

PROPOSAL FOR SEASONAL WORKERS DIRECTIVE

State of play. Negotiations in the Council on the proposal are expected to be finalized soon, so the formal triilogue can start. Negotiations in the Council were difficult, in particular on the issue if a stay of less than three months had to be covered by the directive. The Commission and the European Parliament are in favour, and by now, also the majority of the Member States support this.

Background information:

Commission proposal on a directive of 13 July 2010

- **Official name of the proposal:** [Proposal for a directive](#) of the European Parliament and the council on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment.
- **Objective of the proposal.** The proposed directives concern non-EU citizens coming to an EU Member State for the purpose of seasonal employment (a) or in the context of an intra-corporate transfer (b). The proposals deal with the conditions of entry and residence of third-country workers, aiming to introduce special procedures and permits, and define the rights of third-country workers.
- **Content:** The proposal establishes a fast-track procedure for the admission of third-country seasonal workers, based on a common definition and common criteria, in particular the existence of a work contract or a binding job offer that specifies a salary equal to or above a minimum level. Seasonal workers will be issued with a residence permit allowing them to work for a specified maximum period per calendar year. Provision is also made for facilitating the re-entry of a seasonal worker in a subsequent season. In order to prevent exploitation and protect the safety and health of third-country seasonal workers, legal provisions applying to working conditions are clearly defined. Also, employers are required to provide evidence that the seasonal worker will have appropriate accommodation during his/her stay and that provision is made for facilitation of complaints. To prevent overstaying of third-country seasonal workers, a maximum duration of stay per calendar year is laid down as well as the explicit obligation to return after that period; there is no possibility of status change. [Summary.](#)
- **Progress of negotiations:**
 - *JHA Council – 7 October 2010:* Ministers held a first exchange of views on the proposal. Several ministers recalled the right of MS to determine the number of TCN to be admitted to their territories. In this context, they pointed out that the impact on national labour markets should be taken into account. Several ministers also highlighted the need for greater flexibility, for example with reference to the proposed duration of stay or the time limits in which applicants must be given a decision. In the case of seasonal employment, a number of member states mentioned that a choice should be given on whether accepted third-country nationals would receive residence permits, as proposed by the Commission, or long-term visas. Another issue highlighted by several ministers was the question whether the rights accorded to third-country nationals should be equivalent to those enjoyed by nationals of the host member states, in particular with regard to social security benefits. Other delegations questioned whether the proposal on seasonal workers was in line with the principle of subsidiarity.
 - *JHA Council – 6 December 2010:* The Belgian Presidency provided the Council with information (see Council Doc. [16929/10](#)) on 3 draft directives on legal migration (single permit, intra-corporate transfer and seasonal

employment). The intra-corporate transfer and seasonal workers directives are being examined by the JHA Council. The Presidency gave information on the provisions of the directive which deal with important subjects for employment, working conditions, rights of workers or social protection, and emphasised the importance of the Employment and Social Affairs Council in discussions about immigration directives.

- The LIBE Commission approved the draft report on the directive on 25 April 2012. The rapporteur has a mandate to start negotiations with the Council. [European Parliament: [Procedure file](#) of the Legislative Observatory.]
- *JHA Council – 6 and 7 December 2012*: Under ‘any other business’ the presidency reported on the legal migration directives. Progress had been made on intra-corporate transferees, and on seasonal workers. COREPER had approved a mandate for discussion with the European Parliament the day before council.

More information:

- **Positions taken by other stakeholders on the matter**: Joint NGO-statement on the proposal ([PICUM](#)); [International Labour Organisation](#).
- [Europapoort](#) (This is a website of the Dutch government and should be interpreted accordingly)