



Ad-hoc Query on accommodation conditions for seasonal workers

Requested by ES EMN NCP on 07 April 2011

Compilation produced on 8 June 2011

Responses from [Estonia](#), [Finland](#), [France](#), [Germany](#), [Hungary](#), [Italy](#), [Latvia](#), [Lithuania](#), [Netherlands](#), [Portugal](#), [Slovak Republic](#), [Slovenia](#), [Spain](#), [Sweden](#), [United Kingdom](#) (15 in Total)

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1. Background Information

In Spain, the collective hiring of seasonal workers in the country of origin is subject to the employer's guarantee that the workers are provided with accommodation in adequate conditions of dignity and hygiene. Concerning this issue, the State Secretariat for Immigration and Emigration (Ministry of Labour and Immigration) is evaluating different possibilities for determining the conditions which these accommodations must meet. For this reason, we would like to obtain information on the existing minimum requirements in Member States regarding seasonal accommodation.

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

Has your country established minimum requirements which must be fulfilled by accommodations provided by employers to hire seasonal workers?

If yes, what are these minimum, established conditions?

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

2. Responses

		Wider Dissemination?	Questions: Has your legislation established minimum requirements for accommodation provided by the employers to hire seasonal workers? If yes, what are these minimum, established conditions?
	Estonia	Yes	No, there are no minimum requirements for the accommodation to be provided by employers of seasonal workers in Estonia.
	Finland	Yes	No. The Ministry of Foreign Affairs has however informed the employers on minimum conditions for accommodation. The place of accommodation should be heated and equipped with adequate sanitary facilities (including hot water). First-aid bags should also be available and the regional emergency response centres should be informed on the lodgers.
	France	Yes	<p>YES. The Labour Code (Article R5221-20 7) provides that the prefect, before granting a work permit to a foreign seasonal worker, checks that the employer made sure at the time of his introduction in France that the employee will benefit from proper housing. To do this, the form for the application for work permit includes a section relating to housing in France where the employer indicates whether he can provide housing in a collective manner.</p> <ul style="list-style-type: none"> • The characteristics of housing have been defined by Decree 2002-120 of 30 January 2002. The decree applies to all types of housings: <p>a) The housing must meet the following conditions, in terms of physical safety and health of the tenants:</p> <ol style="list-style-type: none"> 1. The housing provides closure and roofing, and is in good condition; 2. The windows, staircases, loggias and balconies are in a state consistent with their use; 3. The nature and state of preservation and maintenance of building materials, pipes and coatings of the housing show no obvious risks to health and physical safety of the tenants; 4. Networks and connections of electricity, gas and heating equipments, and production of hot water are consistent with the safety standards set by laws and regulations and are in good condition ; 5. The openers and ventilation allow air exchange adapted to the needs of a normal occupation of housing; 6. The principal rooms benefit from natural light and enough of an opening leading to the air. <p>b) The housing includes items of equipment and comfort following:</p> <ol style="list-style-type: none"> 1. Facilities for proper heating, with the devices of power supply and evacuation ; 2. A facility providing drinking water; 3. Facilities for domestic waste water ;

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			<p>4. A kitchen or kitchenette adapted for receiving a cooking equipment; 5. A sanitary facility inside the dwelling including a toilet, separated from the kitchen and the room where meals are eaten, and equipment for washing, comprising a bath or shower; 6. An electrical system providing adequate lighting in all rooms and the functioning of common household appliances essential to everyday life.</p> <p>c) The housing has at least one main room with a living area of at least 9 square meters and a ceiling height of at least 2.20 meters which corresponds to a living space of at least 20 cubic meters.</p> <ul style="list-style-type: none"> • In addition, if housing is provided by an agricultural employer, it must meet conditions set by the Rural Code and marine fisheries (Articles L716-1 and R716-1 to R716-13) which states: <ul style="list-style-type: none"> - Individuals cannot be housed either in the basement or in tents. They must be able to close their homes and access freely and safely; - Housing must be isolated from places where substances are stored and dangerous preparations or products that may harm the health of their occupants; - The materials used in their construction should not be such as to impair the health of occupants and should help evacuate the premises safely in case of fire; - The combustion appliances for heating and cooking as well as their conduits, pipes and fittings should not be likely to prejudice the health or safety of occupants; - Electrical installations must protect the security of their users; - Housing must be constructed with materials to prevent condensation and excessive temperatures. They must be permanently ventilated; - The ceiling height shall be not less than two meters; - In rooms intended for living and sleeping, the surface of windows must be at least equal to one tenth of the floor area of each room; - The corridors and stairways must be sufficiently lit to ensure safe moves; - Unless it is a farm that is not served by a network of piped water supply, water installations must ensure continuous delivery of drinking water at a sufficient pressure and flow; - Floors, walls and ceilings must be protected against runoff, seepage and upwelling; - Windows must be watertight and maintained in good condition; - Housing must be in good state of maintenance. <p>If accommodation is in individual housing : Individual housing made available to the worker and, where appropriate, his family includes:</p> <ol style="list-style-type: none"> 1. A kitchen or kitchenette; 2. At least one room to stay and sleep, which living space is of nine square meters when the kitchen is separate and of twelve square meters when the kitchenette is in the room.
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			<p>The living space of housing cannot be less than fourteen meters square for the first occupant, plus seven additional square meters per occupant. The dependent children of the worker and the spouse or the person usually living with him are considered as additional occupants. The consumption of water, gas and electricity is charged to the worker and must be registered by counters in the housing. The worker is in charge of maintaining the housing.</p> <p>If it is a collective accommodation for seasonal workers :</p> <ul style="list-style-type: none"> - Any room used for sleeping may receive a maximum of six workers. The minimum area is of nine square meters for the first occupant and at least seven square meters per extra person. Beds can be bunk beds; - The rooms where men are intended to sleep are separated from those for women; - The rooms for meals include a room used as a kitchen and a room used as dining area with a minimum surface of seven square meters for a seasonal worker, plus 2 square meters per extra person. <p>However:</p> <p>1° If the structure of the housing objects to the layout of the kitchen and the dining hall in separate rooms, these two functions can be grouped into one room which surface is of minimum ten square meters for a worker, plus two additional square meters per worker;</p> <p>2° The room used for cooking is not mandatory when the employer supports the preparation of meals. In this case, a space is furnished and equipped so that workers can prepare and eat their meals besides working days.</p> <ul style="list-style-type: none"> - When the number of seasonal workers is not greater than three, one room can be used both for sleeping and eating for such persons. Its surface must be of twelve square meters for a worker, plus seven additional square meters per worker. - The bathroom has one sink for three people. It also has one shower for six people. <p>There is one toilet for 6 people. Showers, sinks and water closets are separated for men and women.</p> <p>The head person provides :</p> <ol style="list-style-type: none"> 1° The maintenance, equipment and furniture of the housing; 2° The daily cleaning of the housing; 3° The laundering of linens at least once every fortnight, and cleaning of all bedding at each change of occupancy; 4° The collection of garbage twice a week. <ul style="list-style-type: none"> • In addition, Law No. 73-548 of June 27 1973 requires that any person who affects housing to a collective accommodation outside the family framework needs to make a declaration each year to the prefect where the accommodation is situated. A specific form (cerfa No. 61-2091, which is attached in French) exists for this purpose.
	<p>Germany</p>	<p>Yes</p>	<p>1.- Accommodation to be provided for seasonal workers is subject to the general regulations on accommodation for employees in accordance with the Workplace Ordinance (Arbeitsstättenverordnung) of 12 August 2004 and the ASR A4.4 Technical Regulations on "Accommodation" issued in this regard.</p> <p>2.- The accommodation must be suitable, meaning that it must be acceptable in accordance with its nature and characteristics, and also in terms of price. The local building and fire protection regulations must be complied with. Accommodation in container homes is</p>

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	<p>Hungary</p>	<p>Yes</p>	<p>1.-According to the Article 15 of the Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals: (3) Visa for seasonal work or national visa may be granted to third country nationals who meet the conditions stipulated under Paragraphs a) and c)-i) of Subsection (1) of Section 13.</p> <p>According to the Article 13:</p> <p>(1) For entry into the territory of the Republic of Hungary and for stays in the territory of the Republic of Hungary for a period of longer than three months the entry conditions for third-country nationals shall be the following: a) they are in possession of a valid travel document; c) they are in possession of the necessary permits for return or continued travel; d) they justify the purpose of entry and stay; e) they have accommodations or a place of residence in the territory of the Republic of Hungary; f) they have sufficient means of subsistence and financial resources to cover their accommodation costs for the duration of the intended stay and for the return to their country of origin or transit to a third country; g) they have full healthcare insurance or sufficient financial resources for healthcare services; h) they are not subject to expulsion or exclusion, they are not considered to be a threat to public policy, public security or public health, or to the national security of the Republic of Hungary; i) they are not persons for whom an alert has been issued in the SIS for the purposes of refusing entry.</p> <p>2.- According to the Article 29 of the Government Decree 114/2007 (V. 24.) Korm. on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals:</p> <p>(4) In proceedings for the issue of visas for a validity period of longer than three months and for residence permits, the requirement of accommodation may be verified by the following documentary evidence: a) abstract of title issued within thirty days to date, establishing the applicant's title to a residential real estate property in Hungary; b) a residential lease contract in proof of the rental of a residence; c) a valid letter of invitation with an official certificate affixed; d) documentary evidence to verify the reservation of accommodation and payment; e) a notarized statement made by a family member with the right of residence in Hungary as holding a long-term visa or residence permit, with immigrant or permanent resident status, holding a residence card or a permanent residence card in accordance with specific other legislation, or with refugee status, promising a place of abode to the applicant; or f) other reliable means.</p>

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	Italy	Yes	The employer of a seasonal worker is obliged to ensure the employee a suitable accommodation. When the nihil obstat request to work is submitted, the employer shall include in the application a declaration in which he/she states that the accommodation minimum requirements for the employee, in terms of habitability and hygienic-sanitary standards, will be duly fulfilled, in accordance with the standards envisaged by the regional law on public housing. Since such standards vary from region to region, it is not possible to determine established minimum accommodation requirements for seasonal workers at national level and it is necessary to refer at the single regional measures regulating public housing at local level.
	Latvia	Yes	There are no any minimum standards set in Latvian legislation. Employer or worker should only declare his/her address in Latvia.
	Lithuania	Yes	No
	Netherlands	Yes	Yes. The employer can only apply for a work permit if he states the full address of the accommodation. Also the employer has to indicate which kind of accommodation will be provided. Only certain forms of accommodation are suitable, such as apartments, house, hotel/pension. The employer has to indicate the amount of people living in the same accommodation. The employer has to declare that the accommodation is suitable and appropriate and in line with the Housing Law and regulation considering hygienic standards and safety. The national institution who grants the work permit is allowed to check with the municipality registration if the housing is appropriate.
	Portugal	Yes	The applicable legal framework does not foresee a concrete definition or criteria concerning accommodation conditions.
	Slovak Republic	Yes	1.- No, minimum requirements for accommodation provided by the employers to hire seasonal workers are not defined in the Slovak legislation. 2.- NA
	Slovenia	Yes	In April 2011 Slovenia adopted new Employment and work of aliens Act which stipulates that employers who on one hand employ aliens and on the other hand provide accommodation to these aliens have to ensure minimal accommodation and hygiene standards. Minimal accommodation standards includes requirements for equipment, maintenance, heating and lighting of premises, the highest number of persons that may reside in one room, and minimal square footage of premises based on the number of persons residing there. Minimal hygiene standards includes the largest number of users based on the equipment of sanitary facilities and how these premises are separated from the other accommodation, along with their ventilation and lighting. The new Act also determines that the amount of rent for accommodation shall be set with a contract. The implementing regulation with which the minimal accommodation and hygiene standards will be set is yet to be adopted by the responsible ministers.
	Spain	Yes	In Spain, legislation on alien affairs, Organic Law 4/2000, as amended by Organic Law 2/2009, sets forth that workers must be guaranteed accommodation in adequate conditions of dignity and hygiene in order to be granted work and residence permits.
	Sweden	Yes	Sweden has not established minimum requirements concerning accommodations provided by employers to hire seasonal workers. Instead there are requirements that the salary shall be in line with collective agreements which should guarantee that the seasonal worker has

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			sufficient means to arrange and pay for his accommodation. See further the SE National Report of the EMN study " <i>Satisfying labour demand through migration</i> ". 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.</p> <p>The contract between the SAWS operators and UKBA requires that all SAWS registered farms must be able to offer suitable accommodation but workers are free to decide if they wish to take up the offer.</p> <p>Maximum charges for accommodation linked to employment on farms is governed by the Agricultural Wages Order under the Accommodation offset rules.</p> <p>It is a condition of the contract with UK Border Agency that accommodation offered has to be of an acceptable standard, the agency inspects a sample of all accommodation each year and assesses it's suitability on the basis of health and safety (including fire, gas, electricity safety) and the general quality of the accommodation.</p> <p>All accommodation is also required to conform with the relevant UK housing, planning and health and safety legislation. Where accommodation is not compliant the operator is required to ensure that it is brought up to standard as soon as possible, failure to do this could result in termination of contract.</p> <p>UK Border Agency does not take any responsibility for accommodation standards for non-A2 seasonal worker accommodation, although in many cases this is policed by the Gangmasters Licensing Authority.</p>
