

**Common Template
of EMN Study 2020**

Attracting and Protecting Seasonal Workers from third countries in the EU

National Contribution from Finland



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Attracting and Protecting Seasonal Workers from third countries in the EU – National Contribution from Finland

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The study was produced by the Finnish National Contact Point of the European Migration Network (EMN), which is coordinated by the European Commission.

The Commission is not responsible for the views or conclusions presented herein.

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Top-line factsheet

*The top-line factsheet will serve as an overview of the **national contribution** introducing the study and drawing out key facts and figures from across all sections, with a particular emphasis on elements that will be of relevance to (national) policy-makers. Please add any innovative or visual presentations that can carry through into the synthesis report as possible infographics and visual elements.*

Please provide a concise summary of the main findings of Sections 0-3:

The Seasonal Workers Directive was implemented in Finnish legislation by the Seasonal Workers Act (907/2017) that entered into force on the 1st of January 2018.

Section 0:

- Covid-19 has had a large impact on the availability of seasonal labour in Finland in the spring and summer of 2020. The agriculture and berry farming sectors have voiced most concerns regarding the effects of the shortage of seasonal workers on sowing and harvesting this year. Production will be severely hit if the situation cannot be solved.
- The government has together with employers', workers, and producers organizations done its utmost to provide solutions to alleviate the situation. This has resulted in decisions to admit 9,000 foreign seasonal workers to Finland (29th of May). By the 18th of June the Finnish Immigration Service has already granted permits for approximately 8,700 seasonal workers.

Section 1:

- Approx. 16 000 foreign seasonal workers come to Finland each year. 3 000 of those are EU-citizens, who are outside the scope of the Seasonal Workers Directive.
- The majority of the seasonal workers from third countries come from the Ukraine, Belorussia, the Russian Federation and Thailand.
- Gender distribution approx. 54% women and 46% men
- Age distribution: the majority belong to the 20-40 age group, but the 40-55 age group is also well represented
- Agriculture and berry picking sectors are the biggest employers of seasonal workers.

Section 2:

- Seasonal workers are a very significant resource for labour for the agriculture, farming sectors and even vital for the berry picking sector. These sectors depend on seasonal workers and wouldn't be able to function normally without them.
- The government does not directly attract seasonal workers; most of the recruitment is done regionally and locally at the grass roots level. Positive experience amongst the employers and the seasonal workers themselves lead to recommending, i.e. between employers in Finland and the seasonal workers themselves come again and recommend the work to others in their respective countries of origin.

Section 3:

- There are no mechanisms to especially monitor the employment conditions of the seasonal workers. The Regional State Administrative Agencies are in charge of the monitoring as part of their normal employment conditions monitoring duties. The monitoring of seasonal working conditions are challenging as the workers only spend a short time in Finland. Complaints against the employers are often made only after the actual work and the permission to stay has ended as time is limited.
 - The Seasonal Workers Directive has only been implemented in Finland for a comparatively short time, therefore the effects of the Directive in protecting the rights of the seasonal workers from third countries has not been thoroughly evaluated yet.
-

Section 0: Impact of COVID-19

a. Has the COVID-19 situation affected the seasonal workers admission policy of your Member State with regard to third-country nationals?

Yes

No

If yes, please explain how:

To limit the spread of the pandemic, Finland began to restrict traffic across the external borders on 19 March, which meant that foreign nationals could not enter Finland. With Finnish diplomatic missions also suspending the reception of visa and residence permit applications, would-be seasonal workers could not even apply for a permit to enter the country. Many countries of origin of seasonal workers, such as Ukraine, also began to restrict the mobility of their citizens.

Together, these measures caused great concerns in the Finnish industries that are dependent on seasonal workers, and negotiations on addressing the situation began immediately between the Finnish Government and the social partners. Without seasonal workers, a significant proportion of the agricultural and berry picking industries would suffer substantial losses and Finland's security of supply in food production would be endangered. Accordingly, the issue was given a high political priority.

The Government has issued decisions on gradually allowing a limited number of seasonal workers to enter Finland for seasonal work with entry permits (certificate, visa or residence permit) in accordance with the Act on Seasonal work in the sectors most needing them.

b. What measures regarding seasonal work have been taken or are planned as a result of the COVID-19 situation?

Please explain:

Legislative amendments entered into force on 9 April 2020 allowing third-country nationals staying in the country on residence permits or permits pursuant to the Seasonal Workers Act to change their employer and occupational field without having to apply for an extended permit. These legislative amendments make it possible for the foreign nationals in question to work in jobs that are important in terms of the security of supply and the labour market. The temporary regulations will remain in effect until 31 October 2020.

On 14 April 2020, the Ministry of Agriculture and Forestry supplied the Finnish Border Guard with a list of seasonal workers considered to be the most critical employees of enterprises in agriculture, forestry, horticulture and the fisheries industry with respect to the security of supply. The Finnish Border Guard decides on the entry of workers.

Finland is preparing to receive approximately 1,500 seasonal workers in primary production. The workers in question will work in primary production, particularly as supervisors or in other special roles. While most of them will work in agriculture and horticulture, a small group will also be employed in critical roles in forestry and the fisheries industry.

The seasonal workers to be granted entry to Finland have been listed based on information received from enterprises in the agricultural, forestry and fisheries industries. The Ministry of Agriculture and Forestry surveyed the labour demand among enterprises by means of an urgent online questionnaire from 7 to 9 April.

It is expected that Ukrainian nationals will represent a majority (2/3) of the arriving seasonal workers. Workers will also arrive from EU Member States, such as the Baltic countries, Romania and Bulgaria.

The list compiled by the Ministry of Agriculture and Forestry is a recommendation that is based on the needs reported by enterprises as well as the important security of supply perspective. The Finnish Border Guard will make a decision on the entry of each worker subject to case-specific consideration based on the Government decision of 6 April. The other requirements for entry that apply under normal circumstances must also be met.

With regard to foreign seasonal workers, the Government decided on 6 May 2020 to suspend the following restrictions on the entry of seasonal workers:

The entry of 3,000 seasonal workers from outside the EU will be permitted to fulfil labour needs in the spring and early summer, in addition to the 1,500 seasonal workers decided on previously. The decision came into effect on 14 May. On the 29th of May the number of seasonal workers was increased with 4,500 making the total to 9,000 seasonal workers. The existing procedures concerning transport and two-week quarantines remain in effect, but in a way that allows working immediately in a safe and quarantine-like manner as mandated by the occupational health and safety authorities.

To ensure that harvest operations are conducted appropriately, a number of seasonal workers will be permitted to enter the country to work from the beginning of May until the end of September. The number will be determined by 31 May and the assessment will take into account the COVID-19 situation in the countries of origin as well as the availability of domestic labour.

Asylum seekers' right to work will be extended by a temporary amendment to the Aliens Act. The amendment will concern the start and end of the asylum seekers' right to work. The Act entered into force on 29 June.

The legislative amendment will temporarily abolish the three-month and six-month waiting periods for asylum seekers for taking up employment. As soon as the Act enters into force, asylum seekers will have the right to work in agriculture, forestry, horticulture and fisheries. This will help alleviate the situation where a shortage of seasonal employees from abroad is likely this year in Finland. The Act will remain in force until 31 October 2020.

The abolishment of the waiting periods will apply to asylum seekers who are waiting for a decision concerning international protection either from the Finnish Immigration Service or from an administrative court at the time of the entry into force of the temporary act. Under the amendment, the time left in the waiting period will be set aside for those asylum seekers where the three- to six-month waiting period for their applications has not yet expired.

In addition, asylum seekers can temporarily continue working longer than at present in agriculture, forestry, horticulture and fisheries. If asylum seekers receive a negative asylum decision and the removal decision concerning them becomes enforceable, they may continue working while they are in the country due to emergency conditions and receive reception services.

Due to the travel restrictions imposed as a result of the coronavirus pandemic, the entry of foreign labour has decreased significantly. This makes it challenging to find a sufficient number of workers, especially seasonal workers, in the agriculture, forestry, horticulture and fisheries sectors. For this reason, we also need to find ways to employ a range of domestic and foreign workers who are already in Finland for critical tasks. In its negotiations on 6 May, the Government decided on measures to ensure the availability of seasonal labour needed in agriculture and horticulture.

Section 1: Profile of seasonal workers

Research Question 1: What is the profile of third-country national seasonal workers in the EU?¹

Please note that all questions in this section refer to seasonal workers covered by the Directive, except for questions 2b, 12, 13 and 14.

Sub-questions:

1. Has your Member State admitted third-country seasonal workers under the Directive?

Yes

No

If no, please explain why.

2. What are the sectors covered by the Seasonal Workers Directive in your Member State?²

Please explain.

a. Industries in the agricultural sector that involve seasonal activities:

- i. Plant cultivation, livestock husbandry and related services
- ii. Forestry.

b. Industries in the tourism sector that involve seasonal activities:

- i. Coastal passenger water transport;
- ii. Inland passenger water transport;
- iii. Accommodation and food service activities;
- iv. Tour operator activities;
- v. Reservation services, tour guide services, etc.;
- vi. Activities that support performing arts;
- vii. Amusement park and theme park operations;
- viii. Ski resorts.³

c. In which sector(s) were seasonal workers mostly employed in 2018?⁴

Agricultural and horticultural enterprises, as well as companies in other agricultural industries, are the most significant sectors. Together, they employ more than 16,000 foreign seasonal workers per year.

d. Are there sectors of seasonal work that are not covered by the Directive?

Yes

No

If yes, please explain.

¹ This question does not have to be answered by EMN NCPs. This question will guide the narrative for the section in the synthesis report.

² Art.2(2) of the Seasonal Workers Directives requires Member States to list those sectors of employment which include activities that are dependent on the passing of the seasons requires³ To be cross-checked with Eurostat data

³ Government Decree on the Agriculture and Tourism Sectors that Involve Seasonal Activities <https://www.finlex.fi/fi/laki/alkup/2017/20170966>. Page visited 16 March 2020

⁴ Please cross-check with Eurostat data. If data for your Member State is not available on Eurostat, please use the same categorisation of sectors provided in Eurostat to the extent possible.

Forest berry picking is seasonal work, but it is not included in seasonal work as defined in the Directive. There are separate procedures for wild berry picking. To be eligible for a wild berry picking visa, the worker needs a letter of intent signed by the employer.⁵ Under the current legislation, wild berry picking is not considered to be an activity that takes place under an employment relationship.

In addition, the Seasonal Work Directive does not apply for example to the asphaltting industry, even though the paving work in question meets the definition of seasonal work based on different labour needs in different seasons. For the same reason, seasonal work also does not include seasonal jobs in the construction and earthmoving industries.

3. What were the top-5 countries of origin of seasonal workers in your Member State in 2018?⁶

Please list the top-5 countries of origin in 2018 for the number of authorisations granted for seasonal workers in line with the Directive (this can include both visas and residence permits). If applicable, please comment on any specific observations or trends with regard to the country of origin (e.g. that seasonal workers from a specific third country are particularly prevalent in a certain sector).

Certificate for seasonal work (for third country nationals from visa-free countries)

- Ukraine - agriculture
- Moldova
- Serbia
- Bosnia & Hercegovina
- Australia

Seasonal work visa (for third country nationals from countries with visa requirement):

- Ukraine – agriculture
- Thailand – mostly forest berry pickers
- Russian Federation
- Belarus
- Kosovo

Seasonal work permit (for stay over 3 months):

- Ukraine – agriculture
- Russian Federation
- Belarus
- Thailand
- Sri Lanka⁷

A clear trend is that Ukrainians work mostly in agriculture and Thai nationals as berry pickers. The other nationalities are more evenly spread between the sectors mentioned in Q. 2.

4. What was the main age group of seasonal workers who received an authorisation in 2018 in your Member State?⁸

Please state the main age group. If applicable, please comment on any specific observations or trends with regard to the age group.

⁵ Ministry for Foreign Affairs, procedures for wild berry picking by workers from countries within the scope of the visa requirement

⁶ Please cross-check with Eurostat data. If data for your Member State is not available on Eurostat, please use the same categorisation of sectors provided in Eurostat to the extent possible.

⁷ Finnish Immigration Service Statistics, <https://tilastot.migri.fi/index.html#applications/21205/59/2/488002?start=576&end=587>. Page visited 16 March 2020

⁸ Please refer to the following age groups in your answer: 15-19; 20-24; 25-29; 30-34; 35-39; 40-44 etc.

In 2018, 60% of residence permissions (certificates and residence permits) for seasonal work were granted to the 18-34 age group. The situation is slightly different concerning issued visas for seasonal work as the 35-64 age group were issued 52% of the visas and 42% to the 18-34 age group.

According to a background note by the Embassy of Finland in Vietnam, for example, most of the migrants are between the ages of 20 and 40.⁹

5. What was the gender distribution of seasonal workers who received an authorisation in 2018 in your Member State?

Please explain. If applicable, please comment on any specific observations or trends with regard to gender distribution (e.g. that mostly men are employed in the agricultural sector?)

Certificate for seasonal work (for third country nationals from visa-free countries)

- Women 4 359 - 63%
- Men 2 523 - 37%

Seasonal work visa (for third country nationals from countries with visa requirement):

- Women 5 290 - 55%
- Men 4 404 - 45%

Seasonal work permit (for stay over 3 months):

- Women 248 - 41%
- Men 354 - 59%

Women are issued more certificates and visas for seasonal work than men. The situation is a bit different regarding the residence permits for seasonal work, but not by much. Men come for employment that lasts longer than 3 months, whereas women enter with a visa for seasonal for from third countries with a visa requirement and with a certificate for seasonal countries from visa-free third countries especially to work as berry pickers.

6. Does your Member State have a minimum salary set in law?

Yes
No

If yes, please state the amount (in euros):

7. What was the average/minimum salary of seasonal workers in 2018?

Please describe. If applicable, please comment on any specific observations or trends with regard to the average/minimum salary.

The main principle is that the wages paid to seasonal workers must be in line with the applicable collective agreements. The minimum wage in the agricultural industry in 2018 was €8,43/hour.

⁹ Vitikka 2019. "Background note on employment-based emigration from Vietnam"

The Finnish Immigration Service has instructed that the requirement for being granted a permission for seasonal work is that the wage corresponds to the work requirement of the Social Insurance Institution of Finland (KELA), which is 1 236€ / month in 2020. The means of subsistence has to be secured by the income from employment (not partially by own savings). This is stipulated in paragraph 6§ in the Seasonal Workers Act.

According to the terms of employment in the berry picking industry, the minimum hourly wage in 2018 was €8.43/hour for job category 1 on a scale of 1–5, with the job category being determined based on the skill requirements, responsibilities and workload¹⁰.

In 2019, the minimum wage was €8.57/hour.¹¹ The annual holiday compensation (12.5%) is paid after the termination of a fixed-term employment relationship.

In 2020 the minimum wage is €8,71/hour.

There is no information on the average salary of seasonal workers.

8. What was the average duration of stay of third-country nationals who were granted authorisation for seasonal work in 2018 in your Member State?

Please describe. If applicable, please comment on any specific observations or trends with regard to the duration of stay.

9. Is there a specific period of the year where there is more need for seasonal workers?

Yes

No

If yes, which period is this (e.g. spring, summer, autumn, winter)?:

- Summer – agriculture, horticulture and other agricultural industries.
- Winter – travel industries and fur farming

10. Does your Member State collect information about the skills level of seasonal workers (for example information on education or qualification level, language level or level of experience of the seasonal workers)?

Yes

No

If yes, what was the average skills level in 2018 (e.g. low-, medium-, or highly-skilled)? If applicable, please comment on any specific observations or trends with regard to the skills level.

¹⁰ Terms of employment in berry picking and berry picking wages for 2018, https://www.tyosuojelu.fi/documents/14660/126479/Marjanpoiminnan_tyoehdot_2018.pdf/6a4baf8d-763b-0acc-099c-639715e106bd. Page visited 18 March 2020

¹¹ Terms of employment in berry picking and berry picking wages for 2018, https://www.teollisuusliitto.fi/wp-content/uploads/2019/03/Marjanpoiminnan_tyoehdot_2019.pdf. Page visited 18 March 2020.

11. Are there any alternative categories of migrant workers who perform temporary work of a cyclical nature who are not covered by the Seasonal Workers Directive? Please only consider those categories of seasonal workers which show the same characteristics, or very similar ones, as those covered by the Directive (duration of stay in Member State, cyclical nature of their work, main residence outside the Member State, etc.)?

Yes

No

If yes, what percentage (roughly) of seasonal workers in your Member State are covered through these alternative categories?

Please refer to the answers to questions 2.d and 20. Forest berry picking is seasonal work, but it is not included in seasonal work as defined in the Directive.

Of the seasonal work visas issued in 2018, approximately 34% (9,600 visas) were for forest berry pickers. However, if the seasonal work certificates issued to workers from visa-exempt countries (6,839 certificates) and residence permits issued on the basis of seasonal work (900 permits) are also taken into consideration, roughly 15% work in seasonal jobs that are not included in the categories covered by the Seasonal Work Directive.

12. If applicable, what are the main differences between those migrant workers covered by the Seasonal Workers Directive and those not covered by the Directive in terms of their background information (age, gender, country of origin)?

Please explain:

The worker profile does not differ substantially from the profile of workers in categories covered by the Seasonal Workers Directive in terms of age and gender. It is notable that nearly all of the forest berry pickers that came to Finland in 2018 were from Thailand.

13. In your Member State, are seasonal work activities known to be performed by irregular migrants?

Yes

No

If yes, is there data/information available on the magnitude and the characteristics of the seasonal work activities performed by irregular migrants? Please explain.

Section 2: Attraction of seasonal workers to address labour market needs

Research Question 2: To what extent do Member States place specific efforts on attracting seasonal workers to address labour market needs?¹²

Please note that all questions in this section refer to seasonal workers covered by the Directive, except for question 20.

Sub-questions:

14. Is the entry and stay of seasonal workers from third countries part of your overall migration policy?

- Yes
No

15. Did your Member State develop measures to attract seasonal workers?

- Yes
No

If yes, how is this done? Please briefly explain.

16. Does your Member State rely on seasonal workers from third countries to fill labour market needs?

- Yes
No

Please explain.

a. If yes, for which sectors and what are these labour market needs? *Please explain.*

Seasonal workers respond to labour demand in the agricultural sector and the berry picking industry in particular. In 2018, for example, more than 17,000 people entered Finland for seasonal work holding a visa, a seasonal work certificate or a residence permit for seasonal work, which illustrates that there is a significant need for seasonal labour.

b. Did the migration of seasonal workers who came to your Member State between 2016-2019 help to address the labour market needs of your Member State?

- Yes
No
To some extent

Please explain.

- Please response to Q. 16 a.

¹³ This question does not have to be answered by EMN NCPs. This question will guide the narrative for the section in the synthesis report.

17. Does your Member State implement an annual quota for seasonal workers?

Yes
 No

a. If yes, is this a general quota or is it applied to specific sectors or to certain third countries?

Please explain.

b. If yes, was this quota fulfilled between 2016-2019?

N/a

Yes
 No

18. What was the average processing time and costs (in euros) for applications from third-country nationals for the purpose of carrying out seasonal work in 2018?

Please explain.

Seasonal work visa

- visa fee: €80
- under a visa facilitation agreement: €35
- in expedited processing under a separate visa facilitation agreement: €70

Seasonal work certificate

- costs **€60** (online) through Enter Finland; a paper request for a certificate costs **€100**

Residence permit for seasonal work¹³

- 3–6 months
 - online application: €410
 - paper application: €490
- 6–9 months
 - online application: €510
 - paper application: €640
- application for an extended permit: €260

19. If your Member State has alternative categories of migrant workers who perform temporary work of a cyclical nature who are not covered by the Seasonal Workers Directive (see question 12):

a. Does your Member State have one or more specific national schemes to cover these categories?

Yes
 No

Please briefly explain.

¹³ Finnish Immigration Service, Seasonal Work Seminar, 16 January 2019

Wild berry picking by workers from countries within the scope of the visa requirement

Wild berry picking is not covered by the Seasonal Workers Act because the Directive requires that there is an employment relationship between the employer and the employee. Accordingly, wild berry pickers are not seasonal workers covered by the Seasonal Work Directive.

Foreign nationals entering Finland from countries within the scope of the visa requirement previously specified by the Minister for Foreign Affairs are permitted to pick wild berries for a maximum of 90 days within a period of 180 days without a residence permit. The use of a Schengen visa is made possible by Article 21, Section 3, Subsection b of the Schengen Visa Code and Article 5, Section 1, Subsection c of the Schengen Borders Code.

If the duration of the aforementioned wild berry picking exceeds 90 days within a period of 180 days, the person must apply for a residence permit for an employed person before commencing employment in Finland.

b. What is the reason for the existence of such specific national schemes? I.e. Why are employers more likely to use these national schemes instead of the one established in the Directive?

Please briefly explain.

The Seasonal Work Directive does not apply to wild berry picking because the Directive requires that there is an employment relationship between the employer and the employee.

20. Does your Member State apply a labour market test to seasonal workers?

Yes

No

Please briefly explain.

A preliminary decision is needed if a residence permit for seasonal work is issued for 6–9 months.

In its preliminary decision, the Employment and Economic Development Office determines whether the conditions stipulated by Section 73 of the Aliens Act (1218/2013) for issuing a residence permit for an employed person are met. According to the relevant provisions, issuing a residence permit for an employed person is based on consideration that takes into account, among other things, perspectives related to the availability of labour and ensuring the foreign national's means of support while staying in the country. The Employment and Economic Development Office also ensures that a residence permit for an employed person is only issued to persons who meet the requirements if the work requires specific qualifications or an accepted state of health. The Employment and Economic Development Office further ensures that the statements attached by the employer to the application comply with the provisions of Section 72 of the Aliens Act. In its preliminary decision, the Employment and Economic Development Office determines whether the employment is temporary or continuous and whether the residence permit for an employed person is specific to an occupational field or specific to an employer. In its assessment, the Employment and Economic Development Office takes into account the regional policies referred to in Section 71 as well as the national policies pursuant to the Government's decision. For residence permits for seasonal work with a duration exceeding 90 days, the Finnish Immigration Service's assessment of the adequate availability of domestic labour in the relevant industry is also taken into consideration. The Finnish Immigration Service can base its assessment on e.g. statements by Employment and Economic Development Offices, statistical data released by Statistics Finland and other official sources as well as the social partners' views regarding the availability of domestic labour.¹⁴

¹⁴ Government proposal (HE 80 2017), https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Documents/HE_80+2017.pdf.
Page visited 16 March 2020

21. Does your Member State facilitate the re-entry of seasonal workers?¹⁵Yes No *If yes, how is this done? Please briefly explain.***Seasonal Workers Act, Section 18: Facilitating re-entry**

If a third-country national has been employed as a seasonal worker in Finland at least once during the five years preceding the submission of an application for a permit for seasonal work and complied with the provisions governing seasonal work as laid down in this Act, they are not required to present evidence of appropriate accommodation.

22. Does your Member State cooperate with third countries to attract seasonal workers (e.g. bilateral or multilateral agreements)?Yes No *Please briefly explain.***23. Who are the relevant actors in attracting seasonal workers (e.g. recruitment agencies)?***Please briefly explain.*

In most cases of seasonal work subject to the Directive, the employers report their labour needs directly to the Employment and Economic Development Office, which then publishes job adverts on its website. This way, prospective employees can directly contact employers, who then handle the employment contracts and other practical issues with the employee.

In some cases, the recruitment process also includes agencies in the seasonal worker's country of origin.

In 2019–2020, the Finnish authorities have made efforts to promote the mobility of European labour through the EURES network. The target countries have included e.g. Latvia, Slovakia, Lithuania, Croatia and Ukraine.¹⁶

The Central Union of Agricultural Producers and Forest Owners (MTK) opened the Töitä Suomesta service in April 2018. It is a web platform where employers and job seekers can enter their data in order to look for employees and find work namely in agriculture, horticulture and forestry. This service is also aimed at foreign workers.¹⁷

¹⁵ This question refers to measures included within Art. 16 of the Directive and any other measures. Art. 16 of the Seasonal Workers Directive provides that 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. The facilitate may include measures such as: the grant of an exemption from the requirement to submit one or more of the documents necessary for admission; the issuing of several seasonal worker permits in a single administrative act; an accelerated procedure leading to a decision on the application for a seasonal worker permit or a long stay visa; priority in examining applications for admission as a seasonal worker.

¹⁶ Iltalehti. 2020. "Kolme syytä siihen, miksi Suomen työttömällä ei saada täytettyä avoimia paikkoja – tällaisia tekijöitä Suomeen nyt halutaan ulkomailta" <https://www.iltalehti.fi/politiikka/a/61b53b48-f808-45a4-8dbc-220d871aeee2>, Page visited 20 March 2020

¹⁷ <https://www.toitasuomesta.fi/for-job-seeker-en/>

24. How are employers informed about the procedure for hiring seasonal workers?

Please briefly explain. If applicable, please also mention any support provided to employers to hire seasonal workers.

The Finnish Immigration Service website has a section dedicated for informing employers employing or are planning to hire foreign workers¹⁸. The Töitä Suomesta website by the The Central Union of Agricultural Producers and Forest Owners (MTK) also contains information for employers. The Public Employment and Business Service (TE-Services) also have information for both foreign workers and their employers¹⁹.

The information is for employers in general and only the Töitä Suomesta-website is more geared towards seasonal work.

25. Can seasonal workers apply for a change of status while they are in your Member State for the purpose of seasonal work (i.e. if they find another job, a permanent contract, etc)?

Yes
No

If yes, please explain.

26. Has your Member State carried out an evaluation of the implementation of the Seasonal workers Directive at national level? If so, did it conclude anything as to whether the introduced measures were sufficient in attracting seasonal workers?

Yes
No

27. Is your Member State aware of any misuse (e.g. employers hiring third-country seasonal workers for non-seasonal work) in the application of the Directive?

Yes
No

Please briefly explain.

28. Are there any good practice examples in relation to the attraction of seasonal workers in your Member State?

Yes
No

Please briefly explain.

No good practice examples have specifically been mentioned regarding the attraction of seasonal workers. Good cooperation between employers' and producers' organisations on the regional and local level as well as recommendations by the workers themselves in their countries of origin has been mentioned as factors, although these cannot be considered attraction measures as such.

¹⁸ <https://migri.fi/en/for-employers>

¹⁹ https://www.te-palvelut.fi/te/en/jobseekers/work_finland/index.html

Section 3: Protection and rights of seasonal workers

Research Question 3: How does the Seasonal Workers Directive achieve its goal of protecting seasonal workers and their rights?²⁰

Please note that all questions in this section refer to seasonal workers covered by the Directive, except question 40 and 41.

Sub-questions:

29. Does your Member State apply restrictions to the equal treatment between seasonal workers from third countries and nationals of your Member State who carry out comparable employment activities, particularly with regard to:

a. Family benefits;²¹

Yes

No

If yes, please briefly explain.

Pursuant to Section 13 of the Seasonal Workers Act, the family members of seasonal workers are not issued with a residence permit on the basis of family ties (Finnish Immigration Service policy guidelines).

With regard to social security, the requirement for equal treatment only applies to third-country workers who are in a contractual employment relationship. Seasonal workers are issued with a permit for seasonal work, which is comparable to the permits issued on the grounds of employment pursuant to the Aliens Act. Seasonal workers cannot be excluded from social security on the grounds that they stay in Finland for a limited time. As a rule, third-country nationals are required to hold a permit entitling them to stay in the country for at least one year to have the right to residence-based social security.

b. Unemployment benefits;

Yes

No

If yes, please briefly explain.

Starting from the beginning of 2018, unemployment insurance contributions are not paid for seasonal workers. (Vero.fi)

Amendments to the Unemployment Allowances Act and the Act on Financing Unemployment Benefits exclude seasonal workers, as referred to in the Seasonal Workers Directive, from unemployment insurance. (Government proposal HE 80 2017, 60)

²⁰ This question does not have to be answered by EMN NCPs. This question will guide the narrative for the section in the synthesis report.

²¹ Art. 23(2)(i) of the Seasonal Workers Directive provides that Member States may restrict equal treatment 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.

With regard to social security, the requirement for equal treatment only applies to third-country workers who are in a contractual employment relationship. Seasonal workers are issued with a permit for seasonal work, which is comparable to the permits issued on the grounds of employment pursuant to the Aliens Act. Seasonal workers cannot be excluded from social security on the grounds that they stay in Finland for a limited time. As a rule, third-country nationals are required to hold a permit entitling them to stay in the country for at least one year to have the right to residence-based social security.

c. Educational and vocational training not linked to the specific employment activity;²²

Yes

No

If yes, please briefly explain.

Seasonal workers are not eligible for study grants or study loans.

d. Tax benefits in cases where the registered or usual place of residence of the family members of the seasonal worker for whom he/she claims benefits, does not lie in the territory of the Member State concerned.²³

Yes

No

e. Are there any practical difficulties to ensuring equal treatment in the areas defined in the Directive?

Yes

No

If yes, please briefly explain.

As no evaluations have been made yet, it is too early to tell if there have been any difficulties.

30. Who are the most important actors in your Member State regarding the protection of seasonal workers' rights and what is their role? Please explain. Please distinguish between public and private actors in your answer (e.g. Trade Unions, Chambers of Commerce, etc.).

Regional State Administrative Agencies carry out general monitoring of occupational safety and health at workplaces. The workplaces of seasonal workers are subject to the normal occupational safety and health inspection visits. There are no specific quotas for the inspections of workplaces of the seasonal workers. Inspections are carried out randomly and in response to tip-offs.

The Finnish regions with the largest numbers of seasonal jobs are Southwest Finland, Ostrobothnia and Lapland. In Southwest Finland and Ostrobothnia, there are agricultural and horticultural enterprises as well as fur farms that use seasonal labour. In Lapland, the tourism and restaurant industry employs some seasonal workers each year.

In the southern part of the country, inspection visits to farms are often conducted in response to inspection requests. Inspection requests can be submitted by e.g. trade unions, the acquaintances of employees, other entrepreneurs or the Finnish Immigration Service.

²² Art. 23(2)(ii) of the Seasonal Workers Directive provides that Member States may restrict equal treatment 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.

²³ Art. 23(2)(iii) of the Seasonal Workers Directive provides that Member States may restrict equal treatment 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.

The basic principle governing the monitoring of the working conditions of seasonal workers is to apply the same standards as in the monitoring of other workplaces. There are no special mechanisms for the monitoring of the working conditions of seasonal workers in particular. Furthermore, the monitoring of working conditions in seasonal work is often made more problematic by the fact that seasonal workers only stay for a short time. Complaints are sometimes filed only after the worker's permits for employment and residence have expired, as they don't have time to file complaints during their employment.

Other parties that monitor the rights of seasonal workers include the following:

- trade unions
- Victim Support Finland – has taken on a more important role in the past few years
- Police-led inspections involving multiple authorities have also been carried out. For example, in farm inspections, the Regional State Administrative Agency has cooperated with the Police and fire inspectors to conduct comprehensive inspections, with the fire inspectors focusing on the inspection of accommodation facilities.

31. Is there a framework in place enabling the transfer of pension contributions to origin countries?

Yes

No

if yes, please explain.²⁴

It is not possible to withdraw accrued pension contributions from the Finnish pension system. Nevertheless, people who have been employed in Finland will eventually be paid earnings-related pension, even if they reside abroad and have only worked in Finland on a seasonal basis. This is conditional on the person in question having been covered by pension insurance in Finland instead of being a posted worker, in which case pension contributions are paid directly into the pension system of the country from which they were posted.

A person who has previously been employed in Finland must apply for a Finnish pension when they reach the Finnish age limit for old-age pension (or meet the conditions for eligibility for disability pension). If the person resides in an EU/EEA country or in a country with which Finland has a bilateral social security agreement (https://www.tyoelakelakipalvelu.fi/telp-publishing/vepa/folder.faces?folder_id=200319), they can submit a Finnish pension application to the pension institution of their country of residence, which will act as a liaison body and forward the application to the relevant earnings-related pension provider in Finland and the Social Insurance Institution of Finland (if the person has also applied for a pension from the Social Insurance Institution of Finland). If the person resides in a non-EU/EEA country that does not have a bilateral agreement with Finland, they must obtain a Finnish national pension application form and submit it themselves to the Finnish Centre for Pensions, the Social Insurance Institution of Finland or the relevant earnings-related pension provider.²⁵

32. If your Member State has alternative categories of migrant workers performing temporary work not covered by the Directive, do these categories enjoy the same rights as those granted by the Directive?

Yes

No

If yes, please briefly explain.

²⁴ Art.23(1) provides that 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, under the same conditions and at the same rates as the nationals of the Member States concerned when they move to a third country

²⁵ Kalske, Tiina. Finnish Centre for Pensions, 2020.

Forest berry picking is seasonal work, but it is not included in seasonal work as defined in the Directive as there is no obligation for an official employment contract in Finland. To be eligible for a wild berry picking visa, the worker needs a letter of intent signed by the employer. The employment conditions are still the same as for the seasonal workers covered by the Directive.

33. What does your Member State consider an “adequate standard of living” in relation to accommodation? How does your Member State ensure that seasonal workers benefit from an “accommodation that ensures an adequate standard of living” for the duration of his or her stay?²⁶ Please briefly explain.

A statement concerning accommodation must be submitted to the Finnish Immigration Service in the application stage.

For example, the applicant may indicate the address of their accommodation. If accommodation is provided by the employer, the applicant can simply indicate this on the application. The requirements concerning the accommodation of seasonal workers are laid down in Section 19 of the Seasonal Workers Act. If the employer provides accommodation, or if the accommodation is arranged through the employer, the employer is responsible for ensuring that the accommodation fulfils the general health and safety regulations.

Pursuant to Section 19, Paragraph 1, seasonal workers are required to report all changes in their accommodation. If an employer provides accommodation for a seasonal worker, the employer is similarly required to report any changes in accommodation.

Address information must also be indicated in applications for visas/work permits.

The health standards of accommodation are monitored by the municipal health protection authorities pursuant to the Health Protection Act (763/1994). The municipal health protection authorities conduct inspections of accommodations based on suspected health hazards, not as a regular monitoring activity.²⁷

The authorities responsible for the monitoring of adequate standards of living in relation to accommodation are the health authorities and fire inspectors. Fire inspectors conduct monitoring in the field as part of their normal activities.

The accommodations of seasonal workers may be subject to inspections, which can lead to the prohibition of their use due to inadequate fire safety. However, there are no special monitoring activities in this regard.

Fire inspectors participate in some occupational safety and health inspections conducted by the Regional State Administrative Agencies. If the Regional State Administrative Agency observes deficiencies in accommodations in connection with an occupational safety and health visit, it may report the matter to the fire inspector and health inspector for follow-up.

a. Are there any good practices in relation to ensuring adequate accommodation, considering the temporary nature of stay of seasonal workers?

Yes

No

If yes, please briefly explain

²⁶ Art. 20(1) provides that Member States shall require evidence that the seasonal workers 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.

²⁷ Government proposal (HE 80 2017), https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Documents/HE_80+2017.pdf. Page visited 16 March 2020

34. Does your Member States have procedures/mechanisms in place to ensure that seasonal workers and their employers are informed of their rights and duties?

Yes

No

If yes, please briefly explain

The website of the Finnish Immigration Service includes information both for employees and employers on granting residence permits.²⁸ The Töitä Suomesta website by the The Central Union of Agricultural Producers and Forest Owners (MTK) also includes information to both employers and workers along with further links with more information.²⁹

Information is generally disseminated to employees during occupational safety and health inspections, but there is no systematic contacting of employees, and not all employees are reached.

Workers may call the occupational safety and health helpline to request more information on their rights and obligations. Seasonal workers do not use this service to a significant degree, however, as they may not be aware of its existence.

Trade union representatives visit farms to provide information to workers.

Forest berry pickers receive a written summary about the rights and obligations of berry pickers in Finland.

35. Does your Member State have any specific procedures/mechanisms in place to monitor, assess and carry out inspections on whether:³⁰

a. Seasonal workers can exercise their equal treatment rights and other rights granted in practice? How does that work and who are the actors involved?

Yes

No

If yes, please briefly explain

As part of its operations, the Regional State Administrative Agency conducts occupational safety and health inspections, which include an assessment of whether the employer's application conditions, equal pay and working hours are realised in accordance with the applicable collective agreement. The Regional State Administrative Agency does not conduct special inspections focused on seasonal work. Instead, the inspections are conducted as part of normal occupational safety and health inspection activities, which are carried out as needed and on a one-off basis. As a result, seasonal workers may not be fully informed of their rights.

b. Seasonal workers abide by the rules (e.g. no overstaying)? How does that work and who are the actors involved?

Yes

No

If yes, please briefly explain

²⁸ <https://migri.fi/en/home>

²⁹ <https://www.toitasuomesta.fi/for-job-seeker-en/>

³⁰ Art. 24 provides that Member States shall 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 (Directive 2014/36/EU).

Seasonal workers' work permits are inspected as part of the monitoring of occupational safety and health. The inspection includes a complete review of the conditions of the work permit and if the employer has verified the foreigners right to work. If any violations are observed during these inspections, such as working for the wrong employer, these violations are reported to the Police, which is responsible for sanctions. The occupational safety and health authorities do not have the authority to impose fines. The activities of the occupational health and safety authorities also include cooperation with the Border Control and the Police.

c. Employers abide by the rules (e.g. no exploitation)? How does that work and who are the actors involved? Is there a focus on any specific economic sectors?

Yes

No

If yes, please briefly explain

In its occupational safety and health inspections, the Regional State Administrative Agency monitors the terms of employment and their implementation. The Regional State Administrative Agency monitors that wages and working hours are in line with the permit application. The monitoring is similar to other industries and there are no special monitoring activities targeted at seasonal work. In Finland, it has not been deemed necessary to monitor seasonal work in particular, as the workplaces that employ seasonal workers are covered by the normal system of occupational safety and health monitoring. As seasonal work has not been observed to be different from other industries, there are no special processes in place for seasonal workers specifically. In inspections, seasonal workers are treated equally with other employees.

Of the sectors that use seasonal workers, agriculture has the highest number of inspection visits. On each inspection visit, the authorities assess whether the employer complies with the relevant terms of employment. There are risks of irregularities in all sectors, and occupational safety and health monitoring is not specifically targeted at seasonal work. However, seasonal workers may be in a vulnerable position because they are not sufficiently familiar with the Finnish system and they only stay in the country for a short time.

The Regional State Administrative Agency distributes information to other parties as necessary, but there have been problems observed when it comes to the dissemination of information.

36. Does your Member State collect statistics on the procedures/mechanisms described in question 34?

Yes

No

If yes, please provide the statistical information for the year 2018.

There are statistics on the number of inspections, but the data is not available disaggregated by seasonal workers.

37. How can seasonal workers lodge complaints against their employers?³¹ Did your Member State set up some specific procedures to protect seasonal workers who lodge complaints?Yes No *If yes, please briefly explain*

Seasonal workers are provided with the same rights as other employees to lodge complaints and reports against their employers. The Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (44/2006) states that the occupational safety and health authorities have the right to monitor the applicable employment legislation. An employee or any other party – such as an occupational safety and health delegate or trade union representative – can report suspected violations of the regulations that fall within the monitoring activities of the occupational safety and health authorities.

Pursuant to Section 2 of the Article, third parties are required to have the right to engage either on behalf of or in support of a seasonal worker, with his or her approval, in administrative or civil proceedings.

If there are wages due, a seasonal worker has the right to seek payment of the wages from the employer by filing a claim within two years. Seasonal workers can also authorise a representative to file a claim for their due wages in Finland.

The provisions of the Finnish Employment Contracts Act and the Non-Discrimination Act as well as the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces protect seasonal workers from unfavourable treatment with respect to the filing of complaints and initiating legal proceedings.

Seasonal workers also have the option of contacting the occupational safety and health helpline, but the occupational safety and health authorities do not have detailed information on the number of contacts from seasonal workers. Efforts are made during occupational safety and health inspections to talk to workers and, where possible, information on occupational safety and health is also distributed to workers during occupational safety and health inspections.

After the end of their employment, seasonal workers may contact the Regional State Administrative Agency if there were any irregularities during their employment. There are, however, no special protection measures for seasonal workers. Whistleblower protections also apply to seasonal workers, but there are no special protection measures for seasonal workers.

38. Are there specific sanctions in place in your Member State against employers who have not fulfilled their duties under the Seasonal Workers Directive?Yes No *If yes, please briefly explain*

³¹ Art.25 provides that 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.

Section 7: refusal of a permit for seasonal work for employer-related reasons if the employer has neglected to fulfil their rights under the Aliens Act

- 1) employers subject to sanctions due to the violation of employer obligations or irregular employment;
 - 2) employers subject to sanctions for gross negligence of the obligations under this Act;
 - 3) employers who have failed to comply with their obligations related to social security, taxation, workers' rights, working conditions or terms of employment pursuant to the law or an applicable collective agreement;
 - 4) employers whose business has been wound up under insolvency laws or no economic activity is taking place; or
 - 5) employers who have not complied with their cooperation obligations under Section 8.
- Violations of the Aliens Act arising from a violation of the employer's obligations or irregular work are addressed in Section 186 of the Aliens Act. The violations are punishable by a fine.
 - The penalties for the unauthorised use of foreign labour are specified in Chapter 47, Section 6(a) of the Criminal Code of Finland.
 - Sanctions for violating the obligation to cooperate in cases in which the employer has failed to comply with the obligation to cooperate are laid down in Section 8, i.e. has not provided the insurance specified in Section 8.
 - Sanctions may also be based on the prohibition of discrimination under the Non-Discrimination Act (particularly extortionate work discrimination and general discrimination). They are punishable under Chapter 47, Section 3 and 3(a) of the Criminal Code.
 - The occupational safety and health authorities have the obligation to report suspicions of work discrimination, wage discrimination and extortion to the Police. These types of cases usually arise in the context of pay.
 - There have been some instances of wage discrimination among seasonal workers, but the Regional State Administrative Agencies do not have specific statistics on these.

39. Do migration authorities and labour authorities cooperate in relation to the monitoring of seasonal workers and their employers?

Yes

No

If yes, please briefly explain the nature of cooperation and the objective, i.e. the protection of seasonal workers, fulfilment of their rights, detection of irregularly-staying seasonal workers or overstayers, etc.

The Regional State Administrative Agencies carry out occupational safety and health monitoring at the workplaces of seasonal workers. If irregularities, such as unauthorised employment, are observed, the Regional State Administrative Agency has a legal obligation to report the matter to the Police. In some cases, they may also report the matter to the Finnish Immigration Service. As a rule, the exchange of information with the migration authorities takes place on a low-threshold basis. The Regional State Administrative Agency forwards the inspection reports of occupational safety and health inspections to the Finnish Immigration Service.

The migration authorities do not conduct workplace monitoring activities of their own.

The migration authorities may also report to the Regional State Administrative Agency if they are informed of irregular employment or other complaints.

40. Has your Member State detected seasonal workers who are victims of exploitation or human trafficking?

Yes

No

If yes, please briefly explain.

Due to the difficulty of defining seasonal work status, not all cases involving exploitation and human trafficking of seasonal workers will be detected. It is likely that the inspections have revealed deficiencies pertaining to the terms of employment, but it is difficult to identify serious exploitation and human trafficking concerning seasonal workers in particular. When such cases are detected during inspection visits, the seasonal worker status of the employees concerned is not necessarily always specified.

Incidents of exploitation and human trafficking are reported to the Police and, subsequently, defining the status depends on how the investigation proceeds.

According to the Regional State Administrative Agencies, there have been cases of exploitation concerning workers who have entered the country on a seasonal work permit. Most of these cases have occurred in Southwest Finland, where there are a lot of farms.

41. Are there any good practice examples or research/evaluation findings of how the rights of seasonal workers have been ensured in your Member State?

Yes

No

If yes, please briefly explain.

There has not yet been any comprehensive studies or evaluations on how the rights of seasonal workers have been ensured in Finland. Media has during the last couple of years picked up on some cases of suspected exploitation of seasonal workers with indications of human trafficking. The Seasonal Workers Act implementing the Directive in Finland entered into force on the 1st of January 2018.

Section 4: Conclusions and lessons learned

Please comment on the findings of your national report by drawing conclusions, and identifying any key challenges and lessons learned. Please make reference to the three research questions of the study in your reply.

The Seasonal Workers Directive was implemented in Finnish legislation by the Seasonal Workers Act (907/2017) that entered into force on the 1st of January 2018.

Seasonal workers are a very significant resource for labour for the agriculture, farming sectors and even vital for the berry picking sector. These sectors depend on seasonal workers and wouldn't be able to function normally without them. Approx. 16 000 foreign seasonal workers come to Finland each year. 3 000 of those are EU-citizens, who are outside the scope of the Seasonal Workers Directive. Despite of this seasonal workers haven't received a lot of attention in the public debate and the media previously.

Covid-19 changed all this and in the spring of 2020 securing enough seasonal workers for the agriculture, horticulture and berry picking sectors in Finland made news headlines. The closing of the borders and the travel restrictions to and from Finland and the countries of origin of the seasonal workers in March 2020 completely stopped the inflow of seasonal workers.

The issue was considered extremely important in order to secure emergency supply and to not jeopardize domestic production of foodstuffs. The government together with employers', workers, and producers organizations and in cooperation with the countries of origin has worked to provide solutions to alleviate the situation. These measures secured the admission of 9,000 foreign seasonal workers and the government has also made temporary legislative changes in order to facilitate foreigners already residing in Finland to work in sectors important for the emergency supply.

Seasonal workers to Finland from third countries come mostly from the Ukraine, Thailand and the Russian Federation. The 20-40 age group makes for the largest group although there are slight variations according to the type of entry permission (certificate for seasonal work, visa for seasonal work and residence permit for seasonal work). Women account for 55-60% and men for 40-45% of the seasonal workers according to the type of entry permission.

Most seasonal workers are employed in the agriculture, horticulture and berry farming sectors. Other sectors include tourism and hospitality.

Employers' and producers organisations have an important role in getting seasonal workers to Finland, but the best and most effective way is the personal experiences of the seasonal workers themselves as they choose to return and also recommend coming to Finland for seasonal work to their friends and relatives in their respective countries. Positive experiences among the farmers and producers in Finland also lead them to recommend employing seasonal workers to their colleagues.

The Covid-19 situation made the Finnish stakeholders more aware of the need to be more active in attracting seasonal workers and not just relying on them coming automatically back every year. It is still too early to tell how this will change, but it is very likely that more efforts will be placed on targeted information provision as well as attraction and facilitation activities compared to previous years.

Protecting the rights of foreign seasonal workers also play a role in the attractiveness of Finland as a destination to come and work. Cases of suspected exploitation of seasonal workers are detected in monitoring activities and they are more frequently brought into public awareness by the media. One of the challenges still is to better inform the seasonal workers more about their rights in order to further minimize the risk for exploitation and other unwanted behaviour.

It is still too early to tell if the implementation of the Seasonal Workers Directive has had an impact on ensuring and protecting the rights of seasonal workers as there haven't been any studies or evaluations made on this particular subject.

Overall, one positive effect of the Covid-19 situation is that foreign seasonal workers and their importance for essential sectors of the Finnish labour market have gained more visibility and recognition and this will ultimately improve their position and the protection of their rights.

Statistical annex

Number of first time authorisations granted to third country nationals for the purpose of seasonal work in total and by citizenship (based on Eurostat dataset migr_ressw1_1).

Please only provide this data for the years 2017 and 2018 if not available on Eurostat (migr_ressw1_1). In this case, please also state the reasons for unavailability on Eurostat.

2016		2017		2018		2019		Comment
Total number of third country nationals	14024*	Total number of third country nationals	13020*	Total number of third country nationals	17455**	Total number of third country nationals	19572**	
Citizenship 1:	n/a	Citizenship 1:	n/a	Ukraine**	11421	Ukraine***	10884	
Citizenship 2:	n/a	Citizenship 2:	n/a	Thailand**	2799	Thailand**	2514	
Citizenship 3:	n/a	Citizenship 3:	n/a	Russian Federation**	2386	Moldova***	150	
Citizenship 4:	n/a	Citizenship 4:	n/a	Belarus**	262	Russian Federation***	100	
Citizenship 5:	n/a	Citizenship 5:	n/a	Moldova**	103	Vietnam***	86	

* Visas for seasonal work including berry pickers, source Ministry for Foreign Affairs

** Visas for seasonal work including berry pickers, certificates for seasonal work, residence permits for seasonal work, source Ministry for Foreign Affairs and Finnish Immigration Service

*** Certificates for seasonal work and residence permits for seasonal work, source Finnish Immigration Service

Number of first time authorisations granted to third country nationals for the purpose of seasonal work by economic sectors and disaggregated by gender (based on Eurostat dataset migr_ressw2).

Please only provide this data for the years 2017 and 2018 if not available on Eurostat (migr_ressw2). In this case, please also state the reasons for unavailability on Eurostat.

	2016			2017			2018			2019			Comment		
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total			
Total	n/i	n/i	14024**	Total	n/i	13020**	Total	7559**	9624**	17455**	Total	4804***	6699***	19572**	No data on sectors available
Sector 1:	n/i	n/i	n/i	Sector 1:	n/i	n/i	Sector 1:	n/i	n/i	n/i	Sector 1:	n/i	n/i	n/i	
Sector 2:	n/i	n/i	n/i	Sector 2:	n/i	n/i	Sector 2:	n/i	n/i	n/i	Sector 2:	n/i	n/i	n/i	
Sector 3:	n/i	n/i	n/i	Sector 3:	n/i	n/i	Sector 3:	n/i	n/i	n/i	Sector 3:	n/i	n/i	n/i	
Sector 4:	n/i	n/i	n/i	Sector 4:	n/i	n/i	Sector 4:	n/i	n/i	n/i	Sector 4:	n/i	n/i	n/i	
Sector 5:	n/i	n/i	n/i	Sector 5:	n/i	n/i	Sector 5:	n/i	n/i	n/i	Sector 5:	n/i	n/i	n/i	

** Visas for seasonal work including berry pickers, certificates for seasonal work, residence permits for seasonal work, source Ministry for Foreign Affairs and Finnish Immigration Service

*** Certificates for seasonal work and residence permits for seasonal work, source Finnish Immigration Service

Number of first time authorisations granted to third country nationals for the purpose of seasonal work by length of validity (based on Eurostat dataset migr_ressw1_1).

Please only provide this data for the years 2017 and 2018 if not available on Eurostat (migr_ressw1_1). In this case, please also state the reasons for unavailability on Eurostat.

	2016	2017	2018	2019	Comment
1-90 days	14024	13020	16576	17995	
91 days - 6 months	n/a	n/a	592	486	
7-9 months	n/a	n/a	291	1091	

Source: Ministry for Foreign Affairs, Finnish Immigration Service

Number of third country nationals whose authorisation for seasonal work has been renewed and withdraw

Please only provide this data for the years 2017 and 2018 if not available on Eurostat (migr_ressw1_1). In this case, please also state the reasons for unavailability on Eurostat.

	2016	2017	2018	2019	Comment
Renewed	n/a	n/a	11	33	
Withdrawn	n/a	n/a	n/i	n/i	
7-9 months	n/a	n/a	291	1091	

Source: Finnish Immigration Service

EMN-tutkimus 2020

Kolmansista
maista tulevien
kausityöntekijöiden
houkuttelu ja suojele
Euroopan Unionissa

Suomen kansallinen raportti



EU:n AMIF-rahaston
rahoittama

Kolmansista maista tulevien kausityöntekijöiden houkuttelu ja suojele Euroopan Unionissa – Suomen kansallinen raportti

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Euroopan muuttoliikeverkosto (EMN) perustettiin Neuvoston päätöksellä 14. päivänä toukokuuta 2008 janne saa taloudellista tukea Euroopan unionilta. Euroopan muuttoliikeverkoston tavoitteena on vastata yhteisön toimielinten sekä jäsenvaltioiden viranomaisten ja laitosten tarpeeseen saada tietoa maahanmuutto- ja turvapaikka-asioista tuottamalla ajantasaista, puolueetonta, luotettavaa ja vertailukelpoista tietoa näitä asioita koskevan politiikan suunnittelun tukemiseksi Euroopan unionissa. EMN antaa lisäksi yleisölle tietoa kyseisistä asioista.

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Top-line factsheet

*The top-line factsheet will serve as an overview of the **Finnish contribution** introducing the study and drawing out key facts and figures from across all sections, with a particular emphasis on elements that will be of relevance to (national) policy-makers.*

Section 0:

- Covid-19:llä oli suuri vaikutus kausityövoiman saatavuuteen Suomessa vuoden 2020 keväällä ja keuhkokuumeella. Erityisesti maatalous- ja marjanviljelyelinkeinot ilmaisivat huolensa siitä, että kausityövoimalla tulisi olemaan merkittäviä vaikutuksia tämän vuoden istutuksiin ja sadonkorjuuseen, jos tilanne ei muuttuisi.
- Hallitus teki kaikkensa ratkaisujen aikaansaamiseksi yhdessä työnantaja-, työntekijä- sekä tuottaja-järjestöjen kanssa. Toukokuun 29. päivän päätöksellä päätettiin siitä, että Suomeen sallittaisiin tulevan 9000 kausityöntekijää. Kesäkuun 18. päivään mennessä Maahanmuuttovirasto oli myöntänyt arviolta 8700 kausityöperusteista oleskelulupaa.

Section 1:

- Vuosittain Suomeen tulee arviolta 16 000 ulkomaista kausityöntekijää, joista n. 3 000 on EU-kansalaisia, jotka eivät kuulu kausityödirektiivin piiriin.
- Valtaosa kausityöntekijöistä tulee Ukrainasta, Valko-Venäjältä, Venäjältä ja Thaimaasta.
- Kausityöntekijöistä noin 54 % on naisia ja 46% miehiä.
- Kausityöntekijöistä valtaosa on 20-40-vuotiaita, mutta 40-55-vuotiaiden ikäryhmä on myös hyvin edustettuna.
- Maatalous- ja puutarhaelinkeinot ovat suurimpia kausityöntekijöiden työllistäjiä.

Section 2:

- Kausityöntekijät ovat hyvin merkittävä työvoimaresurssi maatalous- ja puutarhaelinkeinoille, sillä kyseiset alat eivät pärjää ilman heitä. Myös marjanjalostusteollisuudelle ulkomaalaiset luonnonmarjanpoimijat ovat olleet elintärkeitä.
- Valtio ei suoraan houkuttele kausityöntekijöitä; rekrytointi tapahtuu suurimmaksi osaksi alueellisesti sekä ruohonjuuritasolla. Myönteiset kokemukset houkuttelevat maatalousyrittäjiä rekrytoimaan kausityövoimaa, sekä itse työntekijöitä tulemaan uudelleen ja suosittelemaan työtä myös muille omisissa maissaan.

Section 3:

- Erityisiä mekanismeja kausityöntekijöiden työolojen valvontaan ei ole. Valvonnasta vastaavat Aluehallintovirastot osana normaalia valvontatoimintaansa. Lisäksi kausityöasioiden valvonnassa ongelmanna on usein se, että kausityöntekijät työskentelevät Suomessa vain lyhyen ajan ja se, että valituksia tehdään joskus vasta oleskeluluvan ja työsuhteen päädyttyä. Työsuhteen aikana ei useinkaan ole aikaa valitusten laatimiselle.
 - Koska kausityödirektiiviä on implementoitu Suomessa vasta verrattain lyhyen ajan, varsinaisia direktiivin vaikutuksia kausityöntekijöiden oikeuksien turvaamisen osalta ei ole kattavasti tutkittu.
-

Section 0: Impact of COVID-19

a. Has the COVID-19 situation affected the seasonal workers admission policy of your Member State with regard to third-country nationals?

Yes

No

Pandemian torjumiseksi Suomi alkoi rajoittaa ulkorajojensa yli tapahtuvaa liikennettä 19.3.2020, mikä tarkoitti, etteivät ulkomaalaiset päässeet Suomeen. Edustustojen keskeyttäessä viisumi- ja oleskelulupahakemusten vastaanoton, kausityöhön aikoneet henkilöt eivät pystyneet edes hakemaan maahantulolupaa. Myös monet kausityöntekijöiden lähtömaat, kuten Ukraina, alkoivat rajoittamaan kansalaistensa liikkuvuutta.

Yhdessä nämä toimenpiteet herättivät suurta huolta kausityöntekijöistä riippuvaisilla aloilla, joten neuvottelut tilanteen edistämiseksi alkoivat heti hallituksen ja työmarkkinaosapuolten toimesta. Ilman kausityöntekijöitä merkittävä osa maatalous- ja marjanpoimintaelinkeinoista tulisi kärsimään suuria tappioita ja Suomen huoltovarmuus elintarviketuotannon osalta vaarantuisi. Asia sai siksi korkean poliittisen prioriteetin.

Hallituksen erillispäätöksillä on asteittain sallittu maatalouden alkutuotannon kausityöntekijöiden ja myöhemmin myös sadonkorjuutyövoiman rajoitettu maahan pääsy kausityölain mukaisilla luvilla. Schengenin ulkorajat olivat kuitenkin kesäkuussa edelleen kiinni, eivätkä Suomen edustustot ottaneet vastaan esimerkiksi Schengen-viisumihakemuksia.

b. What measures regarding seasonal work have been taken or are planned as a result of the COVID-19 situation?

Toukokuun 9:nä päivänä astuivat voimaan lakimuutokset, joiden mukaan maassa oleskeluluvalla tai kausityölain mukaisilla luvilla oleskelevat kolmansien maiden kansalaiset voisivat vaihtaa työnantajaa ja ammattialaa ilman jatkoluvan hakemista. Lakimuutokset mahdollistivat näille ulkomaalaisille työskentelyn huoltovarmuuden ja työmarkkinoiden kannalta tärkeissä tehtävissä. Väliaikaiset säännökset olivat voimassa 31.10.2020 saakka.

Huhtikuun 14:nä päivänä maa- ja metsätalousministeriö toimitti Rajavartiolaitokselle listan kausityöntekijöistä, jotka olisivat huoltovarmuuden kannalta kaikkein kriittisimpiä työntekijöitä maa-, metsä-, puutarha- ja kalatalouden yrityksissä. Rajavartiolaitos päättää työntekijöiden maahanpääsystä.

Suomi valmistautui vastaanottamaan noin 1500 alkutuotannon kausityöntekijää. Kyseessä olevat henkilöt tulisivat työskentelemään alkutuotannossa erityisesti työnjohtajina tai muissa erityistehtävissä. Joukosta suurin osa sijoittuisi maa- ja puutarhatiloille, mutta pieni joukko työllistyisi myös metsä- ja kalatalouden kriittisiin tehtäviin.

Suomeen pääsevistä kausityöntekijöistä on laadittu lista maa-, metsä- ja kalatalouden yrityksiltä saatujen tietojen perusteella. Maa- ja metsätalouden ministeriö kartoitti 7.4-9.4 välisenä aikana yritysten työvoiman tarvetta kiireellisellä verkkokyselyllä. Saapuvista kausityöntekijöistä suurimman osan (2/3) odotettiin olevan Ukrainan kansalaisia. Työntekijöitä saapuisi myös muista EU-maista kuten Baltian maista, Romaniasta ja Bulgariasta.

Maa- ja metsätalousministeriön kokoama lista oli suositus, joka perustui sekä yritysten ilmoittamiin tarpeisiin, että tärkeään huoltovarmuuskäsitteeseen. Rajavartiolaitos päätti jokaisen työntekijän maahanpääsystä tapauskohtaisen harkinnan perusteella hallituksen 6.4. tekemään päätökseen nojaten. Myös muiden normaalisti voimassa olevien maahantulon edellytysten tulisi täyttyä.

Ulkomaisen kausityövoiman osalta hallitus päätti 6.5.2020 purkaa seuraavat kausityövoiman maahantulon rajoitukset:

Kevään ja alkukesän tarpeisiin sallittiin 3 000:n henkilön maahantulo EU:n ulkopuolelta, aikaisemmin päätetyn 1 500 henkilön lisäksi. Päätös astui voimaan 14.5.2020. Toukokuun 29:nä päivänä kausityöntekijöiksi tulevien maahantuloa nostettiin 4500 henkilöön, nostaten lopullisen kokonaismäärän 9000 henkilöön. Voimassa olevia ohjeita kuljetuksista ja kahden viikon karanteenista jatkettiin mutta tavalla, joka mahdollistaisi nopean työn aloituksen karanteeninomaisissa työskentelyolosuhteissa ja työterveydenhuollon suositusten mukaisesti.

Sadonkorjuun varmistamiseksi kausityöntekijöiden maahanpääsy sallittiin ajanjaksolle, joka kestäisi kesäkuun alusta syyskuun loppuun. Päätös tarvittavasta kausityöntekijöiden määrästä tehtiin 31.5.2020 ja siinä huomioitiin Covid19-tilanne lähtömaissa sekä kotimaan työvoiman saatavuus.

Turvapaikanhakijoiden oikeutta työntekoon laajennettiin tilapäisellä muutoksella ulkomaalaislakiin. Muutos koski työnteko-oikeuden alkamista ja päättymistä. Laki astui voimaan 29.6.2020 Lakimuutoksella luovuttiin väliaikaisesti turvapaikanhakijoiden työntekoa aloittamista koskevista kolmen ja kuuden kuukauden karenssiajoista. Turvapaikanhakijat saivat heti lain astuessa voimaan oikeuden työskennellä maa-, metsä-, puutarha- ja kalatalouden tehtävissä. Tämä toisi osaltaan helpotusta tilanteeseen, jossa Suomeen ei tänä vuonna saataisi riittävästi kausityövoimaa ulkomailta. Laki oli voimassa 31.10.2020 asti.

Karenssiajoista luopuminen koski niitä turvapaikanhakijoita, joilla oli väliaikaisen lain voimaan tullessa kansainvälistä suojelua koskeva asia vireillä, joko Maahanmuuttovirastossa tai hallintotuomioistuimessa. Muutoksella poistettiin jäljellä oleva karenssiaika niiltä turvapaikanhakijoilta, joiden hakemuksista ei ollut vielä kulunut mainittua kolmen tai kuuden kuukauden karenssiaikaa. Lisäksi turvapaikanhakijat pystyivät tilapäisesti jatkamaan työntekoa entistä pidempään maa-, metsä-, puutarha- ja kalatalouden tehtävissä. Mikäli turvapaikanhakija sai kielteisen turvapaikkapäätöksen ja häntä koskeva maastapoistamispäätös tuli täytäntöönpanokelpoiseksi, hän pystyi kuitenkin jatkamaan työntekoa, oleskelemaan maassa sekä saamaan vastaanottopalveluja poikkeus olojen vuoksi.

Koronaviruspandemian vuoksi asetettujen matkustusrajoitusten takia ulkomaisen työvoiman maahantulo vähentyi merkittävästi. Haasteeksi muodostui riittävän työvoiman saaminen etenkin kausityöntekijöitä tarvitseville maa-, metsä-, puutarha- ja kalatalouden aloille. Tästä syystä kriittisiin töihin tarvittiin Suomessa jo oleskelevan kotimaisen ja ulkomaisen työvoiman monipuolista hyödyntämistä. Suomen hallitus päätti 6.5.2020 toimenpiteistä, joilla varmistettaisiin tarvittava kausityövoima maa- ja metsätalouden aloille.

Section 1: Profile of seasonal workers

Research Question 1: What is the profile of third-country national seasonal workers in the EU?¹

Sub-questions:

1. Has your Member State admitted third-country seasonal workers under the Directive?

Yes

No

2. What are the sectors covered by the Seasonal Workers Directive in your Member State?²

a. Maatalouden alaan kuuluvat toimialat, joihin kuuluu kausiluonteista toimintaa:

- i. Kasvinviljely ja kotieläintalous ja niihin liittyvät palvelut
- ii. Metsänhoito.

b. Matkailun alaan kuuluvat toimialat, joihin kuuluu kausiluonteista toimintaa:

- i. Rannikkovesiliikenteen henkilökuljetus;
- ii. Sisävesiliikenteen henkilökuljetus;
- iii. Majoitus- ja ravitsemistoiminta;
- iv. Matkanjärjestäjien toiminta;
- v. Varauspalvelut, matkaoppaiden palvelut ym.;
- vi. Esittäviä taiteita palveleva toiminta;
- vii. Huvi- ja teema puistojen toiminta;
- viii. Hiihto- ja laskettelukeskukset.³

c. In which sector(s) were seasonal workers mostly employed in 2018?⁴

Maatalous- ja puutarha-alan sekä muiden maaseutuelinkeinojen yritykset ovat olleet merkittävimmät sektorit, niiden työllistäessä vuosittain yli 16 000 ulkomaalaista kausityöntekijää.

d. Are there sectors of seasonal work that are not covered by the Directive?

Yes

No

Metsämarjapaiminta on kausiluonteista työtä, mutta se ei sisälly direktiivin tarkoitamiin kausiluontoisiin töihin. Luonnonmarjapaimintaan on erillinen ohje. Luonnonmarjapaimintaviisumia varten työntekijä tarvitsee työnantajan kanssa tehdyn aiesopimuksen.⁵ Nykylainsäädännössä onkin katsottu, että luonnonmarjapaiminta ei ole työsuhteen alaisuudessa tapahtuvaa toimintaa. Lisäksi esimerkiksi asfalttialalle ei sovelleta kausityödirektiiviä. Tällaiset pinnoitustyöt täyttäisivät kausityön vuodenaikojen vaihteluun perustuvan työvoimantarpeeseen liittyvän määritelmän. Samasta syystä kausityöhön eivät kuuluisi myöskään rakennusalan tai maansiirtoalan kausiluontoiset tehtävät.

¹ This question does not have to be answered by EMN NCPs. This question will guide the narrative for the section in the synthesis report.

² Art.2(2) of the Seasonal Workers Directives requires Member States to list those sectors of employment which include activities that are dependent on the passing of the seasons requires To be cross-checked with Eurostat data

³ Valtioneuvoston asetus maatalouden ja matkailun alaan kuuluvista kausiluonteista toimintaa sisältävistä toimialoista <https://www.finlex.fi/fi/laki/alkup/2017/20170966>. Page visited 16.3.2020

⁴ Please cross-check with Eurostat data. If data for your Member State is not available on Eurostat, please use the same categorisation of sectors provided in Eurostat to the extent possible.

⁵ Ulkoministeriö, Ohje luonnonmarjapaiminta viisumivelvollisesta maasta

3. What were the top-5 countries of origin of seasonal workers in your Member State in 2018?⁶

Kausityötodistus:

- Ukraina - maatalous
- Moldova
- Serbia
- Bosnia&Hertsegovina
- Australia

Kausityöviisumi:

- Ukraina - maatalous
- Thaimaa - suurimmaksi osaksi metsämarjanpimijoita
- Venäjän federaatio
- Valko-Venäjä
- Kosovo

Kausityöoleskelulupa:

- Ukraina - maatalous
- Venäjän federaatio
- Valko-Venäjä
- Thaimaa
- Sri Lanka⁷

Selkeä trendi osoittanut, että ukrainalaiset työskentelevät pääasiassa maatalousaloilla ja thaimaalaiset metsämarjojen poimijoina. Muiden kansalaisuuksien edustajat jakautuvat tasaisemmin kysymyksen 2 esittämien sektoreiden kesken.

4. What was the main age group of seasonal workers who received an authorisation in 2018 in your Member State?⁸

Vuonna 2018 ikäryhmälle 18-34 myönnettiin noin 60% kaikista kausityöluvista (kausityötodistukset, kausityöluvut). Kausityöviisumeiden osalta tilanne on hieman erilainen, koska 35-64-vuotiaiden ikäryhmälle myönnettiin 52% kausityöviisumeista, kun 18-34-vuotiaille vain 42%. Vietnamin suurlähetystön taustamuiston mukaan suurin osa lähtijöistä on 20-40 vuotiaita.⁹

5. What was the gender distribution of seasonal workers who received an authorisation in 2018 in your Member State?

Kausityötodistus:

- Naisia 4359 - 63%
- Miehiä 2523 - 37%

Kausityöviisumi:

- Naisia 5290 - 55%
- Miehiä 4404 - 45%

⁶ Please cross-check with Eurostat data. If data for your Member State is not available on Eurostat, please use the same categorisation of sectors provided in Eurostat to the extent possible.

⁷ Finnish Immigration Service Statistics, <https://tilastot.migri.fi/index.html#applications/21205/59/2/488002?start=576&end=587>. Page visited 16.3.2020

⁸ Please refer to the following age groups in your answer: 15-19; 20-24; 25-29; 30-34; 35-39; 40-44 etc.

⁹ Vitikka 2019. "Taustamuistio työperäisestä maastamuutosta Vietnamista"

Kausityöoleskelulupa:

- Naisia 248 - 41%
- Miehiä 354 - 59%¹⁰

Naisille myönnetään enemmän kausityötodistuksia (heidän tullessa viisumivapaista maista) sekä kausityöviisumeita (heidän tullessa viisumivelvollisista maista) kuin miehille. Tämä johtuu siitä, että naiset hakeutuvat erityisesti marjanpoimijoiksi, joka on luonteeltaan lyhytkestoisempaa työtä.

Kausityöoleskelulupien osalta tilanne on päinvastainen, vaikka ero ei ole yhtä suuri. Ero johtuu siitä, että miehet hakeutuvat aloille, joissa työnteko kestää pidempään kuin 3kk, ja jonka takia heidän on haettava kausityöoleskelulupaa.

6. Does your Member State have a minimum salary set in law?

- Yes
No

7. What was the average/minimum salary of seasonal workers in 2018?

Periaatteena on, että kausityöntekijöiden palkka pitää maksaa alan työehtosopimusten mukaan. Maatalouden alalla vähimmäistuntipalkka oli vuonna 2018 8,43e/tunti.

Maahanmuuttovirastossa on linjattu, että kausityöoleskeluluvan saamiseksi kausityöntekijän palkan oltava Kelan työssäoloehdon mukainen eli 1236 euroa kuukaudessa vuonna 2020. Lisäksi toimeentulon tulee olla turvattu ansiotyöstä saatavalla tulolla (eikä esimerkiksi osittain omien säästöjen avulla). Kyseinen kohta on johdettu kausityölain 6 §:stä.

Marjanpoiminnan työehtojen mukaisesti vähimmäistuntipalkka vaativuusryhmälle 1 oli vuonna 2018 8,43e /tunti. Palkka-asteikko koostuu 1-5 vaatimusryhmästä, jotka määräytyvät työtehtävien osaaamisen, vastuun ja kuormituksen mukaan¹¹. Vuonna 2019 minipalkka nousi hieman 8,57 euroon / tunti ja edelleen vuonna 2020, jolloin palkka oli 8,71e/tunti.¹² Vuosilomakorvaus (12,5%) maksetaan määräaikaisen työsuhteen päättymisen jälkeen. Kausityöntekijöiden keskimääräisestä palkasta ei ole tietoja saatavilla.

8. Is there a specific period of the year where there is more need for seasonal workers?

- Yes
No

- Kesä: maatalous- ja puutarha-ala ja muut maaseutuelinkeinot
- Talvi: matkailuelinkeinot ja turkiskasvatus

9. Does your Member State collect information about the skills level of seasonal workers (for example information on education or qualification level, language level or level of experience of the seasonal workers)?

- Yes
No

¹⁰ Finnish Immigration Service Statistics, <https://tilastot.migri.fi/index.html#applications/21205/59/2/488002?start=576&end=587>. Page visited 16.3.2020

¹¹ Marjanpoiminnan työehdot ja poimintapalkat vuodelle 2018, https://www.tyosuojelu.fi/documents/14660/126479/Marjanpoiminnan_tyoehdot_2018.pdf/6a4baf8d-763b-0acc-099c-639715e106bd. Page visited 18 March 2020

¹² Marjanpoiminnan työehdot ja poimintapalkat vuodelle 2018, https://www.teollisuusliitto.fi/wp-content/uploads/2019/03/Marjanpoiminnan_tyoehdot_2019.pdf. Page visited 18 March 2020.

10. Are there any alternative categories of migrant workers who perform temporary work of a cyclical nature who are not covered by the Seasonal Workers Directive? *Please only consider those categories of seasonal workers which show the same characteristics, or very similar ones, as those covered by the Directive (duration of stay in Member State, cyclical nature of their work, main residence outside the Member State, etc.)?*

Yes

No

Kts. vastaus kysymyksiin 2.d ja 20. Metsämarjapaiminta on kausiluontaista työtä, mutta se ei sisällä direktiivin tarkoittamiin kausiluontoisiin töihin.

Vuonna 2018 myönnettyistä kausityöviisumeista noin 34% (9600kpl) koski metsämarjanpoimijoita, mutta jos huomioidaan myös viisumivapaista maista tuleville myönnettävät kausityötodistukset (6839kpl) sekä oleskeluluvat (900 kpl) kausityön perusteella, niin karkea arvio on että noin 15% työskentelee kausiluontoisissa töissä, jotka eivät kuulu kausityödirektiiviin kattamiin kategorioihin.

11. If applicable, what are the main differences between those migrant workers covered by the Seasonal Workers Directive and those not covered by the Directive in terms of their background information (age, gender, country of origin)?

Työntekijöiden profiili ei juuri eroa kausityöntekijädirektiivin kattamien kategorioiden työntekijöiden profiilista iän ja sukupuolen osalta. Huomion arvoista on, että melkein kaikki metsämarjanpoimijat tulivat vuonna 2018 Thaimaasta.

12. In your Member State, are seasonal work activities known to be performed by irregular migrants?

Yes

No

Section 2: Attraction of seasonal workers to address labour market needs

Research Question 2: To what extent do Member States place specific efforts on attracting seasonal workers to address labour market needs?¹³

Sub-questions:

13. Is the entry and stay of seasonal workers from third countries part of your overall migration policy?

Yes
No

14. Did your Member State develop measures to attract seasonal workers?

Yes
No

15. Does your Member State rely on seasonal workers from third countries to fill labour market needs?

Yes
No

a. If yes, for which sectors and what are these labour market needs? Please explain.

Kausityöntekijät vastaavat erityisesti maatalouden ja marjanpoimintaelinkeinojen työvoimatarpeisiin. Esi-merkiksi vuonna 2018 yli 17 000 henkilöä tuli kausityöhön Suomeen joko viisumilla, kausityötodistuksella tai kausityöoleskeluluvalla, mikä osoittaa, että kausityövoiman tarve on Suomessa merkittävä.

b. Did the migration of seasonal workers who came to your Member State between 2016-2019 help to address the labour market needs of your Member State?

Yes
No
To some extent

Katso vastaus 17 a.

16. Does your Member State implement an annual quota for seasonal workers?

Yes
No

¹³ This question does not have to be answered by EMN NCPs. This question will guide the narrative for the section in the synthesis report.

17. What was the average processing time and costs (in euros) for applications from third-country nationals for the purpose of carrying out seasonal work in 2018?**Kausityöviisumi**

- viisumimaksu: 80e
- viisumihelpotussopimuksen mukaan: 35e
- nopeutetussa käsittelyssä erillisen viisumihelpotussopimuksen mukaan: 70e

Kausityötodistus

- Enter Finlandin kautta toimitettu sähköinen todistus maksaa **60e**, paperinen todistuspyyntö maksaa **100e**

Kausityöoleskelulupa¹⁴

- 3-6 kk
 - sähköinen hakemus: 410e
 - paperinen hakemus: 490e
- 6-9kk
 - sähköinen hakemus: 510e
 - paperinen hakemus: 640e
- jatkolupahakemus: 260e

18. If your Member State has alternative categories of migrant workers who perform temporary work of a cyclical nature who are not covered by the Seasonal Workers Directive (see question 12):

a. Does your Member State have one or more specific national schemes to cover these categories?

Yes

No

Luonnonmarjapöimijat viisumivollisista maista

Luonnonmarjanpöiminta ei ole kausityölain alaista, koska direktiivi edellyttää työsuhdetta työnantajan ja työntekijän välillä. Luonnonmarjapöimijat eivät sen vuoksi ole kausityödirektiivin alaisia kausityöläisiä.

Ulkoministeriön ennalta määrittämistä viisumivollisista maista tulevat ulkomaalaiset henkilöt voivat viisumin voimin pöimia luonnonmarjoja enintään 90 päivää 180 päivän jakson aikana. Schengen-viisumin käytön mahdollistaa Schengen-viisumisäännösten 21 artikla 3 kohta b alakohta sekä EU:n raja-asetuksen 5 artikla 1 kohta c alakohta.

Mikäli luonnonmarjanpöiminta kestää yli 90 päivää 180 päivän jakson aikana, tulee ulkomaalaisen solmia voimassaoleva työsuhde ja hakea työntekijän oleskelulupaa ennen työn aloittamista Suomessa. Työsuhteessa tapahtuva luonnonmarjanpöiminta kuuluu direktiivin ja kausityölain soveltamisalaan.

b. What is the reason for the existence of such specific national schemes? I.e. Why are employers more likely to use these national schemes instead of the one established in the Directive?

Kausityödirektiiviä ei sovelleta luonnonmarjanpöimintaan, koska direktiivi edellyttää työsuhdetta työnantajan ja työntekijän välillä.

¹⁴ Maahanmuuttovirasto, Kausityö Seminaari, 16.1.2019

19. Does your Member State apply a labour market test to seasonal workers?Yes No

Osapäätös tarvitaan, jos oleskelulupa kausityön perusteella myönnetään 6-9 kuukaudeksi.

Osapäätöksessään työ- ja elinkeinotoimisto ratkaisee, täyttyvätkö ulkomaalaislain 73 §:ssä (1218/2013) säädetyt edellytykset työntekijän oleskeluluvan myöntämiselle. Niiden mukaisesti työntekijän oleskeluluvan myöntäminen perustuu harkintaan, jossa huomioidaan muun muassa työvoiman saatavuuteen liittyvät näkökohdat ja ulkomaalaisen toimeentulon varmistaminen maassa oleskelun aikana. Lisäksi työ- ja elinkeinotoimisto varmistaa, että työntekijän oleskelulupa myönnetään vain edellytykset täyttävälle henkilölle, jos työssä vaaditaan erityistä pätevyyttä tai hyväksytyä terveydentilaa. Työ- ja elinkeinotoimisto myös varmistaa, että työnantajan hakemukseen liittämät selvitykset ovat ulkomaalaislain 72 §:n mukaiset, ratkaisee osapäätöksessään, onko työnteko tilapäistä vai jatkuvaa sekä onko työntekijän oleskelulupa ammattiala- vai työnantajakohtainen. Harkinnassaan työ- ja elinkeinotoimisto huomioi 71 §:ssä tarkoitetut alueelliset linjaukset, sekä valtioneuvoston päätöksen mukaisen valtakunnallisen linjauksen.

Kausityöoleskelulupien yhteydessä Maahanmuuttovirasto suorittaa arvion työvoiman saatavuudesta osana oleskelulupaharkintaa. Maahanmuuttovirasto perustaa arvionsa työ- ja elinkeinotoimistojen lausuntoihin, tilastokeskuksen tuottamiin tilastoihin sekä viranomaisten ja työnantajaliittojen näkemyksiin kotimaisen työvoiman saatavuudesta.¹⁵

20. Does your Member State facilitate the re-entry of seasonal workers?¹⁶Yes No **Kausityölaki 18 § Maahanpaluun helpottaminen**

Jos kolmannen maan kansalainen on työskennellyt Suomessa kausityössä ainakin kerran kausityöhön oikeuttavan lupahakemuksen tekemistä edeltäneiden viiden vuoden aikana ja oleskelunsa ajan noudattanut tässä laissa säädettyjä kausityönteon edellytyksiä, hänen ei tarvitse esittää todisteita asianmukaisesta majoituksestaan.

21. Does your Member State cooperate with third countries to attract seasonal workers (e.g. bilateral or multilateral agreements)?Yes No **22. Who are the relevant actors in attracting seasonal workers (e.g. recruitment agencies)?**

Useimmissa direktiivin alaisissa kausityö tapauksissa työnantajat ilmoittavat työvoimatarpeistaan suoraan työ- ja elinkeinotoimistolle, joka julkaisee internet-sivuillaan työnhakuilmoitukset. Tätä kautta työntekijät voivat olla suoraan yhteydessä työnantajiin, jotka hoitavat työsopimukset ja muut käyt-

¹⁵ Hallituksen esitys (HE 80 2017), https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Documents/HE_80+2017.pdf. Page visited 16.3.2020

¹⁶ This question refers to measures included within Art. 16 of the Directive and any other measures. Art. 16 of the Seasonal Workers Directive provides that 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. The facilitate may include measures such as: the grant of an exemption from the requirement to submit one or more of the documents necessary for admission; the issuing of several seasonal worker permits in a single administrative act; an accelerated procedure leading to a decision on the application for a seasonal worker permit or a long stay visa; priority in examining applications for admission as a seasonal worker.

tännön järjestelyt työntekijän kanssa. Joissakin tilanteissa rekrytointiin osallistuu työnvälittäjiä kausityöntekijän kotimaassa.

Vuosina 2019-2020 Suomen viralliset tahot ovat pyrkineet edistämään eurooppalaisen työvoiman liikkuvuutta EURES-verkoston avulla. Kohdemaita ovat olleet muun muassa Latvia, Slovakia, Liettua, Kroatia ja Ukraina.¹⁷

Maa- ja metsätaloustuottajain Keskusliitto (MTK) avasi 12.4.2018 Töitä Suomesta-palvelun, jonka tarkoituksena on saattaa maaseudun yrittäjät ja työnhakijat paremmin yhteen. Tämä palvelu on myös suunnattu ulkomaiselle työvoimalle.¹⁸

23. How are employers informed about the procedure for hiring seasonal workers?

Maahanmuuttoviraston internet sivuilla on työnantajille suunnattu osa, johon on koottu relevanttia tietoa ulkomaista työvoimaa jo työllistävälle tai sellaisiksi aikoville työnantajille. Lisäksi työnantajille on tarjolla neuvontaa sekä maa- ja metsätaloustuottajain Keskusliiton (MTK) Töitä Suomesta -palvelussa, että TE -toimiston internet sivuilla. TE -toimisto tarjoaa neuvontaa myös Suomeen aikoville työntekijöille.

24. Can seasonal workers apply for a change of status while they are in your Member State for the purpose of seasonal work (i.e. if they find another job, a permanent contract, etc)?

Yes
No

25. Has your Member State carried out an evaluation of the implementation of the Seasonal workers Directive at national level? If so, did it conclude anything as to whether the introduced measures were sufficient in attracting seasonal workers?

Yes
No

26. Is your Member State aware of any misuse (e.g. employers hiring third-country seasonal workers for non-seasonal work) in the application of the Directive?

Yes
No

27. Are there any good practice examples in relation to the attraction of seasonal workers in your Member State?

Yes
No

Hyviksi todetuista käytännöistä, jotka on tarkoitettu kausityöntekijöiden Suomeen houkuttelemiseksi, ei ole saatavilla esimerkkitapauksia. Työnantajien ja alueellisten tuotanto-organisaatioiden paikallisen ja alueellisen yhteistyön laadukkuus sekä työntekijöiden itse ilmaisemat suositukset heidän lähtömaissaan on mainittu merkittävänä tekijöinä. Näitä ei voida kuitenkaan luokitella houkuttelukeinoina.

¹⁷ Iltalehti. 2020. "Kolme syytä siihen, miksi Suomen työttömällä ei saada täytettyä avoimia paikkoja – tällaisia tekijöitä Suomeen nyt halutaan ulkomailta" <https://www.iltalehti.fi/politiikka/a/61b53b48-f808-45a4-8dbc-220d871aeee2>, Page visited 20 March 2020

¹⁸ <https://www.xn--titsuomesta-n8a5u.fi/>

Section 3: Protection and rights of seasonal workers

Research Question 3: How does the Seasonal Workers Directive achieve its goal of protecting seasonal workers and their rights?¹⁹

Sub-questions:

28. Does your Member State apply restrictions to the equal treatment between seasonal workers from third countries and nationals of your Member State who carry out comparable employment activities, particularly with regard to:

a. Family benefits;²⁰

Yes

No

Kausityölain 13 §:n mukaan kausityöntekijän perheenjäsenelle ei myönnetä oleskelulupaa perheeseen perusteella.

Sosiaaliturvan osalta yhdenvertaisen kohtelun vaatimus koskee vain työsuhteessa olevia kolmansista maista tulevia työntekijöitä. Kausityöntekijöille myönnetään kausityöhön oikeuttava lupa, joka on rinnastettavissa ulkomaalaislain työn perusteella myönnettäviin lupiin. Kausityöntekijöiden osalta ei voida rajata pois sosiaaliturvaa sillä perusteella, että kausityöntekijät ovat Suomessa rajoitetuin ajan. Pääsääntöisesti asumisperusteiseen sosiaaliturvaan kuulumiseksi kolmansien maiden kansalaisilta edellytetään vähintään yhden vuoden oleskeluun oikeuttavaa lupaa.

b. Unemployment benefits;

Yes

No

Vuoden 2018 alusta lähtien kausityöntekijästä ei makseta työttömyysvakuutusmaksua²¹. Työttömyysturvalain ja työttömyysetuuksien rahoituksesta annetun lain muutoksilla suljettiin kausityöntekijädirektiivin tarkoittamat kausityöntekijät työttömyysvakuutuksen ulkopuolelle²². Sosiaaliturvan osalta yhdenvertaisen kohtelun vaatimus koskee vain työsuhteessa olevia kolmansista maista tulevia työntekijöitä. Kausityöntekijöille myönnetään kausityöhön oikeuttava lupa, joka on rinnastettavissa ulkomaalaislain työn perusteella myönnettäviin lupiin. Kausityöntekijöiden osalta ei voida rajata pois sosiaaliturvaa sillä perusteella, että kausityöntekijät ovat Suomessa rajoitetuin ajan. Pääsääntöisesti asumisperusteiseen sosiaaliturvaan kuulumiseksi kolmansien maiden kansalaisilta edellytetään vähintään yhden vuoden oleskeluun oikeuttavaa lupaa.

c. Educational and vocational training not linked to the specific employment activity;²³

Yes

No

Kausityöntekijälle ei myönnetä opintotukea tai -lainaa²⁴.

¹⁹ This question does not have to be answered by EMN NCPs. This question will guide the narrative for the section in the synthesis report.

²⁰ Art. 23(2)(i) of the Seasonal Workers Directive provides that Member States may restrict equal treatment 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.

²¹ www.vero.fi

²² Government proposal: HE 80/2017 s.60

²³ Art. 23(2)(ii) of the Seasonal Workers Directive provides that Member States may restrict equal treatment 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.

²⁴ Government proposal: HE 80/2017 s. 30

d. Tax benefits in cases where the registered or usual place of residence of the family members of the seasonal worker for whom he/she claims benefits, does not lie in the territory of the Member State concerned.²⁵

Yes

No

e. Are there any practical difficulties to ensuring equal treatment in the areas defined in the Directive?

Yes

No

Käytännön haasteista ei ole vielä laadittu arvioita.

29. Who are the most important actors in your Member State regarding the protection of seasonal workers' rights and what is their role? Please explain. Please distinguish between public and private actors in your answer (e.g. Trade Unions, Chambers of Commerce, etc.).

Aluehallintovirastot (AVI) suorittavat työpaikoilla yleistä työsuojeluvalvontaa ja kausityöntekijöiden työpaikkoihin tehdään normaaleja työsuojelutarkastuskäyntejä. Kausityöpaikkojen tarkastuksille ei ole asetettu tarkkoja määriä ja niitä tehdään satunnaisesti tai vihjeiden perusteella.

Eniten kausityöpaikkoja Suomessa on Lounais-Suomen lisäksi Pohjanmaalla ja Lapissa. Lounais-Suomessa ja Pohjanmaalla toimii maatilojen lisäksi turkistarhauksia, jotka käyttävät kausityövoimaa. Lapissa matkailu- ja ravintola-ala työllistää vuosittain joitakin kausityöntekijöitä.

Etelässä tarkastuskäyntejä maataloille tehdään usein tarkastuspyyntöjen kautta, joita tekevät muun muassa ammattiliitot, työntekijöiden tutut, muut yrittäjät tai Maahanmuuttovirasto.

Peruseriaate kausityöntekijöiden työolojen valvonnassa on tarkastusstandardien implementointi samoin, kuin muiden työpaikkojen valvonnassa. Erityisiä mekanismeja juuri kausityöntekijöiden työolojen valvontaan ei ole. Lisäksi kausityöasioiden valvonnassa ongelmana on usein se, että kausityöntekijät tulevat Suomeen vain lyhyeksi ajaksi töihin. Valituksia tehdään joskus vasta työ- ja oleskeluluvan päädyttyä, sillä valitusten laatimiseksi ei työsuhteen aikana ole aikaa.

Muita toimijoita, jotka valvovat kausityöntekijöiden oikeuksia ovat:

- ammattiliitot
- Rikosuhripäivystys - muuttunut viime vuosina tärkeämmäksi toimijaksi
- Itä-Suomessa on myös tehty poliisijohtoisia moniviranomaistarkastuksia. Esimerkiksi maatilatarkastuksissa aluehallintovirasto (AVI) on yhteistyössä poliisin ja palotarkastajan kanssa tehnyt kokonaisvaltaisia tarkastuksia, joissa palotarkastajien rooli on koskenut asuinolojen tarkastuksen.

30. Is there a framework in place enabling the transfer of pension contributions to origin countries?

Yes

No

Suomen eläkejärjestelmästä ei ole mahdollista nostaa pois sinne kertyneitä eläkemaksuja. Suomessa työskennelleelle henkilölle maksetaan kuitenkin aikanaan työeläkettä, vaikka hän asuisikin ulkomailla ja olisi ollut vain kausiluonteisesti töissä Suomessa. Edellytyksenä on, että henkilö on ollut Suomessa elä-

²⁵ Art. 23(2)(iii) of the Seasonal Workers Directive provides that Member States may restrict equal treatment 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.

kevakuutettuna eikä esimerkiksi niin sanottuna lähetettynä työntekijänä, jolloin eläkemaksut on maksettu lähettävän maan eläkejärjestelmään.

Suomessa työskennelleen henkilön tulee hakea Suomen eläkettä, kun hän on täyttänyt maamme vanhuuseläkeiän (tai jos edellytykset työkyvyttömyyseläkkeeseen täyttyvät). Jos henkilö asuu EU- tai ETA-maassa tai maassa, joiden kanssa Suomella on kahdenvälinen sosiaaliturvasopimus, Suomen eläkehakemuksen voi jättää asuinmaan eläkelaitokseen, joka toimii yhdyslaitoksena välittäen hakemuksen edelleen Suomeen oikealle työeläkelaitokselle ja Kelalle (jos Kelankin eläkettä on haettu)²⁶. Mikäli henkilö asuu muissa kuin edellä mainituissa maissa, hänen tulee hankkia Suomen kansallinen eläkehakemuslomake ja toimittaa se Eläketurvakeskukseen, Kelaan tai omaan työeläkelaitokseensa.²⁷

31. If your Member State has alternative categories of migrant workers performing temporary work not covered by the Directive, do these categories enjoy the same rights as those granted by the Directive?

Yes

No

Luonnonmarjanpaiminta ei ole kausityölain alaista, koska direktiivi edellyttää työsuhdetta työnantajan ja työntekijän välillä. Suomessa marjanpaimijoiden kohdalla solmitaan aiesopimus työsopimuksen sijasta. Luonnonmarjojen paimijat eivät työsopimuksen puuttumisen vuoksi ole kausityödirektiivin alaisia kausityöläisiä, mutta työehdot ovat silti vastaavat, kuin direktiivin mukaisilla kausityöntekijöillä.

32. What does your Member State consider an "adequate standard of living" in relation to accommodation? How does your Member State ensure that seasonal workers benefit from an "accommodation that ensures an adequate standard of living" for the duration of his or her stay?²⁸

Maahanmuuttovirastolle toimitetaan selvitys asumisesta hakuvaiheessa. Majoituksen voi osoittaa esimerkiksi kertomalla asunnon osoitteen tai ilmoittamalla hakemuksessaan, että majoitus on järjestetty työnantajan puolesta. Kausityöntekijän majoitusta koskevista edellytyksistä säädetään tarkemmin kausityölain 19 §:ssä. Jos työnantaja järjestää majoituksen tai se järjestetään työnantajan kautta, työnantajan on huolehdittava, että majoitus vastaa yleisiä terveys- ja turvallisuussäännöksiä.

Kausityöntekijän on 19 § 1 momentin mukaan ilmoitettava kaikista majoituksessaan tapahtuvista muutoksista. Jos työnantaja on järjestänyt kausityöntekijänsä majoituksen, hänen myös on ilmoitettava majoitukseen tapahtuneista muutoksista. Lisäksi osoitetiedot on ilmoitettava viisumia/työlupaa anottaessa.

Asuinolosuhteiden terveellisyyttä valvovat terveydensuojelulain (763/1994) nojalla, kuntien terveydensuojeluviranomaiset. Kunnan terveydensuojeluviranomaiset tekevät tarkastuksia asuintiloihin kohdistuvien terveyshaittaepäilyjen perusteella. Kyse ei ole säännöllisesti tapahtuvasta valvonnasta.²⁹ Toisin sanoen, riittävän majoituksen valvonnasta vastaavat terveysviranomaiset ja palotarkastajat. Palotarkastajat tekevät kenttävalvontaa osana normaalia työkuvaansa. Kausityöntekijöiden asuinpaikat voivat olla tarkastuksen kohteena, ja niiden käyttö voidaan kieltää, mikäli paloturvallisuutta on niissä laiminlyöty. Mitään erityistä valvontaa ei kuitenkaan suoriteta.

Joillakin aluehallintoviranomaisten suorittamilla työsuojelutarkastuksilla palotarkastajat ovat olleet mukana. Jos aluehallintoviranomaiset huomaavat puutteita asuinoloissa työsuojelutarkastuksen yhteydessä, he voivat tehdä ilmoituksen palotarkastajalle ja terveystarkastajalle jatkotoimenpiteitä varten.

²⁶ https://www.tyoelakelakipalvelu.fi/telp-publishing/vepa/folder.faces?folder_id=200319

²⁷ Kalske, Tiina. Eläketurvakeskus, 2020.

²⁸ Art. 20(1) provides that Member States shall require evidence that the seasonal workers 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.

²⁹ Hallituksen esitys (HE 80 2017), https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Documents/HE_80+2017.pdf. Page visited 16.3.2020

a. Are there any good practices in relation to ensuring adequate accommodation, considering the temporary nature of stay of seasonal workers?

Yes

No

33. Does your Member States have procedures/mechanisms in place to ensure that seasonal workers and their employers are informed of their rights and duties?

Yes

No

Maahanmuuttoviraston verkkosivuilla on tietoa oleskeluluvan myöntämisen edellytyksistä niin hakijalle kuin työnantajallekin³⁰. Lisäksi hakijalle tiedoksi annettavan myönteisen oleskelulupa päätöksen lopussa on linkki Työ- ja elinkeinoministeriön Tervetuloa Suomeen-oppaaseen. Maa- ja metsätaloustuottajain Keskusliiton (MTK) Töitä Suomesta-sivustolla on myös tietoa niin työnhakijalle kuin työnantajallekin³¹. Suomen ulkomaan edustustot huolehtivat siitä, että luonnonmarjanpoimijoille annetaan kirjallinen tiivistelmä marjanpoimijan oikeuksista ja velvollisuuksista Suomessa.

Teollisuusliittojen (ammattiliitoista, joihin kausityöntekijät kuuluvat) edustajat käyvät maataloilla antamassa tietoa työntekijöille ja työsuojelutarkastuksissa jaetaan yleisesti tietoa työntekijöille. Suomesta kuitenkin puuttuu systemaattiset mekanismit, joilla varmistettaisiin se, että työntekijät olisivat tietoisia oikeuksistaan. Kaikkia työntekijöitä ei myöskään pystytä tavoittamaan erinäisistä syistä johtuen.

Kausityöntekijät voivat soittaa työsuojelupäivystykseen ja pyytää lisätietoja oikeuksistaan ja velvollisuuksistaan, mutta nimenomaisen palvelun käyttöaste on pysynyt matalana johtuen siitä, ettei työsuojelupäivystyksestä olla tietoisia.

34. Does your Member State have any specific procedures/mechanisms in place to monitor, assess and carry out inspections on whether:³²

a. Seasonal workers can exercise their equal treatment rights and other rights granted in practice? How does that work and who are the actors involved?

Yes

No

Aluehallintovirasto suorittaa osana työtään työsuojelutarkastuksia, jossa tarkastetaan toteutuvatko työnantajan hakemusilmoituksen ehdot, palkka-, tasa-arvo- ja työaika määräykset sekä ovatko ne työehtosopimuksen mukaisia. Aluehallintovirasto ei suorita erityisiä kausityötarkastuksia, vaan tarkastukset suoritetaan osana normaalia työsuojelutarkastustoimintaa, jota tehdään tarvittaessa ja kertaluontoisesti. Näin ollen kausityöntekijät eivät välttämättä saa tietoa oikeuksistaan.

b. Seasonal workers abide by the rules (e.g. no overstaying)? How does that work and who are the actors involved?

Yes

No

Työnsuojeluvälvönnän kautta tulee tarkastettua kausityöntekijän työluvut. Tarkastuksessa katsotaan täyttyvätkö kaikki työluvun ehdot, sekä onko työnantaja varmistanut työntekijöiden työnteko-oikeuden.

³⁰ <https://migri.fi/etusivu>

³¹ <https://www.xn--titsuomesta-n8a5u.fi/>

³² Art. 24 provides that Member States shall 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 (Directive 2014/36/EU).

Työsuojeluviranomainen tekee myös yhteistyötä Poliisin ja Rajavartiolaitoksen kanssa. Jos tarkastuksessa ilmenee rikkomuksia esimerkiksi väärällä työnantajalla työskentelystä, siitä ilmoitetaan Poliisille, joka vastaa sanktioiden antamisesta, sillä työsuojeluviranomaisella ei ole sakotusoikeutta.

c. Employers abide by the rules (e.g. no exploitation)? How does that work and who are the actors involved? Is there a focus on any specific economic sectors?

Yes
No

Aluehallintovirasto valvoo työsuojelutarkastuksissaan työsuhteiden ehtoja ja niiden toteutumista tarkastamalla esimerkiksi, että palkat ja työtunnit ovat lupahakemuksen mukaisia. Valvonta on samanlaista kuin muillakin aloilla, eikä erityistä kausityövalvontaa suoriteta. Suomessa ei ole koettu tarpeelliseksi valvoa kausityötä erityisesti, sillä kausityöntekijöiden työpaikat ovat osa normaalia työsuojeluvalvontaa. Kausityön ei ole havaittu eroavan muista aloista, joten käytössä ei ole erityisiä prosesseja vain kausityöntekijöitä varten. Tarkastuksissa kausityöntekijät ovat samalla linjalla muiden työntekijöiden kanssa

Kausityöaloista maataloudelle tehdään eniten käyntejä ja jokaisella tarkastuskäynnillä tehdään valvontaa siitä, noudattaako työnantaja työehtosopimuksen ehtoja. Kaikilla aloilla kuitenkin liittyy riskejä väärinkäytöksille, eikä työsuojeluvalvonta kohdistu spesifisti kausityöhön. Kausityöntekijät voivat kuitenkin olla haavoittuvassa asemassa Suomen järjestelmän ollessa heille vieras, sekä lyhytaikaisen oleskelunsa johdosta.

Aluehallintovirasto levittää tarvittaessa informaatiota muille toimijoille, mutta informaation jakamisessa on havaittu ongelmia.

35. Does your Member State collect statistics on the procedures/mechanisms described in question 34?

Yes
No

Tarkastuksista on olemassa tilastotietoa, mutta sitä ei ole eritelty kausityöntekijöiden osalta.

36. How can seasonal workers lodge complaints against their employers?³³ Did your Member State set up some specific procedures to protect seasonal workers who lodge complaints?

Yes
No

Kausityöntekijöille on turvattu samat oikeudet kuin muillekin työntekijöille kantelujen ja ilmoitusten tekemiseksi työnantajastaan. Laissa työsuojelun valvonnasta ja työpaikan työsuojeluyhteistoiminnasta (44/2006, työsuojelun valvontalaki) säädetään työsuojeluviranomaisten oikeuksista valvoa sovelletta via työlakeja. Työntekijä tai kuka hyvänsä muu henkilö, kuten esimerkiksi työsuojeluvaltuutettu tai ammattiliiton edustaja, voi ilmoittaa työsuojeluviranomaisten valvontaan kuuluvien säännösten epäillystä rikkomisesta.

Artiklan 2 kohta edellyttää kolmannen osapuolen oikeutta käynnistää kausityöntekijän suostumuksella hänen puolesta tai häntä tukeakseen hallinnollisen tai siviilioikeudellisen menettelyn.

³³ Art.25 provides that 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.

Jos palkkasaatavia jää maksamatta, kausityöntekijällä on kahden vuoden sisällä oikeus vaatia kanteella saataviaan työntöantajaltaan. Kausityöntekijällä on myös mahdollisuus valtuuttaa joku toinen henkilö vaatimaan saataviaan Suomessa.

Suomen työsopimus- ja yhdenvertaisuuslain säädöksillä, sekä työnsuojelun valvontalailla kausityöntekijät ovat suojeltu epäsuotuisalta kohtelulta koskien kantelujen ja oikeudellisten menettelyjen käynnistämistä.

Kausityöntekijöillä on myös mahdollisuus ottaa yhteyttä työnsuojelupäivystykseen, mutta työnsuojeluviranomaisilla ei ole tarkkaa tietoa siitä, kuinka moni yhteydenotto tulee juuri kausityöntekijöiltä. Työnsuojelutarkastuksilla yritetään keskustella työntekijöiden kanssa ja mahdollisuuksien mukaan jakamaan tietoa työnsuojelusta työntekijöille.

Työnteon päätyttyä kausityöntekijät voivat olla yhteydessä Aluehallintovirastoon, mikäli työnteon aikana on ilmennyt väärinkäytöksiä. Kausityöntekijöille ei kuitenkaan ole erityisiä heille suunnattuja turvaamistoimia. Ilmoittajansuojaa sovelletaan myös kausityöntekijöille.

37. Are there specific sanctions in place in your Member State against employers who have not fulfilled their duties under the Seasonal Workers Directive?

Yes

No

7§ kausityöhön oikeuttavan luvan epääminen työnantajasta johtuvasta syystä, jos työnantaja on laiminlyönyt ulkomaalaislain mukaiset velvollisuutensa

- 1) jolle on määrätty seuraamuksia työnantajavelvoitteiden rikkomisen tai laittoman työnteon vuoksi;
- 2) jolle on määrätty seuraamuksia tämän lain mukaisten velvoitteiden vakavasta laiminlyönnistä;
- 3) joka ei ole noudattanut lakiin tai työehtosopimukseen perustuvia sosiaaliturvaan, verotukseen, työntekijöiden oikeuksiin, työoloihin tai työehtoihin liittyviä velvoitteitaan;
- 4) jonka yritys on haettu konkurssiin tai jonka yrityksellä ei ole mitään taloudellista toimintaa; tai
- 5) joka ei ole noudattanut 8 §:ssä säädettyä yhteistyövelvollisuuttaan.

- Velvoitteiden rikkomisen tai laittoman työnteon vuoksi työnantajan ulkomaalaisrikkomuksesta säädetään ulkomaalaislain 186§:ssä. Seuraamus on sakkorangaistus.
 - Luvaton ulkomaalaisen työvoiman käytölle on rangaistus rikoslain 47 luvun 6 a §:ssä.
 - Yhteistyövelvoitteen rikkomisen kautta saatavat sanktiot tilanteissa, jossa työnantaja ei ole noudattanut 8§:ssä säädettyä yhteistyövelvoitetta, eli ei ole antanut 8§:ssä säädettyä vakuutusta.
 - Lisäksi sanktiot voivat perustua yhdenvertaisuuslain syrjäntäkieltoon (erit. kiskonnantapainen työsyryntä ja ylenen syrjäntä). Ne ovat rangaistavia Rikoslain 47 luvun pykälä 3 ja 3 a:n mukaan.
 - Työnsuojeluviranomaisella on ilmoitusvelvoitus poliisille, mikäli epäillään työsyryntää, palkkasyryntää tai kiskontaa. Tällaiset tapaukset tulevat ilmi usein palkkausasioissa.
 - Kausityöntekijöiden osalta on jonkin verran tullut ilmi palkkasyryntää, mutta aluehallintovirastolla ei ole asiasta erillistä tilastotietoa.
-

38. Do migration authorities and labour authorities cooperate in relation to the monitoring of seasonal workers and their employers?Yes No

Aluehallintovirasto toteuttaa työsuojeluvalvontaa kausityöntekijöiden työpaikoilla. Mikäli ilmenee esimerkiksi luvatonta työntekoa, sillä on lakisääteinen velvollisuus ilmoittaa asiasta Poliisille. Jossakin tapauksissa myös maahanmuuttovirastolle voidaan tehdä ilmoitus. Pääsääntöisesti tiedonvaihto maahanmuuttoviromaisten kanssa tapahtuu pienellä kynnyksellä. Aluehallintovirasto toimittaa Maahanmuuttovirastolle työsuojelutarkastusten tarkastuskertomukset.

Maahanmuuttoviranomaiset eivät suorita omaa valvontaa työpaikoilla, mutta he voivat tehdä ilmoituksia aluehallintovirastolle, mikäli heidän tietoon tulee esimerkiksi luvatonta työntekoa, tai muita valituksia.

39. Has your Member State detected seasonal workers who are victims of exploitation or human trafficking?Yes No

Kausityöstatuksen määrittelemisen vaikeudesta johtuu, että kaikki erityisesti kausityöntekijöiden hyväksikäyttöä ja ihmiskauppaan liittyvät tapaukset eivät välttämättä käy ilmi. Todennäköisesti on havaittu työsuhteen ehdoissa puutteita tarkastuksilla, mutta painavaa hyväksikäyttöä tai ihmiskauppaa on vaikea erotella juuri koskemaan kausityöntekijöitä. Kun tapauksia tulee vastaan tarkastuskäynneillä vastaan, niin statusta ei välttämättä aina eritellä erikseen.

Hyväksikäyttö- ja ihmiskauppatapaukset ilmoitetaan poliisille, jonka jälkeen statuksen määrittely riippuu siitä, miten poliisitutkina etenee.

Aluehallintoviraston mukaan kausityöluvalla tulleiden osalta on ollut hyväksikäyttötapauksia, jotka ovat alueellisesti painottuneet Lounais-Suomeen, jossa on enemmän maatiloja.

40. Are there any good practice examples or research/evaluation findings of how the rights of seasonal workers have been ensured in your Member State?Yes No

Kausityöntekijöiden oikeuksien toteutumisesta ole tehty kattavia tutkimuksia tai arvioita. Suomessa ollaan kuitenkin tietoisia siitä, että kausityöntekijöitä rekrytoivat välittäjät ovat olennaisen osa ongelmaa. Välittäjien on havaittu veloittavan välityspalkkioita kausityöntekijöiltä, eikä siihen voida puuttua Suomesta käsin. Suomessa ei myöskään ole kausityöntekijöiden virallista rekrytointitoimistoa. Mediassa on parin viime vuoden aikana tuotu esiin tapauksia, joissa kausityöntekijöiden on epäilty joutuneen työperäisen hyväksikäytön sekä mahdollisen ihmiskaupan uhreiksi. EU:n kausityödirektiiviä implementoiva erillislaki astui Suomessa voimaan 1.1.2018.

Section 4: Conclusions and lessons learned

Please comment on the findings of your national report by drawing conclusions, and identifying any key challenges and lessons learned. Please make reference to the three research questions of the study in your reply.

EU:n kausityödirektiivi implementoitiin Suomen lainsäädäntöön erillislailla. Laki kolmansien maiden kansalaisten maahantulon ja oleskelun edellytyksistä kausityöntekijöinä työskenteleä varten (907/2017) astui voimaan 1.1.2018.

Ulkomaiset kausityöntekijät ovat pitkään olleet erittäin tärkeä työvoiman lähde etenkin maatalous-, puutarha- ja marjankasvatuserinkeinoille Suomessa. Vuosittain Suomeen tulee n. 16 000 ulkomaista kausityöntekijää, joista n. 3 000 on EU-kansalaisia, jotka eivät kuulu kausityödirektiivin piiriin. Tästä huolimatta yleisessä keskustelussa ja mediassa kausityöntekijät eivät aiemmin ole juuri nousseet esiin. Covid-19 muutti tämän ja keväällä 2020 kausityöntekijöiden saanti Suomeen maatalous- ja puutarhaelinkeinojen työvoiman tarpeen turvaamiseksi nousi pääuutisten joukkoon. Ulkorajojen sulkeminen ja matkustuksen kieltäminen niin Suomen kuin lähtömaidenkin osalta maaliskuussa 2020, tyrehtytti kausityöntekijöiden maahantulon kokonaan. Asia koettiin erittäin merkittäväksi huoltovarmuuden turvaamisen näkökulmasta, jottei kotimainen elintarviketuotanto vaarantuisi. Hallitus ryhtyi toimenpiteisiin yhteistyössä työnantaja- ja tuottajajärjestöjen sekä kausityöntekijöiden lähtömaiden kanssa. Toukokuun loppuun mennessä hallitus oli sallinut yhteensä 9 000 ulkomaalaisen kausityöntekijän maahantulon työvoiman tarpeen paikkaamiseksi. Lisäksi hallitus teki tilapäisiä lakimuutoksia, joilla edistettiin jo maassa oleskelevien ulkomaalaisten työskentely huoltovarmuuden kannalta tärkeillä aloilla.

Suomeen tullaan kausityöhön EU:n ulkopuolelta eniten Ukrainasta, Thaimaasta ja Venäjältä. Suurimman ikäryhmän muodostavat noin 20-40-vuotiaat, mutta maahantulolupatyypin (kausityötodistus, kausityöviisumi, kausityöoleskelulupa) välillä on pieniä eroja. Naisia tulee hieman enemmän noin 55-60% riippuen lupatyypistä, kun miesten osuus on 40-45%. Suurin osa työskentelee maataloudessa sekä puutarha- ja marjanviljelyelinkeinoissa. Muita aloja ovat muun muassa matkailu, ravinto- ja majoituselinkeinot.

Työnantaja- ja tuottajajärjestöt ovat pääroolissa kausityöntekijöiden saamisessa Suomeen, mutta paras ja tehokkain keino kausityöntekijöiden uudelleensaamisen turvaamiseksi on onnistunut työkokemus. Mikäli kokemus on onnistunut, kausityöntekijät levittävät siitä tietoa omassa lähipiirissään kotimaissaan. Myönteiset kokemukset kausityövoiman käytöstä, innostaa myös maatalousyrittäjiä suosittelemaan sitä kollegoilleen. Covid-19-tilanne herätti Suomen toimijat siihen, että aktiivisempia toimenpiteitä edellytetään, jotta tarvittava työvoiman saanti pystytään turvaamaan ja mikäli Suomi haluaa tulevaisuudessakin näyttäytyä vetovoimaisena kausityöntekijöiden työllistäjänä.

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