



EMN Ad-Hoc Query on EMN Ad-Hoc Query on list of sectors according to the Art. 2 of the Directive 2014/36/EC

Requested by Stefka BLAZHEVA on 3rd November 2016

Residence

Responses from Austria, Belgium, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Sweden, United Kingdom, Norway (23 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:



The provisions of 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 in the legislation of the Republic of Bulgaria with the Law on Labour Migration and Labour Mobility. According to the Article 25, Para 1 of this Law that is in correspondence with Article 2 of the Directive 2014/36/EU the Minister of Labour and Social Policy shall approve a List of economic sectors with activities that are dependent on the passing of the seasons. The process of drafting of this list is already started.




The Bulgarian Ministry of Labour and Social Policy would like to know whether or not other Members States of the European Union are elaborated such a list, what sectors are included in and how the list is approved/adopted.





Questions




1. 1. Has your country elaborated already the list of sectors of employment which include activities that are dependent on the passing of the seasons according to the Article 2 of the Directive 2014/36/EC?
2. 2. What sectors are included in the list?
3. 3. Which body has adopted the list and by what act?

Responses



	Country	Wider Dissemination	Response
	Austria	No	
	Belgium	Yes	1. In Belgium, the elaboration of the list of sectors of employment which include activities that are dependent on the passing of the seasons is a competence of the Regions (Flemish Region, Walloon Region and Brussels-Capital Region) and the German-speaking Community. The three Regions and the German-speaking Community have not yet elaborated these lists. 2. N/A



			3. N/A
	Croatia	Yes	<p>1. 1. No. The Aliens Act is in the process of alignment with the Directive 2014/36/EC. In accordance with the proposal of amended Aliens Act, the annual quota for seasonal work is to be determined by the Decision of the Government of the Republic of Croatia. In this process, the Ministry responsible for labour market is to make a proposal for the annual quota, on the basis of the opinion of the Croatian Employment Institute, the Croatian Chamber of Economy, the Croatian Chamber of Crafts and representatives of social partners. Thus the list has not yet been adopted.</p> <p>2. 2. N/a.</p> <p>3. 3. See answer to q. 1.</p>
	Cyprus	Yes	<p>1. Cyprus has not yet drafted a list of Economic Sectors with activities that are dependent on the passing of the seasons.</p> <p>2. n/a</p> <p>3. The competent body stipulated by Law to adopt the List is the Council of Ministers (issuance of a decree), following a proposal of the Minister of Labour, Welfare and Social Insurances.</p>
	Czech Republic	Yes	<p>1. CZ has not implemented this Directive, yet.</p> <p>2. N/A</p> <p>3. N/A</p>




	Estonia	Yes	<p>1. Estonia has not implemented this document in its national legislation yet, however short-term employment including seasonal work which involves the processing of primary agricultural products, is regulated with the Aliens Act.</p> <p>2. N/A</p> <p>3. N/A</p>
	Finland	Yes	<p>1. Finland has not adopted a list of sectors yet.</p> <p>2. n/a</p> <p>3. A specific list will be given as a Government Decree, which will have its legal base in the forthcoming Act on Seasonal Work.</p>
	France	Yes	<p>1. France has transposed the Directive 2014/36/EC through the Law n°2016-1088 of 8 August 2016. This law is codified in the Labour Code and defines seasonal work in accordance with the French Labour Code.</p> <p>2. The French law does not define sectors for seasonal work. It provides a definition of seasonal work in article L.1242-2 of the Labour Code. Tasks need to be completed year after year with approximately the same periodicity, depending on the rhythm of the seasons or the collective way of life. Otherwise, they are defined by conventions, collective agreements or decrees.</p> <p>3. N/A</p>
	Germany	Yes	<p>1. No. The legislative procedure for the implementation of Directive 2014/36 / EC (and other directives) has not yet been initiated; the draft law is currently being prepared. § 15a of the Employment Ordinance (Beschäftigungsverordnung) still regulates the permission of seasonal employment.</p>



			<p>2. According to Article 15a of the Employment Ordinance, seasonal employment is possible in the sectors of agriculture, forestry, hotel and catering industry, fruit and vegetable processing as well as in sawmills.</p> <p>3. On the basis of a statutory authorization, the Federal Ministry of Labor and Social Affairs and the Federal Ministry of the Interior jointly and with the consent of the Federal Council have issued the Employment Ordinance.</p>
	Hungary	Yes	<p>1. Yes, as of 30 September 2016.</p> <p>2. Only agriculture, by which Hungary means horticulture, forestry, animal husbandry and fishery sectors.</p> <p>3. It is Article 2/A setting of Government Decree 445/2013 setting out the provision according to which seasonal work shall be understood as activities carried out in the agricultural sector.</p>
	Ireland	Yes	<p>1. Ireland does not participate in Directive 2014/36/EU on the conditions of entry and stay of third country nationals for the purpose of employment as seasonal workers (Seasonal Workers' Directive).</p> <p>2. N/A</p> <p>3. N/A</p>
	Latvia	Yes	<p>1. Yes</p> <p>2. Seasonal work is: 2.1. sowing and planting; 2.2. maintenance of planted fields and plantations; 2.3. preparation of livestock feed; 2.4. livestock grazing and establishing pasturage; 2.5. provision of seasonal work in the framework of fish raising (also crayfish raising) activities ; 2.6. preparation of ponds for raising fish or crayfish; 2.7. ensuring the catch of raised fish and crayfish in ponds; 2.8. organisation of the catch of the broodstock of fish, establishing and tending of the</p>


		<p>places for maturing and preserving thereof; 2.9. fishing in the coastal areas of the Baltic Sea, the Baltic Sea and inland waters of Latvia; 2.10. land treatment and hydromeliorative works; 2.11. cleaning up of parks, elements of the landscape, cultural and historical objects and clearing away slums; 2.12. establishing and tending forest seed plantations; 2.13. harvesting and processing forest reproductive material; 2.14. mechanical treatment of soil (preparation of soil for artificial or natural reforestation, mineralization of fire protection zones); 2.15. forest protection works; 2.16. extinguishing and guarding forest fires; 2.17. maintenance, tending and repairs of forest infrastructure; 2.18. forest inventory; 2.19. activities in a hunting farm; 2.20. activities in a forest at recreation sites; 2.21. harvesting; 2.22. harvest processing; 2.23. maintenance and safekeeping of beaches, public places for swimming, camp sites, nature tourism infrastructures and rest areas; 2.24. work in retail outlets that operate only in certain months of a year or for one season, as well as cafes, tourist accommodation and restaurants; 2.25. work in passenger carriage undertakings, which operate regularly each season; 2.26. activities of a boiler fireman; 2.27. work related to the reception and serving of visitors in cultural institutions and the structural units thereof and tourist information centres, which are open to visitors only during certain months of a year; 2.28. work related to the reception and serving of visitors in cultural institutions or authorities, as well as the units thereof, in order to ensure the operation of the cultural institutions or authorities during the period of time when there is a large number of visitors; 2.29. territory improvement; 2.30. building and maintenance of roads; 2.31. activities related to the operation of various camps; 2.32. quarrying; 2.33. ship building and repair utilising floating docks or quaysides; 2.34. activities which are related to the reception and serving of visitors in specially protected nature territories during the period of time when there is a large number of visitors; 2.35. care of animals in animal collections; 2.36. fish processing complexes, which process only raw materials from the coastal areas of the Baltic Sea, the Baltic Sea and inland waters of Latvia; 2.37. auxiliary work in fish resources research in the inland waters of Latvia and on Latvian fishing vessels in the Baltic Sea and the Atlantic Ocean; 2.38. planned ground work for the construction of electronic communications networks and the placement of cables directly in the earth; 2.39. auxiliary work in the surveying and monitoring of utilised agricultural areas; 2.40. repair work in amelioration systems; 2.41. forestry work especially in areas of conservation; and 2.42. digging of land (trenches) for the placement of sewerage pipes, gas pipes or other pipelines and cables.</p>
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			3. Ministry of Labour (Cabinet of Ministers Regulation).
	Lithuania	Yes	<p>1. The Directive 2014/36/EU has not yet been transposed into national legislation. The changes to the national legislation are currently being discussed in the Parliament. Post-legislative legal acts establishing list of sectors will be determined only after the Directive has been transposed. Therefore at the moment Lithuania cannot provide any further information to your ad-hoc query. We will be able to update you by mid-2017.</p> <p>2. N/a</p> <p>3. The responsible ministry is the Ministry of social protection and labour.</p>
	Luxembourg	Yes	<p>1. There is a bill n° 6992 before Parliament in order to transpose the Directive 2014/36/EU. For the transposition of Article 2(2) of the Directive, the authors of the bill refer to the existing legal framework, namely Article L.122-1 (2) of the Labour Code that foresees the use of a fixed-term contract for the performance of a precise and limited-time (not permanent) task such as a seasonal employment as defined by Grand-Ducal regulation of 11 July 1989 concerning the implementation of the provisions of articles 5, 8, 34 and 41 of the Law of 24 May 1989 on labour contracts. Article 1 of the Grand-Ducal regulation contains a list of seasonal jobs.</p> <p>2. According to Article 1 of the Grand-Ducal Regulation of the 11 July 1989 seasonal employment contracts can only be concluded for activities which are seasonal in nature, i.e. activities such as: • harvesting (including grape harvesting, etc.); • packaging of harvested products; • leisure and holiday instructor and coordinator; • holiday tour guide and tourist guide; • surveillance and maintenance of public open air swimming pools and camp sites; • positions held in retail stores, hotels and restaurants that are only open at a certain period of the year; • positions held in retail stores, hotels and restaurants that have a regular and foreseeable seasonal-related increase in activity during the year; • positions held in companies active in aviation and the transportation of people that have a regular and foreseeable seasonal-related increase in activity during the year.</p>

			<p>3. The Government adopted the Grand-Ducal regulation of 11 July 1989 (the responsible authority is the Ministry of Labour, Employment and Social and Solidarity Economy) after having requested the opinion of the professional chambers (Chamber of Commerce, Chamber of Trades and Crafts, Chamber of Workers, Chamber of Public servants and Employees and the Chamber of Agriculture).</p>
	Malta	Yes	<p>1. Yes</p> <p>2. The Sectors included in the list are: Hospitality, Agriculture and Marine Aquaculture</p> <p>3. A Legal Notice on Conditions of entry and stay of third country nationals for the purpose of employment as seasonal workers regulations is currently being drafted in order to enforce this criteria. This Legal Notice is currently being pushed forward by the Ministry for Home Affairs and Security (MHAS) in Parliament to transpose this Legal Notice into Maltese Law following consultation with Jobsplus. At present seasonal workers permits fall under the remits of the local Public Employment Services (Jobsplus) and Identity Malta depending on the length of their stay. Jobsplus issues seasonal work permits if the application submitted is for a period of less than 90 days. In cases where the application is for more than 90 days Identity Malta will issue a Residence Permit. Moreover, as the European Directive 2014/36/EC stipulates that an application for a seasonal worker permit shall be submitted in a single application procedure, a residence permit would be needed and in that case Identity Malta will process the application.</p>
	Netherlands	Yes	<p>1. Yes</p> <p>2. The agricultural and horticultural sector</p> <p>3. The implementation of the Directive is ongoing. The list thus has also not yet been formally adopted, but in due time will be adopted by the Minister of Social Affairs and Employment through the Regeling Uitvoering Wet Arbeid Vreemdelingen (Regulation on the implementation</p>

			of the Foreign Nationals Employment Act). Social partners (employers and labour unions) have been consulted about the sectors to be included in the list.
	Poland	Yes	<ol style="list-style-type: none"> 1. Yes, the draft list has been prepared, however has not been formally accepted yet. 2. They are specified subclasses of agriculture, horticulture and tourism as defined by Polish Classification of Activities. 3. The list is an attachment to the Executive Ordinance of Ministry of Family, Labour and Social Policy with cooperation of the minister responsible for agriculture and the minister responsible for tourism (draft legislation).
	Portugal	Yes	<ol style="list-style-type: none"> 1. No. 2. - 3. -
	Slovak Republic	Yes	<ol style="list-style-type: none"> 1. Not yet. The draft of the list has been prepared, however, since the amendment of the Act on Stay of Aliens (by which the Directive is transposed) is currently pending at the government of the Slovak Republic, the list has not been completed yet. 2. The list of sectors is being discussed internally amongst the competent authorities. 3. The list will be published by the decree of the Ministry of Labour, Social Affairs and Family of the Slovak Republic.
	Slovenia	Yes	<ol style="list-style-type: none"> 1. Yes, we have. 2. In Slovenia, according to the Employment, Self-employment and Work of aliens Act, seasonal work may be carried out only in agriculture and forestry. These two sectors have to be inherently

			<p>linked to a season characterised by a significant increase in demand for labour in the activity concerned.</p> <p>3. The sectors in which seasonal work may be carried out, have been stipulated in Employment, Self-employment and Work of aliens Act, which has been adopted by the Slovenian Parliament.</p>
	Sweden	Yes	<p>1. Sweden has no explicit list but has special rules for our most common seasonal workers which are berry pickers.</p> <p>2. Sweden has no explicit list but has special rules for our most common seasonal workers which are berry pickers.</p> <p>3. There are special rules for berry pickers.</p> <p>4. There are special rules for berry pickers.</p> <p>5. NA</p> <p>6. NA</p>
	United Kingdom	Yes	<p>1. The UK has opted out of the Seasonal Workers Directive and so the questions do not apply. The UK does not operate a general seasonal workers scheme. However an exception is made for a limited number of sheep shearers to come to the UK between 1st April and 30th June each year for a maximum of 3 months when there is demand for this work. Please see the link below for further information https://www.gov.uk/government/publications/concession-for-temporary-employment-as-sheep-shearers-wrk26</p> <p>2. N/A</p> <p>3. N/A</p>

	Norway	Yes	<ol style="list-style-type: none">1. Norway regrettably cannot contribute to this AHQ.2. xx3. xx
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