



# **Attracting and Protecting Seasonal Workers from third countries in the EU**

**HUNGARY**

**2020**



**This publication was funded by the European Union's Asylum, Migration  
and Integration Fund**



MINISTRY OF INTERIOR

**Title: Attracting and Protecting Seasonal Workers from third countries in the EU**

**Member State: HUNGARY**

**Year: 2020**

**This project has been funded with support from the European Commission. The content of this publication represents the views of the author only and is his/her sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.**



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**This publication was funded by the European Union's Asylum, Migration and Integration Fund**

# Attracting and Protecting Seasonal Workers from third countries in the EU

## National Contribution from *Hungary*

### Top-line factsheet

*Disclaimer: The following information has been provided primarily for the purpose of contributing to a synthesis report for this EMN study. The EMN NCP has provided information that is, to the best of its knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of the EMN NCPs' Member State.*

**In Hungary, the admission of third country national seasonal workers under the eponymous Directive is not prevalent. Since its adoption, less than 100 third country nationals were admitted within the framework (data for 2019 is not yet available).**

**One of the main reasons for the limited use of the Directive is that its scope covers only the sector of agriculture, forestry and fishing. Other relevant sectors for seasonal workers such as tourism are regarded as non-seasonal by Hungary.**

**During the examined period, only the nationals of the two neighbouring non-EU countries with visa exemption, namely Ukraine and Serbia were accepted as seasonal workers under the Directive in Hungary. However, the number of seasonal workers from these two countries is insignificant compared to total number of Ukrainian and Serbian nationals holding a work permit.**

**In 2018, 35 seasonal workers from the total of 36 stayed more than 90 days in Hungary to perform seasonal work in 2018. The average duration of stay was between 3 and 6 months, as the maximum time period for seasonal work is 6 months. The seasonal workers were employed mostly in spring and summer.**

**Due to very limited number of seasonal workers no significant good practices or challenges could be identified with regard to the application of the Directive.**

## 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:*

**On 6 May 2020, provisions were introduced concerning the entry, stay and in-workplace quarantine of agricultural workers from neighbouring countries.**

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

*Please explain:*

**The provisions, in order to provide labour force for the agricultural sector, enable the citizens of neighbouring countries and Hungarian citizens without a Hungarian address to enter Hungary within groups at designated border-crossing points. The employer of the agricultural workers must notify the Police at least 48 hours before the planned entry.**

**Further conditions for entry are the following:**

- **the copy of the notification must be presented at the border crossing**
- **a medical check must be made at the border crossing, which does not result the suspicion of COVID-19 infection**
- **the valid employment contract or a certificate verifying the employment relationship, and the sector, the place and length of employment must be presented.**

**The general requirements for entering Hungary also apply to the agricultural workers.**

**Special rules on in-work quarantine of agricultural workers from neighbouring countries:**

**The competent epidemiological authority must be notified by the employer 3 days before the planned arrival of workers.**

**After entry, the following measures must be followed for 14 days:**

- **the agricultural workers can transported only in groups, individual travel is prohibited**
- **accommodation can only be for work-related purposes and only in groups**
- **the employer must provide for the catering and other needs of the agricultural workers**
- **when the agricultural workers experience any symptoms of illness, they must immediately notify the employer**
- **in case of a symptom of illness, the agricultural worker concerned cannot continue his/her work and the employer must separate him/her from the rest of the agricultural workers, the competent epidemiological authority must be notified by phone within an hour**

**The Police and the competent epidemiological authority must be notified at least 48 hours before the planned exit from the country.**

## Section 1: Profile of seasonal workers

**Research Question 1:** What is the profile of third-country national seasonal workers in the EU?<sup>1</sup>

### 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?<sup>2</sup> Please explain.

### Agriculture, forestry and fishing

- a. In which sector(s) were seasonal workers mostly employed in 2018?<sup>3</sup>

### Agriculture, forestry and fishing

- b. Are there sectors of seasonal work that are not covered by the Directive?
  - Yes
  - No

### Hungary considers other relevant sectors for seasonal workers such as tourism as non seasonal.<sup>4</sup>

3. What were the top-5 countries of origin of seasonal workers in your Member State in 2018?<sup>5</sup>

### Ukraine (21 persons), Serbia (15 persons)

**Only the nationals of these two neighbouring countries with visa exemption were accepted as seasonal workers under the Directive in Hungary. It is important to note that these numbers are marginal compared to the total number of Ukrainian and Serbian nationals holding a work permit in Hungary (According to the data of the National Directorate General for Aliens policing, in September 2019, almost 44 000 Ukrainians and 6200 Serbians had a work permit.)<sup>6</sup>**

*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,*

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

<sup>2</sup> 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<sup>2</sup> To be cross-checked with Eurostat data

<sup>3</sup> 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.

<sup>4</sup> However, in the Eurostat data of 2018, the sector of Information and communication was also reported for 16 persons. This may be the result of misreporting, or the different classification of Eurostat and the Hungarian legislation, as the Hungarian law exclusively allows the application of the Directive in the sector of agriculture, forestry and fishing.

<sup>5</sup> 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.

<sup>6</sup> <https://24.hu/belfold/2019/11/05/vengedmunkas-ukran-kina-india-szerb-ozonlenek-vietnam/>

## Attracting and protecting seasonal workers from third countries in the EU

*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).*

4. What was the main age group of seasonal workers who received an authorisation in 2018 in your Member State?<sup>7</sup>

**No statistical data on age is available.**

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

**Hungarian authorities issued 36 authorizations in 2018. (23 female, 13 male)**

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

Yes

**The monthly minimum salary since January 2020 is gross HUF 161 000 (app. EUR 470)**

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

**In 2018, the monthly minimum salary was gross HUF 138 000 (app. EUR 400)**

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?

**35 applicants stayed more than 90 days in Hungary to perform seasonal work in 2018. The average duration of stay did not exceed 6 months.**

**As most of the seasonal workers arrive from neighbouring countries (Serbia, Ukraine) in possession of a valid passport they are entitled to enter the territory of Hungary and stay not exceeding 90 days without visa.**

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)?:*

**Spring and summer for the purpose of satisfying the labour needs of the agricultural sector (for example, harvesting of vegetables and fruits).**

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**

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<sup>7</sup> Please refer to the following age groups in your answer: 15-19; 20-24; 25-29; 30-34; 35-39; 40-44 etc.

## Attracting and protecting seasonal workers from third countries in the EU

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?*

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)?

**N/A**

13. 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?<sup>8</sup>

*Please note that all questions in this section refer to seasonal workers covered by the Directive, except for question 19.*

### Sub-questions:

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

Yes x

No

*Please explain.*

**Although Hungary aims to further utilize the potential of its labour force, seasonal workers can to some extent satisfy the labour needs of the agricultural sector during specific period of the year (spring, summer).**

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

Yes

No x

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

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<sup>8</sup> This question does not have to be answered by EMN NCPs. This question will guide the narrative for the section in the synthesis report.

Yes No *Please explain.*

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

**Agricultural sector needs seasonal workers to fill the labour market needs during specific period of the year (harvesting of vegetables and fruits).**

- 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 

**The number of seasonal workers admitted under the Directive was not substantial (between 30-40 workers each year).**

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?

N/A

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

- c. N/A

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.*

**Residence permit for seasonal work: Applications for residence permit for the purpose of seasonal employment are examined within the framework of a single application procedure. Decision has to be made within 70 days from the date of submission. The fee charged for the procedure for issuing a residence permit is EUR 60.**

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 11):

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

Yes **No** *Please briefly explain.*



- 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?

**N/A**

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

Yes

No

**Applications for residence permit for the purpose of seasonal employment are examined by the competent authority within the framework of a single application procedure.**

21. Does your Member State facilitate the re-entry of seasonal workers?<sup>9</sup>

Yes

No

**An application submitted by a third-country national for residence permit has to be examined within 15 days in the framework of an accelerated procedure if the third-country national resided in Hungary for the purpose of seasonal employment at least once within the past five years preceding the time of submission of the application, and abided fully by the immigration and labour laws of Hungary.**

22. Does your Member State cooperate with third countries to attract seasonal workers (e.g. bilateral or multilateral agreements)?

Yes

**No x**

23. Who are the relevant actors in attracting seasonal workers (e.g. recruitment agencies)?

**Firms of the agricultural sector (Southern Great Plain and Northern Great Plain NUTS 2 regions)**

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

**All the necessary information are available for employers on the official website of the National Directorate-General for Aliens Policing.<sup>10</sup>**

<sup>9</sup> 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.

<sup>10</sup> <http://oif.gov.hu/index.php?lang=en>

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 the seasonal workers meet the criteria of an other residence status (student, employment, gainful activity), upon application, a new status may be provided.**

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**

**No such evaluation was made since the adoption of the Directive**

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**

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

Yes

**No**

**Having regard to the marginal number of admitted seasonal workers under the Directive, no good practices can be identified.**

### 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?<sup>11</sup>

*Please note that all questions in this section refer to seasonal workers covered by the Directive, except question 39 and 40.*

**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;<sup>12</sup>

**Yes**

No

<sup>11</sup> This question does not have to be answered by EMN NCPs. This question will guide the narrative for the section in the synthesis report.

<sup>12</sup> 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.

*If yes, please briefly explain.*

**Only such third country nationals can receive family benefits, whose single permit is valid for at least 6 months. (In Hungary, the maximum time period for seasonal work is 6 months)**

- b. Unemployment benefits;

Yes

**No X**

**It has to be noted, however, that seasonal workers from third countries are not entitled to the unemployment benefits due to the lack of the required insurance period (at least one year) which is necessary for the job search allowances. (In Hungary, the maximum time period for seasonal work is 6 months)**

- c. Educational and vocational training not linked to the specific employment activity;<sup>13</sup>

**Yes X**

No

*If yes, please briefly explain.*

**Single permit is a prerequisite for educational and vocational training, further conditions may also apply. For example, seasonal workers from third countries are not entitled to trainings linked to the unemployment benefit due to the lack of the required insurance period.**

- 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.<sup>14</sup>

Yes

**No X**

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

Yes

**No X**

**Due to the small number of seasonal workers, no significant practical difficulties arise.**

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.).*

<sup>13</sup> 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.

<sup>14</sup> 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 labour inspectors' authority is the most important actor regarding the protection of workers' – including seasonal workers - rights. According to Act LXXV of 1996 on the Labour Inspection the activity of the authority includes the examination of compliance with provisions of the Labour Code as well as the collective agreements (on wages, working hours, rest periods, overtime and paid leave etc.). Labour inspectors monitor compliance with occupational safety and health regulations as well.

Due to the small number of seasonal workers, no specific private actors can be mentioned. However, several NGOs advocate for the protection of the rights of the workers in general.

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

Yes

No

if yes, please explain.<sup>15</sup>

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

**Not applicable**

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?<sup>16</sup>

**Subsection 3 of Section 29 of Government Decree 114/2007 (V. 24.) on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals sets out that "the requirement of accommodation is considered satisfied if:**

**a) the third-country national is the owner of the residential property registered in the real estate register as a detached house or a residential suite, or if entitled to use such property under any title, and**

**b) the residential property has at least six square meters of living space per inhabitants.**

**With regard to seasonal workers, the employer must provide at least six square meters of living space per persons. The employers are monitored by the labour inspectors' authority.**

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

<sup>15</sup> 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

<sup>16</sup> 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.

Yes No 

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 

**All the necessary information are available on the official website of the National Directorate-General for Aliens Policing.**

35. Does your Member State have any specific procedures/mechanisms in place to monitor, assess and carry out inspections on whether:<sup>17</sup>

- 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 

**According to Act LXXV of 1996 on the Labour Inspection the activity of the labour inspection authority includes the examination of compliance with provisions of the Labour Code as well as the collective agreements (on wages, working hours, rest periods, overtime and paid leave etc.).**

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

Yes No 

**See answer to Q.35a**

- 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 

**See answer to Q.35a**

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

Yes No 

37. How can seasonal workers lodge complaints against their employers?<sup>18</sup> Did your Member State set up some specific procedures to protect seasonal workers who lodge complaints?

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<sup>17</sup> 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).

Yes  
**No X**

*If yes, please briefly explain*

**General rules are applicable, they are entitled to seek legal remedy like other workers. According to Act I of 2012 on the Labour Code of Hungary every worker can lodge complaint against their employers in court.**

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 X**

**General sanctions of the Penal and Labour Code apply for the cases of seasonal workers as well.**

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

**Yes X**  
 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.*

**Applications for residence permit for the purpose of seasonal employment are examined by the immigration authority within the framework of a single application procedure. The competent (County, or in case of Budapest, Capital City) Government Office of jurisdiction by reference to the place of work functions as specialist authority during the procedure.**

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

Yes   
**No X**

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 X**

**As the number of seasonal workers admitted under the Directive is minimal, no good practice or evaluation can be identified.**

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<sup>18</sup> 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 3: Conclusions and lessons learned

**In Hungary, the application of the Seasonal Workers Directive is limited. It only applies the sector of agriculture, forestry and fishing and only between 30 and 40 third country nationals were accepted within its framework.**

**As a result of its limited application since its implementation, no significant practice can be identified or evaluation made with regard to the Directive.**

**Annex: national statistics related to seasonal workers**

42. Statistics related to seasonal workers are available within the general statistics for first permits for remunerated activities (migr\_resocc) and the specific datasets for authorisations for the purpose of seasonal work (migr\_ressw1\_1 and migr\_ressw2). In light of this, if your Member States reports statistics to Eurostat for dataset migr\_resocc but not for datasets migr\_ressw1\_1 and migr\_ressw2, do these general statistics indicate those covered by the Directive or not (or do they represent the alternative categories)? Can those be used in the absence of the specific statistics?

**Hungary provides statistics for datasets migr\_ressw1\_1 and migr\_ressw2**

43. Please fill out/complete the statistical annex (shared with EMN NCPs on 13 March 2020).

**No further information was available apart from those provided for the datasets.**