to apply for renewal of expired temporary residence status/residence and work status if they wish to stay or work in Croatia, in line with provisions of Aliens Act, but they will not be subject to fines because they omitted to do so in due time.