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Council adopts directive on third-country seasonal workers

The Council adopted today without discussion a directive on the conditions of entry and stay of third-country nationals for the purpose of seasonal work ([PE-CONS 113/13](#)). Member states will need to transpose the directive within two and a half years after publication in the Official Journal.

The directive as agreed sets out fair and transparent rules for entry and stay of seasonal workers who are not EU citizens. It also lays down a common set of rights to which seasonal workers are entitled to during their stay in the EU in order to avoid their economic and social exploitation. At the same time, it provides for incentives and safeguards to prevent temporary stays from becoming permanent. Member states will keep the right to determine the volumes of admission and will have the possibility to reject applications if EU workers are available.

The seasonal workers directive lays down the first set of EU rules mainly addressed to low skilled migrants and covering stays not exceeding three months.

What's new?

The main elements of the Seasonal Workers Directive concern:

- Seasonal workers retain their principal place of residence in a third-country and stay legally and temporarily in the EU to carry out an activity depending on the passing of the seasons, typically in agriculture or tourism. Member states can apply the rules of the directive to other sectors that are dependent on the passing of the seasons, provided they consult social partners where appropriate.

P R E S S

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- Member States must determine a maximum period of stay for seasonal workers between five and nine months in any 12-month period.
- Third-country nationals have to fulfil several conditions to be allowed to enter the EU as seasonal workers. To that effect, their application must include *inter alia* a work contract or a binding job offer specifying essentials such as pay and working hours. The application also has to include evidence that the worker will stay in accommodation that meets the general health and safety standards of the member state and that the rent will not be excessive or automatically deducted from the wage.
- Seasonal workers who are already in an EU member state have the possibility to extend their work contract or change their employer at least once, provided they fulfil the entry conditions and no grounds for refusal apply. Within the maximum period of stay, member states may allow more than one extension of the contract with the same employer as well as the conclusion of contracts with more than one different employer.
- With a view to promoting circular migration, re-entry of third-country nationals who return every year to the EU to do seasonal work is facilitated. For example, member states can exempt the seasonal worker from the requirement to submit certain document, issuing several seasonal worker permits in a single administrative act or accelerating the application procedure.
- Seasonal workers are entitled to equal treatment with nationals of the host member state at least with regard to terms of employment, including the minimum working age, working conditions, including pay and dismissal, working hours, leave and holidays, and health and safety requirements at the workplace.
- Equal treatment with nationals will also apply to branches of social security (benefits linked to sickness, invalidity and old-age). Because of the temporary nature of the stay of seasonal workers, member states will not be obliged to apply equal treatment on unemployment and family benefits and will have the possibility to limit equal treatment on tax benefits and on education and vocational training. Seasonal workers also have the right to join a trade union and are entitled to access to social security, pensions, training, advice on seasonal work offered by employment offices and other public services, except for public housing.
- Member states must provide measures aimed at preventing possible abuses and at sanctioning infringements. They must also provide seasonal workers with effective mechanisms for lodging a complaint against their employer, either themselves or through interested third parties.

Background

The Seasonal Workers Directive is a new legislative instrument of the EU common policy on legal migration.

Two other Commission proposals on legal migration under negotiation between the Council and the European Parliament concern respectively intra-corporate transferees and researchers, students, pupils, remunerated and unremunerated trainees, volunteers and au pairs.
