



EMN Ad-Hoc Query on SI AHQ on seasonal work based on EU Directive No. 2014/36/EU.

Requested by Helena KOROSEC on 10th October 2016

Residence

Responses from Bulgaria, Cyprus, France, Netherlands, Poland, Portugal, Slovenia (7 in total)

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.


Background information:


Ministry of the Interior of R Slovenia is in the process of adopting some modifications to the Alien Act based on the applicable EU legislation. SI would appreciate it very much if Member States could share information about their national regulation in case of issuing permits to those third country nationals (TCNs) who applied for seasonal work based on provisions adopted by the Directive No. 2014/36/EU (Articles 12, 14, 15 and 16). Please reply on the following questions:


Questions



1. Which type of permit is foreseen by national legislation for TCNs seasonal workers in case their stays in country exceeding 90 days (Article 12 (2))?
2. Which is the maximum period of stay for TCNs seasonal workers in 12-month period determined by your national legislation? (Article 14)?
3. Which options of renewal (single, repeated) of the authorisation for the purposes of seasonal work Member State use when TCNs extend their contract with the same employer and in case of different employer (Article 15)?
4. Which of the possible measures for facilitating re-entry of TCNs who were admitted as seasonal workers Member State used at least once within five years period (Article 16)?



Responses

	Country	Wider Dissemination	Response
	Bulgaria	Yes	1. According to Article 24 k from the Law for the Foreigners in the Republic of Bulgaria which regulates: “A permission for a foreigner –a seasonal worker who has right to obtain a permit for a continuous stay, might be granted to a foreigner who meets the legally established requirements for carrying out activities at the labor market, in compliance with the Law for the labor migration and labor-mobility, who has also obtained a visa as stated Article 15, paragraph 1“. A permission for a seasonal worker will be issued to foreigners meeting the above said criteria from the authorities of Ministry of Interior, as set in a Regulation (EU) № 1030/2002, as in the field „Type of permission”

			<p>should be checked “seasonal worker”, and in the field “Note” should be checked the corresponding requirement for access to the labor market, letter “c” of Article 12, paragraph 2.</p> <p>2. In Article 24 k from the Law for the Foreigners in the Republic of Bulgaria it is set: ‘Permission for a seasonal worker with a right of a continuous stay will be granted to a foreigner who meets the legally established requirements for access to the labor market according to the Law of labor migration and labor mobility and who has obtained a visa as it is set in Article 15, paragraph 1. The permission set in Paragraph 1 might be granted after a resolution of the authorities of Ministry of labor and social policy for the term of the labor contract, but not less than 90 days or not more than 9 months. The permission might be extended once within the mentioned period, after resolution of the authorities of Ministry of labor and social policy.</p> <p>3. What is provided in Article 24k, paragraph 7 from the Law for the Foreigners in the Republic of Bulgaria: “When the permission mentioned in Article 24k, paragraph 1 expires, while the procedure of prolonging or renewing still proceeding, the seasonal worker has a right to stay on the territory of the Republic of Bulgaria, until the resolution on the application will be granted, if the application was filed within the term of validity, referred in Article 24k, paragraph 1, and it is still valid according to Article 24k, paragraph 2. Article 29 of the Law for labor migration and labor-mobility provides, that in cases concerned in Article 24k, paragraph 7 from the Law for the Foreigners in the Republic of Bulgaria, the seasonal worker can continue to work for the same employer or to change him /her after a decision of the Deputy Director of National Employment Agency.</p> <p>4. In Migration Directorate the following speeded procedure was envisaged “When the certain foreigner was registered already as a seasonal worker on the territory of Republic of Bulgaria, according Article 50, paragraph 1, the application will be revised within 5 days term”, which correlates to Art.16, Par.2”c”.</p>
	Cyprus	Yes	<p>1. Residence and work permit for the purpose of seasonal work</p> <p>2. 8 months in a 12-month period</p>

			<p>3. As long as the seasonal worker fulfils the criteria, he/she is allowed to renew, one time or more, the residence and work permit, either with the same employer or with a different one, within the maximum period of 8 months in a 12-month period.</p> <p>4. The re-entry of a TCN is facilitated by: a) an accelerated procedure leading to a decision on the application for a seasonal worker permit; b) priority in examining applications for admission as a seasonal worker, including taking into account previous admissions when deciding on applications with regard to the exhaustion of volumes of admission.</p>
	France	Yes	<p>1. France issues a plurennial residence permit valid for a maximum of 3 years with the mention of “seasonal worker”. In order to obtain this residence permit, the seasonal worker has to provide an employment contract of at least 3 months for a seasonal work duly stamped by the competent foreign labour department.</p> <p>2. France authorizes the seasonal worker to work and reside in France for a maximum of 6 months out of a period of 12 months.</p> <p>3. The seasonal worker has to obtain a new stamp / approval from the competent labour foreign department for each new contract (renewal or new employer). This residence permit with the mention of “seasonal worker” is renewable and not limited in the number of renewals provided the conditions for obtaining this permit are respected, especially during the previous permit (for example, respect of 6 months out of 12 months). The renewal application has to be filed at least 2 months before the expiry date with the competent Prefecture in France. There is no need to apply for a new long-term visa in the country of origin / residence. Due to this specific and simplified process implemented for seasonal workers, they cannot apply for a change of status in France if they want to obtain a residence permit for another reason. They have to file a new application from their country of origin / residence.</p> <p>4. See Q3 for renewal applications. France has not implemented any specific measure dedicated to seasonal workers who have worked in France at least once over the last 5 years.</p>

	Netherlands	Yes	<ol style="list-style-type: none"> 1. In this case, the seasonal worker, according to Foreigners Decree Article 3.58, gets a non-asylum (“regular”) permit for a temporary period of time. On this permit, there will be a note that the permit has been given out to a seasonal worker. 2. The maximum period of stay is 24 weeks. Usually, the permit for a temporary period of time is assigned to the contract period of the seasonal worker. This is to be found in Foreigners Decree Article 3.58. 3. A regular permit for seasonal workers is valid for a maximum of 24 weeks. The permit can only be renewed, if the duration of the permit has been shorter than 24 weeks. The total duration of stay cannot be longer than 24 weeks. It does not matter whether or not the sponsor in this case is the same employer or a different employer. 4. If a seasonal workers has been admitted for seasonal work within a period of 5 years in the Netherlands prior to a new application for seasonal work and he meets all the conditions, he or she does not need to provide any information and/or documents that can be obtained from authorities or the previous recognized sponsor. This is laid down in the Aliens Act article 24(a).
	Poland	Yes	<ol style="list-style-type: none"> 1. The law implementing the directive 2014/36/EU into national legislation has not been adopted yet. Therefore the following information refers to the draft legislation. In case the stay of seasonal worker will extend 90 days he/she will be issued a long-term visa together with a work permit (in compliance with art. 12 para 8). 2. The authorization for the purpose of seasonal work may be issued for a maximum period of 8 months. 3. In case of extension of the authorization for the purposes of seasonal work, regardless, whether it is with the same or with a different employer, it is necessary to be issued a work permit for the extended period. The number of extensions is not limited provided that the maximum period does not extend 8 month. The new procedure allows to check the conditions for admission. If it is

			<p>needed, on the basis of this work permit, the foreigner may apply for a special temporary residence permit.</p> <p>4. The applications of seasonal workers who have already been already admitted for the purpose of seasonal work will be treated with priority (in line with art. 16 para 2d). As an optional measure citizens of some Eastern European countries, with which we develop cooperation in the area of migration, will have a possibility to be issued a form of authorization for up to three consecutive seasons (in line with art. 16 para 2b).</p>
	Portugal	Yes	<p>1. The Directive isn't published yet, but PT is working to transpose it as soon as possible.</p> <p>2. -</p> <p>3. -</p> <p>4. -</p>
	Slovenia	Yes	<p>1. Temporary seasonal workers permit</p> <p>2. Maximum period of stay - six months, in exceptional cases 7 months</p> <p>3. In both cases, we use a repeated renewal of the authorisation for the purposes of seasonal work.</p> <p>4. An accelerated procedure leading to a decision on the application for a seasonal worker's permit (decision on complete applications in 20 days from its submissions).</p>