

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 I

**GENERAL PROVISIONS**

*Article 1*

**Subject-matter**

1 This Directive determines the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers and defines the rights of seasonal workers.

2 For stays not exceeding 90 days, this Directive shall apply without prejudice to the Schengen *acquis*, in particular the Visa Code, the Schengen Borders Code and Regulation (EC) No 539/2001.

*Article 2*

**Scope**

1 This Directive shall apply to third-country nationals who reside outside the territory of the Member States and who apply to be admitted, or who have been admitted under the terms of this Directive, to the territory of a Member State for the purpose of employment as seasonal workers.

This Directive shall not apply to third-country nationals who at the time of application reside in the territory of a Member State with the exception of cases referred to in Article 15.

2 When transposing this Directive the Member States shall, where appropriate in consultation with the social partners, list those sectors of employment which include activities that are dependent on the passing of the seasons. The Member States may modify that list, where appropriate in consultation with the social partners. The Member States shall inform the Commission of such modifications.

3 This Directive shall not apply to third-country nationals who:

- a are carrying out activities on behalf of undertakings established in another Member State in the framework of the provision of services within the meaning of Article 56 TFEU, including third-country nationals posted by undertakings established in a Member State in the framework of the provision of services in accordance with Directive 96/71/EC;
- b are family members of Union citizens who have exercised their right to free movement within the Union, in conformity with Directive 2004/38/EC of the European Parliament and of the Council<sup>(1)</sup>;
- c together with their family members, and irrespective of their nationality, enjoy rights of free movement equivalent to those of Union citizens under agreements either between the Union and the Member States or between the Union and third countries.

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### Article 3

#### Definitions

For the purposes of this Directive the following definitions apply:

- (a) ‘third-country national’ means any person who is not a citizen of the Union within the meaning of Article 20(1) TFEU;
- (b) ‘seasonal worker’ means a third-country national who retains his or her principal place of residence in a third country and stays legally and temporarily in the territory of a Member State to carry out an activity dependent on the passing of the seasons, under one or more fixed-term work contracts concluded directly between that third-country national and the employer established in that Member State;
- (c) ‘activity dependent on the passing of the seasons’ means an activity that is tied to a certain time of the year by a recurring event or pattern of events linked to seasonal conditions during which required labour levels are significantly above those necessary for usually ongoing operations;
- (d) ‘seasonal worker permit’ means an authorisation issued using the format laid down in Council Regulation (EC) No 1030/2002<sup>(2)</sup> bearing a reference to seasonal work and entitling its holder to stay and work in the territory of a Member State for a stay exceeding 90 days under the terms of this Directive;
- (e) ‘short-stay visa’ means an authorisation issued by a Member State as provided for in point (2)(a) of Article 2 of the Visa Code or issued in accordance with the national law of a Member State not applying the Schengen *acquis* in full;
- (f) ‘long-stay visa’ means an authorisation issued by a Member State as provided for in Article 18 of the Schengen Implementing Convention or issued in accordance with the national law of a Member State not applying the Schengen *acquis* in full;
- (g) ‘single application procedure’ means a procedure leading, on the basis of one application for the authorisation of a third-country national’s stay and work in the territory of a Member State, to a decision on the application for a seasonal worker permit;
- (h) ‘authorisation for the purpose of seasonal work’ means any of the authorisations referred to in Article 12 entitling their holder to stay and work on the territory of the Member State that issued the authorisation under this Directive;
- (i) ‘work permit’ means any authorisation issued by a Member State in accordance with national law for the purpose of work in the territory of that Member State.

### Article 4

#### More favourable provisions

- 1 This Directive shall apply without prejudice to more favourable provisions of:
  - a Union law, including bilateral and multilateral agreements concluded between the Union or between the Union and its Member States on the one hand and one or more third countries on the other;

- b bilateral or multilateral agreements concluded between one or more Member States and one or more third countries.

2 This Directive shall not affect the right of Member States to adopt or retain more favourable provisions for third-country nationals to whom it applies in respect of Articles 18, 19, 20, 23 and 25.

## 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<sup>(3)</sup>, 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<sup>(4)</sup> 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.

## CHAPTER III

### **PROCEDURE AND AUTHORISATIONS FOR THE PURPOSE OF SEASONAL WORK**

#### *Article 11*

### **Access to information**

1 Member States shall make easily accessible to applicants the information on all documentary evidence needed for an application and information on entry and stay, including the rights and obligations and the procedural safeguards of the seasonal worker.

2 When Member States issue third-country nationals with an authorisation for the purpose of seasonal work, they shall also provide them with information in writing about their rights and obligations under this Directive, including complaint procedures.

#### *Article 12*

### **Authorisations for the purpose of seasonal work**

1 For stays not exceeding 90 days, Member States shall issue third-country nationals who comply with Article 5 and do not fall within the grounds set out in Article 8 one of the following authorisations for the purpose of seasonal work, without prejudice to the rules on the issuing of short-stay visas as laid down in the Visa Code and in Council Regulation (EC) No 1683/95<sup>(5)</sup>:

- a a short-stay visa, indicating that it is issued for the purpose of seasonal work;
- b a short-stay visa and a work permit indicating that they are issued for the purpose of seasonal work; or
- c a work permit indicating that it is issued for the purpose of seasonal work, where the third-country national is exempted from the visa requirement in accordance with Annex II of Regulation (EC) No 539/2001 and the Member State concerned does not apply Article 4(3) of that Regulation to him or her.

When transposing this Directive, Member States shall provide for either the authorisations referred to in points (a) and (c) or the authorisations referred to in points (b) and (c).

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2 For stays exceeding 90 days, Member States shall issue third-country nationals who comply with Article 6 and do not fall within the grounds set out in Article 8, one of the following authorisations for the purpose of seasonal work:

- a a long-stay visa, indicating that it is issued for the purpose of seasonal work;
- b a seasonal worker permit; or
- c a seasonal worker permit and a long-stay visa, if the long-stay visa is required under national law for entering the territory.

When transposing this Directive, Member States shall provide for only one of the authorisations referred to in points (a), (b) and (c).

3 Without prejudice to the Schengen *acquis*, Member States shall determine whether an application is to be submitted by the third-country national and/or by the employer.

The obligation on the Member States to determine whether the application is to be submitted by a third-country national and/or by the employer shall be without prejudice to any arrangements requiring both to be involved in the procedure.

4 The seasonal worker permit referred to in points (b) and (c) of the first subparagraph of paragraph 2 shall be issued by the competent authorities of the Member States using the format laid down in Regulation (EC) No 1030/2002. Member States shall enter a reference on the permit stating that it is issued for the purpose of seasonal work.

5 In the case of long-stay visas, Member States shall enter a reference stating that it is issued for the purpose of seasonal work under the heading 'remarks' on the visa sticker in accordance with point 12 of the Annex to Regulation (EC) No 1683/95.

6 Member States may indicate additional information relating to the employment relationship of the seasonal worker in paper format, or store such data in electronic format as referred to in Article 4 of Regulation (EC) No 1030/2002 and in point (a)16 of the Annex thereto.

7 Where a visa is required for the sole purpose of entering the territory of a Member State and the third-country national fulfils the conditions for being issued with a seasonal worker permit under point (c) of the first subparagraph of paragraph 2, the Member State concerned shall grant the third-country national every facility to obtain the requisite visa.

8 The issuing of a long-stay visa referred to in point (a) of the first subparagraph of paragraph 2 shall be without prejudice to the possibility for Member States to issue a prior authorisation to work in the Member State concerned.

### *Article 13*

#### **Applications for a seasonal worker permit**

1 Member States shall designate the authorities competent to receive and decide on applications for and to issue seasonal worker permits.

2 An application for a seasonal worker permit shall be submitted in a single application procedure.



## Article 14

### Duration of stay

1 Member States shall determine a maximum period of stay for seasonal workers which shall be not less than five months and not more than nine months in any 12-month period. After the expiry of that period, the third-country national shall leave the territory of the Member State unless the Member State concerned has issued a residence permit under national or Union law for purposes other than seasonal work.

2 Member States may determine a maximum period of time within any 12-month period, during which an employer is allowed to hire seasonal workers. That period shall be not less than the maximum period of stay determined pursuant to paragraph 1.

## Article 15

### Extension of stay or renewal of the authorisation for the purposes of seasonal work

1 Within the maximum period referred to in Article 14(1) and provided that Articles 5 or 6 are complied with and the grounds set out in point (b) of Article 8(1), Article 8(2) and, if applicable, Article 8(4) are not met, Member States shall allow seasonal workers one extension of their stay, where seasonal workers extend their contract with the same employer.

2 Member States may decide, in accordance with their national law, to allow seasonal workers to extend their contract with the same employer and their stay more than once, provided that the maximum period referred to in Article 14(1) is not exceeded.

3 Within the maximum period referred to in Article 14(1) and provided that Articles 5 or 6 are complied with and the grounds set out in point (b) of Article 8(1), Article 8(2) and, if applicable, Article 8(4) are not met, Member States shall allow seasonal workers one extension of their stay to be employed with a different employer.

4 Member States may decide, in accordance with their national law, to allow seasonal workers to be employed by a different employer and to extend their stay more than once, provided that the maximum period referred to in Article 14(1) is not exceeded.

5 For the purposes of paragraphs 1 to 4, Member States shall accept the submission of an application when the seasonal worker admitted under this Directive is on the territory of the Member State concerned.

6 Member States may refuse to extend the stay or renew the authorisation for the purpose of seasonal work when 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 the Member State. 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.

7 Member States shall refuse to extend the stay or renew the authorisation for the purpose of seasonal work where the maximum duration of stay as defined in Article 14(1) has been reached.

8 Member States may refuse to extend the stay or renew the authorisation for the purpose of seasonal work if the third-country national applies for international protection under Directive

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2011/95/EU or if the third-country national applies for protection in accordance with national law, international obligations or practice of the Member State concerned.

9 Article 9(2) and points (b), (c) and (d) of Article 9(3) shall not apply to a seasonal worker who applies to be employed by a different employer in accordance with paragraph 3 of this Article when those provisions apply to the previous employer.

10 Grounds for extension of a short-stay visa are regulated in the relevant provisions of the Visa Code.

11 Without prejudice to Article 8(1), any decision on an application for an extension or renewal shall take account of the specific circumstances of the case, including the interests of the seasonal worker, and respect the principle of proportionality.

### *Article 16*

#### **Facilitation of re-entry**

1 Member States shall facilitate re-entry of third-country nationals who were admitted to that Member State as seasonal workers at least once within the previous five years, and who fully respected the conditions applicable to seasonal workers under this Directive during each of their stays.

2 The facilitation referred to in paragraph 1 may include one or more measures such as:

- a the grant of an exemption from the requirement to submit one or more of the documents referred to in Articles 5 or 6;
- b the issuing of several seasonal worker permits in a single administrative act;
- c an accelerated procedure leading to a decision on the application for a seasonal worker permit or a long stay visa;
- d priority in examining applications for admission as a seasonal worker, including taking into account previous admissions when deciding on applications with regard to the exhaustion of volumes of admission.

### *Article 17*

#### **Sanctions against employers**

1 Member States shall provide for sanctions against employers who have not fulfilled their obligations under this Directive, including the exclusion of employers who are in serious breach of their obligations under this Directive from employing seasonal workers. Those sanctions shall be effective, proportionate and dissuasive.

2 Member States shall ensure that, if the authorisation for the purpose of seasonal work is withdrawn pursuant to Article 9(2) and points (b), (c) and (d) of Article 9(3), the employer shall be liable to pay compensation to the seasonal worker in accordance with procedures under national law. Any liability shall cover any outstanding obligations which the employer would have to respect if the authorisation for the purpose of seasonal work had not been withdrawn.

3 Where the employer is a subcontractor who has infringed this Directive and where the main contractor and any intermediate subcontractor have not undertaken due diligence obligations as defined by national law, the main contractor and any intermediate subcontractor may:

- a be subject to the sanctions referred to in paragraph 1;

- b in addition to or in place of the employer, be liable to pay any compensation due to the seasonal worker in accordance with paragraph 2;
- c in addition to or in place of the employer, be liable to pay any back payments due to the seasonal worker under national law.

Member States may provide for more stringent liability rules under national law.

#### *Article 18*

### **Procedural safeguards**

1 The competent authorities of the Member State shall adopt a decision on the application for authorisation for the purpose of seasonal work. The competent authorities shall notify the decision to the applicant in writing, in accordance with the notification procedures under national law, as soon as possible but not later than 90 days from the date on which the complete application was submitted.

2 In the case of an application for an extension of stay or for the renewal of the authorisation pursuant to Article 15, Member States shall take all reasonable steps to ensure that the seasonal worker is not obliged to interrupt his or her employment relationship with the same employer, or prevented from changing employer, due to on-going administrative procedures.

Where the validity of the authorisation for the purpose of seasonal work expires during the procedure for extension or renewal, in accordance with their national law, Member States shall allow the seasonal worker to stay on their territory until the competent authorities have taken a decision on the application, provided that the application was submitted within the period of validity of that authorisation and that the time period referred to in Article 14(1) has not expired.

Where the second subparagraph applies, Member States may, inter alia, decide to:

- a issue national temporary residence permits or equivalent authorisations until a decision is taken;
- b allow the seasonal worker to work until that decision is taken.

During the period of examination of the application for extension or renewal, the relevant provisions of this Directive shall apply.

3 Where the information or documentation supplied in support of the application is incomplete, the competent authorities shall notify the applicant within a reasonable period of the additional information that is required and set a reasonable deadline for providing it. The period referred to in paragraph 1 shall be suspended until the competent authorities have received the additional information required.

4 Reasons for a decision declaring inadmissible an application for authorisation for the purpose of seasonal work or rejecting an application for authorisation for the purpose of seasonal work or refusing an extension of stay or renewal of the authorisation for the purpose of seasonal work shall be given in writing to the applicant. Reasons for a decision withdrawing the authorisation for the purpose of seasonal work shall be given in writing to both the seasonal worker and, if provided for in national law, the employer.

5 Any decision declaring inadmissible an application for authorisation for the purpose of seasonal work or rejecting the application, refusing an extension of stay or renewal of an authorisation for the purpose of seasonal work or withdrawing an authorisation for the purpose of seasonal work shall be open to legal challenge in the Member State concerned, in accordance

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with national law. The written notification shall specify the court or administrative authority with which an appeal may be lodged and the time-limit for lodging the appeal.

6 Procedural safeguards concerning short-stay visas are regulated in the relevant provisions of the Visa Code.

#### *Article 19*

#### **Fees and costs**

1 Member States may require the payment of fees for the handling of applications in accordance with this Directive. The level of such fees shall not be disproportionate or excessive. Fees for short-stay visas are regulated in the relevant provisions of the Schengen *acquis*. Where those fees are paid by the third-country national, Member States may provide that they are entitled to be reimbursed by the employer in accordance with national law.

2 Member States may require employers of seasonal workers to pay for:

- a the cost of travel from the seasonal workers' place of origin to the place of work in the Member State concerned and the return journey;
- b the cost of sickness insurance referred to in point (b) of Article 5(1) and point (b) of Article 6(1).

When paid by the employers, such costs shall not be recoverable from the seasonal workers.

#### *Article 20*

#### **Accommodation**

1 Member States shall require evidence that the seasonal worker will benefit from accommodation that ensures an adequate standard of living according to national law and/or practice, for the duration of his or her stay. The competent authority shall be informed of any change of accommodation of the seasonal worker.

2 Where accommodation is arranged by or through the employer:

- a the seasonal worker may be required to pay a rent which shall not be excessive compared with his or her net remuneration and compared with the quality of the accommodation. The rent shall not be automatically deducted from the wage of the seasonal worker;
- b the employer shall provide the seasonal worker with a rental contract or equivalent document in which the rental conditions of the accommodation are clearly stated;
- c the employer shall ensure that the accommodation meets the general health and safety standards in force in the Member State concerned.

#### *Article 21*

#### **Placement by public employment services**

Member States may determine that the placement of seasonal workers shall only be carried out by public employment services.

## CHAPTER IV

### RIGHTS

#### *Article 22*

#### **Rights on the basis of the authorisation for the purpose of seasonal work**

During the period of validity of the authorisation referred to in Article 12, the holder shall enjoy at least the following rights:

- (a) the right to enter and stay in the territory of the Member State that issued the authorisation;
- (b) free access to the entire territory of the Member State that issued the authorisation in accordance with national law;
- (c) the right to exercise the concrete employment activity authorised under the authorisation in accordance with national law.

#### *Article 23*

#### **Right to equal treatment**

1 Seasonal workers shall be entitled to equal treatment with nationals of the host Member State at least with regard to:

- a terms of employment, including the minimum working age, and working conditions, including pay and dismissal, working hours, leave and holidays, as well as health and safety requirements at the workplace;
- b the right to strike and take industrial action, in accordance with the host Member State's national law and practice, and freedom of association and affiliation and membership of an organisation representing workers or of any organisation whose members are engaged in a specific occupation, including the rights and benefits conferred by such organisations, including the right to negotiate and conclude collective agreements, without prejudice to the national provisions on public policy and public security;
- c back payments to be made by the employers, concerning any outstanding remuneration to the third-country national;
- d branches of social security, as defined in Article 3 of Regulation (EC) No 883/2004;
- e access to goods and services and the supply of goods and services made available to the public, except housing, without prejudice to the freedom of contract in accordance with Union and national law;
- f advice services on seasonal work afforded by employment offices;
- g education and vocational training;
- h recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures;
- i tax benefits, in so far as the seasonal worker is deemed to be resident for tax purposes in the Member State concerned.

Seasonal workers moving to a third country, or the survivors of such seasonal workers residing in a third-country deriving rights from the seasonal worker, shall receive statutory pensions based on the seasonal worker's previous employment and acquired in accordance with the legislation set out in Article 3 of Regulation (EC) No 883/2004,

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under the same conditions and at the same rates as the nationals of the Member States concerned when they move to a third country.

2 Member States may restrict equal treatment:

- (i) under point (d) of the first subparagraph of paragraph 1 by excluding family benefits and unemployment benefits, without prejudice to Regulation (EU) No 1231/2010;
- (ii) under point (g) of the first subparagraph of paragraph 1 by limiting its application to education and vocational training which is directly linked to the specific employment activity and by excluding study and maintenance grants and loans or other grants and loans;
- (iii) under point (i) of the first subparagraph of paragraph 1 with respect to tax benefits by limiting its application to cases where the registered or usual place of residence of the family members of the seasonal worker for whom he/she claims benefits, lies in the territory of the Member State concerned.

3 The right to equal treatment provided for in paragraph 1 shall be without prejudice to the right of the Member State to withdraw or to refuse to extend or renew the authorisation for the purpose of seasonal work in accordance with Articles 9 and 15.

#### *Article 24*

### **Monitoring, assessment and inspections**

1 Member States shall provide for measures to prevent possible abuses and to sanction infringements of this Directive. Measures shall include monitoring, assessment and, where appropriate, inspection in accordance with national law or administrative practice.

2 Member States shall ensure that services in charge of inspection of labour or competent authorities and, where provided for under national law for national workers, organisations representing workers' interests have access to the workplace and, with the agreement of the worker, to the accommodation.

#### *Article 25*

### **Facilitation of complaints**

1 Member States shall ensure that there are effective mechanisms through which seasonal workers may lodge complaints against their employers directly or through third parties which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring compliance with this Directive, or through a competent authority of the Member State when provided for by national law.

2 Member States shall ensure that third parties which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring compliance with this Directive, may engage either on behalf of or in support of a seasonal worker, with his or her approval, in any administrative or civil proceedings, excluding the procedures and decisions concerning short-stay visas, provided for with the objective of implementing this Directive.

3 Member States shall ensure that seasonal workers have the same access as other workers in a similar position to measures protecting against dismissal or other adverse treatment

by the employer as a reaction to a complaint within the undertaking or to any legal proceedings aimed at enforcing compliance with this Directive.

## CHAPTER V

### FINAL PROVISIONS

#### *Article 26*

##### **Statistics**

1 Member States shall communicate to the Commission statistics on the number of authorisations for the purpose of seasonal work issued for the first time and, as far as possible, on the number of third-country nationals whose authorisation for the purpose of seasonal work has been extended, renewed or withdrawn. Those statistics shall be disaggregated by citizenship, and as far as possible by the period of validity of the authorisation and the economic sector.

2 The statistics referred to in paragraph 1 shall relate to reference periods of one calendar year and shall be communicated to the Commission within six months of the end of the reference year. The first reference year shall be 2017.

3 The statistics referred to in paragraph 1 shall be communicated in accordance with Regulation (EC) No 862/2007 of the European Parliament and of the Council<sup>(6)</sup>.

#### *Article 27*

##### **Reporting**

Every three years, and for the first time no later than 30 September 2019, the Commission shall submit a report to the European Parliament and to the Council on the application of this Directive in the Member States and shall propose any amendments necessary.

#### *Article 28*

##### **Transposition**

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 September 2016. They shall forthwith communicate the text of those measures to the Commission.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

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*Article 29*

**Entry into force**

This Directive shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

*Article 30*

**Addressees**

This Directive is addressed to the Member States, in accordance with the Treaties.

Done at Strasbourg, 26 February 2014.

*For the European Parliament*

*The President*

M. SCHULZ

*For the Council*

*The President*

D. KOURKOULAS



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- (1) Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC ([OJ L 158, 30.4.2004, p. 77](#)).
- (2) Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals ([OJ L 157, 15.6.2002, p. 1](#)).
- (3) 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](#)).
- (4) 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](#)).
- (5) Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas ([OJ L 164, 14.7.1995, p. 1](#)).
- (6) Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers ([OJ L 199, 31.7.2007, p. 23](#)).