



**AD HOC QUERY ON 2020.37 Conditions for granting a Seasonal Worker permit beyond the requirements in the Seasonal Workers' Directive 2014/36/EU**

**Requested by Anne SHERIDAN on 4 June 2020**

**Compilation produced on 30 September 2020**

**Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovakia, Slovenia, Sweden plus Norway (24 in Total)**

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## **1. Background information**

### Introduction

A review of Economic Migration Policy in Ireland which was completed in 2018 found that there is a clear role for time limited work permissions for seasonal contracts for typically 6-9 months and there is such a demand for a permit type for lower skilled workers. Proposed as an action to be introduced by primary

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legislation, a seasonal employment permit is being considered in order to provide for a non-EEA national to work in the State temporarily while retaining a legal domicile in a third country, for the purposes of employment in a sector of seasonal activity. Ireland does not participate in the Seasonal Workers' Directive 2014/36/EU.

Ireland is currently assessing the comparative situation in other EU Member States as part of the preparations to devise this scheme and to draft the legislation required, and the results of the EMN Seasonal Workers' Study will help inform this. Ireland would like to pose an additional question in relation to any additional conditions to the granting of a seasonal permit which are not covered by the Seasonal Workers' Directive 2014/36/EU.

We would appreciate your response by 2 July 2020.

## **2. Questions**

**1. Do you apply conditions to the granting of a seasonal permission beyond the requirements set out in the Seasonal Workers' Directive 2014/36/EU? Y/N**

*Available choices: Yes, No*

**2. If yes, how are these conditions managed?**

We would very much appreciate your responses by **2 July 2020**.

## **3. Responses**

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		Wider Dissemination <sup>2</sup>	
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<sup>1</sup> If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

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




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	EMN NCP Austria	Yes	1. No No. According to the Federal Ministry of Labour, Family and Youth, the Austrian seasonal workers model has proven adequate for meeting temporary, recurring needs for third-country labour. Yet, in addition to the possibility of issuing a Visa C or Visa D to allow a worker to accept seasonal employment, the Aliens Police Act 2005 also includes a visa option permitting individuals to pursue independent or dependent gainful employment merely on a temporary basis (Art. 24 para 1 subpara 1 and 2 Aliens Police Act 2005). Beyond that, migrant workers can apply for a Red-White-Red Card for skilled workers in certain shortage occupations that, according to the Public Employment Service, are commonly of a seasonal nature. We have no knowledge of the extent to which individuals belonging to these migrant categories are employed at jobs similar to seasonal work.  2.
	EMN NCP Belgium	Yes	1. No  2. N/A
	EMN NCP Bulgaria	Yes	1. No  2. N/A

<sup>2</sup> A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."




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	EMN NCP Croatia	Yes	1. No 2. N/A
	EMN NCP Cyprus	Yes	1. No 2. N/A
	EMN NCP Czech Republic	Yes	1. No 2.
	EMN NCP Estonia	Yes	1. No 2. N/A
	EMN NCP	Yes	1. No



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	France		<p>2. France applies the same conditions as those mentioned in the Directive. To be able to work in France as a seasonal worker, a third-country national must obtain a work permit, and a seasonal worker residence permit. The work permit is issued for a period of 6 months within a 12-month period and the employment and salary conditions should respect the French employment regulations and should be issued for the purposes of employment in a sector of seasonal activity. The seasonal worker has to maintain their residence in the country of origin. The residence permit issued to seasonal workers is valid for 3 years and renewable; however at the end of each employment contract (for a maximum of 6 months) the seasonal worker has to leave France and returns to their country of origin.</p>
	EMN NCP Germany	Yes	<p>1. No</p> <p>2. n/a</p>
	EMN NCP Greece	Yes	<p>1. Yes</p> <p>2. For granting of a seasonal permission the Greek Authorities implement the requirements set out in the Seasonal Workers' Directive 2014/36/EU, in combination with the volumes of admission.</p>
	EMN NCP Hungary	Yes	<p>1. No</p> <p>2. N/A</p>





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	EMN NCP Ireland	Yes	<p>1. No</p> <p>2. Ireland does not have a seasonal employment permit. A seasonal employment permit is being considered in order to provide for a non-EEA national to work in the State temporarily while retaining a legal domicile in a third country, for the purposes of employment in a sector of seasonal activity. Ireland is currently assessing the comparative situation in other EU Member States as part of the preparations to devise this scheme and to draft the legislation required. (See introduction to query).</p>
	EMN NCP Italy	Yes	<p>1. Yes</p> <p>2. Italy transposed the Directive 2014/36/EU with the Legislative Decree n. 203/2016 which modified the seasonal workers' regulation (art. 24 of the Consolidated law on Immigration, law n. 286/1998). According to Italian regulation, seasonal workers can obtain a residence permit for a maximum of 9 months and the competent authorities of the Member State shall adopt a decision on the application for authorisation for the purpose of seasonal work within 20 days. Beyond the directive, Italy provides that – if a foreigner shows of having worked as a seasonal at least one time in the last 5 years – a multiannual residence permit may be issued in case of repetitive employments (art. 5 par. 3 ter of law 286/1998). This multiannual residence permit is issued for a maximum period of 3 years and it must indicate the period of validity for each year (which can not be over 9 months for year). For completeness, it may be interesting to highlight that - due to the Covid-19 - Italy decided to</p>



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			extend the duration of residence permits for seasonal workers - which expired between 23 February and 31 May 2020 – until 31 December 2020 (Law n. 27/2020, the so-called “Cura Italia”).
	EMN NCP Latvia	Yes	1. No 2. N/A
	EMN NCP Lithuania	Yes	1. No 2. Not applicable, Lithuania does not apply conditions for granting seasonal work permits for seasonal workers beyond those set in the Seasonal Workers’ Directive.
	EMN NCP Luxembourg	Yes	1. No 2. N/A.
	EMN NCP Malta	Yes	1. No 2.

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	EMN NCP Netherlands	Yes	<p>1. Yes</p> <p>2. In the Netherlands a labour market test applies to applicants for seasonal work. If there are labour shortages in the Netherlands, the Employee Insurance Agency (UWV) will first assess whether there are Dutch nationals, other EU/EER-nationals or third-country nationals who are legally residing in the Netherlands and free on the labour market who can fulfil the job vacancy. Only if this is not the case, a third-country national can be hired as a seasonal worker and will receive a work permit. So far the latter has not occurred, and therefore no third-country seasonal workers have been admitted to the Netherlands under the Directive.</p>
	EMN NCP Poland	Yes	<p>1. No</p> <p>2. Polish regulations provide for the admission of third-country nationals residing abroad to perform work as seasonal workers using instruments in accordance with art. 12, par. 1 (b) or (c) for short stays and art. 12, par. 2 (a) and par. 8 for long-term stays. As for the work permit, referred to in art. 12 par. 1 (b) and (c) and par. 8, they are generally issued after meeting the conditions corresponding to the requirements of Directive 2014/36 / EU. Its specificity consists of a two-step procedure. In the first stage, the employer receives a certificate of submission of an application for a seasonal work permit for a foreigner staying abroad, which is the basis for issuing a visa or entry to the territory of Poland of a foreigner exempt from the visa requirement. In the second stage, after presenting the</p>





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			proof of entry of the foreigner into the territory of Poland and the foreigner's address of residence, the employer receives a seasonal work permit. The Office for Foreigners is competent in terms of the conditions for issuing visas and temporary residence permits as well as the entry and stay of foreigners exempt from the visa requirement.
	EMN NCP Portugal	Yes	<ol style="list-style-type: none"> <li>1. No</li> <li>2. NA</li> </ol>
	EMN NCP Slovakia	Yes	<ol style="list-style-type: none"> <li>1. No</li> <li>2. NA</li> </ol>
	EMN NCP Slovenia	Yes	<ol style="list-style-type: none"> <li>1. Yes</li> <li>2. Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers allows "authorization for the purpose of seasonal work" to be issued by Member State to the holder to stay and work on the territory of the Member State up to 90 days as set out in Article 12. On the other hand, "seasonal worker permit" is issued in the format laid down in Council Regulation (EC) No 1030/2002. Due to COVID-19 measures, especially closed borders to third countries, holders of valid authorization for the purpose of seasonal work could not enter the Republic of Slovenia. For that reason, we envisaged in the intervention measures possibility to</li> </ol>

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			prolong this authorization from 90 to 150 days. We are still looking for the possibility to make by-pass to Council Regulation (EC) No 1030/2002, when exceeding 90 days of stay in the country.
	EMN NCP Sweden	Yes	1. No 2.
	EMN NCP Norway	Yes	1. No 2. Norway is not bound by directive 2014/36/EU

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