

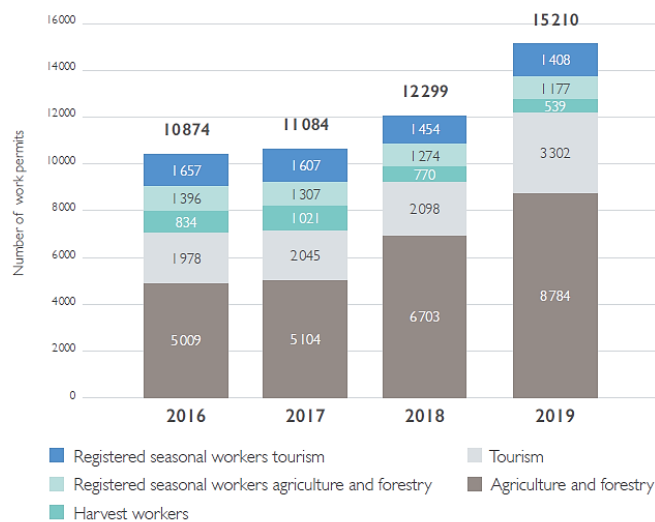
# EMN Study: Seasonal Workers from Third Countries in Austria

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The European Commission estimates that more than 100,000 third-country workers enter the EU each year for the purpose of seasonal employment, with either a regular status or irregularly (European Commission, n.d.).<sup>1</sup> The demand for seasonal workers is rising in the EU, and yet such workers are frequently exploited. At the same, certain sectors with a large share of seasonal workers are showing a tendency towards illegally employing third country workers. In view of these factors, the Seasonal Workers Directive<sup>2</sup> was adopted on 25 February 2014.<sup>3</sup> In 2017, Austria finally implemented the requirements of the Seasonal Directive, which, however, were already largely in line with the Austrian seasonal model before its implementation.<sup>4</sup>

The Austrian model for the admission of seasonal and harvest workers<sup>5</sup> from third countries is a product of national and European migration and labour market policy and has existed in its present form since 2011. The model is based on quotas issued each year for the tourism and agriculture and forestry sectors, as well as on work permits issued by the Public Employment Service. While the quotas set since 2016 have varied in size, the total number of work permits issued has risen continuously since 2017.<sup>6</sup> A total of 49,467 work permits were issued between 2016 and 2019, most of them for seasonal workers and harvest workers in agriculture and forestry. It has been seen in the past that the quotas for seasonal employment were exhausted or exceeded during peak periods in summer and winter. In contrast, on average over the year, the quotas were not fully utilised (Public Employment Service, n.d.b). In response, the option of exceeding quotas by up to 20 per cent during seasonal peaks was introduced in 2019, on condition that work permits remain within the set number of annual average quotas (Ebner and Humer, 2020:14).

Issued work permits by sector (2016–2019)



Source: Public Employment Service, n.d.b; own representation.

Both the Federal Ministry of Labour, Family and Youth and the Austrian Federal Economic Chamber see a high demand for seasonal and harvest workers in Austria.<sup>7</sup> The extent to which the Austrian labour market is actually dependent on seasonal and harvest workers from third countries remains controversial. Compared to the total number of employees in tourism and agriculture and forestry, seasonal and harvest workers who were admitted

<sup>1</sup> Details on this and other references can be found in the study.

<sup>2</sup> Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, OJ L 94, pp. 375–390.

<sup>3</sup> Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment, OJ C 218, COM (2010), 379 final - 2010/0210 (presented by the Commission 13 July 2010).

<sup>4</sup> Act Amending the Act Governing the Employment of Foreign Nationals and the General Social Insurance Act, Government Proposal – Explanatory Notes, available at [www.parlament.gv.at](http://www.parlament.gv.at).

<sup>5</sup> These and other topic-specific terms are defined in chapter 2.2.

<sup>6</sup> The size of a quota set for a specific period does not correspond to the actual number of work permits issued to seasonal and harvest workers within that year. The two figures differ, because additional work permits are allowed to be issued for seasonal and harvest workers already approved and employed under a quota, regardless of whether a permit is actually available under the current quota. Another reason is that work permits are issued apart from seasonal quotas in the case of registered seasonal workers (Stammsaisoniers).

<sup>7</sup> Interview with Margit Kreuzhuber, Austrian Federal Economic Chamber, 15 May 2020; Written input by the Federal Ministry for Labour, Family and Youth, 12 May 2020.

under the Austrian seasonal workers model represent only a very small share. Nevertheless, on the basis of the labour market test, which is part of the procedure for issuing a work permit, it can be assumed that either no other suitable workers in Austria and the EU are available, or that those who would be available are not willing to accept the vacancies offered (Pirker, 2010:200–201). Trade unions argue that enough jobseekers would be available in principle, but due to the employment conditions of seasonal and harvest works too few can be found for such jobs (ORF Online, 2019).<sup>8</sup>

This striking tension between the need for foreign seasonal workers and harvest workers and their working conditions is also reflected in the debate taking place in the media. Although the number of work permits issued has risen continuously in recent years, the tourism and agriculture and forestry industries have claimed a massive shortage of seasonal and harvest workers and demanded an increase of the quotas (ORF Online, 2019; Die Presse, 2018). The dependency on seasonal workers became apparent during the COVID-19 crisis, in agriculture and forestry at least. Due to entry restrictions, a critical shortage of harvest workers threatened (APA-OTS, 2020). According to trade representatives, the labour shortage is not so much due to poor working conditions as to economic growth in Austria and higher wages in other EU Member States (ORF Online, 2018d, 2018a, 2018b). The issue of working conditions is nonetheless a significant factor in the discussion, due to numerous reports on the exploitation of seasonal and harvest workers in Austria. Those affected have reported illegal working hours, too little pay and substandard accommodation (Der Standard, 2017a; ORF Online, 2018c). Although since the outbreak of the COVID-19 pandemic a socio-political change can be seen with regard to the appreciation of the work done by seasonal and harvest workers, it remains to be seen whether this leads to concrete improvements in working conditions.

General legal regulations on wage and working conditions also apply in principle to those seasonal and harvest workers who are employed within the scope of the seasonal workers model. Various actors are responsible for monitoring compliance with the rights and duties and to impose sanctions for any non-compliance. While mostly public institutions are involved here, some non-governmental campaigns exist as well. There is no evidence that public institutions especially focus inspections on seasonal and harvest workers. The reason for this may be that blanket checking is difficult to implement due to the vast number of businesses in tourism and agriculture and forestry. Thus, authorities have to rely on third parties and the employees themselves to report suspicions. Yet seasonal and harvest workers are particularly dependent on their employers for both employment and residence titles. Due to this dependency, it can be assumed that workers do not claim existing rights and infringements are not reported.<sup>9</sup> Moreover, seasonal and harvest workers often lack knowledge about their rights. Therefore, it is extremely important to provide workers with easily accessible information, in their first languages, on rights and obligations. In this context, the Sezonieri initiative, which advocates the rights of foreign harvest workers in Austria, can be mentioned as a good practice example (PRO-GE trade union, n.d.b).

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<sup>8</sup> Interview with Susanne Haslinger, PRO-GE trade union, 4. April 2020; Interview with Anna Daimler, vida trade union, 22. April 2020.

<sup>9</sup> Interview with Johannes Peyrl, Chamber of Labour Vienna, 8 May 2020.