

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

CHAPTER II

CONDITIONS OF ADMISSION

Article 5

**Criteria and requirements for admission for employment
as a seasonal worker for stays not exceeding 90 days**

1 Applications for admission to a Member State under the terms of this Directive for a stay not exceeding 90 days shall be accompanied by:

- a a valid work contract or, if provided for by national law, administrative regulations, or practice, a binding job offer to work as a seasonal worker in the Member State concerned with an employer established in that Member State which specifies:
 - (i) the place and type of the work;
 - (ii) the duration of employment;
 - (iii) the remuneration;
 - (iv) the working hours per week or month;
 - (v) the amount of any paid leave;
 - (vi) where applicable other relevant working conditions; and
 - (vii) if possible, the date of commencement of employment;
- b evidence of having or, if provided for by national law, having applied for sickness insurance for all the risks normally covered for nationals of the Member State concerned for periods where no such insurance coverage and corresponding entitlement to benefits are provided in connection with, or as a result of, the work carried out in that Member State;
- c evidence that the seasonal worker will have adequate accommodation or that adequate accommodation will be provided in accordance with Article 20.

2 Member States shall require that the conditions referred to in point (a) of paragraph 1 comply with applicable law, collective agreements and/or practice.

3 On the basis of the documentation provided pursuant to paragraph 1, Member States shall require that the seasonal worker will have no recourse to their social assistance systems.

4 In cases where the work contract or binding job offer specifies that the third-country national will exercise a regulated profession, as defined in Directive 2005/36/EC of the European Parliament and of the Council⁽¹⁾, the Member State may require the applicant to present documentation attesting that the third-country national fulfils the conditions laid down under national law for the exercise of that regulated profession.

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5 When examining an application for an authorisation referred to in Article 12(1), Member States not applying the Schengen *acquis* in full shall verify that the third-country national:

- a does not present a risk of illegal immigration;
- b intends to leave the territory of the Member States at the latest on the date of expiry of the authorisation.

Article 6

Criteria and requirements for admission as a seasonal worker for stays exceeding 90 days

1 Applications for admission to a Member State under the terms of this Directive for a stay exceeding 90 days shall be accompanied by:

- a a valid work contract or, if provided for by national law, administrative regulations, or practice, a binding job offer to work as a seasonal worker in the Member State concerned with an employer established in that Member State which specifies:
 - (i) the place and type of the work;
 - (ii) the duration of employment;
 - (iii) the remuneration;
 - (iv) the working hours per week or month;
 - (v) the amount of any paid leave;
 - (vi) where applicable, other relevant working conditions; and
 - (vii) if possible, the date of commencement of employment;
- b evidence of having or, if provided for by national law, having applied for, sickness insurance for all the risks normally covered for nationals of the Member State concerned for periods where no such insurance coverage and corresponding entitlement to benefits are provided in connection with, or as a result of, the work carried out in that Member State;
- c evidence that the seasonal worker will have adequate accommodation or that adequate accommodation will be provided, in accordance with Article 20.

2 Member States shall require that the conditions referred to in point (a) of paragraph 1 comply with applicable law, collective agreements and/or practice.

3 On the basis of the documentation provided pursuant to paragraph 1, Member States shall require that the seasonal worker will have sufficient resources during his or her stay to maintain him/herself without having recourse to their social assistance systems.

4 Third-country nationals who are considered to pose a threat to public policy, public security or public health shall not be admitted.

5 When examining an application for an authorisation referred to in Article 12(2), Member States shall verify that the third-country national does not present a risk of illegal immigration and that he or she intends to leave the territory of the Member States at the latest on the date of expiry of the authorisation.

6 In cases where the work contract or binding job offer specifies that the third-country national will exercise a regulated profession, as defined in Directive 2005/36/EC, the Member State may require the applicant to present documentation attesting that the third-country national fulfils the conditions laid down under national law for the exercise of that regulated profession.

7 Member States shall require third-country nationals to be in possession of a valid travel document, as determined by national law. Member States shall require the period of validity of the travel document to cover at least the period of validity of the authorisation for the purpose of seasonal work.

In addition, Member States may require:

- a the period of validity to exceed the intended duration of stay by a maximum of three months;
- b the travel document to have been issued within the last 10 years; and
- c the travel document to contain at least two blank pages.

Article 7

Volumes of admission

This Directive shall not affect the right of a Member State to determine the volumes of admission of third-country nationals entering its territory for the purpose of seasonal work. On this basis, an application for an authorisation for the purpose of seasonal work may be either considered inadmissible or be rejected.

Article 8

Grounds for rejection

1 Member States shall reject an application for authorisation for the purpose of seasonal work where:

- a Articles 5 or 6 are not complied with; or
- b the documents presented for the purpose of Articles 5 or 6 were fraudulently acquired, or falsified, or tampered with.

2 Member States shall, if appropriate, reject an application for authorisation for the purpose of seasonal work where:

- a the employer has been sanctioned in accordance with national law for undeclared work and/or illegal employment;
- b the employer's business is being or has been wound up under national insolvency laws or no economic activity is taking place; or
- c the employer has been sanctioned under Article 17.

3 Member States may verify whether the vacancy in question could be filled by nationals of the Member State concerned or by other Union citizens, or by third-country nationals lawfully residing in that Member State, in which case they may reject the application. This paragraph shall apply without prejudice to the principle of preference for Union citizens as expressed in the relevant provisions of the relevant Acts of Accession.

4 Member States may reject an application for authorisation for the purpose of seasonal work where:

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- a the employer has failed to meet its legal obligations regarding social security, taxation, labour rights, working conditions or terms of employment, as provided for in applicable law and/or collective agreements;
- b within the 12 months immediately preceding the date of the application, the employer has abolished a full-time position in order to create the vacancy that the employer is trying to fill by use of this Directive; or
- c the third-country national has not complied with the obligations arising from a previous decision on admission as a seasonal worker.

5 Without prejudice to paragraph 1, any decision to reject an application shall take account of the specific circumstances of the case, including the interests of the seasonal worker, and respect the principle of proportionality.

6 Grounds for refusing the issuing of a short-stay visa are regulated in the relevant provisions of the Visa Code.

Article 9

Withdrawal of the authorisation for the purpose of seasonal work

1 Member States shall withdraw the authorisation for the purpose of seasonal work where:

- a the documents presented for the purpose of Articles 5 or 6 were fraudulently acquired, or falsified, or tampered with; or
- b the holder is staying for purposes other than those for which he or she was authorised to stay.

2 Member States shall, if appropriate, withdraw the authorisation for the purpose of seasonal work where:

- a the employer has been sanctioned in accordance with national law for undeclared work and/or illegal employment;
- b the employer's business is being or has been wound up under national insolvency laws or no economic activity is taking place; or
- c the employer has been sanctioned under Article 17.

3 Member States may withdraw the authorisation for the purpose of seasonal work where:

- a Articles 5 or 6 are not or are no longer complied with;
- b the employer has failed to meet its legal obligations regarding social security, taxation, labour rights, working conditions or terms of employment, as provided for in applicable law and/or collective agreements;
- c the employer has not fulfilled its obligations under the work contract; or
- d within the 12 months immediately preceding the date of the application, the employer has abolished a full-time position in order to create the vacancy that the employer is trying to fill by use of this Directive.

4 Member States may withdraw the authorisation for the purpose of seasonal work if the third-country national applies for international protection under Directive 2011/95/EU of the European Parliament and of the Council⁽²⁾ or for protection in accordance with national law, international obligations or practice of the Member State concerned.

5 Without prejudice to paragraph 1, any decision to withdraw the authorisation shall take account of the specific circumstances of the case, including the interests of the seasonal worker, and respect the principle of proportionality.

6 Grounds for annulment or revocation of a short-stay visa are regulated in the relevant provisions of the Visa Code.

Article 10

Obligation of cooperation

Member States may require the employer to provide all relevant information needed for issuing, extending or renewing the authorisation for the purpose of seasonal work.

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- (1) Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications ([OJ L 255, 30.9.2005, p. 22](#)).
- (2) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted ([OJ L 337, 20.12.2011, p. 9](#)).