



CZECH  
REPUBLIC

# ATTRACTING AND PROTECTING SEASONAL WORKERS FROM THIRD COUNTRIES IN THE EU



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## **1 STUDY AIMS**

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

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

### **1.1. Target Groups/Audiences**

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

## **2. SCOPE OF THE STUDY**

The study primarily covers the category of third-country nationals who enter and reside in an EU Member State for the purpose of seasonal work within the framework of the Seasonal Workers Directive. In a few cases, questions also concern those who may be considered seasonal workers but are not covered by the Directive, as they have a different temporary work or residence status. The Directive is not applicable in Denmark, Ireland, Norway and the United Kingdom. Hence, as far as

these (Member States) are participating in this EMN study, they are asked to report on equivalent national measures.

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

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

### **3. EU LEGAL AND POLICY CONTEXT**

Seasonal work is a type of temporary employment linked to specific periods of the year and to specific economic sectors, such as agriculture or the tourist industry. In EU Member States, seasonal work is carried out both by EU citizens and third-country nationals. The European Commission estimates that over 100 000 non-EU seasonal workers come to the EU every year,<sup>1</sup> and given that seasonal workers are becoming increasingly important in some Member States as a means to fill labour market needs, the protection of their rights has received increased attention from EU and national policy-makers in recent years. As noted by Eurofound,<sup>2</sup> seasonal workers are often treated less favourably than permanent workers in terms of legal entitlements, benefits offered by employers and other employment conditions.

A key development in this area is the Seasonal Workers Directive (Directive 2014/36/EU) adopted in 2014, which aims to support the effective management of migration flows for this specific category of seasonal temporary migration and to ensure decent working and living conditions for seasonal workers, by setting out fair and transparent rules

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

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

for admission and stay and by defining the rights of seasonal workers, while at the same time providing for incentives and safeguards to prevent overstaying or temporary stay from becoming permanent. This is to be achieved through clearer and more harmonised admission rules and working conditions set out in the Directive, and thereby also help prevent exploitation and protect the health and safety of seasonal workers. The Directive also encourages the circular movement of seasonal workers between the EU and their countries of origin through the introduction of a facilitated re-entry procedure for subsequent seasons. Since the adoption of the Directive, Member States are no longer permitted to implement parallel national schemes for the admission of seasonal workers. However, Member States may regulate the volumes of admission for seasonal workers covered by the Directive as well as for those who are outside of the Directive's scope. However, as the Directive gives Member States some flexibility to determine which sectors are seasonal, it is possible that in some Member States, not all third-country nationals who undertake a form of seasonal work, or work of a cyclical nature, are covered by the Directive, and that these are instead covered by national schemes.

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

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

market may not require this type of workers. On the basis of these hypotheses, the study will focus on the following primary questions:

- What is the profile of third-country national seasonal workers in the EU?
  - > What is the age, country of origin, gender, skills level, etc. of seasonal workers?
  - > In what sectors are they mostly employed?
- Do Member States place specific efforts on attracting seasonal workers, with a view to addressing labour market needs?
  - > Do Member States rely on seasonal workers from third countries to fill labour market needs? If yes, in which sectors?
  - > How do Member States facilitate the re-entry of seasonal workers?
- How does the Seasonal Workers Directive achieve its goal of protecting seasonal workers?
  - > What rights do seasonal workers enjoy in the Member States?
  - > What monitoring systems for seasonal workers and their employers are in place in the Member State?

## 5. RELEVANT SOURCES AND LITERATURE

- EMN 2011 study: Temporary and Circular Migration empirical evidence, current policy practice and future options,- [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/circular-migration/0a\\_emn\\_synthesis\\_report\\_temporary\\_\\_circular\\_migration\\_publication\\_oct\\_2011\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/circular-migration/0a_emn_synthesis_report_temporary__circular_migration_publication_oct_2011_en.pdf)

- Temporary and circular migration: opportunities and challenges, [http://www.epc.eu/documents/uploads/pub\\_1237\\_temporary\\_and\\_circular\\_migration\\_wp35.pdf](http://www.epc.eu/documents/uploads/pub_1237_temporary_and_circular_migration_wp35.pdf)
- Commission Staff Working Document “Fitness Check on EU legislation on legal migration”, SWD(2019)1055 and SWD(2019)1056, 29.03.2019, [https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/fitness-check\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/fitness-check_en)
- Fudge, J. & Herzfeld Olsson, P. (2014). The EU Seasonal Workers Directive: When Immigration Controls Meet Labour Rights. *European Journal of Migration and Law* 16 (2014), 439, 466. Available at: [http://www.labourlawresearch.net/sites/default/files/papers/Seasonal%20Workers%20Directive%20%20EMIL\\_016\\_04\\_439-466.pdf](http://www.labourlawresearch.net/sites/default/files/papers/Seasonal%20Workers%20Directive%20%20EMIL_016_04_439-466.pdf)
- Zoetewij-Turhan, M.H. (2017). The Seasonal Workers Directive: ‘...but some are more equal than others’. *European Labour Law Journal* 2017, Vol. 8(1) 28-44. Available at: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/legal-migration/201712\\_article\\_seasonal\\_worker\\_directive\\_legal\\_migration\\_consultation\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/legal-migration/201712_article_seasonal_worker_directive_legal_migration_consultation_en.pdf).

## 6. AVAILABLE STATISTICS

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

- Authorisations issued for the purpose of seasonal work by economic sector, sex and citizenship [migr\_ressw2]. **Note:** Eurostat data only covers the years 2017 and 2018; data is (currently) not available for both or one of the years for AT, BG, BE, CY, CZ<sup>3</sup>, DE, EL, FI, FR, IE, LU, MT, NL, NO, PL, PT, SE, SK.
- Authorisations for the purpose of seasonal work by status, length of validity, economic sector and citizenship [migr\_ressw1\_1]. **Note:** Eurostat data only covers the years 2017 and 2018; data is (currently)

<sup>3</sup> The Czech Republic cannot provide data according to EUROSTAT’s categories.

not available for both or one of the years for AT, BE, BG, CY, CZ, DE, IE, EL, FI, FR, LU, MT, NL, PL, SE.

- First permits issued for remunerated activities by reason, length of validity and citizenship [migr\_resocc].

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

Kindly note the following: datasets migr\_ressw2 and migr\_ressw1\_1 count the number of permits/authorisations/ notifications issued for the purpose of the directives allowing double counting of same persons during the year. Therefore, the unit of measure is the number of permits/authorisations/ notifications for these data collections, instead of number of persons as it is in other statistics on residence permits. Please see the respective Eurostat metadata for further details: [https://ec.europa.eu/eurostat/cache/metadata/en/migr\\_res\\_esms.htm#meta\\_update1575469383640](https://ec.europa.eu/eurostat/cache/metadata/en/migr_res_esms.htm#meta_update1575469383640)

## 7. DEFINITIONS

According to the EMN Glossary<sup>4</sup>, a **seasonal worker** is defined as “a third-country national who retains their principal place of residence in a third country and stays legally and temporarily in the territory of an EU Member State to carry out an activity dependent on the passing of the seasons, under one or more fixed-term work contracts concluded directly between that third-country national and the employer established in that EU Member State”.

<sup>4</sup> EMN Glossary Version 6.0, available at [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/glossary\\_search/seasonal-worker\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/seasonal-worker_en)

# THE CONTRIBUTION OF THE CZECH REPUBLIC

## INTRODUCTION

In the Czech national legislation, “seasonal work” is defined as employment dependent on changing seasons of the year that cannot exceed 6 months within the period of every 12 months. The first migration scheme for seasonal workers was introduced in 1991. The Seasonal Workers Directive (Directive 2014/36/EU) was implemented into the Czech legislation (Act No. 326/1999 Coll. on the Residence of Foreign Nationals in the Territory of the Czech Republic) in August 2017. From that time it is possible to ask for short-term visa or long-stay visa for the purpose of seasonal work. The sectors which are defined as seasonal are stipulated by the Regulation No. 322/2017 Coll. The activities included in the Regulation are the following ones: accommodation services; plant and livestock production, hunting and related activities, catering and restaurant services, forestry industry and logging and sports, entertainment and recreational activities.

In 2018, there were only 1 313 visas granted for the purpose of seasonal work (including both short-term and long-stay visa). The low number can be explained by the existence of other legal statuses which the Czech Republic grants for the purpose of work such as the short-term visa for the purpose of work.

The majority of persons who arrived in the Czech Republic for the purpose of seasonal work were 26-30 years old male.

There are the same employment conditions applied to foreign nationals (seasonal workers) as to other employees in the Czech Republic. They have also the same rights to lodge a complaint against their employer or company through the same channels as other employees in the Czech Republic. The only difference is in their access to some benefits. In the Czech Republic the access to state benefits depends on the legal status of the person (short-stay visa, permanent residence etc.).

## Section 1

### PROFILE OF SEASONAL WORKERS

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

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

**Q1. Has your Member State admitted third-country seasonal workers under the Directive?**

Yes.

No.

## Q2. What are the sectors covered by the Seasonal Workers Directive in your Member State?<sup>5</sup>

To issue a work permit for the purpose of seasonal work the job has to be dependent on the season and can last only for max. of 6 months in consecutive 12 months. The Regulation No. 322/2017 Coll. stipulates the list of job sectors which are defined as seasonal activities:

- Accommodation services
- Plant and livestock production, hunting and related activities
- Catering and restaurant services
- Forestry industry and logging
- Sports, entertainment and recreational activities

*Q2a. In which sector(s) were seasonal workers mostly employed in 2018?<sup>6</sup>*

The Czech Republic does not collect statistics on issued seasonal work permits according to a specific sector.

*Q2b. Are there sectors of seasonal work that are not covered by the Directive?*

Yes.

No.

<sup>5</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 To be cross-checked with Eurostat data.

### **Q3. What were the top-5 countries of origin of seasonal workers in your Member State in 2018?**

In 2018, the Czech Republic granted visas to 1 313 seasonal workers worldwide. The majority of these permissions were granted through our consulates in Ukraine (970, i.e. 74 %), Kazakhstan (222, i.e.17 %), Moldova (72, i.e. 5 %), Cuba (37, i.e. 3 %) and Azerbaijan (8, i.e. 0,6 %). The numbers include both short-term and long-term visas.

### **Q4. What was the main age group of seasonal workers who received an authorisation in 2018 in your Member State?**

The seasonal workers, who were granted visas by the Czech Republic in 2018, were mostly around 30 years old (the average age was 36 years, the median was 34 years). The main age groups were as follows: 26–30 years (21 %), 21-25 years (16 %), 31-35 years (14 %), 41-45 years (13 %) and 36-40 years (12 %).

### **Q5. What was the gender distribution of seasonal workers who received an authorisation in 2018 in your Member State?**

The gender distribution of visas granted to seasonal workers by the Czech Republic in 2018 was heavily weighted towards the male part of the population. Men accounted for 69 % of the visas granted.

### **Q6. Does your Member State have a minimum salary set in law?**

Yes.

No.

The minimum salary in the Czech Republic is 14 600 CZK which is approximately 570 EUR (minimum salary in May 2020).

**Q7. What was the average/minimum salary of seasonal workers in 2018?**

The minimum salary is the same for every employee in the Czech Republic and it cannot be lower for a seasonal worker (for instance, the average monthly gross wage in the forestry industry amounted to 28 858 CZK which is approximately 1 154 EUR in 2018).

**Q8. 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 granted visas was 3 months.

**Q9. Is there a specific period of the year where there is more need for seasonal workers?**

Yes.

No.

The specific periods are spring, summer, autumn.

**Q10. 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.

The average skills in general are low and medium.

**Q11. Are there any alternative categories of migrant workers who perform temporary work of a cyclical nature who are not covered by the Seasonal Workers Directive?**

*Please only consider those categories of seasonal workers which show the same characteristics, or very similar ones, as those covered by the Directive (duration of stay in Member State, cyclical nature of their work, main residence outside the Member State, etc.)?*

Yes.

No.

There exist non-extendable “special work visa” that were introduced in December 2019 and short-term (Schengen) visa for the purpose of work, both of which might be used by workers who perform temporary work of a cyclical nature.

**Q12. 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)?**

Regarding the short-term (Schengen) visa for the purpose of work, the main difference lays in simplicity and speed in proceeding of application. The national non-extendable “special work visa” for an employment-related stay longer than 3 months and not exceeding 12 months might be preferred by employers and migrants because when their holders return to their countries of origin after their visas expire, they are not required to spend any minimal period of time at home before they might be granted a new work permit and a visa. In case of long-term seasonal work visas, there has to be a gap of 6 months between each seasonal job.

**Q13. In your Member State, are seasonal work activities known to be performed by irregular migrants?**

Yes.

No.

The Czech Republic does not have data on numbers of irregular migrants employed in typically seasonal sectors. We can only presume that seasonal job sectors are more prone to attract irregular migrants than other job sectors. Especially persons who arrive in the Czech Republic with short-term visas or within visa-free regime abuse conditions of their stay and work in seasonal job sectors.

There is an annual report of the State Office of the Employment Inspection in which the numbers of convicted illegally working foreigners are presented. However, it is not divided by the types of issued permits in the Czech Republic.

## 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?**

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

**Q14. Is the entry and stay of seasonal workers from third countries part of your overall migration policy?**

Yes.

No.

**Q15. Did your Member State develop measures to attract seasonal workers?**

Yes.

No.

The Czech Republic does not have specific measures to attract seasonal workers because its migration strategy targets companies and not individuals. In December 2019 the Czech Government approved a Programme Special Work Visa for Ukrainian Citizens which is meant for companies focused on forestry industry, agriculture or grocery in need of seasonal workers. The maximum annual quota is 1 500 persons.

**Q16. Does your Member State rely on seasonal workers from third countries to fill labour market needs?**

Yes.

No.

*Q16a. If yes, for which sectors and what are these labour market needs?*

Forestry, agriculture and grocery industry.

*Q16b. 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

In 2019 a migration project called Zemědělec (Agriculturist), which targeted seasonal workers in agriculture and grocery industry, was implemented. In 2020 this project was replaced by the Programme Special Work Visa for Ukrainian Citizens.

**Q17. Does your Member State implement an annual quota for seasonal workers?**

Yes.

No.

**Q18. 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 processing time regarding the short-term (Schengen) visa for the purpose of work was approximately two weeks (there do not exist any official statistics), as far as the long-term visas are concerned the average processing time was 30 days in 2018.

Short-term seasonal work visa: € 80 (€ 35 in Ukraine, Moldova, Russia and major countries of origin of seasonal workers in the Czech Republic)

Long-term seasonal work visa: € 100

**Q19. 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):**

*Q19a. Does your Member State have one or more specific national schemes to cover these categories?*

Yes.

No.

In December 2019, the Czech Republic introduced a national non-extendable “special work visa” for an employment-related stay longer than 3 months and not exceeding 12 months. Applicants are required to obtain a work permit. Unlike other types of visas and permits, special work visas are not issued continuously. Their issuing must be triggered by a government regulation in a situation of serious labour shortages in the national labour market. Visas are thereafter temporarily issued for a fixed period of time (e.g. 3 years) specified by the regulation.

*Q19b. 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?*

Employers and migrants may prefer special work visas because when their holders return to their countries of origin after their visas expire, they are not required to spend any minimal period of time at home before they might be granted a new work permit and a visa. In case of long-term seasonal work visas, there has to be a gap of 6 months between each seasonal job.

**Q20. Does your Member State apply a labour market test to seasonal workers?**

Yes.

No.

The labour market test is applied by offices of the Labour Office of the Czech Republic in case of application for work permit (or in case of application for extension of work permit) for seasonal workers. In such cases it is necessary to check if there is no available candidate from the database of the Labour Office or among persons with free access to Czech labour market.

**Q21. Does your Member State facilitate the re-entry of seasonal workers?<sup>6</sup>**

Yes.

No.

The Ministry of the Interior will evaluate preferentially application of persons who were issued at least once by the long-term visa for the purpose of seasonal work in last 5 years (Sec. 32, Par. 5 of the Act No. 326/1999 Coll. on the Residence of Foreign Nationals in the Territory of the Czech Republic).

**Q22. Does your Member State cooperate with third countries to attract seasonal workers (e.g. bilateral or multilateral agreements)?**

Yes.

No.

**Q23. Who are the relevant actors in attracting seasonal workers (e.g. recruitment agencies)?**

The most active actors in attracting seasonal workers are private sector and business confederations/federations/unions.

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<sup>6</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.

**Q24. How are employers informed about the procedure for hiring seasonal workers?**

All necessary information for employers are freely accessible on the websites of the Ministry of the Interior, Labour Office of the Czech Republic etc.

Furthermore, there are seminars organised by the Ministry of the Interior, Ministry of Labour and Social Affairs etc. which focus on spreading information on this topic.

**Q25. 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.

**Q26. 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.

**Q27. 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.

The Czech Republic does not have data on a misuse in the application of the Directive.

**Q28. Are there any good practice examples in relation to the attraction of seasonal workers in your Member State?**

Yes.

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?**

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

**Q29. 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:**

*Q29a. Family benefits;<sup>7</sup>*

Yes.

No.

Entitlement to benefits in the Czech Republic depends on legal status of a person.

Foreign nationals who are issued a long-term visa for the purpose of seasonal work are entitled to care allowance.

*Q29b. Unemployment benefits;*

Yes.

No.

One of the conditions for entitlement to unemployment benefits is to have a permanent residence permit in the Czech Republic. According to the Directive seasonal workers do not fulfil this condition.

*Q29c. Educational and vocational training not linked to the specific employment activity;<sup>8</sup>*

Yes.

No.

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<sup>7</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 No. 1231/2010.

<sup>8</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.

*Q29d. 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>9</sup>*

Yes.

No.

Tax benefits may be claimed in case the person who does not have tax residence in the Czech Republic, has it in other Member State of the EU or EEA and fulfil other conditions set by the Act No. 586/1992 Coll. on Income Tax.

*Q29e. Are there any practical difficulties to ensuring equal treatment in the areas defined in the Directive?*

Yes.

No.

**Q30. Who are the most important actors in your Member State regarding the protection of seasonal workers' rights and what is their role?**

There are several actors involved in the protection of employees in general e.g.:

- State Office of Labour Inspection and its regional offices which carry on controls and other prevention activities.

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<sup>9</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.

- Social partners such as trade unions which provide information materials for employers and employees, educational seminars etc.
- Municipalities and other local state actors (Centres for Support of Integration of Foreign Nationals) which provide information materials for employers and employees, educational seminars, legal and social counselling etc.
- NGOs which provide information materials for employers and employees, educational seminars, legal and social counselling etc.

**Q31. Is there a framework in place enabling the transfer of pension contributions to origin countries?**

Yes.

No.

**Q32. 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.

**Q33. 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>10</sup>**

<sup>10</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.

The accommodation building must be approved for habitation or recreation in accordance with the Building Act. Accommodation cannot be obviously disproportionate to the quality of housing that is common in local population residing in the relevant area (town/city). With regard to the hygienic conditions, at least 8 m<sup>2</sup> of a habitable room is required for any single accommodated person, at least 12,6 m<sup>2</sup> for 2 persons and 5 m<sup>2</sup> more for each additional accommodated person.

The seasonal worker has to submit confirmation of accommodation. The accommodation has to fulfil the above mentioned standards and that might be controlled by state authorities (legal necessities of confirmation of accommodation are stated in Sec. 31, Par. 6 of the Act No. 326/1999 Coll. and Sec. 32, Par. 3 connected to Par. 100, Let. d) of the Act No. 326/1999 Coll.).

*Q33a. Are there any good practices in relation to ensuring adequate accommodation, considering the temporary nature of stay of seasonal workers?*

Yes.

No.

**Q34. Does your Member States have procedures/mechanisms in place to ensure that seasonal workers and their employers are informed of their rights and duties?**

Yes.

No.

General information is available on the websites of the Ministry of the Interior, Ministry of Labour and Social Affairs and the State Labour Inspection Office. Moreover, there is counselling provided by the Centres for Support for integration of Foreign Nationals which are in all regions

of the Czech Republic. Free support and information are provided also by several NGOs.

**Q35. Does your Member State have any specific procedures/mechanisms in place to monitor, assess and carry out inspections on whether:<sup>11</sup>**

*Q34a. 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.

Seasonal workers have the same rights and duties as Czech employees according to the Employment Act. Their observance is ensured by the State Office of Labour Inspection and its regional offices. These offices pursue inspections on observance of legal rules and demand employers to fix any insufficiencies.

*Q34b. Seasonal workers abide by the rules (e.g. no overstaying)? How does that work and who are the actors involved?*

Yes.

No.

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<sup>11</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).

*Q34c. 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 State Office of Labour Inspection pursues controls systematically among employers. Employees can also notify the State Office of Labour Inspection on specific insufficiencies on the side of their employer and on this basis the Office inspects the specific problem in question and the general working conditions. If any insufficiencies or violations of employees' rights are detected, the employer might be fined.

**Q36. Does your Member State collect statistics on the procedures/mechanisms described in question 36?**

Yes.

No.

**Q37. How can seasonal workers lodge complaints against their employers?<sup>12</sup> Did your Member State set up some specific procedures to protect seasonal workers who lodge complaints?**

Yes.

No.

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<sup>12</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.

They can do it in person and deliver the complaint to a specialised state agency (e. g. the State Office of Labour Inspection, Ministry of the Interior, Financial Office etc.) or they can do it through some NGO.

Some of the above mentioned organisations provide also legal counselling.

**Q38. Are there specific sanctions in place in your Member State against employers who have not fulfilled their duties under the Seasonal Workers Directive?**

Yes.

No.

There are no specific sanctions if the employers do not fulfil duties under the Seasonal Workers Directive, however, the duties were transposed to the national legislation (Act No. 235/2004 Coll., on Employment). Therefore, there are in place sanctions on non-fulfilment of duties based on this legal Act.

**Q39. Do migration authorities and labour authorities cooperate in relation to the monitoring of seasonal workers and their employers?**

Yes.

No.

In the Czech Republic a well working cooperation between Ministries and other sectors in terms of fighting against illegal employment of foreign nationals is established. The primary aim of this cooperation is not the topic of seasonal workers, yet this area is closely related with other issues discussed in terms of this cooperation.

The cooperation is enhanced by the dialogue with NGOs and state agencies focused on controls of observance of legal rules. These entities provide feedback and proposals to the Ministries. This data then shape state policies focused on fighting illegal employment and in that way the observance of legal standards for employees is ensured.

**Q40. Has your Member State detected seasonal workers who are victims of exploitation or human trafficking?**

Yes.

No.

**Q41. 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 4

### CONCLUSIONS AND LESSONS LEARNED

In the Czech national legislation, “seasonal work” is defined as employment dependent on changing seasons of the year that cannot exceed 6 months within the period of every 12 months. The first migration scheme for seasonal workers was introduced in 1991. 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 was implemented on 15 August 2017 without a necessity of any significant modification of the already existing national scheme.

Seasonal jobs are explicitly limited to selected sectors of economy (corresponding to the categories of the European Classification of Economic Activities (NACE)) specified by the decree of the Ministry of Labour and Social Affairs. The list includes:

- accommodation services
- plant and livestock production, hunting and related activities
- catering and restaurant services
- forestry industry and logging
- sports, entertainment and recreational activities

Unlike many other EU Member States, the Czech Republic has never included work in construction sector among seasonal jobs.

Attraction of seasonal workers is not a priority of a Czech immigration policy. Although seasonal workers address labour shortages in several important segments of the national economy, no special initiatives aimed at this target group have even been needed.

The most important country of origin of seasonal workers is Ukraine. Ukrainians constitute a dominant part of the overall labour migration inflow to the Czech Republic. Admitted seasonal workers are typically low-skilled males, around 30 years old.

A vast majority of employers prefer to recruit third-country nationals for short-term seasonal jobs not exceeding 3 months, mainly because migration procedures are simpler and quicker than processing of applications for a long-term stay. Employers hiring foreign workers on long-term basis often prefer an extendable and more versatile Single Permits from non-extendable seasonal long-term visas. The Czech Republic therefore currently grants only about 1 000–1 500 seasonal long-term visas in a year.

In December 2019, the Czech Republic introduced a new national non-extendable “special work visa”. This type of visa serves for an employment-related stay which is longer than 3 months but does not exceed 12 months. The visa bridged the gap in long-term labour migrations schemes that existed between non-extendable seasonal work visas (not exceeding 6 months) and extendable Single Permits (granted preferably for at least 1 year). The visa can be issued for jobs in some of the economic sectors which are also included in the list of seasonal-work-related sectors, namely agriculture, food production and forestry.

Seasonal workers may benefit from facilitation of their re-entry. Applications of migrants who were admitted at least once in previous 5 years are processed preferentially. Seasonal worker may not extend

their stay and they are required to return to their countries of origin. Changes of status are not allowed. Safeguards securing that standards of seasonal workers' accommodation stipulated by the law are observed are embedded in the admission procedure.

Seasonal workers are entitled to equal treatment with respect to remuneration (the Czech Republic introduced no special salary threshold for seasonal workers), access to public healthcare and social insurance. In general, a limited length of their permitted stay reduces the scope of social benefits to which they may become entitled and excludes them from the system of unemployment benefits.

Protection of seasonal workers' rights rests on shoulders of the State Labour Inspection Office and its regional offices controlling wages, working condition and labour safety. Foreign Police carry out inspections in accommodation facilities and may control whether standards of seasonal workers' accommodation are respected. Information and consulting services are provided by Centres for Support of Integration of Foreign Nationals if seasonal workers contact them and ask for help.

No cases of misuse/abuse of a seasonal work scheme has ever been detected by Czech authorities.

In her response to the Covid-19 pandemic outbreak in 2020, the Czech Republic declared a state of emergency lasting from 12 March 2020 to 17 May 2020. In order to curb the impact of the pandemic, the Czech Government introduced a partial lockdown, closed national land borders and suspended an intake and processing of all applications for visas and residence permits. A limited admission of third-country nationals started on 11 May 2020 in the framework of a national relief policy. Due to their importance for Czech agriculture, food production and forestry, seasonal workers belonged to the first preferential target group of labour migrants exempted from an entry ban. Newly arriving seasonal workers were being allowed to enter the Czech territory under the condition they present a medical certificate on SARS-CoV-2 PCR negative testing results.



The content of this study  
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EMN Contact Point in the Czech Republic

Published by the Ministry of the Interior

Graphics by Jindřich Hoch

2020

ISBN 978-80-7616-069-9

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