



Ad-Hoc Query on management procedures for hiring seasonal workers in the country of origin for consecutive seasons.

Requested by ES EMN NCP on 07 April 2011

Compilation produced on 8 June 2011

Responses from Austria, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Netherlands, Portugal, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom (16 in Total)

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1. Background Information

The Ministry of Labour and Immigration is evaluating different possibilities in order to develop current management procedures for hiring seasonal workers in the country of origin. The aim is to reinforce the possibility of attending different consecutive seasons in agricultural sector. Therefore, for the purpose of improving the planning and organization of this type of hiring, the Ministry intends to obtain information on existing experiences and good practices of Member States regarding this issue.

Example: Foreign seasonal workers can be hired in the country of origin for the strawberries campaign which is developed between the months of February and April in the province of Huelva and also for the fresh fruit campaign during the month of May in the province of Lleida.

Based on the above, the Ministry of Labour and Immigration has the following questions:

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1. Has your country promoted management systems or procedures for hiring seasonal workers for more than a single season?
2. If yes, what are the legal and other requirements for its implementation?

We would be very grateful for your responses by **4 May 2011**.

2. Responses

		Wider Dissemination?	Questions: 1. Has your country promoted management systems or procedures for hiring seasonal workers for more than a single season? 2. If yes, what are the legal and other requirements for its implementation?
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Estonia	Yes	<p>1.- No, Estonia has not promoted any management systems or procedures for hiring seasonal workers for more than a single season. Estonia does allow for short-term employment, which does not exceed 6 months within a 12 months period and which has to be registered by the employer. A long-term or D type visa is issued to aliens whose employer has registered their short-term employment. There are no limitations as to how many times one alien may come to Estonia for short-term employment (as long as there is an employer).</p> <p>2.- N/A</p>
	Finland	Yes	<p>1. No. In 2004 seasonal workers were, however, exempt from the obligation to apply residence permit of an employed person (Aliens Act 301/2004). TCNs with visa requirement are also able to apply for multiple-entry visa –this is common with Russian seasonal workers.</p> <p>2. -</p>
	France	Yes	<p>1. In France, the rule established by the Labour Code (Article R5221-23) is that "a foreign national may hold one or several seasonal works for a term not exceeding 6 months per year." This job can be done with the same employer or with a different employer, given that each contract renewal with the same employer or each job with a different employer must be previously authorized by the prefect who has the territorial jurisdiction.</p> <p>2. The seasonal worker beneficiary of a work contract with a duration of at least 3 months and agrees to maintain his residence outside France, obtains a temporary residence card marked "seasonal worker". This card is valid for 3 years and is renewable. It allows the holder</p>

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			to stay in France for a period or periods which may not exceed a cumulative period of six months per year, but the work permit is still required before each job or contract renewal.
	Germany	Yes	<p>1.- The six-month employment period for a seasonal worker per calendar year can be subdivided over several employment periods. If the employer is to be changed during the calendar year, however, a new approval procedure needs to be carried out for the seasonal worker by the work administration. An employer may request the same seasonal worker by name once more via the work administration for the following calendar year.</p> <p>2.- The procedure is regulated by the Employment Ordinance (Beschäftigungsverordnung) (section 18) and through administrative provisions from the Federal Employment Agency, which also reaches agreements with the work administrations of the countries of origin regarding the procedure and the selection of the employees; the Federal Ministry of Labour and Social Affairs, which is competent for this matter, furthermore sets a national contingent for seasonal workers. Moreover, the general regulations contained in the law on residence apply to third-state nationals, as do the transitional provisions for access to the labour market applying to nationals of Romania and Bulgaria.</p>
	Hungary	Yes	<p>1.- According to the Article 14 of the Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals: Seasonal employment visa is a visa for a validity period of longer than three months, for single or multiple entry and for employment for a period of longer than three months and maximum six months. The validity period of this visa shall be maximum one year.</p> <p>2.- According to the Article 20</p> <p>(1) A long-term visa or residence permit may be issued for the purpose of gainful employment to third-country nationals whose nature of stay is:</p> <p>a) to perform work for others under contract of employment – as governed by law – for remuneration, which constitutes subordinate and superior positions;</p> <p>b) to lawfully perform work in a self-employed capacity for remuneration;</p> <p>c) to engage – save where Paragraph b) applies – in any gainful activity in the capacity of being the owner or director of a business association, cooperative or some other legal entity formed to engage in gainful employment, or is a member of the executive, representative or supervisory board of such entity.</p> <p>(2) Unless otherwise prescribed in this Act, the third-country nationals wishing to engage in gainful employment in accordance with Subsection (1):</p> <p>a) shall have a seasonal employment visa, or</p> <p>b) shall have a residence permit granted on humanitarian grounds, or</p> <p>c) shall have a long-term visa or a residence permit for the purpose of gainful employment,</p> <p>d) shall have a long-term visa or a residence permit for the purpose of family reunification,</p> <p>e) shall have a long-term visa or a residence permit in order to pursue studies.</p> <p>(4) The validity period of a residence permit granted for the purpose of gainful employment shall be three years maximum, and it may be extended by three additional years at a time.</p> <p>(5) The period of validity of a long-term visa or a residence permit issued for the purpose of gainful employment subject to work permit shall correspond to the duration of the work permit.</p>

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	Italy	Yes	<p>Italy has promoted a specific procedure for hiring seasonal workers for consecutive seasons. If more than one employer is willing to hire the same seasonal worker, these may contextually submit a joint nihil obstat to work request. If this is the case, only one nihil obstat to work will be released and forwarded to each employer. Therefore, during the same season, the seasonal worker will be able to work for more than a single season for different employers but always in compliance with the maximum length of stay envisaged by season work regulations. Please note that the period of validity of seasonal work permit of stay is tied to the type of seasonal work, even if it shall in no case be less than 20 days and more than nine months (six months, in cases relating to certain types of work).</p> <p>For further information on seasonal work, please note that this is regulated in article 20 of Law no. 189 of 30th of July 2002, replacing Article 24 of the Consolidated Act (Law no. 40 of 1998). Furthermore, Article 24.4 of the Consolidated Act on Immigration stipulates that: “The seasonal worker, who has complied with the specified conditions of the permit of stay returning to the Country of origin on its expiry, shall have the right of precedence, respect to other citizens of his own Country who have never entered Italy, for returning to Italy the following year for reasons of seasonal work. In addition to this advantage, art. 5.3(b) of the Act provides that an employer may also apply for long-term permits of stay for seasonal work (valid for a maximum of three years), within the limits of immigration quotas. Such long term permit can be requested only in favor of employees who have performed seasonal work for two consecutive years. This measure, however, does not relieve the foreigner from applying annually for entry visas.</p>
	Latvia	Yes	<p>Latvia has not introduced any schemes for seasonal worker as there is no demand from the side of employers to hire seasonal workers. Short-term workers are issued a Schengen visa that can be multiple visa for one year (allowed period of stay – 90 days in 6 months). It means that, for example, a worker can be employed for 30 days and after some time – for 60 days (by the same employer).</p>
	Lithuania	Yes	<p>No. Work permits for seasonal workers in Lithuania are issued for one season only.</p>
	Netherlands	Yes	<p>No. One seasonal worker can stay for a maximum of 24 weeks per year. Within these 24 weeks he/she is able to switch employers.</p>
	Portugal	Yes	<p>No. Currently there are no specific management systems or procedures aiming to contract seasonal workers for more than a single season.</p>
	Slovak Republic	Yes	<p>1.- No, such systems or procedures are not introduced in the Slovak Republic. 2.- NA</p>
	Slovenia	Yes	<p>In Slovenia the hiring and employment of seasonal migrant workers for consecutive seasons is not possible. The total duration of validity of one or more permits for work issued for the same alien can not exceed six months per calendar year. A permit for work may, in case of conclusion of an employment relationship, be extended or re-issued to the same or another employer several times in a year, but the total duration of validity of one or more permits for work can not exceed six months per calendar year.</p>
	Spain	Yes	<p>1. Yes. In Spain, existing regulations on the hiring of foreign workers in the country of origin expressly contemplate the possibility of being employed for consecutive seasons within the duration of the work and residence permit. The aim of this instrument is to plan this type of migration flows by providing workers with a complementary work offer. It aims at giving them other work opportunities to optimize their stay, while improving the rationalisation of the need for hiring immigrant labour force on behalf of agricultural sector companies.</p> <p>2. The management takes place through the <i>Agreements on the planning, coordination and integration of labour migration flows</i>. These</p>

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			Agreements have enabled a permanent dialogue for the purpose of evaluating the provision of employment for consecutive seasons, amongst other matters. The implementation and follow-up of these Agreements is carried out by a central commission and provincial commissions, which strive to plan and organize the different agricultural seasons.
	Sweden	Yes	Sweden has no separate legislation concerning seasonal workers, and do not differ between seasonal work or other kind of employment. That means that the conditions for “seasonal workers” to enter and work in Sweden are the same as for other kind of employment. It also means that there is no need for such promoted management systems or procedures mentioned above. (See further the Swedish national report on the EMN Study "Satisfying labour demand through migration", 2010, www.emn.europa.eu)
	United Kingdom	Yes	<p>Seasonal Agricultural Workers (SAWS) from Bulgaria and Romania (A2 nationals) are provided to farmers and growers through 9 SAWS operators. These are contracted to the UK Border Agency to provide up to a total of 21,250 workers each year. Non-EU nationals are ineligible for seasonal work in the United Kingdom.</p> <p>Workers are issued with SAWS workcards, which allow them to work for up to six months as a seasonal agricultural worker. Workers can be issued with workcards any number of times, but there must be a minimum of three months between the end of their last placement and the start date of a new workcard being issued.</p> <p>There are no set restrictions on seasonal workers from other European nationalities.</p>
